

**The Education of Children and Young People with  
Behavioural, Emotional and Social Difficulties as  
a Special Educational Need**

# **The Education of Children and Young People with Behavioural, Emotional and Social Difficulties as a Special Educational Need**

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## **A SUMMARY OF THIS GUIDANCE**

1. This summary cross refers to paragraph numbers in the main guidance where further information is provided. This guidance is not a definitive interpretation of the law. Interpreting the law is a matter for the courts alone.

### ***What is the purpose of this guidance?***

2. The purpose of this guidance is to bring together existing advice on improving achievement, health and emotional well-being for children and young people whose behavioural, emotional and social difficulties are persistent and provide an obstacle to their learning. The guidance is set in the context of SEN and disability legislation and guidance, the Children Act requirement for local co-operation, guidance on mental health and the report of the Practitioners' Group on School Behaviour and Discipline.

3. This guidance updates and replaces DfEE Circular 9/94 and DH Circular LAC (94) *The Education of Children with Emotional and Behavioural Difficulties* – with the exception of paragraphs 73 – 76 and 78 – 101 which provide guidance on the use of residential provision, to be read in the context of the current statutory framework.

### ***What is meant by BESD? Paragraphs 47 - 72***

4. The Education Act 1996 provides the definition of special educational needs and the Special Educational Needs (SEN) Code of Practice (2001) provides guidance on how behavioural, emotional and social difficulties (BESD) may be a special educational need.

5. Many children and young people with BESD are also covered by the Disability Discrimination Act 1995 (DDA). The Disability Rights Commission (DRC) Code of Practice for Schools and DCSF materials, *Implementing the Disability Discrimination Act in Schools and Early Years settings*, provide guidance on the definition and how that relates to pupils with BESD.

### ***Special educational needs, paragraphs 52 - 61***

6. Children and young people with BESD have SEN if they have a learning difficulty that calls for special educational provision, that is provision that is additional to or different from provision that is generally available. Pupils with BESD cover the full range of ability. Their difficulties may cause a barrier to learning. Equally, a learning difficulty may lead to or exacerbate behavioural and emotional difficulties.

7. The term behavioural, emotional and social difficulties covers a wide range of SEN. It can include children and young people with conduct disorders, hyperkinetic disorders and less obvious disorders such as anxiety, school phobia or depression. There need not be a medical diagnosis for a child or young person

to be identified as having BESD, though a diagnosis may provide pointers for the appropriate strategies to manage and minimize the impact of the condition.

8. Duties in the Education Act 1996 require governing bodies to use their best endeavours to ensure that the necessary provision is made for any pupil who has special educational needs.

### ***Disability, paragraphs 62 - 63***

9. Children and young people with BESD may also have a disability under the DDA. Local authorities, schools and early years settings must not discriminate against disabled children and young people. They must not treat disabled children 'less favourably' and they must make reasonable adjustments for them.

### ***Identification rates, paragraphs 64 - 66***

10. Research shows higher rates of BESD in socially deprived areas, amongst boys and amongst Black Caribbean and Mixed White & Black Caribbean pupils. Travellers of Irish Heritage and Gypsy/Roma pupils are also over-represented. Over 60% of children and young people attending Pupil Referral Units (PRUs) have SEN. Many of these children and young people have BESD.

### ***Building partnerships with parents and carers, paragraphs 67 - 70***

11. The SEN Code of Practice and the DRC Code of Practice both emphasise the importance of positive relationships with parents. Parents can support the school's work in developing emotional, social and behavioural skills by reinforcing them at home and by sharing insights and strategies.

12. It will sometimes appear that family dynamics are contributing to a child or young person's difficulties. A range of forms of support are available in these circumstances.

### ***Child protection, paragraphs 71 - 72***

13. There will be circumstances where it is suspected that there is neglect or abuse at home. In such circumstances, it is essential that early years settings, schools and/ or local authority officers bring their concerns to the attention of the local authority's social care services as quickly as possible.

### ***Developing a graduated approach, paragraphs 73 - 108***

#### ***Whole school approaches to prevention and early identification, paragraphs 73 - 80***

14. Whole-school approaches can improve pupils' social and emotional well-being and reduce behaviour difficulties. A range of guidance provides advice on whole school strategies and approaches such as the Social and Emotional Aspects of Learning (SEAL) programme for promoting the development of social and emotional skills, positive behaviour, attendance, learning and the mental health of all children.

15. All children and young people with SEN or disabilities including those with BESD should be able to access and benefit from high quality early years and childcare provision. Extended schools and workforce reform are increasing schools' capacity to intervene early to address individual need.

16. School admissions should be consistent with the Admissions Code of Practice. Schools, early years settings and local authorities must not discriminate in their admissions criteria or their admissions procedures.

#### ***Personalised learning, paragraphs 81 - 85***

17. Personalised learning and teaching mean taking a highly structured and responsive approach to each child's and young person's learning. The National Strategies are working with schools to strengthen tracking of pupil progress and ensure effective use by teachers of Assessment for Learning. The introduction of the Three Waves model of intervention for behaviour and learning improves the early identification of need, targeted support and the evaluation of outcomes.

#### ***Developing a whole-school approach to behaviour management, paragraphs 86 - 94***

18. School governing bodies must use their best endeavours to ensure that the necessary provision is made for any pupil who has SEN. Schools, pupil referral units and early years settings in receipt of government funding for early education must have a written SEN policy.

19. All policies, including those relating to behaviour management, should take account of the needs of children and young people with SEN and disabilities. Schools need to review their policies to ensure that they do not discriminate against disabled children.

### ***Exclusions, paragraphs 95 - 98***

20. Exclusions data show high rates of exclusion of children and young people with SEN. Other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with statements, and should make every effort to avoid excluding pupils at *School Action* or *School Action Plus*. Careful consideration should be given to whether there may be unidentified SEN or an underlying disability. If a child or young person has SEN or a disability, consideration should be given to alternatives to exclusion.

### ***A graduated approach to addressing BESD as a special educational need, paragraphs 99 - 108***

21. The SEN Code of Practice outlines a continuum of special educational needs and provision, with increasingly specialist expertise brought to bear at each stage. Children and young people with BESD may be supported at *School Action* or at *Early Years Action*. If, following assessment or evaluation, there is little or no progress, staff should consider seeking external support through *Early Years Action Plus* or *School Action Plus*, though the involvement need not be limited to this stage.

22. Where the child's difficulties persist, the school can request a statutory assessment. In exceptional circumstances an emergency placement can be made without a statutory assessment and a relevant statement.

### ***The curriculum for children and young people with BESD, paragraphs 109 - 127***

23. The curriculum in all schools should be balanced and broadly-based and provide opportunities for all pupils to learn and to achieve. The National Curriculum includes a statutory Inclusion Statement which gives teachers flexibility to adapt the curriculum for pupils with SEN. The flexibility is designed to reduce the need for formal disapplication or modification of the National Curriculum requirements.

24. Governing bodies and headteachers are required to produce a curriculum policy. The policy should set out the principles underpinning the curriculum and reflect the school's commitment to developing all aspects of their pupils' lives.

25. Curriculum content and experiences for pupils with BESD should emphasise personal development and essential life skills. Work-focused learning for 14-16 year olds provides an additional curriculum option. For young people aged 14-19, the Department is working with the QCA, schools and colleges to develop Diplomas, which combine theoretical and applied learning.

***Developing a range of provision for children and young people with BESD, paragraphs 128 - 150***

***A range of settings, paragraphs 129 - 136***

26. The local authority is required to promote high standards of education for all children, including those with SEN, and has specific duties towards pupils with SEN. The local authority should make effective arrangements for children and young people with SEN, including those with BESD. These arrangements must be kept under review.

27. The DCSF provides guidance on planning and commissioning SEN services and settings. Specialist provision may take a variety of forms, ranging from mainstream schools through to specialist special schools that have a particular SEN or curricular specialism and provide outreach to other schools.

28. For a small minority of pupils, residential provision may be appropriate. The SEN Code of Practice provides advice for local authorities considering a placement in a residential school. PRUs are not planned or designed to be a long term setting and should not be regarded as part of a local authority's range of planned SEN provision.

***Managed moves, paragraphs 139 - 142***

29. Schools in many local authorities have agreed "managed moves" protocols to enable pupils to move on to another school. Where a child or young person has a statement of SEN, discussions about a managed move must include a review of the pupil's statement.

***A range of support, paragraphs 143 - 150***

30. Local authorities should make sure that schools and early years settings have access to advice and support. Increasingly, schools as well as local authorities are developing provision for children and young people with BESD. DCSF guidance *Planning and Developing Special Educational Provision* sets out how local authorities and schools might review and develop the range of provision for children and young people with SEN, including those with BESD.

31. Local authorities, schools or clusters of schools may also provide, or commission services from the independent or voluntary sector providers. Section 10 of the Children Act 2004 places a duty on local authorities to promote cooperation between the authority and other organisations to improve the wellbeing of children. This should include working together to improve outcomes for children and young people with BESD.

### ***Monitoring and evaluation, paragraphs 151 - 160***

32. Schools and local authorities should monitor and evaluate the impact of their provision on outcomes for children and young people with BESD.

### ***Special educational needs, paragraphs 152 - 154***

33. When reviewing arrangements for SEN provision under section 315, it is important that local authorities consider the effectiveness of their arrangements for addressing the needs of children and young people with BESD. Local authorities may find the National Strategies' framework to support SEN self-evaluation helpful when undertaking such reviews.

34. As part of their statutory SEN responsibilities governing bodies must, on at least an annual basis, consider and report on the effectiveness of the school's work on behalf of children with SEN, and consider whether changes to its SEN policy are needed.

### ***Disability equality schemes, paragraphs 155 - 156***

35. School disability equality schemes must include an assessment of the impact of policies, including behaviour and discipline policies, on disability equality. Schools need to be able to evaluate the effectiveness of their scheme.

### ***School self-evaluation, paragraphs 157 - 160***

36. Schools' Self Evaluation Forms (SEF) and SEN provision mapping should help to identify areas where there is a need to improve school performance and to ensure appropriate action is taken. Data indicates that children and young people with SEN are more likely to be excluded from schools than others. Local authorities and schools should consider what might be done differently to reduce the need for such exclusions.

### ***Training and development, paragraphs 161 - 166***

37. The Professional Standards for Teachers form a backdrop to performance management and the appraisal process. It is through this process that teachers' continuing professional development needs are identified. The process of school self-evaluation will help to identify school level professional development needs including those that relate to working with children and young people with SEN, and/or BESD. More information and links to a range of training materials are provided in paragraph 166.

