ASSOCIATION OF PAEDIATRIC CHARTERED PHYSIOTHERAPISTS

GUIDANCE FOR PHYSIOTHERAPISTS: GIVING ADVICE FOR CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS

A clinical interest group of the Chartered Society of Physiotherapy
GUIDANCE FOR PHYSIOTHERAPISTS:
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WITH SPECIAL EDUCATIONAL NEEDS

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Historical Background

The decision making process of the educational placements for children with special needs has been influenced by legislation which has changed the way in which this group of children are educated.

According to the Education Act 1921 children were classified in one of five categories of ‘handicap’:

- blindness;
- deafness;
- physical defectiveness;
- mental defectiveness;
- epilepsy.

It was an impairment based model of classification (Johnston 1996, Marks 1997).

In the 1940s, The Education Act 1944 gave Local Education Authorities (LEAs) the duty to “ascertain” children who required “special educational treatment” based on an examination by a “medical officer of the authority” to see if the child was “suffering from any disability of mind or body”. Under this ‘medical model’ the diagnosis of need was related to the “categories of handicap” defined in statutory regulations made by the Secretary of State. The LEA could take into account “any reports or information ... from teachers or other persons with respect to the ability or aptitude of the child”, but there was no requirement for them to do so.

The special educational treatment provided depended essentially on the category into which the child had been placed, rather than on any specific assessment of his/her individual needs. At the time it was envisaged that about 10% of the school population would be ascertained to be in need of special educational treatment, with 1-2% in special schools.

Parents had no right to be involved in the process or to see any of the reports, although on demand they were entitled to a certificate “in the prescribed form” setting out the advice given to the LEA by the Medical Officer.

The classification system introduced under the Education Act 1944, through the Handicapped Pupils and School Health Service Regulations 1945, included eleven categories:

- the blind;
- the partially sighted;
- the deaf;
- the partially deaf;
- the physically handicapped;
- the delicate;
- the diabetic;
- the epileptic;
- the maladjusted;
- the educationally subnormal;
- those with speech defects.
LEAs employed doctors who carried out non-standardised assessments before making decisions about the placement of the child.

Little improvement occurred in provision for almost thirty years, before increasing pressure on the Government resulted in the Education (Handicapped Children) Act 1970 which, as from April 1971, made LEAs responsible for the education of mentally handicapped children, categorised as severely educationally sub-normal, who prior to this may have been deemed uneducable.

This Act was closely followed by the NHS Reorganisation Act 1973 which, as from April 1974, transferred responsibility for the health needs of school children from local authorities to the Secretary of State for Social Services.

Three years later the Education Act 1976 reversed the 1944 Act and stated that all children with special needs should be educated in normal schools if possible. The exceptions were where this was: impracticable; incompatible with the efficient instruction in school; or involved unreasonable public expenditure. However the then Secretary of State announced that before introducing the new provisions she proposed to consult widely with educational and other interests. This led to the setting up of a Committee of Enquiry into the Education of Handicapped Children and Young People, the outcome of which was the 1978 Warnock Report.

The Warnock Report formed the basis of the Education Act 1981, which came into force in 1983. This witnessed the first real attempt to move from medically based assessment categories to the use of the umbrella phrase ‘Special Education Needs’ and looked at the strengths and weaknesses of the child in the educational setting. Needs were graded as mild, moderate or severe.

Under the Education Act 1981, LEAs had a duty to identify and assess children with special educational needs (SEN) and, if necessary, to provide a ‘Statement of Special Educational Needs’ in collaboration with parents, education and health professionals - with a formal review each year. They had a duty, inter alia, to:

- review their provision for children with SEN, within the context of a requirement, so far as reasonably practicable, to educate all children with SEN in ordinary schools;

- identify those children (a notional 2%) whose SEN were such that it was necessary, or probably necessary, for the LEA itself to determine what special educational provision should be made for them;

- introduce a multi-disciplinary procedure (also involving the parents) for assessing such children and thereafter, where appropriate, making a Statement of Special Educational Needs;

- review all Statements every year.

Regulations prescribed that a Statement would:

- describe the child’s SEN (learning difficulties);

- determine the special educational provision to meet those needs in terms of facilities and equipment, staffing, curriculum and other arrangements.
It also made provision for the under two’s who would not normally be part of the education system at this age but, if their special needs had already been identified, early intervention was considered of crucial importance.

The Act supported the principle of integrated education but there was no extra money to make it happen.

As a result of the 1981 Act, parents were at last given a role to play in decision making processes regarding the educational placement of their child. Parents were now able to access more information; to receive guidance on, and contribute to, the assessment process; as well as having new rights of appeal. The 1981 Act, however, did not give the child any rights or entitlements.

The Education Act 1993 maintained the features of the 1981 Act but sought to address problematic issues by introducing a Code of Practice, and an independent Special Educational Needs Tribunal to resolve disagreements between parents and local authorities.

In 1994, the Secretary of State published a ‘Code of Practice on the Identification and Assessment of Special Educational Need’. The Code sought to help schools and local authorities obtain best value from the considerable resources devoted to the education of children with SEN. All concerned - schools, governors, local authorities, health authorities and social services - were placed under a statutory duty to “have regard” to the Code. At the same time, the Education (SEN) Regulations 1994 introduced amendments to the process for carrying out statutory assessments and making statements, including new time limits.

A wide range of much amended, but still current, education law was consolidated into the Education Act 1996, including the section of the 1993 Act relating to ‘Children with Special Educational Needs’. Part 4 of the 1996 Act was subsequently amended in January 2002 under the provisions of the Special Educational Needs and Disability Act 2001 (Appendix I). This Act also amended the Disability Discrimination Act 1995 to include Education. Schools, from September 2002, would now be required not to treat disabled pupils less favourably for a reason relating to their disability and to take reasonable steps to ensure that they are not placed at a substantial disadvantage compared to those who are not disabled. There is a separate Code of Practice for schools on their discrimination duties.

Following a consultation of almost two years, a new SEN Code of Practice was published in 2001. This replaced the 1994 Code of Practice.

The Education (Northern Ireland) Order 1996 and the Code of Practice, and the Scottish Records of Needs are included in this document.

In the wider context of SEN across the UK, all four governments should also have regard to the provisions contained in the United Nations Convention on the Rights of the Child 1989. The Convention protects children's rights by setting standards in health care, education, legal, civil and social services.

The Convention spells out the basic human rights that children everywhere have the right: to survival; to develop to the fullest; to protection from harmful influences, abuse and exploitation; and to participate fully in family, cultural and social life.

The four core principles of the Convention are: non-discrimination; devotion to the best interests of the child; the right to life, survival and development; and respect for the views of the child.

The UK government ratified the Convention in 1991 and, in doing so, agreed to protecting children's rights by implementing the provisions of the Convention, and to holding themselves accountable for this commitment before the international community.

The International Classification of Functioning, Disability, and Health

The International Classification of Functioning, Disability and Health (ICF) was developed by the World Health Organisation in order to provide a common language to describe health and health related states, aiming to improve communication between different users such as: health or social care workers; service providers; policy makers; and members of the public, including people with disabilities.

