

Supporting Early Years children with SEND

Information for Managers, Committees, Owners, Governors & Headteachers of Early Years Group or School-based Settings & Childminders

All Early Years Providers must abide by the Early Years Statutory Framework. This places a duty on all settings to support children with SEND (Special Educational Needs and/or Disabilities):

[For group & school-based providers:](#) *3.61 Providers must have arrangements in place to support children with Special Education Needs and Disabilities (SEND). Maintained schools, maintained nursery schools and all providers who are funded by the local authority to deliver early education places must take into account the Special Educational Needs Code of Practice. Maintained schools and maintained nursery schools must identify a member of staff to act as Special Educational Needs Co-ordinator (SENCO) and other providers (in group provision) are expected to identify a SENCO. Providers may find it helpful to familiarise themselves with the early years section of the SEND Code of Practice.*

[For childminders:](#) *3.60 Childminders must have arrangements in place to support children with Special Educational Needs and Disabilities (SEND). Childminders are encouraged to identify a person to act as a SENCO (SEND coordinator). Childminders who are registered with a CMA, or who are part of a network, may wish to share the role between them. Childminders may find it helpful to familiarise themselves with the early years section of the SEND Code of Practice.*

In addition, all providers must adhere to the Equalities Act 2010, which places a duty on providers to make reasonable adjustments to support children with disabilities. Schools and other Early Years settings have slightly different responsibilities under the act.

The duties on schools cover (Part 6 of the Equalities Act 2010):

- admissions.
- the provision of education.
- access to any benefit, facility or service.
- exclusion or other forms of detriment, that is: other forms of disadvantage.

The duties on other Early Years settings cover (Part 3 of the Equalities Act 2010):

- refusal to provide a service.
- the terms on which the service is provided, for example: offering a lower standard of service or offering a service on worse terms to a disabled child.
- stopping the provision of a service.
- subjecting someone to any other detriment, that is: other forms of disadvantage.

In both cases it is the duty of the responsible person (e.g. the owner, committee, governing board or academy trust) to ensure that the duties of the current Equalities Act 2010 are being met. The act defines disability as

“a physical or mental impairment and the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.”

This includes learning difficulties, mental health conditions, medical conditions and hidden disabilities such as specific learning difficulties, autism, and speech, language and communication differences as well as children with a range of health conditions, for example: epilepsy, diabetes or more severe forms of asthma and eczema, are likely to be covered by the definition of disability but may not have a special educational need.

The act defines four types of prohibited conduct - direct discrimination, indirect discrimination, harassment, and victimisation. For more information and examples on each please see the booklet from the Council for Disabled Children “[The Equalities Act and Early Years](#)”.

The Equalities Act 2010 requires Early Years settings to consider where their provision may put children with disabilities at a substantial disadvantage and to make reasonable adjustments to support their access to all aspects of the setting. Examples of reasonable adjustments could include:

- enabling a child with diabetes to have a snack that is not within the settings snack policy to support balancing their sugar level (e.g. a sweet biscuit instead of a savoury one),
- allowing a child with social communication difficulties, who finds waiting difficult, to take part in an activity first,
- training staff to support a child with epilepsy so they can attend the setting,
- providing changing facilities for children who are not yet toilet trained due to their stage of development¹,
- applying for additional funding to support a child with additional staffing so they can have a higher level of supervision when attending the setting.

There may be other occasions where reasonable adjustments should be considered for other protected characteristics, e.g. age or religion, in line with the Equalities Act.

When considering if an adjustment is reasonable, several factors should be considered, such as the cost, health and safety of staff, children and visitors, and practicality. For example, it may or may not be reasonable to make physical changes to a rented property if this would require permanent changes to the building. It may be reasonable for a setting to make a loss on supporting an individual child, however it may not be reasonable if the setting were to make a loss overall due to the support provided for that child making the setting unsustainable. All adjustments should be fully risk assessed and evidenced.

Blanket policies to not accept children with SEND should not be implemented as this is not in line with the Equality Act 2010. An individual approach should be taken, and settings must be able to evidence how they have considered what reasonable adjustments they have considered. This should be carried out in partnership with parents and any other professionals already supporting the child and family. If a setting feels that they cannot make reasonable adjustments to support a child in their setting, they should always seek advice from their Early Years Adviser or from ey.send@cambridgeshire.gov.uk.

The Early Years, Childcare and School Readiness Service offers a range of support to providers to enable the inclusion of children with SEND in Early Years settings. This includes:

- advice from your Early Years Adviser, irrespective of membership level
- SEND Surgeries – these provide an opportunity to get advice on what to do when you think a child may benefit from additional support. Please outline the areas you wish to cover when making your booking via [Booking Bug](#). Please note it is a requirement, unless parental permission is in place, that children remain anonymous. This is a half an hour telephone call to seek further advice.
- Support for children on the Early Support Pathway from the EY SEND team or SEND Specialist Services.
- [Special Needs Inclusion Funding \(SENIF\)](#) supports children on the Early Support Pathway or known to Sensory Services to access their Early Years Funded hours. It is a contribution towards enhanced staffing. A calculator to help you assess the impact of SENIF on your budget is available at [Staff Structure Modelling Toolkits \(cambstlearntogether.co.uk\)](http://cambstlearntogether.co.uk).

In summary, your Early Years setting:

- Should have an identified SENCo (must if you are a maintained setting),
- Must endeavour to make reasonable adjustments to support children with disabilities to access your services,
- Must not discriminate against a child because they have SEND,
- Should seek support if you think you are unable to make reasonable adjustments to meet a child's needs.

¹ Many children may arrive in reception classes not at a stage of development whereby they are fully toilet trained.