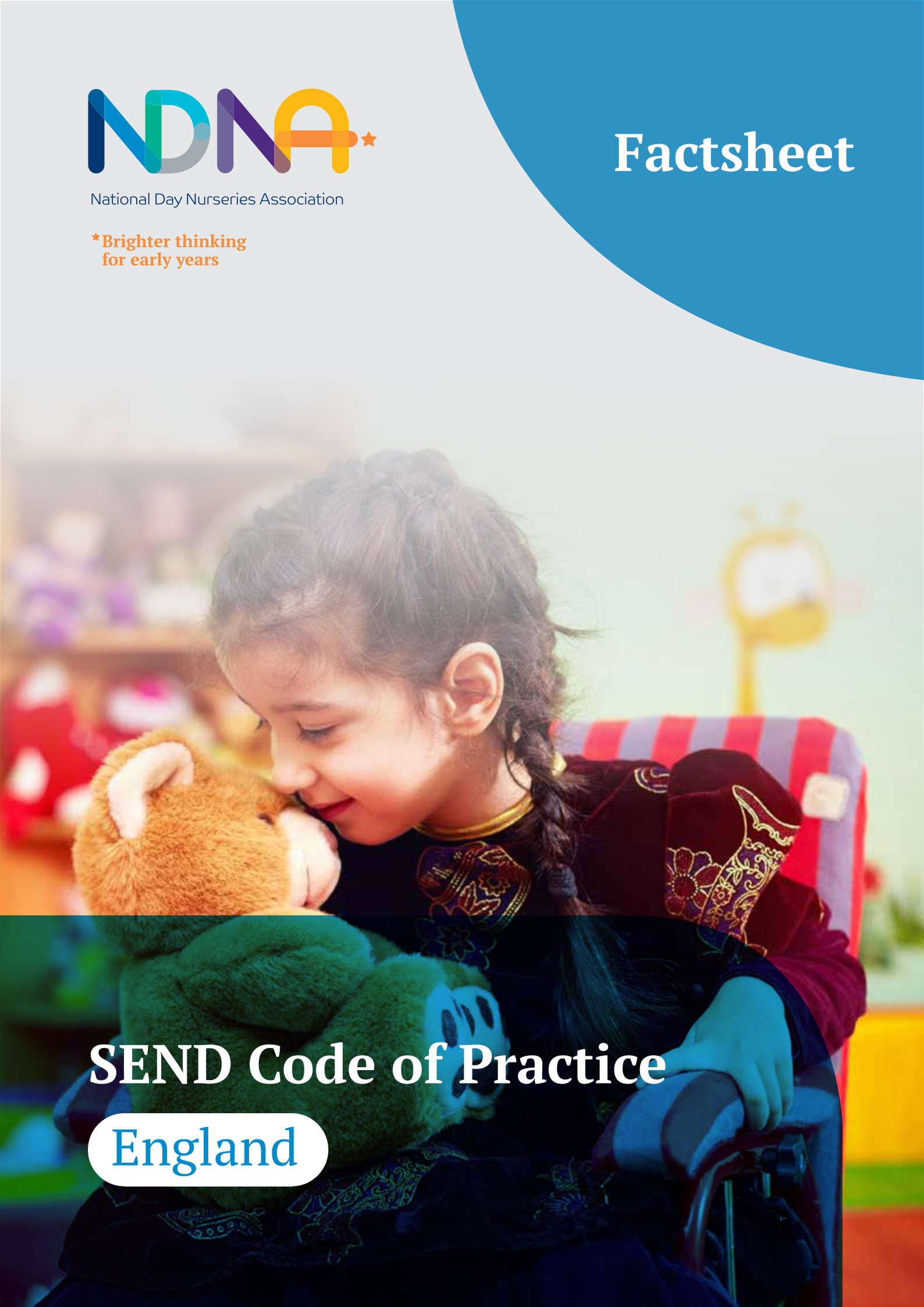




National Day Nurseries Association

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for early years

Factsheet



SEND Code of Practice

England

Special Educational Needs and Disability (SEND) Code of Practice

The 'Special educational needs and disability (SEND) code of practice: 0-25 years' sets out the statutory guidance and associated regulations for organisations supporting children and young people with SEND.

All early years providers receiving government funding must have due regard for the Code of Practice and must fulfil their duties to any child with SEND and their parents or carers. This NDNA factsheet summarises the guidance giving an overview of the Code of Practice.

The key legislation and documents include:

- Special educational needs and disability code of practice: 0 to 25 years
- The Children and Families Act 2014, Part Three
- The Equality Act 2010
- Special educational needs and disability regulations 2014
- Statutory Framework for the Early Years Foundation Stage
- Working Together to Safeguard Children
- Summary of the Code of practice.