It describes the concept of health and disability in a wider context, not just in terms of the person's body structure and functions but also in relation to the activities carried out by that person and the extent to which he or she is able to participate in day to day life. It takes account of the influence of personal, environmental, and social factors, and therefore recognises the dynamic interaction between person and environment.

This model recognises that there may be a difference between a person’s ‘capacity’ for performance, and their actual ‘performance’; and that a person’s restrictions in performance are not necessarily always caused by an impairment in body function or structure, but could instead be limited by access to assistive devices or an adapted environment, or by social attitudes and discrimination, or even by the person’s limited motivation or desire to participate.

In the context of education, the child or young person's ability to access the curriculum, and to participate in school life, would fall within the 'activity and participation' components of the ICF. SEN provision therefore contributes to the child or young person's wider context of ‘health’ as defined by the ICF model.
Introduction to the Special Education Needs (SEN) 
Code of Practice 2001

As in the SEN Code of Practice, throughout this document, ‘parents’ should be taken to include all those with parental responsibility including corporate parents and carers.

The SEN Code of Practice 2001 was produced to provide practical guidance to schools, and to health and social services’ staff, to enable children and young people with special educational needs (SEN) to reach their full potential. It takes into account the Children Act 1989 and the SEN parts of the Special Educational Needs and Disability Act of 2001.

This Code has an emphasis on policy and practice in schools, rather than procedures, and is underpinned by an ethos of inclusion.

The Code recognises the wide spectrum of SEN and that these are frequently inter-related.

The classification system includes four areas of need:
- communication and interaction;
- cognition and learning;
- behavioural, emotional and social development;
- sensory and physical.

The SEN Code of Practice provides practical advice to local authorities (LAs), maintained schools, early year’s provision, and others on carrying out their statutory duties to identify, assess and make provision for children and young people’s SEN. It sets out guidance on policies and procedures aimed at enabling children and young people with SEN to reach their potential, to be included fully in their school communities, and to make a successful transition to adulthood.

(A summary of the code and accompanying toolkit can be found in Appendix II).
Special Educational Needs as Defined in the SEN Code of Practice 2001

Children and young people have special educational needs (SEN) if they:

- have a significantly greater difficulty in learning than the majority of the children and young people of the same age;

- have a disability that prevents or hinders them from making use of the educational facilities of a kind generally provided for children and young people of the same age in schools within the local authority (LA);

- are under compulsory school age and fall within the definition (a) or (b) above and would do so if special educational provision was not made for them.

Children and young people must not be regarded as having a learning difficulty solely because the language or form of language of their home is different from the language in which they will be taught.

‘Special Educational Provision’ means:

- for children of two and over: educational provision that is additional to, or otherwise different from, that made generally for children and young people of their age in schools maintained by the LA, other than special schools, in the area;

- for children under two: educational provision of any kind, as children under two do not have educational provision in ordinary circumstances.

The Children Act 1989 defines a child or young person as having a disability as follows:

“A child is disabled if he is blind, deaf or dumb, suffers from a mental disorder of any kind, or is substantially and permanently handicapped by illness, injury or congenital deformity or such other disabilities as may be prescribed.”

Section 17 (11), Children Act 1989

The Disability Discrimination Act 1995 defines a child or young person as having a disability as follows:

“A person has a disability for the purposes of this Act if he has a physical or mental impairment which has a substantial and long-term adverse effect on his ability to carry out normal day to day activities.”

Section 1 (1), Disability Discrimination Act 1995

A child or young person may fall within one or both of the above definitions.
Identifying and Meeting Special Educational Needs

The SEN Code of Practice helps early education settings, schools and local authorities (LAs) meet their responsibilities for children and young people with special educational needs (SEN). The Code recommends that to match special educational provision to children and young people’s needs, schools and LAs should adopt a graduated approach through Early Years Action and Early Years Action Plus for young children; and through School Action and School Action Plus for school age children and young people. Early Years Action and Early Years Action Plus follow the same principles and process as School Action and School Action Plus.

The majority of children and young people with SEN will not need a Statutory Assessment of Special Educational Needs - their needs should be met effectively within mainstream Early Years providers and educational settings through the Graduated Approach.

School Action and School Action Plus:
These are initiated if, after appropriate interventions from the school, any of the following persist:
- communication and/or interaction difficulties;
- persistent emotional and/or behavioural difficulties;
- sensory and physical difficulties requiring additional specialist equipment and/or intervention from another agency;
- evidence that, regardless of differentiated learning opportunities, there is little or no progress.

The Process of School Action:
- the Special Educational Needs Co-ordinator (SENCO) and teacher identify concerns and discuss these with the parents;
- evidence is gathered including seeking additional information from the parents and others;
- other agencies may be involved already and, if professionals have not liaised with the school, then the SENCO may contact them;
- an Individual Education Plan (IEP) is prepared in collaboration with the parents and the child or young person - the IEP should record only that which is additional to, or different from, the differentiated curriculum provision.

The Process of School Action Plus:
Following decisions taken by the SENCO and colleagues, in consultation with the parents and the child or young person, the school must seek specialist help from other sources and agencies; and include the advice and strategies from the other sources and agencies within the IEP.

Other sources and agencies might include:
- local authority support, e.g. specialist teachers, educational psychologists, behaviour support services, child and family consultation services, education welfare officers;
- social services, e.g. social workers, family carers;
- health professionals, e.g. physiotherapists, occupational therapists, speech and language therapists, health advisers (e.g. school nurses), community paediatricians;
- voluntary agencies.
This process is illustrated in the following flowchart

The Graduated Approach reflects a continuum of need and the different levels of provision required, rather than steps towards statutory assessments.

- **Provision for all children and young people**
  - Continuous cycle of planning, teaching and assessment.
  - Differentiated learning opportunities to meet individual needs.
  - The majority of children and young people will have their needs met through these arrangements.

- **School Identification**
  - Child or young person not making expected progress in comparison with peers - teachers and others express concerns.
  - The SENCO and teacher review strategies and gather evidence - if it is decided that the child or young person needs further support, the parents must be informed.

- **School Action**
  - Child or young person needs support that is additional to or different from that provided as part of the school's differentiated curriculum.
  - This may include advice from other agencies, e.g. physiotherapy.
  - Child or young person has an IEP which must be reviewed at least twice a year in consultation with the parents and the child or young person.

- **School Action Plus**
  - Child or young person continues to make little or no progress.
  - School seeks involvement of other agencies.
  - Review of IEP continues.
  - The IEP includes advice from the other agencies.
The Important Messages from the SEN Code of Practice for Paediatric Physiotherapists.

• Barriers to learning need to be identified and addressed.

• For the vast majority of children and young people, a mainstream setting will meet all their SEN.

• Children and young people with SEN should be offered full access to a broad, balanced and relevant curriculum for the Foundation Stage and the National Curriculum.

• Provision for children and young people with SEN is a matter for the school as a whole. As with all children and young people, the school has a responsibility to:
  ➢ set suitable learning challenges;
  ➢ respond to diverse needs;
  ➢ overcome potential barriers;
  ➢ review classroom organisation;
  ➢ differentiate teaching materials and styles.

