Guidance for speech and language therapists on their roles and responsibilities under the Children and Families Act 2014 and associated Code of Practice

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This document is intended for use by professionally qualified speech and language therapists (SLTs) who are registered to practice as a member of the Health and Care Professions Council (HCPC). This document is not exhaustive and does not constitute legal advice.

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1 Key points

In September 2014, the Children and Families Act came into force. This introduced significant reforms to the way support is provided to children and young people with special education needs and disabilities (SEND) in England. The RCSLT is pleased to publish our formal guidance to SLTs on their roles and responsibilities. This document complements the existing resources available on the RCSLT website.

We encourage all SLTs supporting children and young people (CYP) with SEND in England, working in any context, to read the full guidance document.

The ethos of the act
The following principles underpin the reforms, and also underpin our guidance to SLTs:

- Support for children and young people with SEND should be based on an understanding of their views, wishes and feelings.
- Wherever possible, children, young people and their parents should participate in decision making, and should be supported to participate.
- Support should help children and young people achieve the best possible outcomes, and prepare them for adulthood.

Important changes include:

- The legislation now covers children and young people from birth to 25 years .
- Guidance is provided on the joint planning and commissioning of services to ensure close cooperation between education, health and social care.
- Statements of special educational need have been replaced by education, health and care (EHC) plans and School Action/Plus has been replaced by SEN support.

Early identification of SEN

- Where a health body is of the opinion that a child under compulsory school age has, or probably has, SEN, they must inform the child's parents and bring the child to the attention of the local authority (LA).
- Health services should work with the family, support them to understand their child's needs, and help them to access early support.

A graduated approach (see section 6)

- Where children and young people require SEN support, this should take the form of a graduated, planned approach of assessing needs, intervening and reviewing effectiveness.
- If a child fails to make progress, despite "relevant and purposeful action" being taken, then an EHC assessment may be necessary.
- A graduated approach should not be applied where the child demonstrates such significant difficulties that it is clear that an EHC needs assessment may be necessary from the start.

EHC needs assessments and plans (see section 9)

- Advice requested by the LA must be provided with six weeks.

- Advice should:
    - be clear, accessible and specific
    - normally be quantified
    - relate directly to the needs of the child or young person and not the availability of resources
    - be based on available evidence and best practice
    - not name specific schools
    - include time required to support staff, attend meetings, write reports, review the evidence, measure outcomes and monitor progress.
- Addressing speech and language impairment should normally be recorded as special educational provision unless there are exceptional reasons for not doing so.
- More detailed guidance on writing advice for EHC plans is provided in section 9.4.

Commissioning of speech and language therapy

- Local authorities and clinical commissioning groups must have joint commissioning arrangements that cover services from birth to 25 years old for CYP with SEND.
- In the majority of cases, speech and language therapy is educational provision, and therefore ultimate responsibility for ensuring that speech and language therapy specified in an EHC plan is delivered rests with the LA.
- Where the SLT considers there to be a significant shortfall in provision, they should bring it to the attention of their line manager, the designated medical/clinical officer, the child's parents, the LA and other partners, to facilitate timely provision being made by the LA.

HCPC standards

These responsibilities set out in the Children and Families Act are in addition to, and should be considered in the context of, the HCPC standards that all registered SLTs must adhere to.

Of particular relevance to this guidance are the requirements to:

- Promote and protect the interests of service users and carers
- Communicate appropriately and effectively
- Work within the limits of their knowledge and skills
- Delegate appropriately
- Respect confidentiality
- Be honest and trustworthy
- Know about current legislation applicable to the work of their profession
- Be able to engage in evidence based practice
- Be able to evaluate research and other evidence to inform their own practice

More information on the HCPC standards is provided in section 5.2 of the guidance document. RCSLT members should also visit CQ Live: www.rcslt.org/cq_live/

2 Introduction

In March 2014, the Children and Families Act was passed, introducing significant reforms to the way support is provided to children and young people (CYP) with special educational needs and disabilities (SEND) in England. The Act stipulates:

- Families and the child/young person themselves will have more involvement in the assessment and decision-making process
- A transparent Local Offer of services to be available for CYP with SEND across education, health and social care, with children, young people and families involved in developing and reviewing it
- Services for children with SEND to be jointly commissioned across education, health and social care
- Education, Health and Care (EHC) plans to replace both Statements and Learning Difficulty Assessments, and the option of a personal budget for families and young people who want one
- The additional needs of those in the 0-5 age group are now covered by the Act, as well as new rights for young people to maintain their support up to the age of 25, as long as they remain in education or training
- A stronger focus on preparing for adulthood and independence from the earliest stages
- Continuous access to additional support for young people in youth custody

The purpose of this paper is to provide profession-specific guidance to speech and language therapists (SLTs) in the context of this new legislation.

2.1 The ethos of the Children and Families Act

The reforms are underpinned by the following principles, which have informed the writing of this document, and should be used to underpin practice:

- Support for children and young people with SEND should be based on an understanding of their views, wishes and feelings.
- Wherever possible, children, young people and their parents should participate in decision making, and should be supported to participate.
- Support should help children and young people achieve the best possible outcomes, and prepare them for adulthood.

2.2 The Code of Practice

The changes came into force from September 2014; the Special Educational Needs and Disability Code of Practice: 0 to 25 years was published in July 2014 and updated in January 2015.

This Code of Practice is statutory guidance for the following organisations:

- local authorities (education, social care and relevant housing and employment and other services)

- the governing bodies of schools, including non-maintained special schools
- the governing bodies of further education colleges and sixth form colleges
- the proprietors of academies (including free schools, university technical colleges and studio schools)
- the management committees of pupil referral units
- independent schools and independent specialist providers approved under Section 41 of the Children and Families Act 2014
- all early years providers in the maintained, private, voluntary and independent sectors that are funded by the local authority (LA)
- the National Health Service Commissioning Board
- clinical commissioning groups (CCGs)
- NHS Trusts
- NHS Foundation Trusts
- Local Health Boards
- Youth Offending Teams and relevant youth custodial establishments
- The First-tier Tribunal (Special Educational Needs and Disability)

2.3 Terminology

The Special Educational Needs and Disability Code of Practice: 0 to 25 years (DfE, 2015a) will be referred to as 'the Code' or 'the Code of Practice' throughout this document.

When the Code says **must**, this means that this is an action which is statutory under legislation, regulations, or case law. This document will use **must** in the same way.

When 'setting' is used in this document, it refers to all educational settings and providers covered by the Code, including early years settings, schools and post-16 providers.

The following abbreviations will be used throughout the document:

CYP: Children and young people

CCG: Clinical commissioning group

EHC: Education, health and care

LA: Local Authority

SLCN: Speech, language and communication needs

SLT: Speech and language therapist

3 Aims and scope of the document

3.1 Aims of the document

This document aims to:

- Ensure that SLTs are fully aware of the statutory and legal framework within which they work.
- Promote practice within the ethos of the Children and Families Act.
- Support SLTs to implement the new legislation for children and young people with special educational needs and disabilities (SEND), as part of a multi-disciplinary team around a child or young person.
- Offer guidance to SLTs, formed by consensus, as to what constitutes appropriate professional practice within the assessment, review, mediation and tribunal process.

3.2 Scope of the document

The document applies to all SLTs, working within any context, supporting children and young people within the process for statutory assessment of Special Educational Needs and Disabilities in England only.

Regardless of their employer, commissioner or if they practice independently, all practising SLTs must be registered with the Health and Care Professions Council (HCPC) and as such must meet the HCPC Standards.

For more information on the HCPC standards for SLTs, and for RCSLT guidance and resources which support members to meet these standards in practice, please go to Communicating Quality Live (CQ Live): www.rcslt.org/cq_live/

4 Key definitions within the Children and Families Act 2014

4.1 Definition of a child, young person and parent

The code covers the 0-25 age range, so applies to children from birth.

Within the Code a young person is defined as being older than compulsory school age and younger than 25 years old. Compulsory school age begins the school term after a child's 5th birthday (1st January, 1st April, 1st September) and ends on the last Friday in June in the academic year in which they become 16, and so children become young people as a cohort on that day.

The term 'parent' in the Code includes all those with parental responsibility, including parents and those who care for the child. Parental responsibility ends at 18, or earlier on a court order or if the child marries.

The Act and the Code emphasises the rights of young people to make decisions for themselves as far as they are able, including where these may be in conflict with their parents. It is no longer acceptable to take parents' views as an automatic proxy for those of the child or young person. The Mental Capacity Act (2005) (MCA) gives clarity on issues around making decisions in best interests, and when a child younger than 16 may be judged to have the capacity to make decisions for themselves.

Find out more

The Code contains more information about Mental Capacity in Annex A (DfE, 2015a, p. 273-275).

An e-learning module on the MCA has been produced by Disability Matters (Harbottle, 2016).

4.2 Definition of special educational provision and special educational needs (SEN)

Section 6 of the Code makes it clear that all classroom teachers have responsibility for the progress of all of their pupils:

"Teachers are responsible and accountable for the progress and development of the pupils in their class, including where pupils access support from teaching assistants or specialist staff" (DfE, 2015a, p.99).

High quality teaching (often described as Quality First Teaching) differentiated for individual need forms the bedrock of all support. If a child or young person is not making progress despite the provision of high quality differentiated teaching, then an early conversation with the child or young person and their family should discuss their needs and desired outcomes.

"Consideration of whether special educational provision is required should start with the desired outcomes, including the expected progress and attainment and the views and wishes of the pupil and their parents. This should then help determine the support that is needed and whether it can be provided by adapting the school's core offer or whether something different or additional is required" (DfE, 2015a, p.99).

The Code is clear that "health or social care provision which educates or trains a child or young person must be treated as special educational provision", and that while "decisions about whether health care provision or social care provision should be treated as special educational provision must be made on an individual basis… **since communication is so fundamental in education, addressing speech and language impairment should normally be recorded as special educational provision** unless there are exceptional reasons for not doing so" (DfE, 2015a, pp. 170-171).

A child or young person has SEN if they have any type of learning difficulty or any disability which calls for special educational provision to be made for him or her. So if they have either a significantly greater difficulty in learning than their peers, or a disability which hinders them from using facilities used by their peers, and this requires additional or different educational provision to be made for them**,** then they have Special Educational Needs (SEN). CYP with a disability which does not impact on their education or learning (these needs are usually physical or medical) would not have SEN.

Children under compulsory school age have SEN if they are likely to fall within the definition above when they start school, or "would do so if special educational provision was not made for them" (DfE, 2015a, p. 16). This is particularly relevant when considering early intervention; many children with significant SLCN at a pre-school stage will be considered as having SEN, and so will be encompassed by the Code of Practice.

The phrase Learning Difficulties and Disabilities (LDD) is often used in Post-16 institutions. The term SEN is used in the new Code across the age range to include this group of young people.

4.3 Definitions of disability

SEN and disability are not interchangeable terms. Disability defined by the Equality Act 2010 is "a physical or mental impairment which has a long term and substantial adverse effect on their ability to carry out normal day to day activities". This definition has a low threshold and includes more children than many realise; long term is defined as a year or more, and substantial is defined as more than minor or trivial. It therefore includes children with hearing or visual impairment, as well as those with conditions including asthma, cancer, epilepsy, dysphagia, dysfluency, specific language impairment, and significant phonological disorder. Many of these CYP will also have SEN, some will not.

