

1. INTRODUCTION

The purpose of this guidance is to bring together existing advice on improving achievement, health and emotional well-being for **children and young people whose behavioural, emotional and social difficulties (BESD)** are persistent and provide an obstacle to their learning. It updates and replaces DfEE Circular 9/94 and Department of Health Circular LAC (94) *The Education of Children with Emotional and Behavioural Difficulties* – with the exception of paragraphs 73 – 76 and 78 – 101 which provide guidance on the use of residential provision, to be read in the context of the current statutory framework. The guidance is set in the context of SEN and disability legislation and guidance, the Children Act requirement for local co-operation, guidance on mental health and the report of the Practitioners' Group on School Behaviour and Discipline.

The guidance emphasises that it is not a definitive interpretation of the law, which is a matter for the courts alone.

Because of the importance of this integrated and updated guidance, this Document Summary Service summary reproduces in full and verbatim the original document's own introductory Summary. Full related document references and website sources for them are included in the original document's main text and footnotes and in a final Summary of Useful Web Links.

2. THE COMPLETE (BESD) SUMMARY

What is meant by Behavioural, Emotional and Social Difficulties (BESD)? Paragraphs 47 - 72

- The Education Act 1996 provides the definition of special educational needs and the Special Educational Needs (SEN) Code of Practice (2001) provides guidance on how behavioural, emotional and social difficulties (BESD) may be a special educational need.
- Many children and young people with BESD are also covered by the Disability Discrimination Act 1995 (DDA). The Disability Rights Commission (DRC) Code of Practice for Schools and DCSF materials, *Implementing the Disability Discrimination Act in Schools and Early Years settings*, provide guidance on the definition and how that relates to pupils with BESD.

Special educational needs, paragraphs 52 - 61

- Children and young people with BESD have SEN if they have a learning difficulty that calls for special educational provision, that is provision that is additional to or different from provision that is generally available. Pupils with BESD cover the full range of ability. Their difficulties may cause a barrier to learning. Equally, a learning difficulty may lead to or exacerbate behavioural and emotional difficulties.
- The term behavioural, emotional and social difficulties covers a wide range of SEN. It can include children and young people with conduct disorders, hyperkinetic disorders and less obvious disorders such as anxiety, school phobia or depression. There need not be a medical diagnosis for a child or young person to be identified as having BESD, though a diagnosis may provide pointers for the appropriate strategies to manage and minimize the impact of the condition.
- Duties in the Education Act 1996 require governing bodies to use their best endeavours to ensure that the necessary provision is made for any pupil who has special educational needs.

Disability, paragraphs 62 - 63

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

Identification rates, paragraphs 64 - 66

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

Building partnerships with parents and carers, paragraphs 67 - 70

- The SEN Code of Practice and the DRC Code of Practice both emphasise the importance of positive relationships with parents. Parents can support the school's work in developing emotional, social and behavioural skills by reinforcing them at home and by sharing insights and strategies.
- It will sometimes appear that family dynamics are contributing to a child or young person's difficulties. A range of forms of support are available in these circumstances.

Child protection, paragraphs 71 - 72

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

Developing a graduated approach, paragraphs 73 - 108

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

- Whole-school approaches can improve pupils' social and emotional well-being and reduce behaviour difficulties. A range of guidance provides advice on whole school strategies and approaches such as the Social and Emotional Aspects of Learning (SEAL) programme for promoting the development of social and emotional skills, positive behaviour, attendance, learning and the mental health of all children.
- All children and young people with SEN or disabilities including those with BESD should be able to access and benefit from high quality early years and childcare provision. Extended schools and workforce reform are increasing schools' capacity to intervene early to address individual need.
- School admissions should be consistent with the Admissions Code of Practice. Schools, early years settings and local authorities must not discriminate in their admissions criteria or their admissions procedures.

Personalised learning, paragraphs 81 – 85

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

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

- School governing bodies must use their best endeavours to ensure that the necessary provision is made for any pupil who has SEN. Schools, pupil referral units and early years settings in receipt of government funding for early education must have a written SEN policy.
- All policies, including those relating to behaviour management, should take account of the needs of children and young people with SEN and disabilities. Schools need to review their policies to ensure that they do not discriminate against disabled children.