### ***Use of force to control or restrain, paragraphs 167 - 168***

38. Guidance published in November 2007 has replaced and supersedes DfES Circular 10/98 The Use of Force to Control or Restrain.

## 1: INTRODUCTION

39. This guidance is not a definitive interpretation of the law. Interpreting the law is a matter for the courts alone. This guidance is not statutory: it explains some legal duties and powers and it gives good practice advice. However, some of the guidance it quotes (eg the SEN Code of Practice) is statutory guidance, to which schools, early years settings and local authorities must have regard.

40. This guidance on the education of children and young people with behavioural, emotional and social difficulties (BESD) as a special educational need updates and replaces DfEE Circular 9/94 and DH Circular LAC (94) *The Education of Children with Emotional and Behavioural Difficulties*, with the exception of paragraphs 73 – 76 and 78 – 101. These paragraphs provide guidance on the use of residential provision and need to be read in the context of the current statutory framework.

41. The purpose of this guidance is to bring together existing advice on improving achievement, health and emotional well-being for those children and young people whose behavioural, emotional and social difficulties are persistent and provide an obstacle to their learning. The guidance also advises schools and early years settings on how to avoid discrimination against disabled children and young people.

42. This guidance has been prepared in the context of legislation including the Education Act 1996 (as amended), the Disability Discrimination Act 1995 (DDA) and the Disability Discrimination Act 2005, the Childcare Act 2006, the Special Educational Needs (SEN) Code of Practice and other guidance from the Department.

43. Children and young people with BESD can miss out on opportunities that others take for granted because they do not always get the support they need. The Children Act 2004 provides a statutory framework for cooperation between local authorities (LAs) and partner agencies to improve the five *Every Child Matters* outcomes for all children and young people in their area – including those with BESD as a special educational need:

- be healthy
- stay safe
- enjoy and achieve
- make a positive contribution
- achieve economic well being

44. This guidance is intended to help schools, early years settings and local authorities consider what support and provision are most likely to help remove barriers to achievement, health and emotional well-being for those whose behavioural, emotional and social difficulties are persistent. This guidance does not provide advice on behaviour within the range of what might be generally

expected for a particular age, nor does it focus on the needs of children and young people with serious mental health problems or those whose behaviour is so disturbing or dangerous that a secure setting is likely to be indicated.

45. This guidance has been produced in response to the first recommendation in the *Learning Behaviour* report (2005) of the Practitioners' Group on School Behaviour and Discipline chaired by Sir Alan Steer – which said that the Department “should look separately at how to improve the quality of provision for those with behavioural, emotional and social difficulties (BESD), in particular the recruitment and retention of high quality staff and minimising bureaucracy”.

46. This guidance also draws on the Department's guidance *Promoting Children's Mental Health within Early Years and School Settings*. This provides a useful tool for local authorities, schools and others striving to ensure that the mental health needs of children are met, and that all children enjoy a positive school experience.

## 2: WHAT IS MEANT BY BESD?

47. The Education Act 1996 says that a child has special educational needs if he or she has a learning difficulty which calls for special educational provision to be made for him or her. Special educational provision is provision that is additional to or otherwise different from that normally available in the area to children of the same age.

48. The Special Educational Needs (SEN) Code of Practice (2001) provides guidance on the SEN duties, guidance to which schools, local authorities and others working with them must have regard. The Code sets out four areas of SEN:

- Cognition and Learning
- Behavioural, Emotional and Social Development
- Communication and Interaction
- Sensory and/or Physical Needs

49. The SEN Code of Practice, at paragraph 7:60 describes BESD as a learning difficulty where children and young people demonstrate features of emotional and behavioural difficulties such as: being withdrawn or isolated, disruptive and disturbing; being hyperactive and lacking concentration; having immature social skills; or presenting challenging behaviours arising from other complex special needs. Learning difficulties can arise for children and young people with BESD because their difficulties can affect their ability to cope with school routines and relationships.

50. The Department's guidance, *Promoting Children's Mental Health within Early Years and School Settings*, explains how teachers and others, working alongside other agencies as appropriate, can promote children and young people's mental health and can intervene effectively with those experiencing problems. It provides case studies of children and young people whose behaviour, social and/or emotional development is causing concern and suggests strategies to address both the presenting behaviour and the underlying causes.

51. Many children and young people with BESD are also covered by the Disability Discrimination Act 1995 (DDA). There is a broad definition of disability in the DDA: someone has a disability if they have '*a mental or physical impairment that has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities*'. The terms 'long-term' and 'substantial' provide a relatively low threshold and therefore include a significant group of children within the definition. Day-to-day activities are defined in terms of a number of capacities. These include 'memory or ability to concentrate, learn or understand.' The Disability Rights Commission (DRC) Code of Practice for

Schools<sup>1</sup> and the then DfES and DRC guidance materials, *Implementing the Disability Discrimination Act in Schools and Early Years settings*<sup>2</sup>, provide guidance on the definition and how it relates to pupils with behavioural, emotional and social difficulties.

### ***Special educational needs***

52. Duties in the Education Act 1996 require governing bodies to use their best endeavours to ensure that the necessary provision is made for any pupil who has special educational needs. Paragraph 1:21 in the SEN Code of Practice summarises the statutory duties on governing bodies and the subsequent paragraphs summarise the duties on schools and early years settings.

53. The Code recognises that each child and young person is unique. Children and young people will have needs and requirements which may fall into one or more of the four areas of SEN and the impact of combinations of needs on their ability to function, learn and succeed should be taken into account.

54. The term behavioural, emotional and social difficulties (BESD) covers a wide range of SEN. It includes children and young people with emotional disorders, conduct disorders and hyperkinetic disorders (including attention deficit disorder or attention deficit hyperactivity disorder (ADD/ADHD)) and children and young people whose behavioural difficulties may be less obvious, for example, those with anxiety, who self-harm, have school phobia or depression, and those whose behaviour or emotional wellbeing are seen to be deteriorating.

55. Whether a child or young person is considered to have BESD depends on a range of factors, including the nature, frequency, persistence, severity and abnormality of the difficulties and their cumulative effect on the child or young person's behaviour and/ or emotional wellbeing compared with what might generally be expected for a particular age.

56. Initial observation, identification and intervention will often be made by classroom teachers as part of *Quality First* teaching. Special educational needs co-coordinators (SENCOs), local authority advisory and support staff, outreach advisers from special schools, educational psychologists and other specialists such as lead behaviour professionals or behaviour coordinators within schools may all be involved in identifying and supporting children and young people whose needs include BESD.

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<sup>1</sup> Disability Rights Commission (2002) *Code of Practice for Schools: Disability Discrimination Act 1995: Part 4*. London: TSO

<sup>2</sup> Department for Education and Skills and Disability Rights Commission (2006) *Implementing the Disability Discrimination Act in Schools and Early Years settings*. London: DfES

57. Pupils with BESD cover the full range of ability. However their difficulties are likely to be a barrier to learning and persist despite the implementation of an effective school behaviour policy and personal and social curriculum. Learning difficulties and behaviour difficulties are often in a two-way relationship with each other. For some pupils, behaviour difficulties may frustrate access to the curriculum, for example if aggressive behaviour leads to exclusion from some classroom activities or from the school. For others, a learning difficulty may lead to or exacerbate behavioural and emotional difficulties, for example, a child who has difficulty in grasping the basics of literacy or numeracy may withdraw from lessons or try to divert attention away from the learning difficulty by disruptive behaviour. Difficulties in acquiring basic skills can also lead to low self-esteem and even depression.

58. There need not be a medical diagnosis for a child or young person to be identified as having BESD. However, children and young people with a medical diagnosis, including emotional disorders such as depression and eating disorders; conduct disorders such as oppositional defiance disorder (ODD); hyperkinetic disorders including attention deficit disorder or attention deficit hyperactivity disorder (ADD/ADHD); and syndromes such as Tourette's, are all likely to have BESD, as defined in the SEN Code of Practice. Addressing BESD entails looking at what the child/ young person, the school, parents or carers and other agencies might do differently together, in order to reduce the impact of difficulties (whatever their cause) on attainment, health and wellbeing. A diagnosis may provide pointers for the appropriate strategies to manage and minimise the impact of the condition. Equally, identified difficulties without a diagnosis must also be addressed.

59. The majority of children and young people with any form of BESD should be considered to have SEN if they require additional or different educational arrangements or interventions from those that are generally offered in a mainstream school. Although it is recognised that there are considerable challenges, children and young people with BESD should be supported in reaching expectations and participating fully in school. As a special educational need, BESD does not prevent children and young people achieving well.

60. Underlying reasons for BESD can encompass both 'within child' factors and external factors. There is a higher incidence of BESD identified in children with other special educational needs. It is sometimes difficult to discern the main cause of the behavioural or emotional difficulties or to decide whether BESD or another learning difficulty is the primary need. Understanding which is the primary need can help with identifying suitable interventions. The Department's guidance entitled *Promoting Children's Mental Health within Early Years and School Settings* provides advice and case studies on how such understanding can be reached and examples of interventions that can be successful in addressing these difficulties.

61. Early childhood experiences can have a major impact on later development, with the lack of a positive attachment to an adult being seen as particularly detrimental to some children. Parents are the biggest influence on a child's development. Social circumstances can also impact on development. Children who experience family difficulties, including parental conflict, separation, neglect, indifference or erratic discipline, are more likely to develop BESD.

### **Disability**

62. Children and young people with SEN may also have a disability under the DDA. A report from the Prime Minister's Strategy Unit<sup>3</sup> estimates that about 7% of the child population may count as having a disability. The Disability Rights Commission Code of Practice for Schools<sup>4</sup> explains that: '*It may not be immediately obvious that a child is disabled. Underachievement and difficult behaviour may, in some cases, indicate an underlying disability which has not yet been identified.*' Schools and early years settings need to be proactive in seeking out information about any underlying disability. This will mean working closely with parents and with children and young people themselves.

63. Local authorities, schools and early years settings must not discriminate against disabled children and young people. They must not treat disabled children 'less favourably' and they must make reasonable adjustments for them. The reasonable adjustment duty requires settings to think ahead and anticipate disabled children and young people. The Department's materials, *Implementing the DDA in schools and early years settings*, illustrate a wide range of reasonable adjustments for pupils whose disability has an impact on their behaviour.