The CYP with SEN only group may include children with a language delay who require an enhanced focus on their language development in school in order to close the gap between them and their peers.

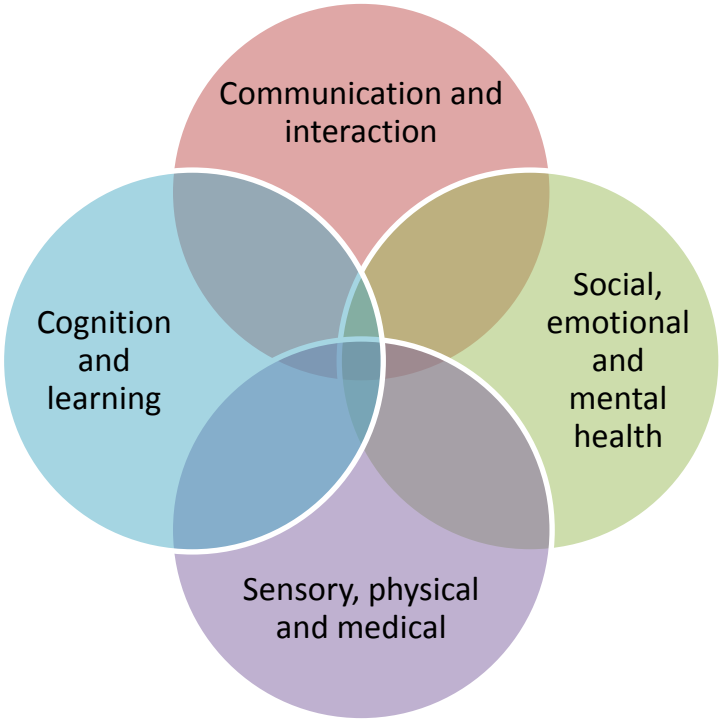
The CYP with a disability only group may include a child or young person with a medical condition which does not impact on learning, and which is effectively managed at school.

The CYP with SEN and a disability group may include children with severe speech disorder, children with autism, deaf children, those with a primary language impairment and those with learning disabilities. This group of CYP need special educational provision and specialist, long-term support to help them progress.

The Children and Families Act and Code of Practice describe how the needs of these groups of CYP are met.

4.4 Broad areas of need within the Code of Practice.

Section 6 of the Code describes the four broad areas of need classification as follows:



The main change from the previous code is the removal of behavioural needs, or Behavioural, Emotional, Social Difficulties (BESD) from this classification. Children showing behaviour which challenges services must have the reasons for that behaviour explored, and their needs classified by cause rather than outward signs. The significance of social, emotional and mental health needs as an area of need is strengthened.

5 Understanding roles, responsibilities and legal duties

5.1 Legal duties

The key legal duties below for all statutory partners, e.g. Local Authorities, NHS Trusts, are taken from the Children and Families Act 2014, as well as the government guidance for health professionals (DfE and DH, 2014) and the Code of Practice (DfE, 2015a). SLTs working in the non-statutory sector may also wish to consider the good practice examples listed below in their practice.

For a full list of statutory partners please see section 2.2.

Duty	Comments	Putting the duty into practice
1) Identification of SEN and disabilities		
Health professionals will need to carry out their usual assessments to enable timely identification of a range of medical and physical difficulties. Health services should work with the family, support them to understand their child's needs and help them to access early support (DfE and DH, 2016, p.15; DfE, 2015a, p. 81).	This may well be as part of a coordinated approach across agencies but SLTs have a clear role here in raising awareness of SLCN and making their service accessible.	• Providing access to a named SLT • Providing training for early years professionals, including primary care providers, in typical language development and identification of SLCN • Partnership working within a multi-disciplinary team including teachers of the deaf, occupational therapists, psychologists, teachers etc. This might be part of a "tell us once" approach, including shared case histories, paired visits, etc. • Producing information leaflets • Open access screening/ drop-in clinics
Where a health body is of the opinion that a young child under compulsory school age has, or probably has, SEN, they must inform the child's parents and bring the child to the attention of the appropriate LA. The health body must also give the parents the opportunity to discuss their opinion and let them know about any voluntary organisations that are likely to be able to provide advice or assistance (DfE and DH, 2016, p.15; DfE, 2015a, p. 81). Partners should ensure there is a Designated Medical/Clinical Officer to coordinate this, and the CCG's other statutory responsibilities (DfE and DH, 2016, p.12; DfE, 2015a, pp. 50-51).	It would be helpful for SLTs to familiarise themselves with local arrangements and pathways for liaison.	Regular meetings between the speech and language therapy service and: • Designated Medical / Clinical Officer (DMO/DCO) • Pre-school SENCO • Child Development Team to ensure potential SEN is identified in a timely manner.

Duty	Comments	Putting the duty into practice
2) Joint commissioning arrangements for a range of provision		
Local authorities and CCGs must have joint commissioning arrangements which cover services from birth to 25 years old for children and young people with SEND (DfE and DH, 2016, p.10). The arrangements must be presented publicly in a Local Offer which should be collaborative, accessible, comprehensive, up to date, and transparent, and cover the support for children with and without Education Health and Care (EHC) plans (DfE, 2015a, p. 40 and pp. 59-61).	Local Authorities are responsible for ensuring any SEN provision specified in an EHC plan is delivered. Settings must also publish information about the implementation of their policy for CYP with SEND, known as the SEN information report. This states what CYP can expect at that setting.	• Have an agreement in place on the level and type of services to be delivered. • Influence the content of the setting's SEN report to reflect the essential role of oral communication skills in educational attainment. • Clarify cross border arrangements, children out of education and transfers in and out of area.
3) Assessment of needs and planning support		
Health partners must respond to the LA's request for advice for EHC needs assessments within six weeks (DfE and DH, 2016, p.20).	Exceptions to the six weeks are only possible if the child or young person does not keep appointments. The LA can extend its timetable for schools over the summer holidays, and so might be able to use discretion in its interpretation of this timescale for other agencies	• Develop templates and clear local guidance to support timely responses. • SLTs may benefit from accessing training/support in writing outcomes and targets (see section 9.9).
Special educational provision stated in the EHC plan must be detailed, specific and should normally be quantified. It should be clear how provision will support achievement of the outcomes (DfE, 2015a, p. 166).	**Speech and language therapy advice must address the child or young person's assessed needs rather than the availability of resources, and should be based on available evidence.**	• Template statements to describe the service provided through the Local Offer with a means of describing the shortfall. • Where the local service model is unable to meet the assessed needs of the child, good practice would be for the SLT to raise this with their line manager at an early stage, and agree communications to parents, the DCO/DMO and the LA.

Duty	Comments	Putting the duty into practice
Local authorities must provide information on Personal Budgets as part of the Local Offer. The child's parent or the young person has a right to request a Personal Budget, when the LA has completed an EHC needs assessment and confirmed that it will prepare an EHC plan. Local authorities are under a duty to prepare a budget when requested (DfE, 2015a, p. 178).	Specified advice about resources required within EHC plan advice will then enable provision to be costed (e.g. the number of SLT sessions annually).	• Commissioners consider how they may align with any LA resource allocation tool for direct payments with personal health budgets. • Provider services are prepared for how they will respond to spot purchasing, short-term and small-scale contracts.
4) Disagreement resolution and mediation		

If the parent or young person wants to go to mediation then the LA must also take part.
 	
Participation in disagreement resolution arrangements is voluntary for both parties (DfE, 2015a, p. 254).
	Quality report writing and close liaison with CYP and their families is key to avoiding the need for mediation. It is important that services give due consideration to the competency levels of staff writing advice in specialist areas.	• Support for all staff on writing reports as required.
		• Develop and maintain close liaison with families and CYP.
		• Maintain clear communication throughout the assessment procedure by providing families and CYP with clear explanations of:
		  ○ current need and how this impacts on educational attainment in the immediate, medium and long term
		  ○ the rationale behind models of service delivery in line with clinical needs.
		  ○ the interaction between SLT services and the whole setting SEN report
		  ○ how needs will be reviewed and how decisions about levels of provision will be made in line with review
		• Commissioners agree to purchase external support when specialist services are not available locally, e.g. video fluoroscopy, velo pharyngeal incompetence, hearing impairment, etc.

5.2 HCPC standards for SLTs in relation to the SEND process

All practising SLTs are regulated by the Health and Care Professions Council (HCPC) and as such are required to meet the following HCPC standards:

- standards of conduct, performance and ethics (2016);
- standards of proficiency for speech and language therapists (2014); and
- standards for continuing professional development (2012).

This document was prepared with reference to these standards as well as Communicating Quality Live (RCSLT, 2016) and Information on Duty of Care (RCSLT, 2012).

Of relevance to this guidance, the HCPC standards of conduct, performance and ethics (2016) state that registrants must:

- promote and protect the interests of service users and carers
- respect confidentiality
- be honest and trustworthy
- work within the limit of their knowledge and skills
- delegate appropriately
- communicate appropriately and effectively (HCPC, 2016, p.1)

The HCPC standards of proficiency for Speech and Language Therapists state that SLTs must, "know about current legislation applicable to the work of their profession" (HCPC, 2014, p. 7).

In this context SLTs must know about the Children and Families Act and associated Code of Practice, which will therefore enable them to understand their role and discharge their duties accordingly.

The above standards also stipulate that SLTs must, "**be able to engage in evidence-based practice**" and, "**be able to evaluate research and other evidence to inform their own practice**" (ibid, p.11)

As a registered professional acting in the best interest of the child or young person, the SLT provides an important safeguard to ensuring a child is receiving appropriate provision to meet their communication needs.

For more information on the HCPC standards for SLTs, and for RCSLT guidance and resources which support members to meet these standards in practice, please go to Communicating Quality Live (CQ Live): www.rcslt.org/cq_live/

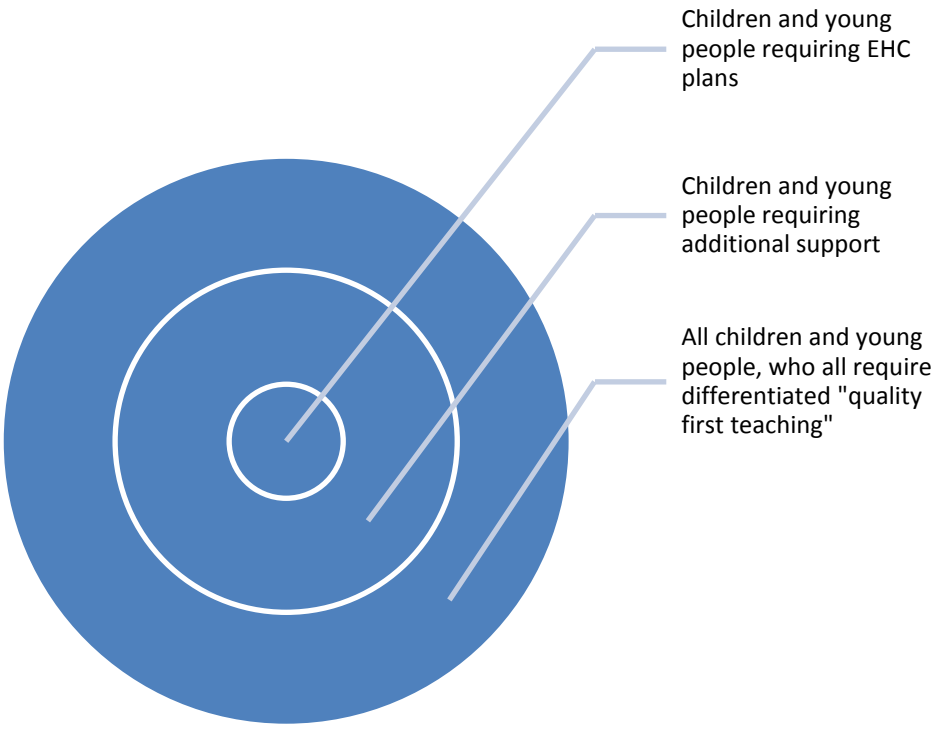
6 The graduated approach

Where children and young people require SEN support (which replaces School/Early Years Action and Action Plus), this should take the form of a graduated, planned approach of assessing needs, intervening and reviewing effectiveness:

Nasen (2014) describe the graduated response as a spiral, rather than the 2D model above. This means that as additional needs are identified, more strategies are used, more personalised approaches are employed, more specialist support is drawn in, and reviews become more frequent.

