

4TH EDITION

**KEY ISSUES IN
SPECIAL EDUCATIONAL
NEEDS, DISABILITY
& INCLUSION**

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 **Sage**

Chapter 1

INTRODUCTION

The major questions this chapter addresses are:

- What are SEND and what is the scale of the issue in England?
- What are the differences between SEN, special needs and SEND?
- What is the SEND legislation that is employed in England, Scotland, Wales and Northern Ireland and how is it similar or different in each country?

This chapter introduces you to the concept of SEND. It includes definitions of SEND and outlines the scale of the issue in England. It also provides a brief overview of how processes of SEND are operationalised in Wales, Scotland and Northern Ireland. In addition, it will provide you with a number of case studies that will help you develop a better understanding of these key concepts. The final section of the chapter suggests ‘Taking it further’, student activities, reflective questions and further reading that will broaden your knowledge and understanding of SEND and inclusion.

Defining SEN in England

Clause 20 of the Children and Families Act 2014 denotes that a child or young person has a SEN when he or she has a learning difficulty or disability that calls for special educational provision to be made for him or her.

According to the Act, a child or young person has a learning difficulty if he or she (a) has a significantly greater difficulty in learning than the majority of others of the same age, or (b) has a disability that prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools.

Following a formal assessment under Section 37 of the Children and Families Act 2014, a local authority may issue an Education, Health and Care Plan (EHCP). This is a legal document specifying the child’s needs, the special educational provision required and the outcomes that will be sought for that child.

The term SEN was coined by the Warnock Report of the late 1970s. Previously, children were labelled by the employment of 10 categories of ‘handicap’ set out in the regulations of the 1944 Education Act (see Chapter 3).

The 10 categories of ‘handicap’ defined by the 1944 Education Act were:

- blind
- partially sighted
- deaf
- delicate
- diabetic
- educationally sub-normal
- epileptic
- maladjusted
- physically handicapped
- speech defect.

The Warnock Report in 1978, followed by the 1981 Education Act (Department of Education and Science [DES], 1981), altered the conceptualisation of special education by emphasising that an educational need should be prioritised first and not an individual learning disability or impairment. Today, in the context of educational provision, the term SEN has a legal definition which refers to children and young people who have learning difficulties and/or disabilities that make it more difficult for them to learn or access education than most pupils of the same age. We will discuss the differences between SEN, SEND and special needs later in the chapter.

The Children and Families Act (Department for Education [DfE], 2014a) (see Chapter 7 for further detail) offers guidance that helps teachers and other professionals make decisions about whether a child or young person has a SEND that will require special educational provision. For example, it states that:

A child or young person does not have a learning difficulty or disability solely because the language (or form of language) in which he or she is or will be taught is different from a language (or form of language) which is or has been spoken at home. (Section 20[4])

Furthermore, clause 77 of the Act creates a Code of Practice (henceforth referred to as SENDCOP) which relates to children from 0 to 25 years of age. SENDCOP provides advice to local authorities, maintained schools, early years educational settings and colleges on how to identify, assess and make provision for children and young people's SEND. This Code ensures that 'all children achieve their best, become confident individuals living fulfilling lives; and that they make a successful transition into adulthood' (DfE, 2014b: 58). Teachers and professionals must have regard for SENDCOP in all the work they do with children and young people labelled with SEND.

SENDCOP indicates that a child or young person's needs may fall into at least one of four broad categories:

- Communication and interaction
- Cognition and learning
- Social, mental and emotional health
- Sensory and/or physical.

SENDCOP also details that behavioural difficulties or a disability do not necessarily mean that a child has a SEN (DfE, 2014b). The Code does make clear though that when behaviour is consistently disruptive or a child has become withdrawn, this can be a sign of an unmet SEND.