### **Identification rates**

64. Research shows higher rates of BESD in socially deprived areas. Boys are four times more likely than girls to be identified as having BESD. After controlling for socio-economic disadvantage, gender and year group there is significant over-representation of Black Caribbean and Mixed White & Black Caribbean pupils who are around 1½ times more likely to be identified as having BESD than White British pupils. Travellers of Irish Heritage and Gypsy/Roma pupils are over-represented among many categories of SEN, including moderate learning difficulties, severe learning difficulties and BESD. Full details are in the Department's Research Report RR757, *Special Educational Needs and Ethnicity: Issues of Over and Under Representation*<sup>5</sup>.

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<sup>3</sup> Prime Minister's Strategy Unit (2005) *Improving the Life Chances of Disabled People*. London: Cabinet Office

<sup>4</sup> Disability Rights Commission (2002) *Code of Practice for Schools: Disability Discrimination Act 1995: Part 4*. London: TSO

<sup>5</sup> Lindsay, G and others (2006) *Special Educational Needs and Ethnicity: Issues of over and under representation*. University of Warwick/ DfES,

65. Some of the factors associated with the over-representation identified in this report<sup>6</sup> included racism and bullying, negative teacher attitudes and, for some pupils, a curriculum perceived as lacking relevance.

66. Over 60% of children and young people attending Pupil Referral Units (PRUs) have SEN. Many of these children and young people have BESD. Early intervention by early years settings, schools and local authorities should reduce the proportion being referred to PRUs over time. This guidance provides advice on developing a graduated approach to supporting children and young people with BESD, and on developing an appropriate range of provision.

### ***Building partnerships with parents and carers***

67. The SEN Code of Practice (Chapter 2) stresses that partnership with parents plays a key role in identifying and addressing children and young people's SEN and in promoting a culture of cooperation between parents, schools (and other settings), local authorities and other organisations. Equally, for a disabled pupil, the DRC Code of Practice, paragraph 7.9, emphasises the importance of positive relationships with parents. Key to the sharing of information is 'an atmosphere and culture at the school which is open and welcoming, so that pupils and parents feel comfortable about disclosing information about a disability.'

68. Families are a key influence on a child's intellectual and social, emotional and behavioural development. Parents are usually the experts on their own child, and their knowledge about their child can provide a valuable insight about what works and what is needed. Parents can support the school's work in developing emotional, social and behavioural skills by reinforcing them at home and by helping their child develop insight into their difficulties. Schools should therefore work in partnership with parents, sharing respective insights and strategies.

69. It will sometimes appear that family dynamics are contributing to a child or young person's difficulties. In these circumstances, a parenting education programme may help parents to set clear and appropriate boundaries, provide social and emotional support and manage behaviour. Educational psychologists, behaviour support specialists, learning mentors, personal advisers or primary mental health workers from child and adolescent mental health service (CAMHS) teams may provide input into such programmes. Family SEAL<sup>7</sup> workshops also help to create a positive family atmosphere by encouraging parents to use the SEAL approach to developing children's social and emotional skills.

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<sup>6</sup> Lindsay, G and others (2006) *Special Educational Needs and Ethnicity: Issues of over and under representation*. University of Warwick/ DfES,

<sup>7</sup> Social and emotional aspects of learning. Website: <http://www.standards.dfes.gov.uk/primary/publications/banda/seal/>

70. Where parenting is identified as a factor contributing to a pupil's BESD, local authorities, school and early years settings may wish to suggest the development of voluntary parenting contracts. Where behaviour is a cause for concern, there is also scope for the local authority or school to apply to the local magistrates' court for a parenting order, if it is judged appropriate to require otherwise reluctant parents to cooperate or to undergo parenting classes. Further information is contained in the Department's *Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices* (September 2007).<sup>8</sup>

### **Child protection**

71. There will be circumstances where it is suspected that there is neglect or abuse at home. In such circumstances, it is essential that early years settings, schools and/ or local authority officers bring their concerns to the attention of the local authority's social care services as quickly as possible. It is important for there to be regular training to ensure that all school staff are aware of child protection policies and procedures.

72. Schools and early years settings are reminded that paragraph 2.123 of the Government's guidance, *Working Together to Safeguard Children*<sup>9</sup>, says that:

*'Education staff have a crucial role to play in helping identify welfare concerns, and indicators of possible abuse or neglect, at an early stage. They should refer those concerns to the appropriate organisation, normally LA children's social care, contributing to the assessment of a child's needs and, where appropriate, to ongoing action to meet those needs. When a child has special educational needs or is disabled, the school will have important information about the child's level of understanding and the most effective means of communicating with the child. The school will also be well placed to give a view on the impact of treatment or intervention on the child's care or behaviour.'*

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<sup>8</sup> <http://www.dcsf.gov.uk/schoolattendance/uploads/Parenting%20Contract-Guidance%20PNsPCsPOs%20FINAL2007.pdf>

<sup>9</sup> HM Government (2006) *Working Together to Safeguard Children: a guide to interagency working to safeguard and promote the welfare of children*. London: The Stationery Office. Website: [www.everychildmatters.gov.uk/resources-and-practice/IG00060/](http://www.everychildmatters.gov.uk/resources-and-practice/IG00060/)

### **3: DEVELOPING A GRADUATED APPROACH TO SUPPORTING CHILDREN AND YOUNG PEOPLE WITH BESD IN EARLY YEARS SETTINGS AND SCHOOLS – PREVENTION, IDENTIFICATION AND INTERVENTION**

#### ***Whole school approaches to prevention and early identification***

73. All schools and early years settings deal with children with a range of emotional and social difficulties and with difficult and sometimes disturbing behaviour. The Department's guidance entitled *Promoting Children's Mental Health within Early Years and School Settings* provides advice on whole school strategies for promoting mental health and for identifying difficulties that may arise.

74. The Social and Emotional Aspects of Learning (SEAL) programme in schools promotes the development of social and emotional skills. SEAL promotes positive behaviour, attendance, learning and the mental health of all children. It also provides for small group work for pupils who need more support, though the programme is not sufficient for children who have severe behavioural problems or mental health difficulties that require specialist help. Many schools that have implemented this programme have seen a marked improvement in the way pupils interact with each other both inside and outside the classroom. The SEAL programme also provides a helpful framework on which special schools can draw to meet the particular needs of their pupils.

[www.teachernet.gov.uk/seal](http://www.teachernet.gov.uk/seal)

75. Whole-school approaches to managing pupil behaviour are described in DCSF guidance on *School Discipline and Pupil Behaviour Policies* – [www.teachernet.gov.uk/wholeschool/behaviour/](http://www.teachernet.gov.uk/wholeschool/behaviour/) (issued in April 2007) and also in earlier, independent advice from the Practitioners' Group on School Behaviour and Discipline chaired by Sir Alan Steer, *Learning Behaviour Principles and Practice – What Works in Schools* (2005).

76. Whole-school approaches can improve social and emotional well-being and reduce behaviour difficulties. The SEN Code of Practice explains (paragraphs 5.18 and 6.18), '*effective management, school ethos and the learning environment, curricular, pastoral and discipline arrangements can help prevent some special educational needs arising, and minimise others.*'

77. All children and young people with SEN or disabilities, including those with BESD, should be able to access and benefit from high quality early years and childcare provision. The Childcare Act 2006 provides a comprehensive statutory framework for improving outcomes for all young children, reducing inequalities between them, and supporting the delivery of the commitments in the Ten Year Childcare Strategy to give every child the best start in life and parents more choice about how to balance work and family life.

78. Prevention, early identification and intervention underpin the key duties set out in the Childcare Act on local authorities and their partners. High quality, integrated services that bring together health and early years professionals can support children's early learning and development, their successful transition to school and enhance their life chances. Early years settings should ensure they have a clear policy to support the early identification of needs. They should work with their local authority, in partnership with health services and voluntary sector partners, and most importantly with parents. Early years settings should have a clear inclusion policy and a named member of staff responsible for inclusion in the setting. They should also arrange staff training to enable them to work effectively and appropriately with children with BESD.

79. School admissions should be consistent with the Admissions Code of Practice. Schools, early years settings and local authorities must not discriminate in their admissions criteria or their admissions procedures. Children and young people with BESD (but who do not have a statement of special educational needs naming a particular school) have the same rights of admission to a school or early years setting as others. All schools and settings should admit pupils with identified special educational needs including those with BESD. They should also identify and provide for pupils whose SEN were not previously identified.

80. Extended schools and workforce reform are increasing schools' capacity to intervene early to address individual need. For example learning mentors and coaches facilitate children and young people's attendance, learning and personal development.

### ***Personalised learning***

81. Personalised learning and teaching mean taking a highly structured and responsive approach to each child's and young person's learning, so that all are able to progress, achieve and participate. It means strengthening the engagement of pupils and their parents as partners in learning. Case studies covering personalised assessments and learning can be found at:

[www.standards.dfes.gov.uk/personalisedlearning](http://www.standards.dfes.gov.uk/personalisedlearning).

82. Personalised learning has five key components:

- Assessment for learning – ascertaining where each pupil is in their learning, giving quality feedback to promote further learning and planning the next steps with shared objectives;
- Effective teaching and learning – building on the learner's experience, increasing and applying knowledge so that everybody can make maximum progress in their learning; expanding teaching repertoires and extending learning opportunities;
- A flexible curriculum – providing pupils with an enriched curriculum with a guaranteed core that is used as the basis for enquiry;

- Organising the school for personalised learning – enabling schools at local level to use workforce reforms and new technologies imaginatively, backed up by appropriate continuing professional development, school networks and collaboration;
- Partnerships beyond the classroom – addressing the needs of the whole child by offering a range of extended services that involve parents/carers and the community in children’s education.

83. The 2005 Schools White Paper set out the Government’s commitment to transform the support available for every child, including those who need support to help them catch up and those who have a particular gift or talent.

84. The National Strategies are working to strengthen schools' tracking of pupil progress and ensure effective use by teachers of Assessment for Learning and intervention strategies to improve and personalise teaching and learning. The National Strategies are providing schools with best practice materials, guidance and training on the most effective strategies to personalise learning to the needs of each pupil. It will be for each school to decide its own plans for delivering personalised learning and to determine how best to invest their new resources and deploy their staff to deliver them.