The graduated approach is based on a foundation of high quality teaching which is differentiated and personalised, which will meet the needs of the majority of children and young people (DfE, 2015a, p. 25). This personalised approach should lead to timely identification of need for CYP with SEND, who will then receive additional support. Only those CYP who require a more significant level of help and support will receive an EHC Plan (see section 4.2 for a definition of special educational needs).

This diagram on p.16 illustrates that an EHC needs assessment shouldn't normally be the first step in addressing identified need, but rather one part of a staged approach in which each stage builds on and adds to the previous one, with a whole setting approach underlying it. This reinforces the principle that children with SEN are a part of the whole school or setting under the oversight of the SENCO, and that their class teacher remains the lead for their provision. This principle is not new, but is embedded in the Teachers' standards (DfE, 2011) and the Ofsted Framework (Ofsted, 2015).



There are no set thresholds or criteria that determine when a child or young person moves from one level to another; this is a person- and context-specific approach, which considers whether a child or young person requires additional and different support to meet their needs. The LA's decision to undertake statutory assessment of a child's SEND will be based in part on how their current setting has been able to meet their needs through whole setting and targeted provision, using delegated budgets.

Each setting's graduated response to meeting the needs of CYP with SEND and the provision available as part of whole setting and targeted provision may be described in its SEN information report, which is its equivalent of the Local Offer. Settings may wish to work with SLTs to develop and extend their provision at all levels of need, and ensure that the quality first teaching (QFT) they offer supports the development of all CYP's speech, language and communication.

When working with individuals, SLTs will benefit from consideration of the graduated approach, to ensure that specialist treatment builds on a supportive environment.

However, a graduated approach should not result in a child having delayed access to appropriate provision, nor should it be applied where the child or young person demonstrates such significant difficulties that the school or other provider consider that an EHC needs assessment may be necessary from the start.

"For example, where its concerns may have led to a further diagnostic assessment or examination which shows the child or young person to have severe sensory impairment or other impairment which, without immediate specialist intervention beyond the capacity of the school or other provider, would lead to increased learning difficulties" (DfE, 2015a, p. 143).

Find out more

Quality first teaching principles are described in detail in Personalised Learning – A Practical Guide (Department for Children, Schools and Families, 2008).

SEN Support and the Graduated Response (NASEN, 2014) examines the graduated response in more detail.

The Implementing the Graduated Approach poster from The Communication Trust places the graduated approach in an Early Years context (The Communication Trust, 2016).

Special Needs Jungle have created a number of resources including a flow chart for families to explain the graduated response and SEN process (Special Needs Jungle, 2014a) and information on involving parents in the graduated response (Special Needs Jungle, 2014b).

7 The Local Offer

7.1 What is the Local Offer?

The Local Offer sets out what the LA expects to be available for local children and young people with SEN and disabilities from birth to 25 across education, health and social care. The process of compiling the offer is key; it should be developed in conjunction with children and young people, parents and carers, and local services from all agencies, enabling provision to be under constant review. It must include both provision within the authority/borough's area, and provision outside it which might reasonably be used by children and young people within it, for example a college catering to a particular type of SEN. It should also include relevant tertiary regional and national provision which may not be available locally.

7.2 Joint commissioning and the Local Offer

Local authorities and CCGs must have arrangements in place to plan and commission health, education and social care services jointly for CYP with SEN or disabilities (DfE, 2015a, p. 24). The range of services needed will be based on the Joint Strategic Needs Assessment (JSNA), which will be made by the Health and Wellbeing Board. The Health and Social Care Act (2012) mandates a minimum membership of:

- one local elected representative
- a representative of local Healthwatch organisation
- a representative of each local CCG
- the LA director for adult social services
- the LA director for children's services
- the director of public health for the LA

Representatives from the charity or voluntary sectors may be invited as additional members (Department of Health, 2012).

The Local Offer must cover services for CYP aged 0-25 with and without EHC plans. Services will include specialist support and therapies, including speech and language therapy, assistive technology, Child and Adolescent Mental Health Services (CAMHS), occupational therapy, physiotherapy. In agreeing the provision reasonably required, the LA and health commissioners should take into account provision being commissioned by schools, colleges etc.

It should also include:

- Approaches to teaching, adaptations to the curriculum and learning environment for CYP with SEN. Supporting this work would be an opportunity for speech and language therapy teams to influence local concepts of quality first teaching for SLCN
- How children are assessed for aids and adaptations including communication aids, and how they may be accessed
- How students' progress towards outcomes is reviewed
- How the required expertise of teachers, lecturers and other professionals to support children will be secured. This should include professional development at levels ranging from awareness to specialist

- How social, emotional and mental health needs of children will be addressed, including extra pastoral support arrangements
- Extra-curricular activities and arrangements available
- Information about therapies
- Information about how to request an EHC plan for CYP in different contexts

CCGs must ensure there is sufficient capacity contracted to deliver the necessary services within the Local Offer, including their duties in drawing the LA's attention to children with SEN or disabilities, supporting diagnosis and assessment, and delivering interventions and review.

The Care Act 2014 requires LAs to ensure cooperation between children's and adult services to promote the integration of care and support with health services so young adults are not left without provision as they transition between services.

It is important to stress that the Local Offer is not a directory of services; in fact it has two key aims:

- To provide clear, comprehensive, accessible and up-to-date information about the available provision and how to access it, and
- To make provision more responsive to local needs and aspirations by directly involving disabled children and those with SEN and their parents, and disabled young people and those with SEN, and service providers in its development and review.

Local authorities must publish feedback on the Local Offer "from time to time"; in this way it is accountable to its users in ensuring there is an appropriate range of provision.

It is good practice for all SLTs to be familiar with their Local Offer, so that they can effectively signpost families to appropriate services and support available. They should also consider whether their SLT service is appropriately and accessibly represented within the published Local Offer so that families can effectively access it.

7.3 Children without EHC plans and the Local Offer

Most children with SEND will not require an EHC plan, and their needs will be effectively met through the Local Offer. This describes the range of services available to children with SEND in their local area, and includes the provision available in school. All schools have duties under both the Equality Act 2010 and the Code of Practice to address the needs of their pupils, and have a delegated budget to enable them to do so. The Equality Act 2010 sets out the legal obligations that services have towards children and young people with disabilities:

- They must not directly or indirectly discriminate against them.
- They must make reasonable adjustments, including the provision of auxiliary aids and services, to ensure that disabled CYP are not at substantial disadvantage compared to their peers. This duty is anticipatory, which means thought must be given in advance to what CYP might require and what adjustments might need to be made to prevent that disadvantage.
- Schools and LA functions do not have to make physical alterations but must publish accessibility plans setting out how they plan to increase access to the curriculum, physical environment and information. Schools must set out their SEN policy and information on its approach to supporting CYP with SEN.

- Reasonable adjustments and auxiliary aids include a range of items which may be relevant to CYP with SLCN, when this need falls within the definition of a disability; for example flexible timetabling, differentiated teaching materials, availability of a total communication environment, time out tents, specialist software, support to take notes, ear defenders, communication aids, etc.
- These adjustments may require a departure from what is usual within the setting, for example allowing a young person with a sensory need not to wear a tie, offering home visits to a child before they start school, allowing parents to stay, permitting access in class to a visual timetable housed on a mobile device. It is helpful for SLTs to understand the range of adjustments which should be permitted in order to suggest flexibility to settings.

Section 66 of the Children and Families Act stresses that settings must make best endeavours to secure special educational provision. When, despite the school or other provision taking "relevant and purposeful action to meet needs" (DfE, 2015a, p.103), the child or young person still fails to make adequate progress, showing a clear need for support which is additional to or different from the support usually available in a mainstream school, then an EHC assessment and plan may be considered. Local authorities will provide top up funding when the cost of making specialist provision required in an EHC plan exceeds that delegated to schools through the national formula (a notional £10,000 in 2015).

In deciding if top up funding is required, LAs will consider whether the school has made effective use of their delegated budget and Local Offer. For a child or young person without an EHC plan, the Local Offer should describe the provision that is jointly commissioned by the LA and CCG to meet their needs. It is important that SLTs' recommendations to settings and other providers are clear about how those settings can effectively meet CYP's needs through the range of support available within the Local Offer.

Decisions on the outcome of EHC needs assessments are not based on diagnosis, but rather on levels of need. This means there are no benchmarks or cut offs for when assessment for an EHC plan would be triggered, other than when the level of support available is not sufficient to enable adequate progress. This should be advised by the speech and language therapist.

Find out more

The Communication Trust provide a Local Offer webpage designed for LAs to link to from their sites, providing information and resources to families of CYP with SLCN
http://www.thecommunicationtrust.org.uk/localoffer/

8 The potential roles of the SLT in the statutory assessment process

8.1 The clinical role of the SLT working within the statutory assessment process

The purpose of the SLT's contribution to an EHC assessment and planning process is to offer professional advice and evidence-based recommendations as regards speech, language, communication, eating and drinking, as part of a multiagency assessment and planning process with the CYP and their family.

8.2 Designated Medical/Clinical Officers

LA and health partners should ensure there is an officer in place to support the CCG in meeting its statutory responsibilities for children and young people with SEN and disabilities. This is called the Designated Medical Officer (DMO) if it is a paediatrician, or Designated Clinical Officer (DCO) if they come from another clinical background; it is sometimes shared between professionals.

The DMO/DCO will play a key role in notifying the LA of CYP who have SEND, and also in feeding information back to the LA, Children's Trust Board, CCG etc. about any gaps in the Local Offer or pressures on services. This information will feed into the local Joint Strategic Needs Assessment, which will set the priorities for joint commissioning.

It is important that SLTs know how this role is configured in their local area and how they can liaise with them.

8.3 Additional roles in assessment and review

In some areas of the country SLTs have been commissioned to act within the assessment process, for example chairing EHC planning meetings. These optional roles have potential benefits for CYP with SLCN, and developing skills in the SLT, but raise possible risks regarding:

- Capacity of the service to work in this way
- Impact on clinical work
- Potential conflict of interest in the planning meeting itself if the chair also has a report to present
- Confidentiality

To mitigate against some of the risks regarding capacity, it would be important for SLTs to clarify how any additional roles are to be funded.

SLTs should refer to CQ Live for more information on the HCPC standards and RCSLT guidance relating to confidentiality: https://www.rcslt.org/cq_live/respect_confidentiality

9 Contributing to Education, Health and Care (EHC) needs assessments and plans

9.1 Changes in philosophy

Section 19 of the Children and Families Act states that local authorities must have regard to:

- The views of the child or young person, and their parents
- The importance of them participating as fully as possible in decisions, and being provided with the information and support they will need to do this.