• All teachers should be regarded as teachers of children and young people with SEN.

• Parents have a vital role to play in supporting their child’s education (see Appendix III).

• The views of the child or young person should be sought and taken into account.

• Meeting the needs of children and young people with SEN successfully requires partnership working between all involved.

• Children and young people who require additional help may be supported through the graduated response of School Action and School Action Plus.

• Children and young people who have more complex SEN may require statutory assessment by the LA to determine special educational provision needs.
The Process for Statutory Assessment of Special Educational Needs

Introduction

A medical diagnosis or a disability does not necessarily imply special educational needs (SEN), and the child or young person may not require any additional educational provision.

However, children and young people with more complex SEN are likely to need a formal statutory assessment by the local authority (LA). This may lead to the issuing of a Statement of Special Educational Needs.

Requesting an Assessment

Requests can be made by:
- the early years setting or school;
- the parent or the child / young person;
- another agency.

Relevant Early Years settings and schools have a statutory right to ask the LA to conduct a statutory assessment, or re-assessment, of a child or young person’s educational needs (see Section 329A, Education Act 1996).

The LA must issue a notice to parents to inform them that they are considering whether to make a Statutory Assessment of Special Educational Needs and send a copy to designated officers of the Health Authority, Social Services, Educational Psychology Service and any other relevant agencies.

The Assessment Process

Once a decision has been made to carry out a Statutory Assessment of Special Educational Needs, the LA must seek written advice.

Sources of that advice may include:
- parents;
- educational staff;
- medical professionals;
- psychology;
- social services;
- any other advice, including the views of the child or young person and any other appropriate agency.

Written advice should be submitted within six weeks - exceptions include circumstances where:
- there is no relevant knowledge of the child or young person prior to receiving notice that the LA is considering statutory assessment;
- there are special circumstances, e.g. family bereavement;
- the child or young person and/or parents are absent from the area for a continuous period of more than 4 weeks;
- the child or young person fails to keep an appointment for an examination or test.
Parents must be told the time, place and purpose of any assessments, tests or interviews to be carried out as part of the assessment process. They must be informed of their right to be present with their child at any of the appointments.

**The Proposed Statement**

The LA must draft a 'proposed' Statement, or 'proposed amended' Statement and send a copy to the parents. It is good practice to send a copy to all those who gave advice to enable amendments to be made.

**The Format of the Statement of Special Educational Needs**

**Part 1 - Introduction**
This will include the child or young person’s name, address, date of birth, home language and religion, and the name and contact details of parents.

**Part 2 - Special Educational Needs**
This will record details of every need, as identified by the LA as part of the statutory assessment process - including advice submitted, which is attached as appendices to the Statement.

**Part 3 - Special Educational Provision**
This will identify:
  - the objectives that any provision should aim to meet;
  - the provision which the LA considers appropriate to meet the needs as stated in Part 2;
  - the arrangements to be made for monitoring progress in meeting the objectives.

**Part 4 - Placement**
This will identify the type and name of school placement, or the LA arrangements for provision to be made otherwise than in school.

**Part 5 - Non-Educational Needs**
This will record details of all relevant non-educational needs of the child or young person.

**Part 6 - Non-Educational Provision**
This will identify relevant non-educational provision required to meet the non-educational needs of the child and young person, including any agreed arrangements for its provision.

The Statement should be signed by an appropriate officer of the LA and dated.
The SEN Code of Practice: The Role of the Physiotherapist

The SEN Code of Practice and accompanying SEN Toolkit describe the role of health professionals in implementing the Code.

It is part of the physiotherapist’s duty of care to provide advice to maximise the opportunities for the child or young person within their educational provision.

This role is likely to include:
- teaching and training of educational staff;
- assessing equipment needs;
- providing strategies and programmes.

In order to:
- optimise the child or young person’s access to the curriculum;
- optimise their participation in school life;
- promote their physical well being.

Any advice given by a physiotherapist must be within their professional scope of practice.

The physiotherapist should provide clear written guidance, clarifying what is required to support the child or young person’s special educational needs.

The physiotherapist may be involved in curricular planning to support schools to develop strategies to address a child or young person’s needs within the classroom and school environment.

Everyone has a joint responsibility to work together to meet the individual needs of a child or young person.
Northern Ireland

‘Our Children and Young People – Our Pledge’ is Northern Ireland’s ten year strategy (2006 to 2016) to produce improved outcomes for all children and young people and to target services towards those who need help, in order to narrow the gap in outcomes between those who do best and those who do worst.

The main emphasis within Northern Ireland at present is to develop working together in multi-agency teams, including an improved collaborative working with Education.

The Education (NI) Order 1996 and Code of Practice

This legislation came into operation in September 1997 and reflects much of the 1993 Education Act for England and Wales. Education Boards continue to have a duty to identify children and young people with special educational needs (SEN) and to determine the special educational provision which should be made for them.

Six aspects to this legislation:

- a statutory right for parents to express a preference as to their child’s school - the draft statement will from this date go to parents without the name of a school;
- parents have a right of appeal covering most aspects of the formal statement;
- appeals will be handled by an independent tribunal of three people with the Chairman having a legal qualification - the Tribunal, like the Board and schools, is directed to have ‘regard’ to the Code of Practice;
- all schools, as well as the Board, are required to draw up an SEN policy and keep it under review - schools must publish information with respect to its SEN policy and report annually to parents on the steps taken to implement the policy;
- statementing procedures will be subject to strict time limits - relevant to schools with regard to educational advice;
- the new legislation allows for issuing of a Code of Practice for the identification and assessment of SEN.

The Code of Practice

The format, principles and procedures are similar to those in the SEN Code of Practice 1996 for England and Wales, but with a 5-staged approach to the identification and assessment of the child or young person’s need. Statutory assessment is the focus of Stage 4 and is where the involvement of the Special Education Branch begins. The school must submit evidence to the Board of the steps taken at Stages 1, 2 and 3, and of the outcome of the review meetings. If a formal assessment is indicated, the Special Education Branch will carry out the assessment working co-operatively with parents, schools and other agencies. The school remains responsible for the special educational provision during this process.
Advice is requested from the school, medical officer, psychology, health and social services, parents and any other relevant agencies.

The Clinical Medical Officer (CMO) is asked for information on general health and development; any specific medical conditions / treatments which may affect future learning; and the implications of any medical conditions in the education setting. The CMO will co-ordinate requests for therapy reports where appropriate.

The advice should contain views on: performance; factors influencing the child or young person’s needs; aims of future provision; and facilities and resources required. Each advisor is asked for their own professional opinion of the child or young person – professionals should take care not to offer views on subjects outside of their own professional sphere, i.e. schools should not offer medical opinions; doctors should not comment on educational provision. The advice should be written in straightforward language, avoiding jargon which may not be understood by parents and other professionals. Care should be taken not to pre-empt the outcome of a formal assessment.