85. The introduction of the National Strategies’ Three Waves model of intervention for behaviour and learning provides a rigorous, strategic approach to the early identification of need, targeted support and evaluation of outcomes as part of a whole school approach to personalisation. *Wave 1* support enables interventions through *Quality First* classroom teaching, *Wave 2* interventions entail targeted support which is designed to enable pupils to work at expected levels, and *Wave 3* support entails additional, personalised interventions designed to meet longer term and more complex needs.<sup>10</sup>

***Developing a whole-school approach to behaviour management which takes account of children and young people with SEN and disabilities***

86. The statutory SEN responsibilities of school governing bodies are summarised in the SEN Code of Practice, paragraph 1:21. They include:

- doing their best to ensure that the necessary provision is made for any pupil who has SEN;
- ensuring that pupils’ SEN needs are made known to all who are likely to teach them;
- ensuring that teachers in the school are aware of the importance of identifying and providing for pupils who have SEN;
- having regard to the Code of Practice when carrying out their duties toward all pupils with SEN.

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<sup>10</sup> [http://www.standards.dfes.gov.uk/secondary/keystage3/all/respub/ns\\_ws\\_ped\\_pers](http://www.standards.dfes.gov.uk/secondary/keystage3/all/respub/ns_ws_ped_pers)

87. Schools, pupil referral units and early years settings in receipt of government funding for early education must have a written SEN policy. Schools' policies include a number of requirements that are particularly relevant to pupils with BESD:

- how pupils' SEN are identified, assessed and reviewed;
- arrangements for access to the curriculum for pupils with SEN;
- how resources are allocated to and amongst pupils with SEN;
- staff training on SEN;
- how the governing body evaluates the success of the education provided for pupils with SEN.

88. All policies, including those relating to behaviour management, should take account of the needs of children and young people with SEN and disabilities. The Department's guidance, *Promoting Children's Mental Health within Early Years and School Settings*, provides advice and case studies which schools may find helpful when trying to determine which additional or alternative intervention might be effective.

89. The disability equality duty was brought in by the Disability Discrimination Act 2005. It requires schools and other 'public authorities' to promote equality of opportunity for disabled people. A specific duty, which applies to particular public authorities, including local authorities and publicly-funded schools (including city technology colleges, city colleges for technology of the arts and academies) includes a requirement to prepare and publish a disability equality scheme. The scheme must show how a public authority is meeting its general duty.

90. The Department's guidance, *Promoting Disability Equality in Schools*, sets out the specific requirements of a scheme, in full. Amongst these are requirements to:

- involve disabled people (pupils, staff, parents) in the preparation of the scheme;
- set out in their scheme the arrangements for gathering information on the effect of the school's policies on the educational opportunities available to and the achievements of disabled pupils;
- the school's methods for assessing the impact of its current or proposed policies and practices on disability equality.

91. Section 3.9 of the Department's guidance on *School Discipline and Pupil Behaviour Policies*<sup>11</sup> provides practical advice on ways in which schools might need to take account of a child or young person's SEN and disability when applying the school behaviour policy. This may mean making reasonable

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<sup>11</sup><http://www.teachernet.gov.uk/wholeschool/behaviour/schooldisciplinepupilbehaviourpolicies/>

adjustments or considering what additional or different action may need to be taken. Paragraph 3.6.3 of the same guidance explains:

*'Any lawful use of sanctions must be reasonable and proportionate to the circumstances of the case [taking account of] the pupil's age, any special educational needs, any disability and any religious requirements affecting the pupil.'*

92. Paragraph 3.6.14 advises that schools should avoid sanctions becoming cumulative and automatic, as this is unlikely to enable their application in a way which always takes account of individual needs, age and understanding. Paragraph 3.6.17 adds that staff should also consider, when using sanctions, whether an apparent behaviour difficulty is in fact a manifestation of unidentified learning difficulties or other type of SEN.

93. Paragraph 3.6.8 says that consultation with parents, engagement with other agencies and the development of a pastoral support programme should feature in schools' systems for addressing issues around behaviour. Where a child or young person has (or is thought to have) special educational needs, the implementation of such systems should take account of, and be informed by, action being taken to address the child or young person's SEN.

94. The DRC Code of Practice for Schools explains, paragraph 6.13, that schools *'will need to review their policies, practices and procedures, as a matter of course, to ensure that they do not discriminate against disabled children.'* In addition disability equality schemes include the requirement to assess the impact of school policies on disability equality. This should include the impact of school behaviour policies. The DfES guidance, *Promoting Disability Equality in Schools* includes the following case study from a secondary school:

#### CASE STUDY

The Head of Year 9 reviews referrals for behaviour and discipline following a discussion of the definition of disability on a staff training day. She thinks that more pupils are covered by the definition than the school had previously recognised and identifies a group of pupils with autistic spectrum disorders who are over-represented in the referrals. She meets with the pupils individually to discuss what steps the school might take to reduce the number of incidents.

Following her discussions she meets with the pastoral deputy and the SENCO.

They agree the following actions:

- the SENCO will contact the local authority for training on the communication needs of pupils with autism. The school wants to build this in on a regular basis, so that new staff can attend and existing staff can have refresher sessions;
- the deputy will circulate a note to ask other teachers with pastoral responsibilities to undertake similar reviews of referrals;
- the SENCO will involve the pupils and their parents in the development of a

- note to all staff to ensure that staff are aware of some key considerations in their interactions with the pupils;
- the deputy will bring forward the review of the school's behaviour policy to the next term; and
  - the actions they agree will be incorporated into the school's disability equality scheme, but progress on reducing the number of incidents will be kept under review as part of the school's behaviour policy.

## **Exclusions**

95. Exclusions data reveal a disproportionately high rate of exclusions of children and young people with SEN. Paragraph 46 of Part 2 of the Department's guidance, *Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units*, is clear that, other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with statements, and they should also make every effort to avoid excluding pupils who are being supported at *School Action* or *School Action Plus*. Paragraphs 45 – 50 of that guidance contain advice on the steps schools should take when considering whether to exclude a child or young person with SEN or with a disability. Those paragraphs are reproduced at Annex 1 to this guidance. Advice on monitoring of exclusions is provided at paragraphs 159 and 160 below.

96. Careful consideration should be given to whether there may be unidentified SEN when challenging behaviour is being addressed. If a child or young person has been identified as having SEN, consideration should be given to whether other interventions could provide an alternative to exclusion and would more effectively address the matters causing concern, see paragraphs 99 to 108 below. The Department's guidance, *Promoting Children's Mental Health within Early Years and School Settings*, provides advice that schools may find helpful when trying to determine which additional or alternative intervention might be effective.

97. Equally, schools need to be alert to the possibility that behavioural difficulties may mask an underlying disability. Schools should take care to make reasonable adjustments to policies that may discriminate against disabled pupils. A policy that provides an automatic sanction for a particular offence may need to be varied if its application to a disabled pupil might treat him less favourably than another pupil for a reason related to his disability. Schools also need to be alert to the range of ways in which incidents that might lead to an exclusion can be avoided, for example, whole school training on the communication needs of autistic pupils may help to avoid difficulties between staff and students and may be a reasonable adjustment that schools might be expected to make.

98. Further advice on matters to be considered before excluding a child or young person from a school (including a PRU) is provided in *School Discipline*

and Pupil Behaviour Policies and in *Improving Behaviour and Attendance – Guidance on Exclusion from Schools and Pupil Referral Units*, 2007. These can be found at:

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance2007/>

### ***A graduated approach to addressing BESD as a special educational need***

99. The SEN Code of Practice explains there is a continuum of special educational needs and that, where necessary, increasingly specialist expertise should be brought to bear on a child/ young person's difficulties. The Code describes this as a graduated approach to addressing special educational needs. The Code suggests that where persistent emotional or behavioural difficulties are not ameliorated through usual behaviour management, staff should decide on additional or different interventions at *Early Years Action* or *School Action*. Consideration should be given to whether a child or young person's behaviour or emotional/ social needs arise from an underlying learning difficulty, for example dyslexia, that has not been identified or is not being appropriately addressed.

100. Paragraph 7:60 of the Code suggests that children and young people with BESD may require help with some or all of the following:

- flexible teaching arrangements;
- development of social competence and emotional maturity;
- adjusting to school expectations and routines;
- acquiring the skills of positive interaction with peers and adults;
- specialised behavioural and cognitive approaches;
- re-channelling or re-focusing to diminish repetitive and self-injurious behaviours;
- provision of class and school systems which control or censure negative or difficult behaviours and encourage positive behaviour;
- provision of a safe and supportive environment.

101. Provision may be made more effectively and efficiently for groups of pupils, for example, the development of social skills may be undertaken more effectively in groups. However the provision is made, *'The interventions are a means of matching special educational provision to the child's needs, and are therefore part of the continuous and systematic cycle of planning, action and review within the school to enable all children to learn and progress.'*<sup>12</sup>

102. If, following assessment or evaluation, little or no progress continues to be made, staff should consider seeking external support through *Early Years Action Plus* or *School Action Plus* (see paragraphs 4.29, 5.55 and 6.63 of the *SEN Code of Practice*). At *Early Years Action Plus* or *School Action Plus*, external support services are engaged by schools to support them in developing interventions and removing barriers to achievement. The Code is clear that the involvement of

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<sup>12</sup> Department for Education and Skills (2001) *SEN Code of Practice*

such agencies need not be limited to this stage; outside specialists can play an important part in the very early identification of SEN and in advising schools on effective provision designed to prevent the development of more significant needs.

103. Where the child's difficulties *'have not responded to relevant and purposeful measures taken by the school or setting and external specialists'*, the school may wish to consider asking the local authority to undertake a statutory assessment of the child or young person's SEN, see Chapter 7 of the Code of Practice. A parent can request such an assessment at any time. The processes for undertaking statutory assessments and deciding on whether to issue a statement are described in Chapters 7 and 8 of the Code and are not repeated here.

104. A pastoral support programme is a school-based intervention to help individual pupils to manage their behaviour. Where a child or young person's BESD entails challenging behaviour, a pastoral support programme may be agreed between and supported by a range of agencies, see paragraphs 3.6.8 and 3.6.9 of *School Discipline and Pupil Behaviour Policies*. A pastoral support programme is particularly useful for those whose behaviour is deteriorating rapidly and who are in danger of permanent exclusion. The programme should identify precise and realistic targets for the pupils to work towards; it should be short, practical and agreed with parents. The local authority will be informed and other agencies involved.