Young people have the right to make as many decisions as possible, subject to an agreement that they have the capacity to do so (Mental Capacity Act, 2005) SLTs have a potential role in mental capacity assessments, at least in informing colleagues in a team about a young person's level of comprehension and the best way to gather views and opinions.

- The need to support the child or young person and their parents in order to facilitate the development of the child or young person to achieve best possible outcomes, preparing them for adulthood

An EHC plan should:

- Establish and record the views, interests, aspirations and needs of the child or young person and their parents
- Provide a full description of the child or young person's special educational needs and any health and social care needs
- Establish outcomes across education, health and social care based on the child's needs and aspirations
- Specify the provision required and how education, health and care services will work together to meet needs and support achievement of the outcomes (DfE, 2015a, p. 142)

EHC plans should be forward looking documents helping to raise aspirations, and planning for the next steps in transitions to adulthood.

9.2 EHC needs assessments

An EHC needs assessment shouldn't normally be the first step in the SEND process; rather it should follow on from planning already undertaken, to meet the child or young person's needs, through the graduated approach (see section 6). It is helpful if SLTs acknowledge what is important to CYP and their families and negotiate the best way to meet agreed outcomes and aspirations from the start.

CYP will only be eligible for an EHC plan if they have a special educational need; CYP with only a medical or social care need who do not have SEN would not be part of this process.

An EHC needs assessment will not necessarily lead to a plan; the assessment process may itself indicate ways in which needs can be met without a plan. If the Local Offer and setting/school resources are sufficient to meet need then an alternative plan/agreement may be outlined which is not statutory and will not attract additional resources. These will have different names agreed

locally, such as My Support Plan, One Plan etc. There is no legal duty to deliver the support outlined in such a plan.

Families may be concerned about the lack of a statutory plan; the Equality Act and the Code of Practice remain the legal framework here (See section 7.3 for more information on Children without EHC plans). If families are not satisfied with this then they should be signposted to the local Independent Advice and Support Service, who will be able to offer advice about the appeals process. Contact details should be on the Local Offer website.

9.3 The sections of the EHC plan

Formats of EHC plans will vary and be agreed locally, however they must include the following sections which must be labelled using the letters below:

Section	**Information to include** (DfE, 2015a, pp. 164-9)	**Additional information**
A. The views, interests and aspirations of the child and their parents, or of the young person	The child or young person's history, and details about the child or young person's aspirations and goals for the future. A summary of how to communicate with the child or young person and engage them in decision making.	
B. The child or young person's SEN	All identified strengths and needs must be specified**.** SEN may include needs for health and social care provision that are treated as special educational provision because they educate or train the child or young person.	Since communication is so fundamental to education, SLCN should normally be recorded as SEN unless there are exceptional reasons for not doing so.
C. The child or young person's health needs which relate to their SEN	Any health needs which relate to the child or young person's SEN.	Medical issues e.g. dysphagia may be considered as a health need and so may go in this section. It may also take account of advice from physiotherapy, dietetics, paediatricians etc., but will not normally include provision relating to language or communication skills.
D. The child or young person's social care needs which relate to their SEN	The EHC plan must specify any social care needs identified through the EHC needs assessment which relate to the child or young person's SEN or which require provision for a child or young person under 18 under section 2 of the Chronically Sick and Disabled Persons Act 1970.	This section will take account of advice from social care, and may include the need for short breaks, respite care, access to peer support groups etc.

Section	Information to include (DfE, 2015a, pp. 164-9)	Additional information
E. The outcomes sought for the child or young person	A range of outcomes over varying timescales. A clear distinction between outcomes and provision. Steps towards meeting the outcomes. The arrangements for monitoring progress. Forward plans for key changes and transitions.	Outcomes are not a description of the service being provided – for example the provision of three hours of speech and language therapy is not an outcome. In this case, the outcome is what it is intended that the speech and language therapy will help the individual to do that they cannot do now and by when this will be achieved.
F. The SEN provision required	**This must be detailed, specific and should normally be quantified, for example, in terms of hours and frequency of support and level of expertise**. Provision must be specified for every need outlined in section B. **Where health provision educates or trains a child or young person, it must appear in this section.** There should be clarity as to how the advice gathered has informed the provision specified.	**Provision addressing speech and language needs should normally be recorded in this section unless there are exceptional reasons for not doing so.** **Models of intervention and quantity of input should be based on available evidence and best practice (see section on available evidence)** This includes working with parents and carers as well as the wider workforce. Ensuring this provision is delivered is the responsibility of the LA (including provision for SLCN).
G. Any health provision required to meet the needs in C	As above, provision should be detailed and specific and should normally be quantified, and it should be clear how the provision will support the achievement of outcomes.	E.g. regular videofluoroscopy review might be included here. Therapy which aimed to improve independent feeding skills, however, may still be seen as educational provision. Account also needs to be taken of advice for parents and carers when supporting independent feeding skills within the home environment.

Section	Information to include (DfE, 2015a, pp. 164-9)	Additional information
H. Social Care provision required to meet the needs in D	Section H1: Any social care provision which must be made for a child or young person under 18 resulting from section 2 of the Chronically Sick and Disabled Persons Act 1970. Section H2: Any other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN. This will include any adult social care provision being provided to meet a young person's eligible needs (through a statutory care and support plan) under the Care Act 2014.	
I. Placement	The name *and* type of educational setting or other institution to be attended by the child or young person. This must not be included in the draft sent to families, only in the final EHC plan.	**When providing advice for EHC plans, SLTs should not name specific schools but can instead describe the type or nature of communication environment which would best meet the child or young person's needs.**
J. Personal Budget	This will set out the arrangements in relation to any Personal Budget or direct payments as required by education, health and social care regulations.	
K. Advice and information	The advice and information gathered during the EHC needs assessment must be set out in appendices.	This would include the advice provided by the SLT.

In addition, where the child or young person is in or beyond Year 9, the EHC plan must include (in sections F, G, H1 or H2 as appropriate) the provision they require to assist in preparation for adulthood and independent living, for example, support for finding employment, housing or for participation in society.

9.3.1 Speech and language therapy: health or education provision?

The Code of Practice states that:

"Decisions about whether health care provision or social care provision should be treated as special educational provision must be made on an individual basis. Speech and language therapy and other therapy provision can be regarded as either education or health care provision, or both. It could therefore be included in an EHC plan as either educational or health provision. However, since

communication is so fundamental in education, addressing speech and language impairment should normally be recorded as special educational provision unless there are exceptional reasons for not doing so" (DfE, 2015a, p.170).

It is important then that SLTs recognise that in the majority of cases, speech and language therapy is educational provision, and therefore ultimate responsibility for ensuring that the speech and language therapy specified in an EHC plan is delivered continues to rest with the LA. This also means that parents still have the right to appeal to the First Tier tribunal if they disagree with the proposed level of speech and language therapy support in an EHC plan.

However, the CCG still has a duty under the NHS mandate to arrange appropriate levels of healthcare provision for its population. Local SLTs should therefore be aware of commissioning arrangements locally, and alert service managers and the DCO/DMO to any gaps in provision for children and young people with SLCN and SEND. This includes providing support to parents and carers to enable children and young people to develop communication skills to support greater independence within the context of improved life outcomes.

9.4 Writing advice for EHC plans

The LA will seek advice from involved professionals and use this advice when carrying out an EHC needs assessment and to draft a plan. **Advice and information requested by the LA must be provided within six weeks of the request. The evidence and advice submitted should be clear, accessible and specific** (DfE, 2015a, p. 157).

Requests for written advice will be easier to manage with locally agreed clear guidelines and templates. Different LAs may have slightly different arrangements about when in the process they request advice and information, for example some request more information earlier in the process.

The LA must not seek further advice if it has already been provided (for any purpose), and the advice giver, LA and parent are all satisfied that it is sufficient (ibid, p. 155). The SLT should be satisfied that the report they have provided clearly specifies the child or young person's support needs and provision required to address them.

9.4.1 Guidance for writing advice for EHC plans

1) Background
    i. A brief pen portrait or background information about the child or young person. If the case history is complex in terms of the SLT's involvement then consider including it as an appendix.

2) Speech, language and communication skills
    i. An evaluation of the child or young person's strengths and needs which is based on an up-to-date comprehensive assessment of all areas of communication functioning, if possible in a range of contexts including at home.

    ii. Provide a description of the child or young person's SLCN. Include clear evidence in the form of clinical observation, informal and formal assessments (as appropriate for age and stage) to support your statements.

iii. Where the child or young person has more than one language it is helpful to note which assessments have taken place in each, and if formal assessments were judged not to be suitable.

iv. Explain the implications of the child or young person's needs on their functioning in their placement, both socially, and on their ability to access education and increase attainment. Where possible, provide examples that illustrate their needs, strengths and use of strategies.

v. Brief summaries of previous therapy and involvement. Aim to describe progress over time and response to interventions, linking levels and types of input to outcomes.

Find out more

The RCSLT has developed 'Working with bilingual children' an e-learning package for practising SLTs, newly-qualified practitioners, returners to practice and assistant practitioners (RCSLT, 2016b).

For more detail on appropriate assessments for CYP with more than one language, see information on the London SIG Bilingualism website: http://www.londonsigbilingualism.co.uk/assesment.html

3) Suggested outcomes

i. The outcomes of the EHC plan are agreed at the planning meeting itself, but SLTs may wish to offer suggestions of outcomes which relate to speech, language and communication.

ii. Outcomes should be focused at child level. For example: 'By the end of KS1, Asha will be able to understand and follow instructions given to the whole class regarding the next activity and equipment required with no prompting' rather than 'Asha's teacher will have acquired skills in learning how to differentiate their language to support Asha'.

iii. It is important that proposed outcomes are discussed with the child or young person, their family and other services as this will promote co production and co working.

iv. These would usually be achievable within the current phase of education (i.e. EY, KS1, 2, 3 etc.), and should be linked to the longer-term aspirations of the child or young person and their family. Shorter-term steps towards the outcomes will not form part of the plan and would be set out elsewhere e.g. in an IEP or play plan.

Find out more

See section 9.9.2 for more information about outcomes.

4) Provision

i. Provision should be **clearly specified and quantified**.

ii. Models of intervention, facilities and resources recommended should relate **directly to the needs of the child or young person and not the level of services available**.

iii. SLTs should not name specific schools which might meet a child or young person's needs but can instead describe the type or nature of communication environment which would best meet their needs.

iv. Recommendations for therapy provision must be **anticipatory, reasonable and in line with what would be considered sound ethical practice by a colleague of similar experience and standing.** This should include explanation of the recommended approaches, which may take the form of evidence relating to the child's response to intervention already provided, the impact of intervention on outcomes and aspirations, and the gaps that future intervention would address.

v. Models of intervention and quantity of input should be **based on available evidence and best practice** (see Available Evidence for more information). Sharing details of the evidence base (either face to face with a family, or in an appendix) to make it clear why this approach is the preferred option for meeting outcomes **is an important part of the role of an SLT** to ensure that families understand the intervention provided and means of delivery, and are partners in the decision making process (Joffe & Pagnamenta, 2014). There may be different ways and models possible to meet the same communication outcome, and this may be the subject of discussion at the planning meeting, in which individual circumstances can be fully explored.

vi. Where the SLT considers there to be a significant shortfall in provision, such that it is likely to impact on the child, they should bring it to the attention of their line manager, the DMO/DCO, the child's parents, the LA and other partners, to facilitate timely provision being made by the LA.