The four categories are subdivided into:

1. Communication and interaction

- **Speech, language and communication needs (SLCN).** These pupils find it more difficult to communicate with others and may have difficulties in taking part in conversations. (To find out more watch this video: www.youtube.com/watch?v=CUw1zkZkzhk&t=118s)
- **Autistic spectrum disorder (ASD),** including Asperger's syndrome and autism. These pupils have difficulty in communication, social interaction and imagination. In addition, they may be easily distracted or upset by certain stimuli, have problems with changes to familiar routines or have difficulties with coordination and fine motor skills. (To find out more watch this video: <https://www.youtube.com/watch?v=b0a2mAx54ZU>)

2. Cognition and learning

- Pupils with learning difficulties will learn at a slower pace and may have greater difficulty in acquiring basic literacy or numeracy skills or in understanding concepts. They may also have speech and language delay, low self-esteem, low levels of concentration and underdeveloped social skills. (To find out more watch this video: www.youtube.com/watch?v=9TIs8PyUVKc&t=59s)
- Children and young people with learning difficulties are at increased risk of developing a mental health problem and may need additional support with social development, self-esteem and emotional well-being.
- **Severe learning difficulties (SLD).** Pupils may have significant intellectual and cognitive impairments. They may have difficulties in mobility and coordination, communication and perception, and the acquisition of self-help skills.
- **Profound and multiple learning difficulties (PMLD).** These pupils have severe and complex difficulties as well as significant other difficulties such as a physical or a sensory impairment. (To find out more watch this video: www.youtube.com/watch?v=COBYhkvjfkQ)
- **Specific learning difficulty (SPLD).** A pupil may have difficulty with one or more aspects of learning, including a range of conditions such as dyslexia (reading and spelling), dyscalculia (maths), dyspraxia (coordination) and dysgraphia (writing).

Further information is available at: www.bdadyslexia.org.uk/ and www.challengingbehaviour.org.uk/understanding-challenging-behaviour/what-is-challenging-behaviour/

3. Social, mental and emotional health

- Pupils who have difficulties with their emotional and social development may have immature social skills and find it difficult to make and sustain healthy relationships.

These may be displayed through them becoming withdrawn or isolated, as well as through challenging, disruptive or disturbing behaviour.

- Some pupils may have a recognised disorder, for example attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), attachment disorder, autism or pervasive developmental disorder. (Further resources are available at: www.nhs.uk/conditions/attention-deficit-hyperactivity-disorder-adhd/)

4. Sensory and/or physical needs

- There are a wide variety of sensory and physical difficulties that affect pupils, and some of these may require special educational provision. It is this group that should be identified as having a SEN.
- **Visual impairment (VI) or hearing impairment (HI)** may require specialist support and equipment for access to learning.
- **Multi-sensory impairment (MSI)** is a combination of visual and hearing difficulties, which makes it much more difficult for pupils to access the curriculum.
- **Physical disability (PD)** requires ongoing support and equipment for access to all the opportunities available to peers.

Further information is available at: www.nib.org.uk/information-everyday-living-education-and-learning-young-childrens-education/special-educational

(Source: DfE, 2014b: 97–8)

DEFINING SPECIAL EDUCATIONAL NEEDS AND DISABILITIES

The four categories of SEND as defined in the Code are explained more fully in the case studies below.

CASE STUDY 1.1

Specific learning difficulties

Ishmael is a bright and normally well-behaved young boy who attends a large urban primary school in the north of England. Ishmael loves mathematics and up until year 3 used to excel, especially with work based upon fractions. Throughout school, Ishmael has had difficulties with his literacy work, mainly with his writing and spelling. In the

(Continued)

first term of year 4, the class teacher introduced mathematics by the use of word problems. Ishmael's love of mathematics disappeared quickly after this and he became withdrawn in class. Despite extra mathematics work being devised by the class teacher, Ishmael has failed to keep up with the majority of the class. Furthermore, Ishmael's progress in elements of his literacy work, notably spelling, has also decreased significantly.

Ishmael was referred to the local authority SEND team, and it was they who recommended that an educational psychologist conduct an assessment of need. This assessment detailed that Ishmael was significantly behind his peers in the areas of phonological awareness, short-term working memory and the ability to recognise basic words.

In terms of the legislation it is observed that Ishmael will require SEND provision because he has a 'discrepancy between achievement and his general intellectual ability'. If we examine the categories box above we will observe that he would be considered under Section 2 (those of cognition and learning), and that his SEND would be described as a specific learning difficulty, i.e. dyslexia.

Using the areas of learning given in the categories box above, assess the information given in Case Studies 1.2 and 1.3. What category of SEND do you think these pupils should be placed within?