105. This multi-agency approach may also be helpful in planning and providing support to a child or young person whose BESD entails being withdrawn, anxious or depressed, and/ or engaging in self-harm. Other examples of such approaches are contained in the Department's guidance, *Promoting Children's Mental Health within Early Years and School Settings*.

106. Where the involvement of several agencies would help to address a child or young person's needs, it may be appropriate to assess those needs using the Common Assessment Framework (CAF). CAF provides a holistic assessment and enables practitioners and/or multi-agency teams to provide a co-ordinated response. One practitioner acts as the 'lead professional' for the particular child or young person, so that there is one point of contact for the family and one person to co-ordinate and review the action agreed. As CAF is implemented, schools should be aware of local arrangements for using the CAF and know who should undertake an assessment with the child and family and liaise with the multi-agency team. The outcomes would be reflected in the work of schools and other agencies with the child or young person at *Action Plus* (or in the statement of SEN) and in any pastoral support programme.

107. Schools and local authorities should remain aware that paragraph 7:30 of the Code of Practice says that in the great majority of cases the school will have

assessed a child or young person's learning difficulties and made provision to address the identified needs, before any request is made to the local authority for a statutory assessment. In a very small minority of cases, children or young people may demonstrate such significant difficulties that the school may consider it impossible or inappropriate to go through their usual procedures, for example, a child with severe emotional or behavioural difficulties which require an urgent response from beyond the school. The Code says there is a need for a quick response from the local authority for such children.

108. Paragraph 8:23 of the Code of Practice explains that in exceptional circumstances it may be necessary to make an emergency placement for a child without a statutory assessment and a relevant statement. Examples include circumstances where: the parents, the school, relevant professionals and the local authority agree that a sudden and serious deterioration in a child's behaviour makes the current placement untenable or unsafe; and where a young person returns home from a secure unit or young offender institution. Paragraphs 8:24 et seq of the Code explain the further urgent steps that must be taken following a decision to make such an emergency placement.

#### **4: THE CURRICULUM FOR CHILDREN AND YOUNG PEOPLE WITH BESD**

109. All schools should strive to develop and deliver their school curriculum in ways that match their aims, meet the varied needs of their pupils and fulfil statutory requirements. The curriculum in all schools should be balanced and broadly-based and provide opportunities for all pupils to learn and to achieve. It should promote pupils' spiritual, moral, social and cultural development and prepare all pupils for the opportunities, responsibilities and experiences of work and life.

110. The National Curriculum includes a statutory Inclusion Statement as part of the common requirements. The Statement sets out the requirement for teachers to adapt the curriculum as necessary by setting suitable learning challenges, responding to pupils' diverse learning needs and overcoming potential barriers to learning and assessment for individuals and groups of pupils. The Statement gives teachers greater flexibility to adapt the curriculum to an individual pupil's ability. It is designed to enable pupils with a wide range of special educational needs to progress and demonstrate achievement within the National Curriculum.

111. It should be noted that the National Curriculum does not apply to PRUs or education provided otherwise than in a school – although PRUs are required to ensure a balanced and broadly based curriculum is provided.

112. The flexibility offered by the Inclusion Statement is designed to reduce the need for formal disapplication or modification of the National Curriculum requirements. However, where that flexibility still does not meet an individual pupil's needs, it is possible, under Section 92 of the Education Act 2002 for the local authority to disapply the National Curriculum through a statement of special educational needs. Disapplication may be from all or part of the National Curriculum, including all or part of separate programmes of study and all or part of statutory assessment arrangements. Schools should, however, retain pupils' access to a broad and balanced curriculum or learning programme, including as much of the National Curriculum as possible.

113. In addition, under the terms of section 93 of the Education Act 2002, head teachers have a power to disapply or modify the National Curriculum temporarily in order to help a child or young person during a temporary difficulty which is beyond the flexibility already in the National Curriculum (a month's illness, for example, does not usually require disapplication), or while s/he is being assessed with a view to making or amending a statement. Further information about disapplication is available online at: [www.dcsf.gov.uk/disapply](http://www.dcsf.gov.uk/disapply)

114. Guidance to support the statutory Inclusion Statement can also be found within the National Curriculum handbook and on the National Curriculum website at [www.nc.uk.net](http://www.nc.uk.net), under the heading 'Inclusion'.

115. Schools may also find it helpful to refer to guidance (being published early 2008) on curriculum delivery in PRUs and to take account of the national entitlement and timetable for the introduction of the fourteen new Diploma lines. In agreeing a local 14-19 prospectus, local authorities and partner organisations will wish to consider what each school and college in the area can offer young people with BESD.

116. Working within the statutory framework, each school should develop a curriculum which matches local and individual circumstances, building on pupils' strengths and needs. Under the Education (School Government) Terms of Reference (England) Regulations 2000, governing bodies and headteachers are required to produce a curriculum policy. This replaces the requirement under the School Standards and Framework Act 1998 for a curriculum plan. The approach taken should be broad brush. The policy should set out the principles underpinning the curriculum and reflect the school's commitment to developing all aspects of their pupils' lives. It allows schools to state values and aims as well as the general principles governing their approaches to issues such as inclusion and cross-curricular learning. Regulations make the headteacher responsible for preparing the policy and reviewing it annually. The governing body must consider and agree the policy and monitor and review its implementation.

117. Curriculum aims should be agreed with all members of the school staff, governors, parents, carers, visiting professionals (such as therapists and advisory teachers) and the pupils themselves. Once agreed, these aims will inform the development of local curriculum plans and establish an essential reference point for reviewing curriculum provision. There should be ongoing discussion and regular review to ensure that the school's curriculum aims respond to changing priorities.

118. Although the National Curriculum is specified in terms of individual subjects, schools are not required to teach these separately. They can organise their curriculum in ways which provide opportunities for appropriate and relevant learning; have meaning for pupils, parents, carers and staff; and use resources to maximum effect.

119. Curriculum content and experiences for pupils with BESD should be carefully sequenced to build on previous learning and ensure progression. They should emphasise personal development and essential life skills which will improve their achievement of the five Every Child Matters outcomes.

120. For children and young people with challenging behaviour, it is often helpful for teaching and learning to be well paced, tightly focused with specific learning objectives clearly expressed and broken down into small steps for each part of the lesson. Pupils with BESD are likely to require considerable support with personal and social development, including managing relationships with others in the classroom, or during wider activities in and around the school.

121. Lessons which are highly interactive with well-planned group work in a variety of groupings provide opportunities for speaking and listening and for children and young people to learn from one another. It can be beneficial for these children and young people to have the opportunity to experience the responsibilities of assuming a leadership role, given clear objectives and parameters.

122. Learning and development can also result from the ways in which pupils with BESD are helped to resolve conflicts and develop and maintain friendships. Approaches such as 'circles of friends' or peer mentoring can help to develop positive peer relationships. The DVD material in *Implementing the DDA in schools and early years settings* shows a number of useful strategies in action.

123. Children and young people with BESD may find it helpful to have one identified adult with whom they can discuss matters causing them concern. This may be a teacher or a learning mentor who has been clearly assigned this responsibility as part of the additional support provided for the pupil.

124. Schools will wish to be aware of pilot work developing work-focused learning for 14-16 year olds as an additional curriculum option. A wide range of good practice is being developed using a work-focus in ways which motivate young people by demonstrating the usefulness of learning for their future careers. Young people are also making progress in developing skills through practical learning outside classrooms fitting better with their preferred learning styles. The aim is that the good practice being developed will be adopted and adapted by schools throughout the country as they see fit. Further information is at [www.qca.org.uk/14-19/11-16-schools/110\\_2474.htm](http://www.qca.org.uk/14-19/11-16-schools/110_2474.htm) On this website the guidance document entitled *Key Stage 4 Engagement Programme: Making the programme work for your students* contains many of the lessons learnt so far, and there is a growing body of case studies, written by practitioners, which may be transferable to other schools.

125. For young people aged 14-19, the Department is working with the QCA, schools and colleges to develop Diplomas, which will sit alongside A levels and GCSEs. Diplomas will combine theoretical and applied learning. By 2013 there will be national entitlement in fourteen lines of learning at levels 1, 2 and 3 covering all sectors of the economy. Level 1 will be broadly equivalent to 4-5 GCSEs, and level 3 will be broadly equivalent to 3 A levels.

126. The first five diploma lines will be available from September 2008. They will be in ICT, Society Health and Development, Engineering, Creative & Media, and Construction & the Built Environment. Pathfinder authorities are already testing elements of the Diplomas as they are developed. Further details can be obtained by e-mailing [diploma@qca.org.uk](mailto:diploma@qca.org.uk)

127. Workforce remodelling is a long-term change process focused on deploying staff in the most appropriate and efficient way, with teachers focused on teaching and learning, and other tasks being carried out by a wide range of support staff. An essential element of workforce reform is the building of a multi-skilled team to provide effective learning opportunities for all pupils. Schools that have remodelled effectively are well placed to respond to the many challenges they face, including how to support pupils with BESD. Further information on remodelling and the support available to schools can be found at: <http://www.tda.gov.uk/remodelling/nationalagreement.aspx>

## **5: DEVELOPING A RANGE OF PROVISION FOR CHILDREN AND YOUNG PEOPLE WITH BESD**

128. The range of provision for children and young people with BESD will consist of:

- (a) a range of settings able to work with certain levels of need, from early years settings and mainstream schools through to special schools, and
- (b) a range of support enabling schools and early years settings to work in a multi-agency way with children and young people with BESD, including being able to work effectively with some who might otherwise need to be considered for transfer to another setting.

### ***A range of settings***

129. In the context of a local authority's statutory duty to promote high standards of education for all children, including those with SEN, paragraph 1:11 of the SEN Code of Practice says that local authorities should make effective arrangements for SEN by ensuring that:

- the needs of children and young people with SEN are identified and assessed quickly and matched by appropriate provision;
- high quality support is provided for schools and early education settings – including, through educational psychology and other support services, and arrangements for sharing good practice in provision for children and young people with SEN;
- children and young people can benefit from coordinated provision – by developing close partnerships with parents, schools, health and social services and the voluntary sector;
- strategic planning for SEN is carried out in consultation with schools and others to develop systems for monitoring and accountability for SEN;
- local authority arrangements for SEN provision are kept under review as required under section 315 of the Education Act 1996.

130. When fulfilling their section 315 responsibility to review their arrangements for SEN provision, local authorities and their partners (for example, the local Learning and Skills Council) should consider the effectiveness and scope of the range of settings they have in place for children and young people with BESD.