It is recommended that this information is put in writing to all of the above parties, in order to ensure that SLTs are meeting their obligation to report concerns as required by the regulator, the HCPC.

Available evidence

Evidence-based practice is defined as “the integration of best research evidence with clinical expertise and patient values" (Sackett D et al. 2000, p.1).

Where published research evidence exists this should be evaluated for quality and relevance to the child and the context. Evidence can take different forms including systematic reviews of research evidence, peer-reviewed research articles, evidence synthesis, position papers and guidelines. For more information on evidence-based practice go to: https://www.rcslt.org/members/research_centre/evidence_based_practice__ebp_

Where published evidence does not exist or there is a limited evidence base:

- assess the risks and any counter-evidence and seek advice.
- **take account of local outcome data in relation to the child and service level outcome data to guide your evidence-based decision making.**
- discuss your rationale for using the model of intervention with the family.

Regular monitoring and outcome measurement is essential to evaluate the effectiveness of speech and language therapy provision, in particular in situations where there may be variable evidence for levels of provision and quantity of speech and language therapy intervention. This monitoring should be both at an individual child level and across a particular cohort/service.

For more information visit the RCSLT Evidence-based clinical decision making tool: https://www.rcslt.org/members/research_centre/e_learning/launch_evidence_based_clinical_decision_making_tool

vii. Where assessment and available evidence indicates that the most appropriate model of care is for interventions to be delivered by another agency (e.g. a member of school staff), SLT recommendations should include:

- a clearly specified description of the intervention that will be delivered
- the frequency of the intervention
- the required skills, training and competencies of the person who will deliver the intervention
- the importance of consistency and continuity
- the level of SLT support to be provided
- the frequency with which the SLT will monitor the programme/intervention and measure outcomes

Following these recommendations will enable speech and language therapists to meet HCPC standards, you must “only delegate work to someone who has the knowledge, skills and experience needed to carry it out safely and effectively” and “must continue to provide appropriate supervision and support to those you delegate work to”. See CQ Live for more guidance on delegating appropriately: www.rcslt.org/cq_live/delegate_appropriately/delegate_appropriately

viii. **Speech and language therapy advice on provision should include time required to: support staff, attend meetings including with parents and carers, write reports, review the evidence base and measure outcomes, as well as level and frequency of monitoring.** Review of provision specified in the EHC plan should take place within the annual review process.

ix. Many departments have a supervisory arrangement whereby senior staff read advice for statutory assessments, but countersigning is not recommended as the report remains the work of the SLT who wrote it.

x. SLTs must only make recommendations within their sphere of experience and training and must seek advice from more experienced colleagues if they are not suitably skilled.

xi. It is suggested that SLTs familiarise themselves with the quality assurance processes locally for EHC advice before returning their advice to the LA.

Find out more

CQ Live provides further professional guidance on issues such as reporting concerns, delegating appropriately, and working within the limits of your knowledge and skills: https://www.rcslt.org/cq_live/

See Appendix 1 to see how a description of provision can be improved to become specific, quantifiable and flexible.

9.5 Attending planning meetings

Following receipt of written advice, an EHC planning meeting may be convened. This is where the plan is agreed, the outcomes (based on professional advice given) finalised and the provision required to meet them arranged.

In line with the principle of the Code around collaboration between education, health and social care services, it is good practice for the SLT to attend these meetings where possible, so that they can represent the child or young person's communication needs accurately, and ensure that appropriate provision is arranged which meets their needs in the most appropriate and holistic way. It would be particularly important to attend planning meetings where there are differences of opinion. If provision has been recommended which is not at present available within the Local Offer, then it may be agreed to be commissioned at this stage as part of the allocated budget to meet needs.

If the SLT is unable to attend the planning meeting then it would be useful to discuss their recommendations in advance with the parents/young person, and they may also wish to talk to the meeting chair or other professionals who will be attending, for example specialist teachers, educational psychologists etc.

The Code states contributors should receive a draft plan after the event. It is advised that at this stage SLTs check:

- **that their advice has been correctly interpreted and represented**
- **that the agreed outcomes are appropriate**
- **that the provision agreed will support steps towards those outcomes**

9.6 Differences in opinion between professionals

When working as part of a multi-disciplinary team there is always a need to maintain positive working relationships and pre-empt any disagreements with openness. This may well be most relevant when there is more than one SLT managing the same case, or when there is a specialist teacher involved. The guiding principles here should be around explicit discussions of roles, responsibilities and joint working practices.

For example, a potential arrangement might be that a NHS/school-based SLT may train teachers and provide programmes of work for teaching assistants in close liaison with an independent SLT, who may be separately commissioned to offer 1:1 therapy at home and support parents, or a specialist teacher may advise on differentiation while the SLT leads on intervention.

Establishing explicit and sustained collaboration is the responsibility of each SLT irrespective of the sector in which they operate.

As the lead professional on speech, language and communication, the SLT should not feel restricted by the opinions on communication, which may be expressed in the reports of other professionals e.g. educational psychologists, specialist teachers. SLTs have the autonomy and duty to make their own assessments and recommendations.

Find out more

Please see Communicating Quality Live for more information, including standards and guidance on communicating appropriately, and promoting and safeguarding the interests of service users and carers: https://www.rcslt.org/cq_live/

Collaborative working between speech and language therapists and teachers of the deaf (BATOD & RCSLT, 2007) provides detailed examples of good practice when working with specialist teachers.

Please also see also section 15 of this document: Disagreement resolution, mediation and tribunal.

9.7 Co-production and person-centred planning

There is a strong change in emphasis in the new legislation, moving towards empowerment of CYP and their families, and ensuring that the assessment processes are done with them and not done to them.

Families should be part of planning the range of provision available in the Local Offer, and in its regular review. In practice this is often done through working with local parent carer forums. The Local Offer gives clear information about provision, increasing choice and control from the outset.

When a child or young person is identified as potentially having SEND, consideration should be given to drawing together assessments from the earliest stage so that families do not have to give the same case history information multiple times, and so that the process is as streamlined as possible.

Families and young people have the right to request an EHC needs assessment, and the views of the child or young person and their parents must be fully included in the assessment from the start. Local authorities must ensure there is an independent body available to give impartial advice and support through the process.

Arrangements must always be made to engage with children and young people directly as part of the process, as local authorities cannot assume that the views of the parents are the same as the child. Post 16, all agencies should normally engage with the young person directly rather than their parents but, particularly for young people who do not have the ability to consider longer term implications of their decisions, parents do still have a key role to play. The National Network of Parent Carer Forums has produced a position statement on families' roles in supporting young people (NNPCF, 2015).

SLTs will need to seek the views of CYP and their families as part of their own assessment, and may also have a role in advising other services as to the most appropriate way for them to consult with young people with significant communication support needs. Alternative communication strategies may be needed - see the RCSLT SEND reforms toolkit for more resources (RCSLT, 2015).

Person-centred reviews are a tool which was initially developed as a way of ensuring that the young person is at the centre of any review process, and are a useful structure for any consultation process, including on a micro level, discussing speech and language skills.

It is a way of learning what is important to and for the pupil, together with the people who are important in a pupil's life and the focus of the review is on creating action plans. It is now widely used across all phases of education, and gives a structure to discuss:

- what we appreciate/like and admire about the pupil
- what is important to them now
- what is important to them for the future
- what they want to be able to do that they can't do now
- what do we need to know or do to support them
- questions to answer/issues the team is struggling with
- what is working and not working from different people's perspectives and in different contexts, including at home
- an action plan

These types of questions will also be asked during EHC planning meetings, and ensure that the focus of the meeting remains on the child or young person and their needs. Outcomes for the child or young person will be written and agreed at the planning meeting itself, with the parent and ideally the child or young person present. This ensures that they have truly contributed to the plan itself.

Find out more

The Communication Trust has a free online resource for staff working in education to help them understand, review and shape their approach to involving CYP with SLCN as part of everyday good practice. It draws on a recent research project into the involvement of CYP with SLCN in decision making (Roulstone et al, 2016). Both the research and the toolkit can be accessed here: www.thecommunicationtrust.org.uk/involve

9.8 Differences in opinion with families

When outcomes and targets have been agreed with families from the earliest stages in intervention, it is hoped that differences in opinion at the statutory assessment stage will be minimised. It will be particularly important for SLTs to attend planning meetings when differences in opinion are anticipated.

Families are not able to change the recommendations made by professionals contributing to the process, but can suggest amendments to the plan at the draft stage and request a meeting with the LA to discuss them. The LA may not agree to these amendments and proceed with issuing the plan, in which case parents may appeal through the process.

The EHC plan sets out the result of the LA's assessment of need and may therefore take a differing view to that of the SLT. In such instances the LA cannot misrepresent the views of the SLT (e.g. by claiming its view is that of the SLT), and should include all reports received as appendices to the plan.

If the EHC plan is then subject to an appeal, the SLT giving evidence should clearly distinguish between their view and that of the LA, ensuring that their first duty is always to the child or young person.

9.9 Understanding outcomes, aspirations and targets

As previously stated, the Code of Practice refers to a graduated approach (see Section 6) to addressing the needs of those with additional learning needs, involving a cyclical process of assess, plan, do, review, based on the aspirations of children and their families, and clearly defined outcomes and targets. Outcomes can be agreed for all CYP with additional needs, including those without EHC plans.

The precise interpretation of these terms, in particular the length of time each should last for, seems at present to be locally determined. It would be helpful for SLTs to familiarise themselves with local definitions to ensure their use of terminology is consistent with the local approach.

9.9.1 Aspirations

These are long-term ambitions for the child or young person, established with the child and their family (DfE, 2015a, p. 163), often as part of the multi-agency EHC planning meeting and documented by the LA. They will usually focus on life outcomes, including employment and greater independence.

Examples:

- For Jai to live independently and have paid employment.
- For Fred to have friendships and positive relationships.
- For Kari to be able to handle her own money.
- Huw would really like to work in the library when he leaves school.
- For Poppy to achieve to the best of her ability and be happy.

One of the key changes in the Code is a stronger focus on high aspirations for CYP with SEN (DfE, 2015a, 14), and conversations about aspirations are vital from an early stage. While services cannot

be held accountable for people's aspirations, it is helpful to know what they are and have honest discussions about their feasibility. While they may not necessarily be achievable, they should indicate direction of travel.

9.9.2 Outcomes

An outcome states what the young person will be able to do at the end of a defined period of intervention (episode of care).

It can be defined as the **benefit or difference made to an individual** as a result of an intervention.

It should be personal and not expressed from a service perspective; it should be something that those involved have control and influence over, and should be specific, measurable, achievable, realistic and time bound (SMART) (DfE, 2015a, p.163). This 'SMARTness' can be judged by reflecting upon whether families will know that the outcome has been achieved, and so a level of measurement may be required.

Measuring outcomes

Measuring outcomes enables SLTs to evaluate the impact or association that an intervention has with real life functioning. It's not just about the difference made at the impairment level to the presenting difficulty or condition, but how this then affects people's lives.

Across education, health and social care, there is increased emphasis on improving outcomes for children and young people. The focus is moving away from SLTs being required to report outputs (such as the number of referrals, sessions or individuals seen) to defining and measuring the outcomes that matter to the individual.