Content of the Statement

Part 1 Introduction
Will contain details of the child or young person such as name, date of birth, address, etc.

Part 2 – Special Educational Needs
Should describe all of the child or young person’s learning difficulties as identified during the assessment, with a description of the child or young person’s functioning i.e. what the child or young person can and cannot do. The description should draw on the advice which is attached as appendices.

Part 3 – Provision
Should include:
- main educational and developmental objectives to be achieved over the expected duration of the Statement;
- the special educational provision that the Board considers appropriate to meet the learning difficulties identified in Part 2;
- arrangements to be made for the setting of short term educational targets - the targets themselves should not be part of the Statement.

N.B. Educational targets should be set by the school, in consultation with parents, within 2 months of the child or young person’s placement. The child or young person’s achievement in light of the targets should then be considered at the first Annual Review, and new targets set.

Part 4 – Placement
In the final statement, the type and name of any school which is appropriate to meet the child or young person’s needs will be identified.

Part 5 – Non-Educational Needs
Should record details of relevant non-educational needs of the child or young person.
Part 6 – Non-Educational Provision
Should record non-educational provision required to meet the needs identified in Part 5 and which the Board proposes to make available, or is satisfied will be made available by the Health Authority, and that there is full agreement on the nature and quality of the provision necessary to meet those needs.

The above information is taken from a paper produced by the North Eastern Education and Library Board on the Education (NI) Order 1996 and Code of Practice.

Please note: the statementing procedure in Northern Ireland is currently under review and new information will be added to the on-line document as soon as it becomes available.

It is very important that staff to keep up to date with changes.
Scotland

Health and Education are devolved to the Scottish Parliament.

EDUCATION (ADDITIONAL SUPPORT FOR LEARNING) (SCOTLAND) ACT 2004

The Education (Additional Support for Learning) Act 2004 replaces the system for assessment and recording of children and young people with special educational needs (SEN), including the Record of Needs process, established by Education (Scotland) Act 1980.

Young people are those aged 16 or 17, still receiving school education. The Act applies to pre-school provision which is under the management of the Education Authority or where there is an agreement with another provider.

The Act replaces the concept of ‘Special Educational Needs with Additional Support Needs’, and promotes integrated working between education, health and social work agencies. It supports the involvement of parents and children or young people in decisions that affect their education and learning.

A child or young person has ‘Additional Support Needs’ where they are likely to be unable, without the provision of additional support, to benefit from the standard school education provided. Support is considered as ‘additional’ if it is provision that is different from that generally provided for children of the same age.

The reference to school education includes education directed to the development of:

“the personality, talents and mental and physical abilities of the child or young person to their fullest potential”.

Additional support may be required for a variety of reasons including:
- disability or health need;
- social and emotional factors;
- the learning environment and access to the curriculum;
- family circumstances.

An Education Authority has a duty to establish if a child has additional support needs requiring a Co-ordinated Support Plan (CSP).

A child or young person requires a CSP if: they have support needs arising from one or more complex factors, or multiple factors; the needs are likely to continue for more than a year; and/or significant support is required to be provided by the Education Authority or by one or more appropriate agency.

Parents or young people have the right to request that an Education Authority establish whether they have additional support needs, including the need for a CSP.

Education Authorities must seek advice and information from appropriate agencies. They must also take into account any information provided by parents, including reports and assessments privately obtained.
The appropriate agencies, including NHS services, are obliged to respond to a request for help, including assessment, within 10 weeks of the date of request unless the request is incompatible with its own statutory or other duties, or unduly prejudices its discharge of its own functions. An Education Authority will have 16 weeks to produce a completed CSP, although there are circumstances where additional time is granted.

Education Authorities are also required to provide additional support to disabled preschool children (under 3-years) where NHS services have identified additional support needs arising from a disability.

**Individualised Education Programme**
Where a child or young person requires adaptation of the curriculum, or of the learning environment, physiotherapists and other health care professionals must work with education staff to co-ordinate objectives and learning outcomes. An Individualised Education Programme (IEP) may be appropriate. The IEP will detail the nature of the support needed and how it will be met, including the additional support required from physiotherapy services and other agencies.

**The Co-ordinated Support Plan**
The Act details the information contained within the CSP. It will refer to needs that are likely to continue for more than one year. The physiotherapy assessment and report is not contained within the CSP.

Where an IEP is in place it will not duplicate content, and short term needs may be contained within the IEP.

The Education Authority has a duty to review each CSP every 12 months.

The Act also establishes a duty for Education Authorities to establish independent mediation services for resolution of disputes. Independent Additional Support Needs Tribunals hear cases where there is disagreement about: the decision to establish or continue a CSP; with the content of a CSP; or failure of the Education Authority to implement a plan.

The process for assessment and recording educational support needs is further detailed in the publication: ‘Supporting Children’s Learning Code of Practice’ (August 2005)

**Physiotherapy Assessment and Reports**
Please refer to the following sections contained within this guidance document:
- The SEN Code of Practice: The Role of the Physiotherapist;
- Advice for Physiotherapists Writing Reports for Education;
- Suggested Format for Physiotherapy Reports Providing Advice for Statutory Assessment of Special Educational Needs;
- Special Educational Needs and Disability Tribunal – Physiotherapists as Witnesses, and Tribunal Reports.

Education (Additional Support for Learning) (Scotland) Bill (SP Bill16) introduced in the Scottish Parliament on 6 October 2008, seeks to amend the 2004 Act.

Further information and explanatory notes can be found at the Scottish Government website: [www.scotland.gov.uk](http://www.scotland.gov.uk)
The Special Educational Needs Code of Practice for Wales was reprinted in January 2004 and is available from:

The National Assembly for Wales, Catheys Park, Cardiff. CF10 3NQ.
Website: http://www.wales.gov.uk
E-mail: SEN@wales.gsi.gov.uk


A special section within the chapter on Principles and Policies reflects on the 1993 Welsh language act advocating that Welsh and English languages should be treated on the basis of equality in the provision of services to the public in Wales and that a bilingual service should be provided as far as is reasonably practicable.
Advice for Physiotherapists Writing Reports for Education

The advice in this section is based on the SEN Code of Practice in England, but is equally applicable to reports written for Scotland, Wales and Northern Ireland.

Physiotherapists should write detailed reports to support children and young people in educational provision.

The principles outlined below apply to any physiotherapy report prepared to support a child or young person in their educational setting.

All physiotherapy reports should comply with the CSP Core Standards and the APCP Guide to Good Practice.

Physiotherapists should be providing clear advice for all children and young people for whom they are responsible and whose physical difficulties could impact on their day to day educational life in relation to access to the curriculum or in being able to participate in every day school life; in order to maximise function, participation and inclusion.

This advice should provide clear and concise information and guidance on the child or young person’s current and potential physical development and abilities, and their relevance to the child or young person’s functioning and participation within the school environment.

Physiotherapists should ensure that their advice is included in the Individual Education Plan (IEP) for all children and young people with special educational needs (SEN), whether or not they have, or are going to have, a Statement of Special Educational Needs.