Definitions

A child has special educational needs (SEN) if they have a learning difficulty or disability which calls for special educational provision to be made for them.

A learning difficulty or disability means that a child of compulsory school age has a significantly greater difficulty in learning than the majority of other children of the same age and/or has a disability which prevents or hinders them from making use of the sort of facilities generally provided for others of the same age.

For children aged 2 or more, special educational provision is educational provision that is additional to, or different from, that which is made generally for other children of the same age. For a child under 2 years of age, special educational provision means educational provision of any kind.

A child under the compulsory school age is identified as having a special educational need or disability if he or she is likely to have a learning difficulty or disability when they reach compulsory school age, or would do so if special educational provision was not made for them.

A disability is defined in the Equality Act 2010 as "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." "Long-term" is defined as "a year or more" and "substantial" is defined as "more than minor or trivial." This

definition includes sensory impairments, such as those affecting sight or hearing and long-term health conditions such as asthma, diabetes, epilepsy and cancer. Children with such conditions do not necessarily have SEN, but there is a significant overlap between disabled children and those with SEN. Where a disabled child requires special educational provision, they are also covered by the SEN definition.

What does the SEND code of practice mean for me?

The SEND code of practice: 0 – 25 years is statutory guidance for supporting children and young people with SEND. Some of the requirements of the code state **must**, which are statutory requirements settings must adhere to. Others state **should** and you must regard these requirements unless you have exceptional reasons not to.

Key guidance for Early Years Foundation Stage (EYFS) providers includes:

- Have clearly stated procedures for identifying and meeting the needs of children with SEND
- Work closely with parents and carers
- Have a named a designated member of staff as the special educational needs coordinator (SENCO or SENDCO). You should make parents and carers aware of who this is in your setting
- Implement a four-stage process called the graduated approach to identify and meet individual needs
- Work with outside agencies and other professionals.

You must also meet the requirements in the Equality Act 2010 i.e. not to discriminate against or harass children with disabilities and to make reasonable adjustments. This can include the provision of auxiliary aids and services to ensure that children with disabilities are not at a substantial disadvantage compared with their peers.

The Statutory Framework for the EYFS places a requirement on all providers to support children with SEND:

“If a child’s progress in any of the prime areas gives cause for concern, practitioners must discuss this with the child’s parents or carers and agree on how to support the child. Practitioners must consider whether a child has a Special Educational Need or Disability which requires specialist support.”

It also states that all providers funded by the Local Authority need to adhere to the SEND Code of practice.

Neither the EYFS nor the Code of Practice requires you to have a written policy for SEN and disability (unless you are a maintained nursery school) but it is good practice to do so. There is an example policy within the NDNA publication ‘Your essential guide to policies and procedures’ to help you to consider consistency for practitioners and clarity for parents.

Two valuable things to remember are:

- A 'blanket policy' may cause indirect discrimination by excluding some children unintentionally. For example, a behaviour policy may discriminate if there are no adjustments made for a child with social communication difficulties
- Review aspects of your setting that may discriminate against children with special educational needs or disabilities. It can be helpful to read policies and practices in your setting with children's families to ensure that adjustments are suitable and effective.

You also need a clear process for identifying any emerging difficulties at the earliest possible opportunity and how these will be addressed and managed.

Identifying need

You should not wait until any formal check, for example, the progress check at age 2 or the Healthy Child Programme (health visitor check) to start the process of identifying needs.

Development Matters highlights one of the seven key features of effective practice as:

"High-quality early years education and care is inclusive. Children's special educational needs are identified quickly. All children promptly receive any extra help they need, so they can progress well in their learning."

A delay in learning and development or worrying behaviour in early years may not necessarily indicate that a child has SEND. However, where there are concerns, you should try and identify whether there are any underlying challenges, whilst considering all the information about the child's learning and development. It is vital to use the guidance available (such as Development Matters and Birth to Five Matters) to ensure that a child is secure in their earlier steps. This will ensure that small increments of progress which are made can be acknowledged and celebrated.

Best practice tip

Very often children in an EYFS setting will not have a specific diagnosis to identify any barriers to learning you have observed. The most effective way for the child to make progress is for you to plan to meet the individual needs of the child based on your assessment of their strengths, areas of interest and difficulties.

Broad areas of need

There are four broad areas of need set out in the Code of Practice that will help you to identify the range of needs you may have to plan for and the support children need. Remember that individual children may have specific needs that cover more than one of these areas or needs that change over

time; you should plan to meet the needs of the child based on your understanding of their strengths and any areas of difficulty.

Communication and interaction

Children with speech, language and communication needs (SLCN) may find it harder to express themselves, understand what others are saying or use the social rules of communication. These challenges can vary widely and may affect how they build relationships, learn or participate in everyday activities.