CASE STUDY 1.2

Tom is 15 years old and is a member of a form in a very large secondary school based within a major city in southern England. Tom is extremely withdrawn and whilst he may make friends, he experiences great difficulty keeping friends both at home and at school. Tom's form tutor, Mr Parry, noted that Tom has an inability to sit still, and often finds the need to pace up and down the classroom. This pacing often calms Tom down, especially after he has disrupted the class. Tom's father told the school's Special Educational Needs and Disabilities Coordinator (SENDCo) that Tom finds difficulty at home with basic tasks such as time management and dressing himself. Tom's father is very worried about his disruptive behaviour both at home and at school. Given Tom's continued outbursts in class and the worries expressed by his parents, the SENDCo referred Tom to the educational and paediatric team at the local hospital.

CASE STUDY 1.3

Cheryl is a very happy, polite and well-motivated four-year-old pupil who loves attending her local nursery school. She is often found at the centre of many games and has a wide circle of friends. She likes nothing better than reading her favourite fairy stories to her friends and engaging in digging large holes during sand play sessions. However, recently Cheryl has become increasingly slower at navigating her way to the different

areas of the classroom. Her teachers have also noticed that she has been finding it more and more difficult to move around the outdoor play area and she has fallen over several times. She has stopped reading out loud to her friends too.

Case Studies 1.2 and 1.3 – assessing the issues

Firstly, if you examine Case Study 1.2 you may have highlighted that Tom was experiencing significant difficulties with his behaviour that were providing a barrier to his learning in school. Looking again at the four categories of learning, you would be correct to classify Tom as having a SEND that was within the category of social, mental and emotional health. You may be interested to know that Tom, after a range of differing assessments, was classified by the paediatric team and the educational psychologist as having the recognised impairment of ADHD.

TAKING IT FURTHER

Follow the link below to watch a video about living with ADHD and the dilemmas of taking medication to 'control' this condition. Later in the book we will further examine the issues in taking medication.

www.youtube.com/watch?v=E8VcLDKZrkk

Second, considering Cheryl's story that was outlined in Case Study 1.3, you would have been correct if you had classified her SEND as being within sensory and/or physical needs, specifically that of visual impairment. In this case, the SENDCo referred Cheryl to the school nurse service, and at a recent hospital assessment, Cheryl was found to have a deteriorating eye condition. With this knowledge, the nursery has begun to make adaptations both to Cheryl's play areas and to her curriculum. The teachers have made sure that large-print books are available and that support is on hand to ensure that she is able to engage fully in the life of the early years setting, especially sand play.

TAKING IT FURTHER

For more information regarding how to support children and young people with mental health issues you could read the Department for Education (2022) webpage 'Promoting and supporting mental health and wellbeing in schools and colleges':

www.gov.uk/guidance/mental-health-and-wellbeing-support-in-schools-and-colleges

SEND IN SCOTLAND, NORTHERN IRELAND AND WALES

Within the United Kingdom, the educational provision for children and young people with learning difficulties broadly operates under similar legislative systems. It is important to remember, however, that aspects of the Scottish, Northern Irish and Welsh systems can still differ substantially from those observed within English schools.

For more detailed information that relates to the organisation of SEND support in Scotland, Northern Ireland and Wales, you will need to access the following links:

Scottish Executive

www.gov.scot/policies/schools/additional-support-for-learning/#:~:text=Enquire%20%E2%80%93%20the%20national%20advice%20and,2303%20or%20visit%20Enquire's%20website

Northern Ireland Department of Education

www.nidirect.gov.uk/articles/support-special-educational-needs

Welsh Assembly

www.gov.wales/additional-learning-needs-special-educational-needs

Scotland

Until 2004, special education in Scotland was organised in a broadly similar manner to that in England. However, the legal framework in Scotland changed in 2005 with the implementation of the Education (Additional Support for Learning) (Scotland) Act 2004 (Harris and Riddell, 2022). This Act, amended in 2009, abolished the term SEN and replaced it with a much broader definition – that of ‘additional support need’. In 2016 the Act was further amended by the ‘Keeling Schedule’, which gave more rights to children aged 12–15. Later, in 2017, a major consultation exercise resulted in a new Code of Practice for additional support needs coming into force across Scotland.

Additional support needs, as defined by the Act, refer to any child or young person who would benefit from extra help in order to overcome barriers to their learning. A child with additional support needs may also require a learning plan, which is referred to in the Act as a ‘coordinated support plan’.