Exclusions, paragraphs 95 - 98

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

underlying disability. If a child or young person has SEN or a disability, consideration should be given to alternatives to exclusion.

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

- The SEN Code of Practice outlines a continuum of special educational needs and provision, with increasingly specialist expertise brought to bear at each stage. Children and young people with BESD may be supported at *School Action* or at *Early Years Action*. If, following assessment or evaluation, there is little or no progress, staff should consider seeking external support through *Early Years Action Plus* or *School Action Plus*, though the involvement need not be limited to this stage.
- Where the child's difficulties persist, the school can request a statutory assessment. In exceptional circumstances an emergency placement can be made without a statutory assessment and a relevant statement.

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

- The curriculum in all schools should be balanced and broadly-based and provide opportunities for all pupils to learn and to achieve. The National Curriculum includes a statutory Inclusion Statement which gives teachers flexibility to adapt the curriculum for pupils with SEN. The flexibility is designed to reduce the need for formal disapplication or modification of the National Curriculum requirements.
- Governing bodies and headteachers are required to produce a curriculum policy. The policy should set out the principles underpinning the curriculum and reflect the school's commitment to developing all aspects of their pupils' lives.
- Curriculum content and experiences for pupils with BESD should emphasise personal development and essential life skills. Work-focused learning for 14-16 year olds provides an additional curriculum option. For young people aged 14-19, the Department is working with the QCA, schools and colleges to develop Diplomas, which combine theoretical and applied learning.

Developing a range of provision for children and young people with BESD, paragraphs 128 - 150 ***A range of settings, paragraphs 129 - 136***

- The local authority is required to promote high standards of education for all children, including those with SEN, and has specific duties towards pupils with SEN. The local authority should make effective arrangements for children and young people with SEN, including those with BESD. These arrangements must be kept under review.
- The DCSF provides guidance on planning and commissioning SEN services and settings. Specialist provision may take a variety of forms, ranging from mainstream schools through to specialist special schools that have a particular SEN or curricular specialism and provide outreach to other schools.
- For a small minority of pupils, residential provision may be appropriate. The SEN Code of Practice provides advice for local authorities considering a placement in a residential school. PRUs are not planned or designed to be a long term setting and should not be regarded as part of a local authority's range of planned SEN provision.

(Paragraphs 137 – 138 address Placement in and moving on from Pupil Referral Units or other Alternative Provision)

Managed moves, paragraphs 139 - 142

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

A range of support, paragraphs 143 - 150

- Local authorities should make sure that schools and early years settings have access to advice and support. Increasingly, schools as well as local authorities are developing provision for children and young people with BESD. DCSF guidance *Planning and Developing Special Educational Provision*

sets out how local authorities and schools might review and develop the range of provision for children and young people with SEN, including those with BESD.

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

Monitoring and evaluation, paragraphs 151 - 160

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

Special educational needs, paragraphs 152 - 154

- When reviewing arrangements for SEN provision under section 315, it is important that local authorities consider the effectiveness of their arrangements for addressing the needs of children and young people with BESD. Local authorities may find the National Strategies' framework to support SEN self-evaluation helpful when undertaking such reviews.
- As part of their statutory SEN responsibilities governing bodies must, on at least an annual basis, consider and report on the effectiveness of the school's work on behalf of children with SEN, and consider whether changes to its SEN policy are needed.

Disability equality schemes, paragraphs 155 - 156

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

School self-evaluation, paragraphs 157 - 160

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

Training and development, paragraphs 161 - 166

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

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

- Guidance published in November 2007 has replaced and supersedes DfES Circular 10/98 The Use of Force to Control or Restrain. The new guidance can be found at:
<http://www.teachernet.gov.uk/docbank/index.cfm?id=12187>

The complete guidance can be viewed/downloaded at:
<http://www.teachernet.gov.uk/docbank/index.cfm?id=12604>