Children with a diagnosis of Autistic Spectrum Condition (ASC) often experience differences in social interaction and may also find language, communication and imaginative play more challenging. These differences can influence how they connect with others and engage with the world around them.

Cognition and learning

Some children may need additional support when they learn at a slower pace than their peers, even with well-planned and appropriate differentiation. Learning difficulties can vary widely in nature and severity. These may include:

- Moderate to severe learning difficulties, where children require support across multiple areas of development, such as mobility and communication.
- Profound and multiple learning difficulties (PMLD), where children are likely to have complex learning needs alongside physical disabilities or sensory impairments.

There are also specific learning difficulties that affect particular aspects of learning, such as:

- Dyslexia – difficulties with reading and spelling
- Dyscalculia – difficulties with understanding numbers
- Dyspraxia – difficulties with co-ordination and movement.

Social, emotional and mental health difficulties

Children may experience a range of social, emotional and mental health challenges, which manifest themselves in different ways. These may include becoming withdrawn, isolated or displaying behaviours that are disruptive or challenging. Such behaviours may reflect underlying needs or conditions, such as Attention Deficit Disorder (ADD), Attention Deficit Hyperactive Disorder (ADHD) or Attachment difficulties. It's essential to recognise that all behaviour is a form of communication, particularly in young children.

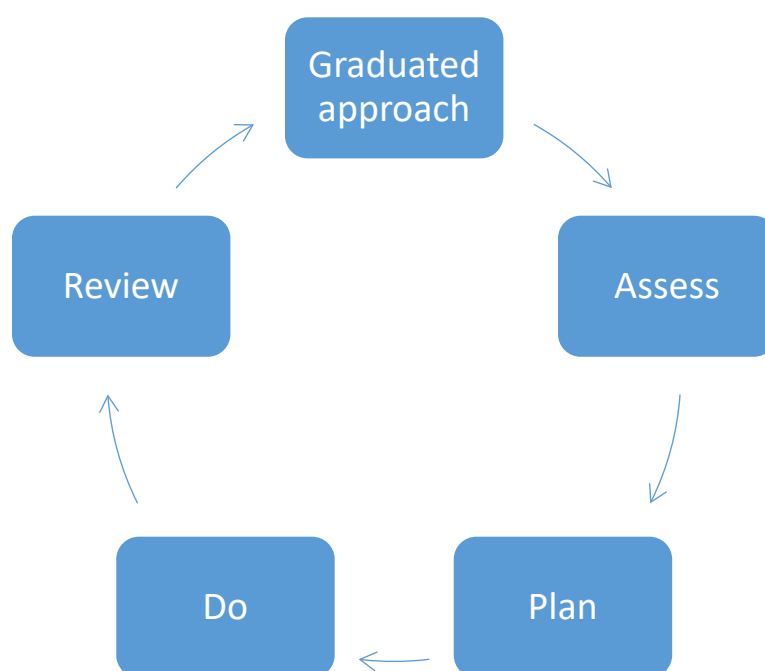
While behaviour itself is not classified as a special educational need, it can be a sign of unmet emotional, social or developmental needs. Identifying the root causes should be done in partnership with parents and with input from specialist professionals when needed.

Physical and sensory needs

Children who require educational provision which is adapted or different from the educational facilities usually provided fall under this broad area of need. Children with physical and sensory barriers to learning can present under the following categories:

- Visual impairment
- Hearing impairment
- Multisensory impairment.

A graduated approach to supporting children with SEND



Assess

Assess the child's development and needs. It is vital to start with the parents' and carers' views. They can give you insight into where a difficulty lies or a strategy which may work in your setting and whether you need to seek more specialist help from health, social services or other agencies.

Plan

Once you have identified areas of strength and barriers to learning, you should consider what is important for the child in partnership with parents. Agree on what strategies, interventions and support are required and identify whether staff or parents/carers need any information or training. Remember to include a date for reviewing your plans and progress.

Do

Implement the plan, including observing the child's response to the actions taken. The child's key

person is responsible for implementing the plan on a daily basis and the SENCO should “support the practitioner in assessing the child’s response to the action taken, in problem-solving and advising on the effective implementation of support.” This will have implications for staffing to ensure continuity, it is advisable that the child’s outcomes are available to all staff so that the learning can be scaffolded. Refer to NDNA Factsheet on one-page profiles.

Review

The review stage should be carried out on an agreed date, “in increasing detail and with increasing frequency, to identify the best way of securing progress.” Any review should involve the parents and carers. If a child has not achieved their outcomes, it may be necessary to break them down into yet smaller steps or change the activities that had been planned.