131. The DfES guidance *Planning and Developing Special Educational Provision* provides advice on planning and commissioning SEN services and settings. Paragraph 33 of that guidance summarises the types of provision that local authorities are putting in place for a range of SEN, including for children and young people with BESD. This explains that although terminology may vary from authority to authority, specialist provision may take a variety of forms:

- Mainstream schools - where children with SEN are supported at School Action and School Action Plus or through a statement;
- Specialist mainstream schools - which have a particular SEN specialism

- and provide outreach to other schools;
- Resourced Provision – where places are reserved at a mainstream school for pupils with a statement for a specific type of SEN. Pupils are taught mainly within mainstream classes but also use a base and some specialist facilities around the school;
- Designated Unit – where pupils with a statement of a specific type of SEN are taught wholly or mainly in separate classes specifically provided within a mainstream school;
- Special school – organised specifically to cater for children with statements who have particular types of SEN;
- Specialist special schools - which have a particular SEN or curricular specialism and provide outreach to other schools;
- Co-location – children with statements are educated in separate special school facilities with separate staff but on site with a mainstream school or vice versa. There should be some interchange of pupils, resources, staff and dual use of facilities.

132. Where appropriate, local authorities also commission specialist provision. Paragraph 36 of *Planning and Developing Special Educational Provision* says that local authorities should consider whether and how the particular expertise of non-maintained and independent schools (which often offer residential provision as well as specialist outreach advisory and support services) could contribute to local, regional, sub-regional and national provision.

133. This guidance does not provide detailed advice on the running of residential schools for children and young people with BESD. As suggested in paragraph 73 of Circular 9/94, for a small minority of pupils, boarding away from home may be wholly appropriate and beneficial and may indeed be the only way for them to make progress. Best practice entails these schools working with children and young people on addressing their needs during recreational activities in the evenings and at weekends, well beyond usual classroom hours.

134. Paragraphs 8:70 to 8:79 of the SEN Code of Practice, paragraphs 73 – 76 and 78 – 101 of Circular 9/94 and Chapter 3 of the Department's guidance entitled *The Management of SEN Expenditure* (read in the context of the current statutory framework) provide advice for local authorities when considering a placement in a residential school.

135. Pupil referral units (PRUs) are not planned or designed to be a long term setting and should not be regarded as part of a local authority's range of planned SEN provision. In this context, local authorities will wish to consider whether data on the use of PRUs, the placement of children and young people from PRUs into other educational settings, managed moves, or data on exclusions suggest that changes need to be made to the range of settings and/ or to the range of support that available to settings.

136. Local authorities should make clear to schools and PRUs the range of provision that is available, along with advice on criteria, access processes and referral routes. Local authorities should also be clear about whether such provision is available on a core (no cost) basis, or as a traded service.

### ***Placement in and moving on from Pupil Referral Units or other Alternative Provision***

137. As indicated in paragraph 8:92 of the SEN Code of Practice, local authorities are empowered by section 319 of the Education Act 1996 to arrange for some or all of child's special educational provision to be made otherwise than at school. Sometimes, children and young people with BESD are placed in pupil referral units or other alternative provision. Such placements should not be viewed as part of the range of SEN provision. Rather they should be used for relatively short periods of time, while a more appropriate placement is arranged. As noted in paragraphs 4.28 and 4.29 of *Guidance for Local Authorities and Schools – Pupil Referral Units and Alternative Provision*:

*'If a pupil's long-term needs cannot be met in a mainstream school, a special school rather than a PRU should be named on a statement of SEN. Where a pupil with a statement of SEN is placed in a PRU or other form of Alternative Provision because a place in a mainstream or special school appropriate to meet the needs specified in the statement is not yet available, regular planning and review of the placement is essential, alongside steps to provide the necessary support.'*

<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=LEA%2f0024%2f2005&>

138. Guidance on monitoring placements of pupils in PRUs and other alternative provision is provided at paragraphs 159 and 160 below.

### ***Managed moves***

139. Schools in many local authorities have agreed 'managed moves' protocols to enable pupils to move on to another school, to give them a fresh start and / or where other local schools have further behaviour management strategies available to benefit the pupil. It is important this only happens with the full knowledge and cooperation of all parties involved, including the parents, and in circumstances where this is in the best interests of the pupil. This is covered in paragraph 9(d) of the Department's guidance on exclusions: *Improving Behaviour and Attendance – Guidance on Exclusion from Schools and Pupil Referral Units*, published in September 2007. Some local authorities have similar protocols for moving pupils on a temporary basis to alternative provision, including PRUs, while remaining on their school roll.

140. Most of the principles applying to managed moves generally also apply to managed moves for pupils with SEN. The guidance stresses that a managed move should only take place with the agreement of the parents, head teachers, governors and the LA. Parents should never be pressured into removing their child from school under the threat of permanent exclusion. Managed moves are most successful when they are arranged prior to permanent exclusion. The process may take some time to arrange although protocols agreed between schools should set out a process which allows for a quick and seamless move from one school to another.

141. Best practice entails providing additional support for the pupil on transfer, perhaps from the local authority's behaviour support service, the receiving school's Learning Support Unit or from learning mentors as part of a well-planned induction programme. Many protocols provide for the pupil staying on the roll of their first school during a trial period, typically for half a term to allow the pupil time to settle in then review their progress. Any issues that might arise around school transport costs should be addressed and resolved early in the process of arranging a managed move.

142. Where a child or young person has a statement of SEN, discussions about the possibility of a managed move must include a review of the pupil's statement and the support appropriate to the pupil as set out in the statement. If it is decided that a child or young person should change schools, procedures summarised in the SEN Code of Practice for amending the statement and issuing a final statement naming a new school must be followed. Where the pupil has dedicated support or specialist resources specified in their statement, the same or similar provision will need to be arranged at the new school, and time will need to be allowed to put new arrangements in place. Careful consideration should be given to ensuring that the disruption of a transfer does not outweigh the benefits of a managed move.

### ***A range of support***

143. Local authorities should make sure that schools and early years settings have access to advice and support from educational psychologists, behaviour support services, whether provided centrally or as outreach from a special school, and child and adolescent mental health services (CAMHS). DCSF/DH's *National Service Framework for Children, Young People and Maternity Services* has established clear standards in promoting the health and well-being of children and young people and for providing high quality services. Standard 9 addresses the mental health and psychological well-being of children and young people:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/Browsable/DH\\_4094607](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/Browsable/DH_4094607)

144. Increasingly, schools as well as local authorities are developing provision for children and young people with BESD, not least because proportionately more resources and responsibilities are delegated to schools than was the case in the past.

145. It also follows from the delegation of resources to schools that many local authority services are provided to schools on a traded basis, that is schools are charged for using these services. This enables schools to decide to use their resources on those services which most appropriately address their pupils' needs.

146. Schools are increasingly working in partnerships to develop shared provision. Sometimes local authorities commission schools, or groups of schools, to provide services to other schools as part of developing provision across the local authority area. For example, all secondary schools are now expected to be in partnerships to improve behaviour and tackle absence, and primary schools, special schools and PRUs may also be involved. For further information, see *Guidance on school partnership to improve behaviour and tackle persistent absence*, available on-line at:

<http://www.teachernet.gov.uk/wholeschool/behaviour/collaboration>

147. Advice from special schools and PRUs can help mainstream schools prevent the escalation of behavioural difficulties. School partnership arrangements should help ensure that the needs of any excluded pupils with BESD are met in the most appropriate way, whether in a special school, temporarily in a PRU, another mainstream school, or other provision. School partnerships can also arrange reciprocal training, opportunities for secondment and consultation, and exchange of best practice in such areas as curriculum development.

148. Local authorities, schools or clusters of schools may also provide, or commission from the independent or voluntary sector providers, services such as nurture groups or similar arrangements for supporting children and their families where schools identify children with emotional or social difficulties and therefore need help to get the most out of school. Such arrangements could complement and augment the SEAL programme:

<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0131+2002&>

149. Children and young people with BESD and/ or their families may require access to a range of services including CAMHS, educational psychology, behaviour support, social care services, speech and language therapy, physiotherapy and occupational therapy. Section 10 of the Children Act 2004 places a duty on local authorities to make arrangements to promote cooperation

between the authority, specified organisations and other locally determined partners, to improve the wellbeing of children (wellbeing is defined as the five positive outcomes set out in Section 10(2)). Local authorities and other organisations should therefore be working together through Children's Trusts to improve outcomes for children and young people with BESD, as they would for other children and young people. This would include multi-agency review of provision, which would identify ways in which provision might be developed to address identified needs more effectively and improve outcomes. The DfES *Statutory Guidance on inter-agency cooperation to improve the wellbeing of children: children's trusts* explains the Section 10 duty.

150. The Department's guidance, *Planning and Developing Special Educational Provision*, sets out how local authorities and schools might review and develop the range of provision for children and young people with SEN. The principles in that guidance, including the summary of the range of settings in which educational provision might be made for children and young people with SEN, also apply to developing the range of provision for those with BESD.

## 6: MONITORING AND EVALUATION

151. Schools and local authorities should monitor and evaluate the impact of their provision on outcomes for children and young people with BESD, through the processes they have in place for monitoring and evaluating their overall strategies for improving outcomes for children with SEN and/ or disabilities. This will include the careful review and use of data with particular focus on progress and outcomes.

### ***Special educational needs***

152. Section 315 of the Education Act 1996 requires local authorities to keep their SEN provision under review. When undertaking this review, it is important that local authorities consider the effectiveness of their arrangements for addressing the needs of children and young people with BESD. Local authorities may find the National Strategies' framework to support SEN self-evaluation helpful when undertaking such reviews – alongside evaluating the effectiveness of their school funding arrangements in supporting and raising the achievement of children and young people with SEN (paragraph 1:12 of the Code), and taking account of the local authority SEN policy framework summarised at paragraphs 1:13 to 1:15 of the Code.

153. Paragraph 1:21 of the Code reminds school governing bodies of their SEN statutory responsibilities. Paragraph 1:23 lists all the settings (including schools) that must have a written SEN policy. Amongst other things, paragraphs 1:23 to 1:25 summarise SEN responsibilities in early years settings and PRUs.

154. Paragraph 1:27 reminds schools that governing bodies must, on at least an annual basis, consider and report on the effectiveness of the school's work on behalf of children with SEN, and consider whether changes to their SEN policy are needed.