Physiotherapists should negotiate with the child or young person, and with educational staff, to incorporate any goals or targets relating to the child or young person’s physical development and well being into the IEP, so that they become joint goals for everyone to work towards.

It is not appropriate to provide detailed information on the child or young person’s physiotherapy requirements outside of school, but reference should be made to these if the child or young person is likely to miss school as a result of any appointments, specific physiotherapy interventions, or clinics relating to physiotherapy, e.g. orthotics clinics.

The advice is intended to inform the school on:

- how the child or young person’s physical difficulties and needs will affect them in the educational setting;
- how the school might provide for these needs, including provision of equipment;
- what adaptations are necessary for inclusion;
- the opportunities within the educational setting that can enhance physical development and well being.
Services work differently in different areas as to the specific roles within educational settings of the Occupational Therapist, the Physiotherapist, and the Speech and Language Therapist. The report may need to reflect this and collaborative report writing is good practice.

The reports will be read by parents and by practitioners who work in education services, and should:
- make sense to them;
- include a summary of the child and young person’s strengths and needs;
- be written in the third person.

The report should not:
- be considered as a clinical report;
- contain any jargon;
- contain any ambiguous statements or words;
- contain any non-specific advice.

The SEN Code of Practice 2001 - Statutory Assessment of Special Educational Needs (Chapter 7–79/80) states that when advice is requested:

“Local Educational Authorities should make clear that the Regulations require that the advice must relate to the educational, medical, psychological, or other features that appear relevant to the child’s current and future educational needs. The advice must also set out how these features affect the educational needs, and the provision that is considered appropriate in light of those features. Those giving advice may comment on the amount of provision they consider appropriate. Thus Local Education Authorities should not have blanket policies that prevent those giving advice from commenting on the amount they consider a child requires.”

For children and young people requiring a Statement of Special Educational Needs, the physiotherapy reports may form part of a legally binding document.
Format for Physiotherapy Reports Providing Advice for Statutory Assessment of Special Educational Needs

The following section suggests a format for writing advice for a Statutory Assessment of Special Educational Needs, and guidance on what to include in the report.

The report should reflect the same good practice of report writing as outlined on pages 21 and 22 of this document.

It may be helpful to include the following two sentences at the beginning of the report:

‘This report is written for the sole purpose of this child / young person’s special educational needs and cannot be reproduced for other purposes.’

‘It is not a statement of their physiotherapy needs.’

The report should list the following details, relating to the child or young person, at the beginning:
- name;
- date of birth;
- address;
- parent / guardian’s name:
- current educational placement
- general practitioner / medical consultant.

Introduction

This should be a general and positive paragraph giving a pen picture of the child or young person.

It should include:
- diagnosis - only when it is relevant to the child or young person’s educational needs; where a medical practitioner has made a formal diagnosis; and with the agreement of parents;
- relevant background information;
- child or young person’s first / main language;
- their strengths in functional terms;
- their behaviour and co-operation;
- how long the child or young person has been known to the physiotherapy service,
- brief description of who else is involved in supporting the child or young person – ‘Team around the Child’.
Functional Abilities and Implications for Education

This section should focus on the child or young person’s abilities and difficulties that are likely to affect them within the educational environment.

Functional abilities / difficulties may include:
- independent movement on the floor;
- ability to move from the floor to sitting and standing positions;
- abilities in the sitting and standing positions, including with the use of equipment;
- dependence on assistance for moving and transfers;
- mobility and mobility aids;
- balance and co-ordination;
- posture and implications of immobility on pain, discomfort and deformity;
- motor planning and organisation;
- body and spatial awareness;
- upper limb function (or refer to the Occupational Therapy Report);
- self help and personal care;
- aids, orthotics and appliances;
- ability to communicate (or refer to Speech and Language Therapy Report);
- ability to participate in age appropriate social interactions.

The advice should describe in detail how the child or young person’s functional abilities specifically relate to educational situations, and examples should be given.

This may include:
- movement and safety around the classroom and within the environment, e.g. classroom layout; safety on slopes, rough ground, and in the playground;
- access to specific areas of the curriculum, e.g. physical education, practical subjects, and school trips;
- space, time and assistance required for use of special seating, standing equipment, and postural management equipment;
- assistance and assistive equipment for safe manual handing;
- accessibility to the physical environment;
- concentration;
- stamina;
- social relationships;
- possibility of absences from school to attend medical appointments such as orthotic clinics or to undergo surgery.

There should be no doubt as to where the child or young person has difficulties and where support will need to be provided by educational staff in order that the child or young person may access and participate fully in curriculum activities and school life.

Summary of Needs

This should be a brief summary of the section above stating where the child or young person may have difficulties and the consequences of these on their function and participation in relation to their education and school life.
It should also include main aims of intervention/management, either from a physiotherapist within school or from school staff, e.g. maintain/develop motor skills and independence; enable access to the curriculum with advice on suitable positioning and equipment; advise/train educational staff on appropriate physical management.

**Provision Recommended to be Provided by Education**

The local authority (LA) will need to know what will be required from educational staff, including teachers, to support the child or young person within school.

This may include:
- staff training needs;
- extra time to plan for an appropriately differentiated curriculum, e.g. physical education;
- time to deliver specific physiotherapy programmes;
- the need for specialist equipment within school, and the space within teaching areas to use and store the equipment - details such as; storage, and battery charging where motorised equipment is a means of mobility; should be included.

The school will also need to know how much support the child or young person requires to be able to do any additional activities that the physiotherapist has identified as being important to maximise learning, function and participation within the school setting.

It may be useful to use the following sub-headings:

- **Assistance with physical activities during the school day**

  This may include details about the level and type of physical assistance the child needs from both teachers and support staff, in and out of the classroom, e.g. the level of help within the classroom setting and general school environment; playground supervision; assistance in specific areas of the curriculum such as physical education.

  It may also include how much support is necessary to ensure specific aspects of the child or young person’s physical needs are addressed.

- **Environmental requirements**

  This should describe any specific needs related to the physical environment, e.g. need for ramps; for classrooms with level access; for a lift; or for accessible personal care facilities.

- **Specialist resources required**

  This may include the need for special seating, standing equipment, mobility aids, moving and handling equipment and assistive technology. The advice should clearly indicate the reasons for their use and give examples of how these may be used in the school context. The advice should also specify how much training is required for the use of all equipment, how often this will be reviewed, and by whom.

  It may be necessary to state who should fund any equipment, dependent upon local policy, and to give details of suppliers and costs.
• **Manual handling and risk management**

All aspects of management and care should be covered with consideration of provision for growth, or for those children with degenerative conditions. Schools should be reminded that they need to have policies in place for manual handling, fire evacuation, risk assessments, and for reporting and carrying out emergency procedures.

• **Special transport requirements**

Special transport requirements for travel to and from school, and for school trips, should be recorded, e.g. wheelchair accessible vehicle; safe transportation of the child or young person in their wheelchair.

• **Specific physical activity**

If a physiotherapy programme is recommended to be undertaken within the school day by school staff, this should be recorded - this could be called ‘physical management strategies’, to prevent confusion of a ‘programme’ being viewed in isolation from the rest of the child’s education and to encourage a more holistic approach to meeting the child or young person’s needs.