A formal review when a child is entering a transition stage or an annual review of their education health and care plan should be led by the SENCO and include relevant external agencies. Using a person-centred planning approach requires:

- The views of the child to be gathered in a manner most appropriate to them or through the interpretation of people who know them well
- The outcomes sought for the child and the provision needed to achieve them
- Opportunities to celebrate developmental milestones which may not be included in the outcomes you have identified
- An opportunity for each person at the review meeting to contribute their views on the outcomes and provision so an informed pathway can be developed for the child’s next steps.

Education and health care (EHC) needs assessment

If a child’s progress or development is still a cause for concern after a few cycles of the graduated approach cycle, you can consider requesting an EHC needs assessment from your local authority. Parents should know about this and where possible be in agreement and give consent. The local authority will decide whether an EHC needs assessment is necessary, following consultation with the child’s parent(s) and will give its decision within six weeks of receiving the request. This test is set out in the law ([section 36\(8\) of the Children and Families Act 2014](#)) and in the [SEN and Disability Code of Practice 2015 \(the Code\)](#).

An EHC needs assessment considers whether a child needs an EHC Plan (an assessment does not always result in a plan being drawn up). If it is agreed that an EHC Plan is required, the local authority will prepare and issue a plan and notify the child’s parents/carers of the reasons for its decision.

If a plan is issued, it will be your responsibility to implement the provision set out in the EHCP and review the outcomes on at least an annual basis.

SENCO and area SENCO

The EYFS expects non-maintained group settings to identify a member of staff as the SENCO.

The role of the SENCO in your setting involves:

- Ensuring all practitioners in the setting understand their responsibilities to children with SEND and the setting's approach to identifying and meeting SEND
- Advising and supporting colleagues
- Ensuring parents/carers are closely involved throughout and that their insights inform any action taken by the setting
- Liaising with professionals or agencies beyond the setting.

The local authority should ensure there is sufficient expertise and experience amongst local early years providers, the code sets out the role of the Area SENCO in facilitating appropriate early years provision for children with SEND and their transition to compulsory schooling.

Working in partnership

The Code of Practice sets out the importance of services working together to secure the support and interventions that will help the child achieve the best outcomes. Where a child makes less than expected progress - despite your interventions - you should consider involving appropriate specialists. Health visitors, speech and language therapists, portage workers, educational psychologists or specialist teachers, for example, may be able to identify effective strategies, equipment, programmes or other interventions.

Best practice tip

When you work with other services, ensure you are familiar with roles, referral processes and how to make contact with local services. Provide reports when requested and encourage parents and carers to share with you reports from other professionals. Provide visiting professionals with clear information about the routine of the day and what context they will observe the child in (e.g. free flow or forest school). This will enable the external professional to judge how typical their observations are.

The code also states that providers should work in partnership with other local education providers to explore how different types of needs can be met most effectively.

Local authorities and the local offer

Local authorities must consult on and publish a local offer. The local offer sets out in one place information about services, activities and organisations which are available to children with SEND in the local area. This includes children who do not have an EHC plan.

Support for parents, carers and families

- Local offer: As detailed above
- Parent and carer forums: Independent parent-led forums that work with local authorities. The National Network of Parent Carer forums will have details of ones local to you
- SEND information and support service: This is available through every local authority and offers free and impartial advice to parents and carers of children with SEND.

Best practice tip - enabling environment reflection

Create a document with each of the eight headings above to enable you to reflect on each aspect of your provision. Look at it together at a staff meeting and discuss each of the individual aspects or challenge staff in each room/age group to go and review their environment together in the space and come back together to share each group's findings.

The code makes it clear that you should establish and maintain a culture of high expectations. It expects your practitioners working with children with SEND to include them in all the opportunities available to other children so they can also achieve well. You need to regularly review and evaluate the quality and breadth of the support you offer or can access for children with SEND; try setting an annual date to audit and review your knowledge and practice.

Further information can be found in the following documents:

- The special educational needs and disability code of practice: 0 to 25 years
- The statutory framework for the early years foundation stage
- Development Matters
- Birth to 5 Matters
- Working together to safeguard children (early help assessment information, chapter one)
- NDNA factsheet: One-page profile <https://ndna.org.uk/OnePageProfiles>

The Special Educational Needs and Disability (SEND) Code of Practice V0.6 – 05 August 2025



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Factsheet

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NDNA is the national charity and membership association representing children's nurseries across the UK. We are a charity that believes in quality and sustainability, so we put our members' businesses at the very heart of ours.

We are the voice of the 21,000-strong nursery sector, an integral part of the lives of more than a million young children and their families. We provide information, training and advice to support nurseries and the 250,000 people who work in them to deliver world-class early learning and childcare.

See the full range of NDNA factsheets at www.ndna.org.uk/factsheets

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National Day Nurseries Association

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