The RCSLT Outcomes project is developing a consensus driven approach to addressing outcomes for the profession. For more information about the project and resources about outcomes, visit the Outcome measures webpage: www.rcslt.org/members/outcomes/

It is suggested that SLTs agree communication outcomes with all CYP and their families as part of their care, and when contributing to EHC planning they will suggest outcomes to be discussed at the planning meeting as possible outcomes to be written into the plan. Communicating the Code suggests that families will often tend to focus on meaningful, functional targets that increase a child or young person's ability to be "accepted, included and independent", as well as targets which ensure that those supporting them have an increased awareness of their needs and how to meet them (The Communication Trust, 2015, p. 20).

Examples of outcomes:

- Jai uses his communication aid to share news from school to home by the end of Y4.
- Fred initiates conversation with a peer at breakfast club by the end of KS2.
- Kari understands, uses and applies the agreed set of mathematical concept words in a formal maths test context by the end of Y2.
- Huw consistently understands and uses concepts of time e.g. yesterday, tomorrow, and seasons by the end of KS4, as measured by a baseline assessment and observation in form tutor time.

- By the end of KS1, Poppy shows that she knows and can predict what will happen next in a turn taking game like “Round and round the garden”.
- Lily independently chooses and pays for a snack at a shop by communicating effectively at the till by the end of Year Y9.
- By the end of Y3 Siobhan spontaneously joins in conversations with her family at mealtimes

When writing outcomes try to avoid the following:

- **Too small steps,** e.g. Kari will be able to understand “one more” by Christmas.
- Outcomes which rely on **variables outside of your influence,** e.g. Fred will have a friend by Easter; Huw will get a part-time job.
- **Focusing on provision,** e.g. Fred will benefit from an hour a week of speech and language therapy; Huw’s teachers will know how to differentiate the curriculum for him; Poppy’s teaching assistant will be trained to deliver intensive interaction.

If it looks like there is a focus on provision, asking questions such as “what will this give the child or young person?”, ”what will this do for the child or young person?”, “what will this make possible for the child or young person?” can guide thinking back towards an outcomes focus, e.g. Fred’s hour of speech and language therapy a week gives him therapy input, which will help him be more easily understood by his friends and make possible activities such as friendships, curriculum access, etc. So a better outcome may be: ‘By Easter, Fred will be able to listen to his peers and take a turn in contributing his views in circle time.’

The best outcomes are ones which are met by provision from a variety of agencies in different ways as these are met in a holistic manner. All outcomes should aim at increasing independence and developing skills required for adulthood, but as it is difficult to specify outcomes for adulthood in very young children, these are best reflected as aspirations, with outcomes aiming only for the end of that phase of education.

For some CYP with SLCN, focusing on the present may be more effective than attempting to discuss the future. Consider asking questions like “What does Mrs C do that really helps you?”, “What don’t you like about playtime?”, “What do you want to talk about at home?”, “Are you able to ask for what you want at mealtimes?”

Find out more

As part of the SEND Pathfinder Champion project, the SE7 partnership of seven councils produced a helpful guide to writing outcomes (South East 7, 2015, p. 10).

9.9.3 Targets

These are the smaller measurable steps that are put in place to enable the child or young person to achieve their outcomes. They will not form part of the EHC plan, but may form part of an appendix, IEP, play plan, etc.

These may be reviewed and, if necessary, amended regularly to ensure that the individual remains on track to achieve their specified outcomes (DfE, 2015a, p. 164). There will often be more than one target for each outcome, but the aim is that the child or young person can see how they will contribute to the overall outcomes they seek.

Examples:

- By half term Jai will be able to use all icons on his home screen.
- By Christmas Jai will be using his aid to put two words together.
- By half term Jai will use his aid to request snack items at break.
- By Christmas Fred will consistently respond to a peer greeting him.
- By October a circle of friends will be established for Fred, with his peers having awareness of the nature of his needs.
- By Easter Kari will understand and use the concepts of more and less than.

It is important that targets are not so SMART that they become restrictive and limit the curriculum, the child's experience, or encourage "teaching to the test", e.g. by half term Jai will use his talker to request an apple at break time; by Easter Kari will use her fingers to explore a variety of 3D shapes.

An alternative structure, particularly useful for students with more complex disabilities is that of SCRUFFY targets (Lacey, 2010).

SCRUFFY stands for: Student-led, Creative, Relevant, Unspecified Fun for Youngsters.

- Student led – this means starting where the student is and reinforces the need to base outcomes in interests and aspirations
- Creative – thinking differently; there are often several ways to meet an objective
- Relevant – because learning outcomes need to be based in a thorough understanding of needs and strengths, and prioritise what is really important to change
- Unspecified – to avoid a narrow range of opportunities and experience
- Fun – to engage and motivate the student and make it meaningful

The significant features of using SCRUFFY targets are that the child or young person should lead the learning and that contexts and stimuli are not overly specified. Students with significant learning difficulties can take time to move on to the next measurable step, and it is not always easy to predict how progress will be shown.

An example of a SCRUFFY target is "Fred will acknowledge people who come into the room or approach him at breakfast club", as opposed to "Fred will say hello and shake hands to greet people", which restricts Fred's responses. Another example of a SCRUFFY target is "Ahmed will contribute his ideas when talking about what to do at the weekend/in the holiday/after school with his family and friends"

It is important to note that while it may be acceptable to use SCRUFFY targets for some groups of CYP, outcomes should always be SMART.

10 Reviews

EHC plans must be reviewed at least annually with families. Regulation 20 of the SEND regulations 2014 state that advice from those contributing to the plan should be sought in advance of the meeting, and circulated to all those participating at least two weeks before the meeting to enable effective preparation, and that minutes from the meeting should be circulated within two weeks.

The Code recommends that local authorities consider reviewing the provision in plans for children younger than five every three to six months; however there is no duty to do so, and these reviews may not involve attendance of all involved agencies (DfE, 2015a, p.198).

For children and young people at key points of transition to or between schools, their EHC plans must be reviewed by February 15th of the calendar year in which they will transfer. Young people moving to post-16 provision must have their plan reviewed by 31st March (ibid, pp. 198-199).

At the annual review SLTs may need to consider the ongoing appropriateness of the provision. The ongoing impact of the child or young person's SLCN should be considered as well as their response to therapy.

Any review for a young person at Year 9 or above must consider preparation for adulthood and post-16 provision (ibid p.199).

10.1 Ceasing EHC plans

An LA may cease to maintain an EHC plan only if:

- it determines that it is no longer necessary for the plan to be maintained, or
- it is no longer responsible for the child or young person.

An LA may decide that it is no longer necessary to maintain the plan if the child or young person no longer needs additional or different provision to be made for them, or if the agreed outcomes have been met.

They will be no longer responsible for the child or young person if:

- The young person is aged 16 or older and leaves education to take up paid employment (including employment with training, but excluding apprenticeships)
- The young person enters higher education (as opposed to further education)
- The young person is aged 18 or older and leaves education and no longer wishes to engage in further learning
- The child or young person has moved to another LA area

Where a child or young person of compulsory school or participation age – i.e. younger than 18 – is excluded from their education or training setting or leaves voluntarily, the LA must not cease their EHC plan, unless it decides that it is no longer necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. The focus of support should be to re-engage the child or young person in education or training as soon as possible and the LA must review the EHC plan and amend it as appropriate to ensure that the child or young person continues to receive education or training.

11 Working with children and young people in specific settings or circumstances

11.1 Youth custody settings

The Code of Practice secures SEND provision for young offenders younger than 18. CYP entering custody with an EHC plan must continue to receive appropriate support to meet the outcomes outlined in the plan.

In addition to this, all CYP entering custody will be screened and assessed using the Comprehensive Health Assessment Tool (CHAT) which includes a screening for SLCN. If a detained person has an EHC plan when they enter custody, the information in the plan as well as information from the LA provided by the Youth Offending Team (YOT), should inform or supplement this mandatory assessment. This should lead to an individual health care plan for every detained person, which may include support from an SLT, or input from SLT trained staff.

A child or young person can also request an EHC needs assessment while in custody which will need to consider their needs on release and resettlement.

SLTs may therefore be commissioned to work within custodial settings, to build capacity and confidence in staff administering the CHAT, to support CYP, as part of the assessment process for new referrals, and also to provide ongoing therapy. It is the young person's home LA/CCG who is responsible for their support while detained, but in practice it is usually delivered within the existing framework of provision commissioned within the setting.

11.2 Hospitals and tertiary settings

If a statutory assessment process is underway for a child or young person receiving care from a tertiary speech and language therapy service, and they are known to their local community SLT, their local community SLT will normally provide a report of advice to the process, and suggest outcomes for communication, speech, language, eating and drinking. Tertiary centres may offer support to that local SLT to ensure that their advice reflects their specialist opinion and ongoing care.

CYP who are inpatients in hospital or attend a hospital school also have the right to continued SEN provision within that setting. This will include CYP who are physically unwell and also those in secure psychiatric provision. CYP undergoing statutory assessment as an inpatient will need to receive assessment and advice from the SLT working within that setting, but will need to be medically and psychologically stable in order to ensure that the findings of the assessment reflect the long-term aims for them. It is important to liaise closely with any SLT involved with the child or young person in the community to ensure that the advice reflects functioning in that context and pays regard to ongoing support and targets.

11.3 Home-educated children

The LA should support parents to ensure that the identified SEN of home-educated CYP are met but LAs do not have a duty under Section 22 of the Children and Families Act to assess every home-educated child for SEN (DfE, 2015a, p. 214).

For those CYP with an EHC plan, if the LA and parents agree that home education is the most appropriate provision, then home education should be named on the plan, and the LA must arrange the special educational provision specified in the plan. If a placement is named on the plan but families subsequently choose to educate at home, then the LA does not have a duty to secure the provision agreed in the plan if it is satisfied that the child or young person's needs are being met.

If the child or young person has an EHC plan that specifies speech and language therapy, and the LA and parents agree that home education is the best place for them to be educated, then the LA must ensure that any speech and language therapy specified in the special educational provision section of the EHC plan is being provided.

11.4 Pupils in alternative provision

Students attending pupil referral units or other alternative provision must continue to have their needs met in line with their EHC plan. They must receive full-time education unless this is detrimental to their mental or physical health. Depending on local arrangements, ongoing speech and language therapy may need to be additionally commissioned to ensure it continues for these vulnerable students during this change in placement.

11.5 Pupils in independent schools, free schools and academies

The Code of Practice applies to independent schools which offer an early years provision, and to those independent schools offering specialist provision. The majority of mainstream fee-paying schools do not have to comply with the Code, but must still adhere to the requirements of the Equality Act in supporting the needs of CYP with an identified disability.

Free schools and academies must have regard to the Code.

11.6 Service pupils and looked-after children

CYP from service families should not be disadvantaged by their often frequent relocations. Of note within the Code is the point that "access to appropriate assessments, interventions and provision is determined solely on the nature, severity and complexity of the needs presented by service children with SEN and not related to the amount of time they have left in a particular school" (DfE, 2015a, p. 220).

This point is not explicitly made for looked-after children or those in other highly mobile groups, but this would be best practice for all CYP with a similar vulnerability. EHC planning is completed by the LA in which the child or young person lives, rather than the authority that looks after the child or young person (the corporate parent).