The child or young person’s goals should be identified and examples given of how an activity can help them achieve these, e.g. ‘sitting on a bench during story time’ can help towards the child or young person achieving their goal of being able to sit without any support; ‘having the opportunity to lie out to stretch on a mat’ enables the child or young person achieve their goal of being comfortable and not in pain. The advice should indicate whether this needs to be done on an individual basis or within a class or group situation.

It should be stated if there are any requirements to enable ‘physical management strategies’ to be implemented, e.g. adequate space or privacy; the need for any specific therapy equipment. The advice should also clearly indicate: how often these need to be done, how often they will be reviewed, and by whom; the training needs of the educational staff involved; and the time required for regular liaison with the physiotherapist for this and for reviews.

It is important to emphasise that the child or young person’s focused goals must be incorporated into the Individual Education Plan (IEP) and updated when the IEP is reviewed. This should encourage physical management needs to be viewed as an integral part of the wider support package within school.

**Provision Recommended to be Provided by the Physiotherapy Service**

The advice should be as specific as possible about how often a physiotherapist may need to visit the school. The visits may include: reviewing the physical management strategies; reviewing the child or young person’s focused goals; liaising with, and training, education staff; helping with differentiating areas of the curriculum, such as physical education. The school can then identify how much time they will need to allocate for liaison with the physiotherapy service.

It is important that a degree of flexibility is built into this if the child or young person is starting a new school, has changing needs, or is due to undergo surgery.
It may be necessary to include the time required to enable close collaboration with those who are providing risk assessment and advice about manual handling. There may be conflicts to be resolved around staff safety vs. developing independence skills such as standing transfers, or working together to achieve a specified physical function.

The advice about ‘how much physiotherapy’ remains an individual decision, dependent on many factors and needs. Advice should be as clear as possible, without being prescriptive, e.g. how long a child or young person should stand in a standing frame. Emphasis should be on a more holistic approach to physical development and management, involving not only specific strategies but also activities that can be incorporated into general classroom and school activities.

Specific therapeutic input by the physiotherapist is not usually the remit of the advice for a Statement of Special Educational Needs, other than where it is recommended that physiotherapy needs to be carried out by a physiotherapist or another member of the physiotherapy service, in school during the school day. In this situation advice needs to be specific as to why this needs to take place in school, how often it will occur, and how long it will take; in order that staff can allow and plan for time for this within the school timetable.

The report could conclude with the following statement:

‘This advice will be subject to review in line with the Annual Review process, but may be altered by the therapist at any time to reflect the changing needs of the child or young person’.

Reports should end with the title, name, profession and place of work of the therapist, and be signed and dated.

The content of the advice should be discussed with the parents before sending to the LA.

To summarise, physiotherapy advice should explain:

- the provision required by the school to meet the needs identified;
- the reasons for the provision;
- the specific support requirements within the school setting.
The Review Process

The review process is important to ensure that the child and young person’s needs continue to be met by the existing provision.

School Action and School Action Plus
It is recommended that the Individual Education Plan (IEP) is reviewed a minimum of twice a year, but ideally should be kept continually under review. It is an informal process in which the views of the parents and of the child or young person should be sought, and targets set jointly. Advice from other agencies can be requested.

Physiotherapists working with children and young people who are on School Action or School Action Plus should be pro-active in offering advice, assessment or direct involvement as part of the IEP review. Advice and joint goals to support physical development and well being should be included in the updated IEP.

Annual Review of the Statement of Special Educational Needs
The purpose of the formal Annual Review is to make sure that at least once a year the parents, the child or young person, the school, and all the professionals involved monitor and evaluate the continued effectiveness and relevance of the provision set out within the Statement of Special Educational Needs.

For children under compulsory school age, the SEN Code of Practice recommends that consideration should be given to six monthly reviews of the Statement of Special Educational Needs.

Schools should invite professionals who are closely involved with the child or young person to the Annual Review meeting. These professionals should, in light of their involvement with the child or young person over the last year and the nature of the advice they can provide, consider the necessity of attending the Review.

Written reports giving advice may be needed, whether or not the physiotherapist is attending the Review, where it would be helpful to discussions at the meeting or as an aid to decision making by the Local Authority.

Year 9 Annual Review
The Annual Review in Year 9 and any subsequent Annual Reviews must include the drawing up and on-going review of a Transition Plan. The Transition Plan should gather information from a range of individuals within and beyond school in order to plan for the young person’s transition to adult life.

Transition planning should be:
- participative;
- holistic;
- supportive;
- evolving;
- inclusive;
- collaborative.
Format for Physiotherapy Reports for an Annual Review

The following section suggests a format for writing advice for an Annual Review and guidance on what to include in the report.

It should be remembered that there may be occasions when the Physiotherapy Report for an Annual Review is submitted within an appeal process.

The report should reflect the same good practice of report writing as outlined on pages 21 and 22 of this document.

It may be helpful to include the following two sentences at the beginning of the report.

‘This report is written for the sole purpose of this child and young person’s special educational needs and cannot be reproduced for other purposes’

‘It is not a statement of their physiotherapy needs’.

The report should list the following details relating to the child or young person at the beginning:

- name;
- date of birth;
- address;
- parent / guardian’s name;
- current educational placement
- name of general practitioner / medical consultant;
- date of the Annual Review.

The report should include information about what has happened during the past year and should include any areas of progress or change, and how these influence the educational needs of the child or young person.

It may be helpful to use the following headings:

- Introduction.
- Areas of Change / Development.
- Implications for Education.
- Changes in Recommended Provision.

The report could conclude with the following statement:

‘This advice will be subject to the Annual Review process.’

Reports should display the title, name, profession and place of work of the therapist, and be signed and dated.

The content of the report should be discussed with the parents before sending to the Local Authority.
Special Educational Needs and Disability Tribunal (SENDIST)

In November 2008 the Special Educational Needs and Disability Tribunal (SENDIST) ceased to exist as a stand-alone body and became part of a new two-tier Tribunals structure, as part of reforms to streamline the whole tribunal system under the Tribunals, Courts and Enforcement Act 2007.

SENDIST now sits in the Health, Education and Social Care (HESC) Chamber of the First-Tier Tribunal. Parents’ appeals against decisions of Local Authorities (LAs) about children’s special educational needs (SEN), and parents’ claims of disability discrimination in schools will now be heard by the Special Educational Needs and Disability Panel (SENDISP). Under the new rules if a parent wishes to appeal a decision made by SENDISP then they must apply to SENDISP for permission to appeal. If SENDISP refuses to review the case, parents can appeal to the Upper Tribunal instead of to the High Court.

The tribunal system has been reviewed to ensure that it is simple, flexible and easy to understand. The over-riding objective is to deal with cases fairly and justly, and to avoid delay so far as is compatible with proper consideration of the issues.