### ***Disability equality schemes***

155. Regulations under Part 5A of the DDA<sup>13</sup> set out the requirements of a disability equality scheme and the Department's publication, *Promoting Disability Equality in Schools*<sup>14</sup> provides guidance. Schools' duties include the requirement to assess the impact of school policies on disability equality. This should include an assessment of the impact of behaviour and discipline policies. Schools should consider whether disabled pupils are affected more than others by their behaviour policy or by the application of sanctions such as detentions or exclusions. The involvement of disabled pupils and information gathered by the school will form an important part of the school's assessment.

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<sup>13</sup> The Disability Discrimination (Public Authorities) (Statutory Duties) Regulations 2005, SI No. 2966

<sup>14</sup> DfES (2007) *Promoting disability equality in schools*. Available as the 6<sup>th</sup> section of *Implementing the DDA in schools and early years settings*. Also available on the Teachernet website.

156. Priorities in the school's action plan should show how the school will promote equality of opportunity between disabled pupils and others on the policy and practice issues identified through the impact assessment. In addition, schools need to be able to evaluate the effectiveness of the actions identified in their scheme and reflect this evaluation in their discussions with:

- their School Improvement Partner; and
- Ofsted, when the school is inspected.

### ***School self-evaluation***

157. Schools' Self Evaluation Forms (SEF) and SEN provision mapping should help to identify areas where there is a need to improve school performance and to ensure appropriate action is taken. These review processes will help to identify any action to build staff capacity and improve the confidence of staff in supporting children with a wide range of needs. The Audit Commission, working with the National Strategies, has produced an SEN/ AEN Value for Money tool. This is an online resource pack which supports schools' own evaluation of their use of resources for special and additional educational needs. The tool provides helpful examples of provision mapping and helps schools to monitor and evaluate the impact their interventions are having on the progress of children and young people.

158. The focus of school self-evaluation on a continuing cycle of school improvement should ensure that the progress of all children is kept under review and that children receive appropriate support. The School Improvement Partner has an important role in: supporting and challenging a school's self-evaluation and the action it takes to address development needs; and in identifying and brokering sources of support to the school.

159. Data indicates that children and young people with SEN are more likely to be excluded from schools than others. This applies particularly to those with BESD. Local authorities and schools should consider the impact of their approach to working with children and young people with BESD on the exclusion trends. They will wish to consider what might be done differently to reduce the need for such exclusions. This might include reviewing the support available to schools that are working with children and young people with BESD. Similar lessons can be learned from analysing attendance data.

160. The placement of pupils in PRUs or other alternative education provision is discussed at paragraph 137 above. Local authorities should monitor the extent to which pupils with SEN and disabilities are being placed in PRUs or other alternative provision and the impact of measures being taken both to reduce the need for such placements and to reduce the length of time spent in them before pupils with SEN and disabilities transfer to more appropriate long-term

placements. These measures are likely to entail reviewing and where appropriate making changes both to the range of settings and the range of support to schools. Schools will wish to monitor the impact of support they are receiving and the measures they are taking for themselves to increase their capacity to address the needs of children and young people with SEN and disabilities, including children and young people with BESD.

## 7: TRAINING AND DEVELOPMENT

161. The Professional Standards for Teachers ([www.tda.gov.uk/standards](http://www.tda.gov.uk/standards)) are statements of a teacher's professional attributes, professional knowledge and understanding, and professional skills. They provide clarity of the expectations at each career stage. The preamble to the Standards reminds teachers that their practice should be informed by an awareness, appropriate to their level of experience and responsibility, of legislation concerning the development and well-being of children and young people. Specific reference is made to the Disability Discrimination Acts 1995 and 2005 and relevant associated guidance, and, the special educational needs provisions in the Education Act 1996 and the associated *Special Educational Needs: Code of Practice* (DfES 2001).

162. Standard Q/C19 requires that teachers should *'know how to make effective personalised provision for those they teach including those with special educational needs or disabilities, and how to take practical account of diversity and promote equality and inclusion in their teaching'*. Furthermore Standard Q/C20 requires teachers to *'understand the roles of colleagues such as those having specific responsibilities for learners with special educational needs, disabilities and other individual learning needs, and the contributions they can make to the learning, development and well-being of children and young people.'* All providers of initial teacher education are required to ensure they prepare trainees to meet the professional standards.

163. The Professional Standards form a backdrop to performance management. One of the key underpinning principles of performance management is the need for an ongoing professional dialogue between teachers and their managers through the appraisal process. This dialogue forms a mechanism through which teachers' continuing professional development needs should be identified and met. The process of self-evaluation summarised at paragraph 157 of this guidance may also help to identify school level professional development needs including those that relate to working with children and young people with SEN, and/or BESD.

164. More information and advice on professional practice when working with children and young people with BESD can be obtained from:

- *Promoting Children's Mental Health within Early Years and School Settings:*  
<http://www.teachernet.gov.uk/docbank/index.cfm?id=10867>
- Ofsted's Healthy Minds Report (July 2005)  
<http://www.ofsted.gov.uk/portal/site/Internet/menuitem.eace3f09a603f6d9c3172a8a08c08a0c/?vgnnextoid=9edf2a5f74f3c010VgnVCM1000003507640aRCRD>

- the Learning Support Units website:  
<http://www.teachernet.gov.uk/wholeschool/behaviour/learningsupportunits/casestudies/>

165. The DfES and DRC materials *Implementing the DDA in schools and early years settings* are available from Prolog.<sup>15</sup> The collection of film clips on DVD1 *Behaviour for learning* is particularly relevant to the education of children and young people with BESD, as is the 6<sup>th</sup> section of the guidance, *Promoting disability equality in schools*.

166. Schools and local authorities will also wish to be aware of the following national sources of material which can be used to support continuing professional development in working with children and young people with BESD, addressing challenging behaviour and addressing emotional and social development:

(a) the National Strategies run the National Programme for Specialist Leaders in Behaviour and Attendance, a specialist training programme for those working in these areas. Further details and access to some of the on-line training materials are at the following weblink:

[http://www.teachernet.gov.uk/wholeschool/behaviour/npsl\\_ba/resources/studymaterials/besd/](http://www.teachernet.gov.uk/wholeschool/behaviour/npsl_ba/resources/studymaterials/besd/)

(b) To support teachers and other staff working with pupils with SEN, the Department for Children, School and Families, working through the National Strategies, has launched an Inclusion Development Programme (IDP). This is offering professional development in key areas of SEN starting, in 2008, with training on communication difficulties. As well as communication being fundamental to learning and progression, frustration born of inability to communicate can contribute to erratic or unpredictable behaviour in class. It is envisaged that a future round of IDP will specifically address behavioural, emotional and social difficulties;

(c) schools also have access to behaviour management training materials through the National Strategies;

(d) staff CPD is fundamental to the effectiveness of the SEAL programme. Within the primary programme, CPD activities are suggested to help prepare staff to deliver each of the themes:

[http://bandapilot.org.uk/primary/seal/downloads/books/pns\\_seal132705\\_newbeg\\_pur.pdf](http://bandapilot.org.uk/primary/seal/downloads/books/pns_seal132705_newbeg_pur.pdf)

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<sup>15</sup> DfES Publications, PO Box 5050, Sherwood Park, Annesley, Nottinghamshire, NG15 0DJ  
Tel 0845 60 222 60, Fax 0845 60 333 60, e-mail: [dfes@prolog.uk.com](mailto:dfes@prolog.uk.com)  
Quote reference: 0160-2006DOC-EN

Within the secondary programme, guidance is provided in the section on professional development:

<http://bandapilot.org.uk/secondary/pages/development.html>

(e) The DCSF has also been provided with the following links to CPD resources available from professional associations:

<http://www.teachers.org.uk/topic/home.php?id=51>

[http://www.teachers.org.uk/resources/word/CPD-ScrollDownOview-Spring08\\_RS.doc](http://www.teachers.org.uk/resources/word/CPD-ScrollDownOview-Spring08_RS.doc)

[http://www.teachers.org.uk/resources/word/CPD\\_tf32\\_tt58\\_tt62INVITE\\_RS.doc](http://www.teachers.org.uk/resources/word/CPD_tf32_tt58_tt62INVITE_RS.doc)

<http://www.teachers.org.uk/resources/word/NUTCPDNEWSNo4.doc>

[http://www.teachers.org.uk/resources/pdf/CPDpages\\_i-ivNEW.pdf](http://www.teachers.org.uk/resources/pdf/CPDpages_i-ivNEW.pdf)

(f) The DCSF is also aware of a professional development tool being developed published by Barnardo's, Inclusive education in primary schools: supporting children with social emotional and behavioural difficulties. The tool draws on the practice of many teachers who are working with children with BESD and offers practical advice on addressing these difficulties. Further details can be obtained by emailing: [barnardospublications@barnardos.org.uk](mailto:barnardospublications@barnardos.org.uk)

## **8: USE OF FORCE TO CONTROL OR RESTRAIN**

167. Guidance published in November 2007 has replaced and supersedes DfES Circular 10/98 The Use of Force to Control or Restrain. The new guidance can be found at <http://www.teachernet.gov.uk/docbank/index.cfm?id=12187> - this sets out effective practice for schools in areas such as reducing the likelihood of incidents, carrying out a risk assessment, staff training and recording/reporting incidents, and covers matters to be considered when a child has special educational needs or a disability.

168. There is also *Guidance on the Use of Restrictive Physical Interventions for Staff Working with Children and Adults who Display Extreme Behaviour in Association with Learning Disability and/ or Autistic Spectrum Disorders* (Circular 0204/2002) and *Guidance on the Use of Restrictive Physical Interventions for Pupils with Severe Behavioural Difficulties* (Circular 0264/2003).