When completed, the EHC plan moves with the child or young person, and their new LA must continue to secure the provision specified within it, unless distance makes attendance at a named school impossible. The receiving LA must inform the family when it plans to review the EHC plan within six weeks of the transfer. This review must be completed by one of the following deadlines, whichever is the later: within 12 months of the plan being made or being previously reviewed by the old authority, or within three months of the plan being transferred.

11.7 Working within adult services and towards independence

One of the key principles within the Children and Families Act reforms is the emphasis placed on support that enables those with SEN to succeed in their education and make a successful transition to adulthood (ibid. p. 14). The Code of Practice has a whole chapter devoted to this (chapter 8: preparing for adulthood from the earliest years).

Key points from the Code to inform SLT intervention include:

- When a child is very young, families need to know that the majority of children and young people with SEN or disabilities can find work, be supported to live independently and participate in their community. These ambitions should be encouraged right from the start (ibid. p. 124).
- Early years providers and schools should support children and young people to be included in social groups and develop friendships. This is particularly important at key transition points (ibid. p.124).
- From year 9 and beyond, every review must include a focus preparing for adulthood, and provision should increasingly work towards increasing independence and functional skills (ibid. p. 125).
- Students aged 16-19 (and up to 25 with an EHC plan) should be able to access coherent study programmes which enable them to progress, take substantial qualifications, study English and Maths, participate in work experience and not repeat learning they have already completed successfully. For students not taking qualifications their study should focus on work experience and/or promotion of independent living skills, which may include SLT aiming to increase independence and employability (ibid. p. 130).
- Full-time (5-day) packages of support should be considered and may include time at a variety of settings, including accessing healthcare such as physiotherapy (ibid. pp. 132-3).

Many of the young people requiring ongoing speech and language therapy support outlined in their EHC plan will have ongoing complex needs, and so may transfer directly to adult services.

Others (often those with less severe learning difficulties) may fall outside of the range of currently commissioned services and so their ongoing provision will need to be agreed at annual review, and may need to be additionally commissioned. It will be important to consider whether the type of support required at school age is age appropriate and suitable for delivery in a further education or adult setting, and so whether recommendations and provision should be amended to reflect more functional outcomes and approaches.

Information sharing and appropriate liaison with adult SLT colleagues will be vital for effective transitions to adult services.

12 Personal budgets

The Code of Practice states that partners must set out their arrangements for agreeing personal budgets, and should set out a local policy that includes:

- A description of the services that currently lend themselves to personal budgets. Services currently tied into block contracts would be exempt from this.
- Mechanisms of control for funding available, including direct payments, arrangements where the school or LA manages the budget, third-party arrangements or a combination of the above.
- Clear statements of eligibility criteria and the decision making processes behind them (DfE, 2015a, p.48).

Partners should also identify how the new strategies will support greater choice and control year on year as the market develops and funding streams are freed from existing contractual arrangements (ibid. p. 49).

LA commissioners and their partners should seek to align funding streams for inclusion in personal budgets (ibid. p. 181).

Personal budgets are not therefore universally available at the time of writing but agencies must have plans in place to move this situation forward.

The first areas in which direct payments have been introduced have often been around continuing care, short breaks/respite and transport. The charity In Control is a useful source of information on this, and published a report on their trial of a child POET (Personal Outcomes Evaluation Tool) in March 2015 (In Control, 2015).

There is a difference between a personal education budget and a direct payment. The personal education budget is allocated to all CYP with an EHC plan and is the sum of money allocated by the LA to meet their needs. When an EHC plan is drafted, it will be sent to the family, who have 15 days to respond. They can then request an institution to be named on the plan (dual placements between special and mainstream are acceptable) and request a direct payment of their personal education budget.

Indicative funding for this budget may be generated via a resource allocation tool or banding system, but the final financial allocation must be enough to secure the provision outlined in the plan. Families can request to manage the personal budget in a variety of ways:

- Through a direct payment
- Through an arrangement with the LA who manages it on their behalf
- Through a third-party arrangement who manages it on their behalf
- Through a combination of the above

If parents wish to use their direct payment to purchase provision to be delivered on school premises then school must approve this. Direct payments cannot be used to fund a school place, and if parents have requested a special school place then this will reduce the scope for a personal budget as the education budget will have been allocated to that specialist provision. If families make their own provision (either health or educational) through a personal budget then the relevant authority must satisfy itself that the arrangements are suitable, or support the family to ensure that they are, before it is relieved of its duty to secure the provision.

The provision purchased through a personal budget will be reviewed at annual review to ensure that it meets the agreed outcomes for the child or young person, and that the arrangements remain suitable.

In the majority of cases the personal education budget will be managed by the child or young person's school, early years provider or college, and can be used flexibly by that provider to purchase services which would meet the child or young person's outcomes. In older age groups there is sometimes a more bespoke package agreed, part of which is a personal budget, for example home tutoring and additionally commissioned speech and language therapy on top.

It would be useful for SLTs to consider how they could cost out their services in order to be able to respond to schools', colleges' and families' requests to purchase additional input from their personal education.

The diagram below summarises the different components in SEND budgets for mainstream schools at the time of writing. Different LAs may delegate different amounts/proportions.

Element 1 The sum of money available to schools to meet the needs of every pupil	Approx. £4K per student
Element 2 The delegated funding allocated to meet the needs of pupils with SEND in the most appropriate way	Approx. £6K per student with SEN
Element 3 The personal education budget. This is accessed via an EHC plan and can be requested as a direct payment, even if only a part of it may be possible to grant	Personalised amount, based on the funding needed to secure the provision to meet agreed outcomes

13 Accountability

13.1 Measuring progress for CYP

All support offered to CYP with SEND must be regularly reviewed, and EHC plans will be reviewed annually. The effectiveness of the provision made will be reviewed in terms of how it is meeting the agreed outcomes for the child or young person. SLTs will have to ensure that the agreed steps towards outcomes are measurable enough to show the impact of their intervention. If outcomes are not being met, then it will not automatically lead to an extension of the timescale required to meet them; rather discussion will be required around whether the outcome and the provision remains appropriate. This is particularly relevant in deciding when to end an educational placement for an older young person or adult; courses should not be repeated year on year.

SLTs need to consider how to measure progress holistically, taking account of targets set outside of the school context. See the outcomes section for more information.

13.1.1 Measuring progress within the context of a school environment

SLTs would benefit from understanding the system in place in school for measuring progress, and their schools' perspective on what "good" progress actually is.

There are age-related expectations (ARE) for every year group. Pupils are tested and the results at the end of key stages reported to school as a standardised score, indicating how close the child or young person is to ARE. These expectations rely on mastery of every skill described in a level, rather than a more 'spiky' approach to learning which may be taken by CYP with SEND. Schools are now free to use their own assessment method and consequently these may now vary from school to school with no consistency.

In July 2015 the Department for Education (DfE) announced the Rochford Review, to advise on solutions for assessing the progress of CYP with lower attainment, including those with SEND (DfE, 2015c). Interim assessment arrangements are in place for the academic year 2015-16 but longer term arrangements are still outstanding.

If all pupils in a school make adequate/expected progress, Ofsted could still judge the school 'requires improvement' (RI). To get a judgement of 'good' some CYP need to be making better than expected progress and to get 'outstanding', the majority have to be making better than expected progress. It will be useful for SLTs to be aware of these benchmarks of "good" progress within schools.

Find out more

Communicating the Curriculum is an online resources supporting primary schools to engage with the National Curriculum for spoken language, showing how the Programme of Study statements can be broken down to identify progression (The Communication Trust, 2016).

13.2 Re-assessments of EHC plans

The Code states that "Local Authorities must conduct a re-assessment of a child or young person's EHC plan if a request is made by the child's parent or the young person, or the governing body, proprietor or principal of the educational institution attended by the child or young person, or the CCG (or NHS England where relevant)" (DfE, 2015a, p. 200).

If an SLT considers that the child's needs have changed so that the provision stated in the EHC plan is no longer appropriate, they should put this in writing to the parent and/or educational setting who may wish to request a re-assessment of the child or young person's EHC plan from the LA; alternatively, if all parties are in agreement as to the change it may be possible to issue an amendment to the plan.

14 Evaluating the reforms themselves

In March 2015 the DfE published a document which outlines the accountability framework for the reforms (DfE, 2015b).

This set out that local accountability in relation to SEND will be at individual service and school level. The Lead Member from the local council for children's services, and the local director of children's services for the LA are jointly accountable for local implementation of the legislation. The Health and Wellbeing Board will report to them. Schools and colleges are accountable to their governing bodies and to Ofsted, CCGs are accountable to their board and to NHS England, and all should have representation on the Health and Wellbeing Board. Local parent carer forums will represent the views of families, as well as feeding in to the National Network of Parent Carer Forums (NNPCF). On a regional level, directors of children's services are developing peer review and challenge.

The table below sets out how the DfE propose to measure success at a national level:

	Positive experience of the SEND system for CYP and their families	**Positive outcomes for CYP and their families**	**Effective preparation for adulthood**
What does success look like?	• Parents, children and young people get right support at right time; feel that they are listened to and in control • Planned and well-managed transition at key points • A joined-up, transparent and accountable system	• Improved progression and attainment at all ages • Clear and appropriate expectations and aspirations leading to fulfilled lives • More resilient families	• Increased employment • Choice and control over living arrangements/ independent living • Participation in the community • Health outcomes based on need and aspiration
Examples of data and intelligence	• SEN appeals and outcomes • (EHCPs) completed on time • LA and parent survey data • Co produced clinical care pathways • Children and young people's Personal Outcomes Evaluation Tool (POET) pilot • Feedback from independent supporters	• Attainment data • Outcomes for looked after children • Destinations after Key Stage 4 & Key Stage 5 • School absence and exclusion rates	• Employment status for adults with learning difficulties and disabilities (LDD) • Accommodation status for adults with LDD
When do we expect to see an impact?	**Short/medium term:** From Sept 2014 to Sept 2017	**Medium/long term:** 3 to 5 years' time	**Fully emerge:** 5 to 10 years' time

(DfE, 2015b, p.6)

It is important to note that the timescales for implementation are long term.

Nationally the DfE will publish feedback from families on progress in implementation; in April 2016 a research report mapping user experiences of the EHC process was published (Skipp & Hopwood, 2016). As part of the research, a number of tools and resources have been developed, including checklists to support services to improve local delivery, which are available from the EHCP Journeys website.

Independent assessment of implementation is via Ofsted and the Care Quality Commission (CQC), who will be carrying out joint inspections of a local area's implementation of the SEND reforms and its provision for CYP with SEND. The local area SEND inspection framework, which sets out how Ofsted and CQC will jointly inspect local areas to see how effectively they fulfil their responsibility for CYP with SEND, was published in April 2016 (CQC & Ofsted, 2016a).

While the new arrangements for evaluating success develop, the existing routes of redress for families continue to be the local complaints procedures within all agencies, and the First-Tier Tribunal (SEND).

Find out more

The handbook for the inspection of local areas' effectiveness in identifying and meeting the needs of children and young people who have special educational needs and/or disabilities provides more detail about the inspection process (CQC & Ofsted, 2016b).

15 Disagreement resolution, mediation and tribunal

If families do not agree with the decisions of the LA within the EHC planning process, e.g. their refusal to assess, refusal to make a plan, or any details within the plan, and lodge an appeal, then the responsibility rests with the LA to lead the resolution process, which may result in an appeal to the first-tier tribunal (SEN and disability). At present the tribunal does not rule on provision required to meet a health or social care need, but a pilot is underway in some LAs in which the tribunals will make recommendations about health or social care provision.