The Tribunal is an independent public body. The processes are part of the legal system, but are as informal as possible. The Tribunal is bound by rules; is neutral; and is operational, rather than policy-making. A tribunal panel usually consists of 3 members – chaired by a tribunal judge who is legally qualified, and two non-legal members with experience and expertise in SEN and disability.

New rules include:

- a duty to cooperate with the Tribunal;
- applications for appeal are lodged by parents followed by response from the LA;
- joint appointment of a single expert;
- a single combined process of application, meaning that an appeal on the Statement of Special Educational Needs can be made at the same time as making an appeal to the Upper Tribunal on a point of law;
- the power to require a parent to make their child available for examination or assessment by a professional and/or to require a school to allow a professional instructed by the parents into the school to assess the child or young person’s functioning in a school environment.

Parties will no longer submit parallel case statements - the applicant will put in their case, and the respondent will be required to reply within a given period. The case will be subject to case management by the Tribunal Judge. The purpose of this is to ensure that the right evidence is filed and the real issues are identified at the right time within a 22 week timetable. Preliminary hearings (Case Management Hearings) can occur at approximately 10 weeks, to assist parties in focusing on the issues which require addressing.

Physiotherapists are advised to review the up to date guidance on the SENDIST website:

www.sendist.gov.uk
Right of Appeal

Appeals can be considered on the parents’ claim of Disability Discrimination or on SEN matters.

Parents can appeal to the Tribunal under SEN if the responsible body:

- refuses to carry out a Statutory Assessment;
- refuses to reassess the child or young person’s SEN if they have not made a new assessment for at least 6 months;
- refuses to issue a Statement after making a formal assessment;
- decides to cease to maintain a Statement;
- decides not to change the Statement after reassessing the child/young person;
- refuses to change the name of the school in the Statement, provided the parents have not made such a request within the previous 12 months.

If the LA has made a Statement or has changed a previous Statement parents can appeal against:

- the description in the Statement of the child or young person’s SEN (Part 2);
- the description in the Statement of the special educational provision (Part 3);
- the school or type of school named (Part 4);
- the LA not naming a school (Part 4);

Appeals should be lodged within 2 months of the LA’s final written decision being sent to the parents.

Physiotherapists as Witnesses

Physiotherapists should treat tribunals as a legal forum.

Physiotherapists may be asked (summoned) to act as a witness by:

- the LA - LAs will normally request physiotherapy staff to attend where the physiotherapist’s advice is the point of dispute - in these instances it is appropriate that the physiotherapist attends as a witness, however in other instances attendance may not be appropriate;
- the parent - parents may ask physiotherapists to be a witness for their case;
- the Tribunal - where the physiotherapist does not agree to attend a tribunal, the parents or LA can request the Tribunal to summon the witness; if the Tribunal considers this appropriate, the witness can be summoned - in these circumstances, the physiotherapist must attend.

The physiotherapist should always remain as an independent witness at a tribunal and be there to give a professional opinion.
Parents are an essential part of the process. Even where the physiotherapist cannot agree with parental requests for changes, he/she should notify the parents that he/she may have to be a witness for the LA, and make every effort to resolve any differences of opinion prior to the tribunal hearing.

Physiotherapists must:

- comply with the CSP’s Core Standards;
- ensure their advice is within their professional remit and soundly evidence based;
- maintain their professional objectivity at all times; acting as an expert witness, not as a mediator or an advocate, whilst maintaining their independence.

Prior to attending a hearing, physiotherapists should:

- identify their role within the hearing;
- review the evidence to date;
- identify any outstanding issues;
- identify any outstanding questions for others;
- prepare a report with all relevant information to show a clear knowledge of the child or young person’s current provision, progress, and needs.

Evidence and notes should be organised to enable priority documents to be easily reference during the hearing.
Tribunal Reports

Detailed reports containing the physiotherapist’s advice should be written for tribunals. Physiotherapists have a duty of care for any child or young person they are providing advice for and thus these reports should be written with the needs of the child or young person, not the available resources, in mind.

Information required for a SENDIST report should include:

- purpose of the report;
- brief summary of the physiotherapist’s professional background - name, professional address, qualifications, relevant experience and post graduate training, membership of relevant bodies/groups - and their knowledge of the child or young person and of their educational setting;
- summary of the evidence that has been used to compile the report, including: reference to ongoing involvement with child or young person; observations in class; direct input with child or young person; input to IEPs; formal and/or informal assessments; and if second opinions have occurred, this should be documented;
- a summary of the child or young person’s strengths;
- any statements about the child or young person’s difficulties should be supported by clear evidence in the form of examples or standardised test scores, as appropriate, and should indicate their rate of progress;
- a description of the impact or predicted impact of these difficulties on social participation, learning, and on accessing the curriculum;
- a broad description of the outcomes being sought for the child or young person through physiotherapy intervention;
- a description of the resources and features of the educational setting which will best help the child or young person to achieve the outcomes being sought - this should include reference to facilities, modifications, resources, and staff knowledge and skills;
- a description of the physiotherapy provision required to assist the child or young person in achieving the desired outcomes - this should include how frequent physiotherapy will be, provided by whom and in what context, and should be soundly evidence based.
- issues and concerns raised in the parent’s statement should be addressed.

A Tribunal Report could conclude with one of the following statements:

‘I understand that my primary duty in providing written reports and giving evidence is to the Tribunal, and I believe that I have complied with that duty.’

‘I confirm that, insofar as the facts stated in my report are within my own knowledge, I have made clear which they are and I believe them to be true, and that the opinions I have expressed represent my true and complete professional opinion.’
**Tribunal Hearings**

Hearings are held in private unless both the parent and LA agree to a Public Hearing, or the President orders a Public Hearing. The child or young person is entitled to attend.

The Chair will normally introduce parties and explain proceedings.

A tribunal hearing should be inquisitorial, not adversarial.

At the Tribunal Hearing the physiotherapist should:

- be clear and objective about physiotherapy advice and the needs of the child or young person;
- maintain professional objectivity at all times and abide by the professional code of conduct;
- have a thorough understanding of the appeal papers and have identified the issues;
- be prepared for a challenging cross examination;
- avoid answering questions that are not within their professional remit;
- provide precise factual and objective information;
- back up any answers with evidence where possible;
- address any questions or answers to the Chair of the Tribunal.

**After the Tribunal Hearing**

The Tribunal will reach a decision within the legal framework based upon the evidence placed before it at the Hearing. The result is not a reflection on the professional integrity of those involved.

Physiotherapists should:

- encourage re-establishment of a normal working relationship with the family;
- ensure the Tribunal’s decision is put into effect smoothly and efficiently, working professionally with all individuals involved;
- record and discuss any mismatch between need and available resources;
- have the opportunity to discuss and record issues as part of their Continuous Professional Development.
References


Appendix I

The Special Educational Needs and Disability Act 2001
(England and Wales)

The Special Educational Needs and Disability Act 2001, which amends the Disability Discrimination Act 1995, has significant implications for schools and local authorities (LAs). There are three parts to the Act, of which two are of particular relevance.