## **SUMMARY OF USEFUL WEB LINKS**

### **Every Child Matters:**

<http://www.everychildmatters.gov.uk>

### **Social Emotional Aspects of Learning:**

<http://www.teachernet.gov.uk/seal>

[http://bandapilot.org.uk/primary/seal/downloads/books/pns\\_seal132705\\_newbeg\\_pur.pdf](http://bandapilot.org.uk/primary/seal/downloads/books/pns_seal132705_newbeg_pur.pdf)

<http://bandapilot.org.uk/secondary/pages/development.html>

### **Promoting Children's Mental Health within Early Years and School Settings**

<http://www.teachernet.gov.uk/docbank/index.cfm?id=10867>

### **Guidance on School Discipline and Pupil Behaviour Policies**

<http://www.teachernet.gov.uk/wholeschool/behaviour/schooldisciplinepupilbehaviourpolicies/>

### **Personalised Assessment and Provision**

<http://standards.dfes.gov.uk/personalisedlearning>

### **School Standards and Progress**

<http://www.teachernet.gov.uk/teachingandlearning/schoolstandards/>

### **National Strategies' Three Waves Model**

[http://www.standards.dfes.gov.uk/secondary/keystage3/all/respub/ns\\_ws\\_ped\\_pers](http://www.standards.dfes.gov.uk/secondary/keystage3/all/respub/ns_ws_ped_pers)

### **Guidance on Exclusion from Schools and Pupil Referral Units**

<http://www.teachernet.gov.uk/wholeschool/behaviour/exclusion/guidance2007/>

### **Guidance on Education-Related Parenting Contracts, Parenting Orders and Penalty Notices**

<http://www.dcsf.gov.uk/schoolattendance/uploads/Parenting%20Contract-Guidance%20PNsPCsPOs%20FINAL2007.pdf>

### **Guidance for Local Authorities and Schools – Pupil Referral Units and Alternative Provision**

<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=LEA%2f0024%2f2005&>

### **National Service Framework for Children, Young People and Maternity Services Standard 9: The Mental Health and Psychological Well-being of**

## **Children and Young People**

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/Browsable/DH\\_4094607](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/Browsable/DH_4094607)

## **Guidance on School Partnership to Improve Behaviour and Tackle Persistent Absence**

<http://www.teachernet.gov.uk/wholeschool/behaviour/collaboration>

## **Intervening Early and Current Interventions Used by Primary Schools**

<http://publications.teachernet.gov.uk/default.aspx?PageFunction=productdetails&PageMode=publications&ProductId=DfES+0131+2002&>

## **Guidance on Planning and Developing Special Educational Provision**

<http://www.dfes.gov.uk/schoolorg/guidance.cfm?id=24>

## **National Curriculum**

<http://www.nc.uk.net>

## **Disapplication of the National Curriculum**

<http://www.dcsf.gov.uk/disapply>

## **Re-motivating Young People**

[www.qca.org.uk/14-19/11-16-schools/110\\_2474.htm](http://www.qca.org.uk/14-19/11-16-schools/110_2474.htm)

## **Diplomas**

[diploma@qca.org.uk](mailto:diploma@qca.org.uk)

## **Professional Standards for Teachers**

[www.tda.gov.uk/standards](http://www.tda.gov.uk/standards)

## **Ofsted's Healthy Minds Report (July 2005)**

<http://www.ofsted.gov.uk/portal/site/Internet/menuitem.eace3f09a603f6d9c3172a8a08c08a0c/?vgnnextoid=9edf2a5f74f3c010VgnVCM1000003507640aRCRD>

## **The Learning Support Units Website**

<http://www.teachernet.gov.uk/wholeschool/behaviour/learningsupportunits/casestudies/>

## **National Programme for Specialist Leaders Training Materials**

[http://www.teachernet.gov.uk/wholeschool/behaviour/npsl\\_ba/resources/studymaterials/besd/](http://www.teachernet.gov.uk/wholeschool/behaviour/npsl_ba/resources/studymaterials/besd/)

## **National Healthy Schools Programme**

<http://www.healthyschools.gov.uk/Theme-EHW.aspx?ThemeID=4&CriteriaID=41>

## **Behaviour Improvement Programme**

<http://www.dfes.gov.uk/behaviourimprovement>

**Sure Start**

<http://www.surestart.gov.uk>

**School Behaviour Partnerships**

<http://www.teachernet.gov.uk/wholeschool/behaviour/collaboration/>

**Healthy Minds (Ofsted July 2005) Case Studies**

<http://www.ofsted.gov.uk/portal/site/Internet/menuitem.eace3f09a603f6d9c3172a8a08c08a0c/?vgnextoid=9edf2a5f74f3c010VgnVCM1000003507640aRCRD>

**14-19 Pathways**

<http://www.dfes.gov.uk/14-19/index.cfm?sid=1>

**14-19 Good Practice**

<http://www.dfes.gov.uk/14-19/index.cfm?sid=9>

**Use of Force**

<http://www.teachernet.gov.uk/docbank/index.cfm?id=12187>

**Physical Interventions**

<http://www.teachernet.gov.uk/wholeschool/sen/schools/piguide/>

**Professional development materials**

A number of weblinks, with explanatory notes, are also provided in Chapter 7.

**Annex 1: Extracts from Part 2 of guidance, *Improving Behaviour and Attendance: Guidance on Exclusion from Schools and Pupil Referral Units***

45. Statutory guidance on identifying, assessing and making provision for pupils with SEN, including those with behavioural, social and emotional needs, is given in the Special Educational Needs Code of Practice. Schools must have regard to this guidance. School governing bodies have a statutory duty to do their best to ensure that the necessary provision is made for any pupil who has SEN. Early identification and intervention, accurate assessment and the arrangement of appropriate provision to meet pupils' SEN usually leads to better outcomes.

46. Other than in the most exceptional circumstances, schools should avoid permanently excluding pupils with statements. They should also make every effort to avoid excluding pupils who are being supported at *School Action* or *School Action Plus* under the Special Educational Needs Code of Practice, including those at *School Action Plus* who are being assessed for a statement. In most cases, the head teacher will be aware that the school is having difficulty managing a pupil's behaviour well before the situation has escalated. Schools should try every practicable means to maintain the pupil in school, including seeking LA and other professional advice and support at *School Action Plus* or, where appropriate, asking the LA to consider carrying out a statutory assessment. For a pupil with a statement, where this process has been exhausted, the school should liaise with their LA about initiating an interim annual review of the pupil's statement.

47. Where a child is permanently excluded, the head teacher should use the period between his or her initial decision and the meeting of the governing body to work with the LA to see whether more support can be made available or whether the statement can be changed to name a new school. If either of these options is possible, the head teacher should normally withdraw the exclusion.

48. It is extremely important that parents of children with SEN who are excluded from school receive advice on the options available for their child's future education. Schools might usefully advise parents that advice and information on SEN is available through their local SEN Parent Partnership. The Parent Partnership should also be able to provide details of voluntary agencies that offer support to parents, including those that can offer advice concerning exclusions.

49. Schools have a legal duty under the Disability Discrimination Act 1995 as amended not to discriminate against disabled pupils by excluding them from school because of behaviour related to their disability. This applies to both permanent and fixed period exclusions. The definition of disability under the Act covers pupils with physical, sensory or learning disabilities. Discrimination occurs where a person treats a disabled pupil less favourably than other pupils for a reason which relates to their disability, without justification. It also means failing to take reasonable steps to ensure that disabled pupils are not placed at a substantial disadvantage compared to their non-disabled peers. What

constitutes a reasonable step will depend on the circumstances of each case. It must also be remembered that the reasonable adjustments duty requires schools to think ahead, anticipate the barriers that disabled pupils might face and remove or minimise them before a disabled pupil is placed at a substantial disadvantage. The Disability Rights Commission (DRC – now superseded by the Equality and Human Rights Commission) has published a Code of Practice which explains and illustrates schools' duties to disabled pupils, including in relation to exclusions. Schools, and those involved in exclusion decisions or appeals, should read the Code of Practice for Schools available from the DRC or on its **website**. The Department has published a training resource *Implementing the Disability Act in Schools and Early Years settings* for schools and local authorities. Section 1 of the resource provides a guide to the duties schools have under Part 4 of the DDA and provides more detail on the definition of disability in the DDA. Section 2 illustrates the process of making reasonable adjustments and includes 3 DVDs of reasonable adjustments filmed in schools in different parts of the country. DVD 1 includes a section on behaviour for learning. Schools can order a copy of the resource by phoning 0845 6022260 quoting reference 0160-2006DOC-EN.

50. It is unlawful to exclude a disabled pupil for a reason related to their disability without justification. When considering whether or not it is appropriate to exclude a pupil who may be disabled within the meaning of the Disability Discrimination Act 1995, head teachers should consider four questions:

a) **Is the pupil disabled?**

The Act covers pupils with physical or mental impairment including sensory impairments and learning difficulties. The definition of disability is not the same as the definition of special education needs but there is likely to be a large overlap between those pupils who have SEN and those who are disabled. Further guidance on the definition of disability is included in ***Guidance on matters to be taken into account in determining questions relating to the definition of disability***. Paragraphs D13 to D14 deal specifically with children and provide useful examples involving school pupils.

b) **Is the exclusion for a reason related to the pupil's disability?**

The exclusion does not have to be because of the pupil's disability but 'for a reason related'. This means that if there is any connection between the behaviour resulting in the exclusion and the pupil's disability this is considered less favourable treatment for a reason related to the pupil's disability.

c) **Would another pupil to whom the reason did not apply be treated in the same way?**

If the reason for the exclusion is the pupil's "behaviour" then it is necessary to consider whether or not another pupil who did not behave in that way would be excluded. It is not correct to compare the treatment of the disabled pupil with a non-disabled pupil. Instead the treatment of the disabled pupil should be

compared with a pupil who did not behave in the same way.

**d) Can the exclusion be justified?**

An exclusion of a disabled pupil for a reason related to their disability can only be justified if there is a "material" and "substantial" reason for it **and** the head teacher can show that there were no reasonable steps that could have been made to avoid the exclusion. Maintaining order and discipline in the school may well be a material and substantial reason if there was a specific incident that gave rise to the exclusion. The head teacher will also have to show that reasonable steps were made in response to the pupil's disability. This could include differentiating the school's general disciplinary or behavioural policy to take account of behaviour which is related to a pupil's disability; developing strategies to prevent the pupil's behaviour; requesting external help with a pupil (e.g. requesting a statutory assessment) and staff training. Further guidance on reasonable steps that could be taken are provided in the DfES resource pack "*Implementing the Disability Discrimination Act in schools and early years settings*".

51. Appeals against permanent exclusion, where discrimination is alleged to have taken place, or the disabled pupil has allegedly been placed at a substantial disadvantage by the exclusion procedures, will be heard by the Independent Appeal Panel. Claims alleging discrimination in respect of fixed period exclusions will be heard by the SEN and Disability Tribunal (SENDIST). Schools will be required, in disability discrimination claims, to demonstrate that their actions are justified and that there are no reasonable adjustments to their policies and practice they might have made to prevent the incident which led to the exclusion. Since many disabled pupils will also have special educational needs, schools may wish to consider the action they have taken to address those needs in this context.