Prior to the tribunal stage, however, LAs must make disagreement resolution services available, which must be independent of the LA. Families must be offered mediation services, and a mediation certificate must be issued before a family can proceed to tribunal. This certificate shows that either mediation has been carried out, or that the family or young person does not wish to consider it.

Not all appeals will involve SLTs or relate to provision addressing communication. Nonetheless it is important that SLTs are aware of the local procedures/processes for mediation and their roles in the process, including signposting families appropriately.

Where an appeal has been lodged, the SLT may be either notified by the LA or the child or young person's parents, depending on the nature of the appeal. They should then be kept fully up to date with the case management process, and ensure they have access to the appropriate papers.

Where SLTs have been asked to contribute to an appeal, they should be clear that their role is not as a mediator or advocate; they are acting as either a factual witness or an expert witness, or potentially both. For example, reporting on what a child or young person can do, or the results of a test, is factual; explaining what conclusions to be drawn and what response should arise is a matter of expertise. **They should focus on the needs of the child or young person and response to intervention and provision. As in written advice for the process, their identification of the child's needs should not be influenced by pressures such as the desires of the client, family, school or resource constraints.**

In preparation for the hearing, SLTs may wish to consult with peers and take legal advice. In large teams a lead SLT may take responsibility within each locality for ensuring effective communication with the LA with regard to SEND appeals. This SLT will in most cases be a clinical lead, who fully understands the process and has experience with complex cases within an educational context.

They would need to work in partnership with the SLT who is attending the tribunal. This should be someone who has recent detailed first-hand experience of the child or young person and their management and care. If this SLT is inexperienced, it is recommended that they are supported by an experienced SLT in preparing for the tribunal hearing.

SLTs will need to:

- Access support from within their existing supervision structure in preparation from the tribunal, and, if appropriate, from the LA legal team.
- Make every attempt to maintain dialogue with the parents and seek to resolve differences through the mediation process.
- Explain to families and other witnesses that professional conduct will prevail regardless of the tribunal/dispute process.
- Be prepared to meet with other parties attending the hearing in advance of the tribunal to prepare the case and papers.

- Focus on the needs of the child or young person and response to intervention and provision thus far. Their view should be based on up to date, detailed knowledge of the child and the evidence base.
- Provide factual and objective information, giving their professional opinion on matters only within their expertise. Their identification of the child's needs should not be influenced by pressures such as the desires of the child or young person, LA, family, school or resource constraints.
- Have appropriate knowledge of the Code of Practice, including issues around where in the plan SLCN should be addressed.
- Prepare a report for the tribunal which will usually be more detailed than an EHCP report. Guidance is given in section 15.1 below.

If it is not possible to provide a report to the appropriate standard in the given timeframe then this should be conveyed to both parties.

All SLTs must co-operate with the LA in the assessment process, but if the request for a tribunal report is a new referral, then the service manager (CCG or independent) will consider what arrangements can be made to work within the required timeframe.

15.1 Tribunal report writing

These may be more detailed than EHC plan reports, as the SLT may wish to give further background detail such as professional qualifications of the authors, and more detailed reasoning and evidence behind recommendations. It is recommended that they follow the guidance for writing advice for EHC plans in section 9.4, and also consider inclusion of the following:

1. Background
    a. State who commissioned or requested the report
    b. Include a brief outline of the qualifications and experience of the author, and any documents used in preparation for the report
    a. Speech and language skills - both strengths and needs
    b. Further detail may be appropriate around the methodology and choice of assessments, and interpretation of those results
2. Provision
    a. The rationale for recommendations should be made explicit here. In the original report for the plan this may have been discussed face to face with family or within the planning meeting, but should be made clear in this more detailed report. Recommendations should be based on best practice, available evidence, and the SLT's reasoning based on response to previous intervention. See section on available evidence for more information.

SLTs have a duty of care for any child or young person they are writing advice for. Advice should be written with the needs of the child or young person in mind, not the available resources.

15.2 At the tribunal hearing

SLTs at the tribunal hearing itself will need to:

- Be clear and objective about the SLCN of the child, the progress they have made, and the provision required to meet those needs based on recent contact with the child.
- Be fully familiar with the appeal papers and have identified the key issues within them.
- Remain objective. They are not acting as a mediator or an advocate. They should focus on the child's SLCN and how these needs would be most appropriately met that is not influenced by pressures (such as the desires of the client, family, or time constraints).
- Be prepared to explain any specialist information, providing only factual detail and their opinion on matters only within their expertise.

15.3 After the tribunal

The tribunal reaches a decision within the legal framework based upon the evidence placed before it, in the papers and at the hearing. The result is not a reflection of the professional integrity of those involved.

It is recommended that SLTs:

- Have the opportunity to discuss issues arising from the tribunal as part of their ongoing CPD
- Encourage the re-establishment of their working relationship with the family, or ensure transfer to another SLT if the child or young person is changing school
- Ensure that the decision is put into effect as smoothly and efficiently as possible
- Indicate any mismatch between need and available resources to commissioners and the LA, so that provision can be put into place as soon as possible

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Appendix 1: Writing good descriptions of provision

The table below illustrates how a description of provision (left hand column) can be improved to become specific, quantifiable and flexible (right hand column)

First attempt	**Better: Specific, quantifiable and flexible**
Weekly SLT *This doesn't take into account the changing needs of the child*	X number of sessions or the equivalent of X hours of 1:1 time, in addition to SLT support to be given throughout the year. Sessions may take place in or out of the classroom and will focus specifically on X. Sessions will be held more frequently at the beginning of the academic year as new skills are taught.
A weekly group session for 1 ½ hours to work on social skills *This doesn't take into account timetable constraints or include opportunities for reassessment, progress monitoring, liaison, etc.*	X number of group sessions equivalent to X hours to work with the child in small groups on identified social communication skills. The groups will be jointly planned, run and monitored by the SLT in conjunction with identified school staff. The SLT will provide training for school staff within the allotted Y hours. The amount of time needed for direct SLT involvement in the groups will be monitored termly.
Speech and language programmes will be integrated into all aspects of the child's curriculum with support and advice of the SLT	X number of hours/sessions of SLT time per academic year to be used for joint planning, co-working and training sessions in order to support staff in making curriculum or teaching style changes to meet needs. All staff will need training on…….and demonstration of….as part of an ongoing programme. The SLT will need X hours/sessions per academic year to prepare, demonstrate and discuss specific speech and language therapy activities and materials with identified school staff. Progress and arrangements will be monitored on a termly basis.
Speech and language therapy needs will be monitored and reviewed annually	The SLT will need X number of hours a year to attend the annual review meetings and Y number of multidisciplinary meetings and/or observation sessions in order to monitor SLT programme and its implementation in school.

Time is needed for admin, planning and report writing	The SLT will need X additional hours per term. These hours will be spread out over the term to include carrying out tasks such as planning, note keeping, report writing, target setting, liaison with teachers and family, training for staff, classroom observation, co-planning the curriculum delivery with teachers and teaching assistants. Alternatively this could be accounted for within session time, using a simple quantifiable statement e.g. “The total number of hours required to manage the case would be…” The focus of EHC plans should be on the provision the child needs, not aspects of service delivery.
Training and modelling activities for school staff	The SLT will need X number of hours to prepare, demonstrate and discuss specific speech and language therapy activities and materials with the school staff

Appendix 2: Methodology

Working group

Following a recruitment process, RCSLT appointed Carol-ann Howe to the role of Lead Guidance Developer. Building on 19 years' experience as an SLT in a wide range of contexts, she has worked in a strategic role within North Yorkshire LA for the last seven years, where her role has included developing policy, practice and commissioning for SLCN, and working as part of the SEND team implementing the SEND reforms as one of the pathfinder Local Authorities (LAs).

Following the appointment of the lead guidance developer, the RCSLT invited interested members to join the SEND reforms working group. The opportunity was promoted via the RCSLT website, and sent directly to the SEND reforms reference group, relevant advisers and related project groups.

The membership of the working group represents a wide range of skills and backgrounds, including the RCSLT board of trustees, RCSLT advisers, researchers and managers, as well as speech and language therapists with current experience of implementing the reforms as practitioners.

The working group held a telephone conference and a day workshop to discuss the key issues in the legislation and their impact on practice, prior to the first draft being completed. The group then reviewed this together electronically before proceeding to member consultation.

Prior to formal member consultation both the lead guidance developer and members of the working party attended RCSLT Hub, conference and clinical excellence network (CEN) events to determine the issues that the membership were debating. A record of enquiries received at RCSLT was also kept, in order to compile a list of frequently asked questions to be discussed.

Member consultation

Following the development of the first draft, key members of the profession were contacted directly by email and invited to feedback on the document. This included all members of RCSLT board and committees, contacts at relevant CENs, relevant RCSLT advisers and current working groups. The wider membership was also invited to respond via alerts to Hubs on Basecamp, on social media and the RCSLT website; 45 responses were received.

All feedback was collated and sent to the working group. The lead guidance developer reviewed the feedback with the RCSLT project coordinator and identified issues that needed further discussion by the working group; the working group was also invited to feedback directly onto the document. The working group then met to discuss the issues and agree whether the comments would be accepted, and the document amended accordingly, or rejected. All responses gained from these consultations were considered and changes made to the document on the basis of relevance and salience and not purely on frequency of mention.

All decisions as to whether feedback was accepted or rejected and what action would be taken were recorded and submitted to the RCSLT, and circulated to the rest of the working group.

External stakeholder consultation

The working group identified a list of external stakeholders who should be invited to feedback on the document prior to publication. The following stakeholders were invited to respond to the consultation:

Stakeholder	Stakeholder type
Association of Directors of Children's Services (ADCS)	National / local government
Department for Education (DfE)*	National / local government
SENDIST	National / local government
ASLTIP	Professional body
Association of Educational Psychologists	Professional body
British Association of Teachers of the Deaf (BATOD)*	Professional body
Chartered Society of Physiotherapy (CSP)	Professional body
College of Occupational Therapy (COT)	Professional body
NAPLIC	Professional body
National Association of Head Teachers (NAHT)*	Professional body
Afasic*	Third sector / service user
British Stammering Association	Third sector / service user
Communication Matters	Third sector / service user
Contact a Family	Third sector / service user
Council for Disabled Children (CDC)	Third sector / service user
Down's Syndrome Association	Third sector / service user
Educational Rights Alliance*	Third sector / service user
I CAN	Third sector / service user
Information, Advice and Support Services Network	Third sector / service user
IPSEA	Third sector / service user
NASEN	Third sector / service user
National Autistic Society	Third sector / service user
National Deaf Children's Society (NDCS)*	Third sector / service user
National Network of Parent Carer Forums*	Third sector / service user
Scope	Third sector / service user
Sense	Third sector / service user
SMIRA	Third sector / service user
Symbol UK	Third sector / service user
The Communication Trust*	Third sector / service user

*Response received

Thirteen responses were received in total, including a number from individuals including parents, a school governor, and an LA consultant and plan writer.

As with the member consultation, all feedback was collated and sent to the working group. The working group then discussed the issues to agree whether the comments should be accepted, and the document amended accordingly, or rejected. All decisions as to whether feedback was accepted or rejected and what action would be taken were recorded and submitted to the RCSLT, and circulated to the rest of the working group.