Part 1 – Special Educational Needs
Part 1 refers mostly to strengthening the rights of children and young people with special educational needs (SEN) to be educated in mainstream schools. It also requires LAs to offer parent partnership and mediation services. 20% of children and young people will have some form of SEN at some time; however only 3% of children and young people will have severe or complex needs resulting in the child or young person having a Statement of Special Educational Needs. The Act’s intention is that as many children and young people with SEN as possible will be educated within mainstream schools.

Part 2 - Disability Discrimination in Education
Part 2 amends the Disability Discrimination Act by placing new duties on providers of schools and post-16 education. It requires that disabled children and young people should not be treated less favourably, without justification, for a reason which relates to their disability. There is a duty to make reasonable adjustments to school policies, practices or procedures so that disabled children and young people are not put at a substantial disadvantage compared to children and young people who are not disabled. LAs have to produce Accessibility Strategies to improve accessibility of premises and curriculum over time. Each school will also have to produce an Accessibility Plan and this will be issued to parents annually through the governors’ report. Accessibility Plans refer to physical adaptations, service provision and equipment; as well as a policy and attitude appraisal.

The aim of the legislation is to create, as far as is reasonably possible, a ‘level playing field’ within schools for all children regardless of whether or not they are disabled. From September 2002, parents will have the right to appeal directly to the SEN and Disability Tribunal for judgements about whether their child has been treated ‘unreasonably’ by the school.

The appeals process is now encapsulated within the new Special Educational Needs and Disability Tribunal system (SENDIST) that became part of a unified tribunal system in November 2008. The tribunal system has been reviewed to ensure that it is simple, flexible, and easy to understand. The overriding objective is to deal with cases fairly and justly, and to avoid delay so far as is compatible with proper consideration of the issues. Appeals can be made either on the grounds of disability discrimination or SEN matters.


The definition of disability is the same as that given by the Disability Discrimination Act 1995. This defines a disabled person as someone who has a “physical or mental impairment, which has substantial and long term adverse effects on his ability to carry out normal day to day activities”.
Appendix II

Summary of the Code of Practice 2001 and the SEN Toolkit

Chapter 1 – Principles and Policies
The purpose of the Code is to give practical advice to local authorities (LAs), the governing bodies of all maintained schools and providers of government-funded early education, and to all who help them.

Chapter 2 – Working in Partnership with Parents
Schools and LAs must work in partnership with parents and recognise the contribution that can be made by parents. LAs must support and ensure that they are “accessible, welcoming and value the views and involvement of parents”.

Chapter 3 – Pupil Participation
The rights of children are recognised, and schools and LAs must ensure that they work in partnership with pupils. The Code recognises that “there is a fine balance between giving a child a voice and encouraging them to make informed decisions, and overburdening them with decision-making procedures where they have insufficient experience and knowledge to make appropriate judgements without additional support”.

Chapter 4, 5 and 6 – Identification, Assessment and Provision
The original Code worked on a model of a five stage assessment process; the revised Code concentrates on the three areas of education: Early Education, Primary Education and Secondary Education; and introduces the concepts of School Action and School Action Plus. School Action is the procedure whereby the child’s needs are met within school by involvement of the Special Educational Needs Co-ordinator (SENCO) and the use of Individual Education Plans (IEPs). School Action Plus is the procedure whereby external specialists are used to advise. Emphasis is placed upon early identification of special needs and early intervention.

Chapter 7 – Statutory Assessment of Special Educational Needs
Throughout the Code there is recognition that an assessment will only be needed in a few cases, and an assessment will not always lead to a Statement. Schools and parents have the power to ask for an assessment and, if refused, then parents have a right to appeal to the SEN and Disability Tribunal.

When writing advice for Statutory Assessment, therapists should be aware that they need to be as specific as possible about their intervention.

Chapter 8 and 9 – Statements and Annual Reviews
The procedure for issuing the Statement and the Annual Review are little changed from the original Code.

Chapter 10 – Working in partnership with other agencies
The final chapter promotes the concept of working in partnership, this time with other professional agencies.
SEN Toolkit

Additional guidance to be read in conjunction with the Code of Practice is available in the SEN ‘Toolkit’. The additional guidance and the Code cross-refer to each other.

The SEN Toolkit includes:

Section 1 Principles and Policies
Section 2 Parent Partnership Services
Section 3 Resolution of Disputes
Section 4 Enabling Pupil Participation
Section 5 Managing Individual Education Plans
Section 6 Strands of Action to Meet Special Educational Needs
Section 7 Writing Statements of Special Educational Needs
Section 8 Guidelines for Obtaining Advice
Section 9 Preparing for and Conducting Annual Reviews
Section 10 Transition Planning
Section 11 The Role of Social Services
Section 12 The Role of Health Professionals
Appendix III

Working in Partnership with Parents

Working in partnership with parents is recognised in the SEN Code of Practice as being important in enabling children and young people with special educational needs (SEN) to achieve their potential.

It is recognised that parents hold key information and have a vital role to play in their child’s education. All parents of children with SEN should be treated as equal partners.

They should be supported and empowered to:

- recognise and fulfil their responsibilities, and to play an active role;
- have knowledge of their child’s entitlement within the SEN Framework;
- make their views known about how their child is educated;
- have access to information, advice and support during the assessment process and any related decision making processes.

The Definition of ‘Parental Responsibility’

It is important that professionals understand who has parental responsibility. The Children Act 1989 uses the phrase ‘parental responsibility’ to sum up the collection of duties, rights and authority that a parent has in respect to a child.

To summarise:

- a mother always has parental responsibility, but a father only has responsibility if: he is married to the mother; he has acquired legal responsibility for his child by jointly registering the birth of the child with the mother (after 1st December, 2003); he has a Parental Responsibility Agreement with the mother, or a Parental Responsibility Order made by a court.
- in family breakdown (separation or divorce), both married parents retain parental responsibility;
- where there is a Residential Order in place in respect of a non-parent, e.g. a grandparent, that person will have a parental responsibility for the duration of the Order.

If a child or young person is ‘looked after’ by the Local Authority (LA), they may be on a Care Order or be voluntarily accommodated. A Care Order gives the LA parental responsibility and there could be shared responsibility. The LA may accommodate a child under voluntary arrangements with the parents. Parents in this situation retain parental responsibility and work in partnership with the LA. Where a child is looked after by the LA, day to day responsibility may be with the foster parents, residential care workers or guardians.
The key principles in working in partnership with parents.

The SEN Code of Practice supports:

- positive attitudes, user friendly information, and transparent policies;
- effective communication;
- recognition of parental knowledge in relation to their child and their personal and emotional investment;
- focusing on strengths as well as areas of additional needs;
- ensuring parents understand the procedures and are aware of the access to support in preparing their contribution;
- respecting the validity of different perspectives, and respecting the different views;
- recognising the needs for flexibility in the timing and structure of meetings.

When a child or young person attends residential school, or is ‘looked after’ and living away from home, every effort should be made to ensure parents can play as active a role as possible.

Key Messages for Physiotherapists

Physiotherapists should appreciate the importance the SEN Code of Practice gives to schools to work in partnership with parents.

Physiotherapists should ensure they have informed consent before communicating with the school.