The Act stipulates that some children and young people may require additional support for a variety of reasons, such as those who:

- have motor or sensory impairments;
- are being bullied;

- are particularly able or talented;
- have experienced a bereavement;
- are looked after in social care surroundings;
- have a learning difficulty;
- are living with parents who are abusing substances;
- are living with parents who have mental health problems;
- have English as an additional language;
- are not attending school regularly;
- have emotional or social difficulties;
- are on the child protection register;
- are young carers.

TAKING IT FURTHER

For the most up-to-date edition of the Scottish Code of Practice see:

www.gov.scot/publications/supporting-childrens-learning-statutory-guidance-education-additional-support-learning-scotland/

In addition, for an incisive critique of the Scottish system you could read Education Institute for Scotland's (2019) *Additional Support for Learning in Scottish School Education: Exploring the Gap between Promise and Practice*.

www.eis.org.uk/Content/images/education/ASN/ExploringTheGap.pdf

Wales

In 2014, the system of educational provision in Wales was subject to a comprehensive review. This review proposed a new legislative framework for supporting children and young people with additional learning needs (ALN), SEN and learning difficulties and/or disabilities (LDD). The legislation, named as the Additional Learning Needs and Education Tribunal Act (2018), aims to be the cornerstone of the Welsh government's approach to supporting children and young people with additional needs. Wales, then, is at present undergoing significant changes to its education, such as in curriculum and in teacher training. Key to these changes is the new Curriculum for Wales and the Additional Learning Needs (ALN) curriculum (Knight and Crick, 2022). Enacted in September 2021, the ALN curriculum and system provides a new statutory support for children and young people aged 0–25 years with a learning difficulty or disability (Knight and Crick, 2022) and brings into being an Individual Development Plan for those children with ALN.

According to the Welsh government, the transformed system will:

- ensure all learners with ALN are supported to overcome barriers to learning so they can achieve their full potential;
- improve the planning and delivery of support for learners from 0 to 25 with ALN, placing learners' needs, views, wishes and feelings at the heart of the process;
- focus on the importance of identifying needs early and putting in place timely and effective interventions to ensure they deliver the desired outcomes.

See www.gov.wales/sites/default/files/publications/2018-06/aln-factsheet-how-will-the-act-affect-children-young-people-and-parents-carers.pdf

TAKING IT FURTHER

For a deeper overview of the system of ALN in Wales and a critique of its initial operation you might read: Knight, C. and Crick, T. (2022) 'Inclusive education in Wales: interpreting discourses of values and practice using critical policy analysis', *Review of Education*, 5(2): 258–83.

Northern Ireland

Special education in Northern Ireland is governed by the legal framework established within the Education (Northern Ireland) Order 1996, as amended by the SEN and Disability (Northern Ireland) Order 2005 (Department of Education [DoE], 2005) and the Special Educational Needs and Disability Act (Northern Ireland) 2016. The Department of Education in Northern Ireland also provides guidance to schools about SEND through a Code of Practice which came into force in 2005. It should be noted that in 2023 a new Code of Practice is in its draft phase. However, the original Orders and the Code place a duty for the provision for children and young people labelled with SEND upon the education and library boards and the boards of governors within mainstream schools. These Orders increased the rights of children and young people labelled with SEND to attend mainstream schools and they also introduced disability discrimination laws for the whole of the education system in Northern Ireland. Similar to Scotland, Wales and England, the Department for Employment and Learning in Northern Ireland offers advice and guidance on how to operate a system for identifying and assessing children with learning difficulties. Currently, further regulations are being considered which will, according to the Northern Ireland DoE, strengthen the legislation so that a more responsive and effective SEND framework may be delivered for children and young people.

TAKING IT FURTHER

For a deeper overview of this system for special educational needs you could read: *The Northern Ireland Audit Office's Report Impact Review of Special Educational Needs*:

www.niauditoffice.gov.uk/files/niauditoffice/media-files/242135%20NIAO%20Special%20Education%20Needs_Fnl%20Lw%20Rs%20%28complete%29.pdf

In addition, O'Connor, U. et al. (2023) 'The prevalence of special educational needs in Northern Ireland: a comparative analysis', *European Journal of Special Needs Education*, 38(4): 543–57, provides detailed data and critique of the Northern Ireland system of SEND and an overview of the delays in implementing new legislation.

SEND – THE SCALE OF THE ISSUE

The facts about SEN in England:

- Just under 1.5 million pupils in England have a SEN.
- 4.% of pupils have EHCPs.
- 72% of pupils with EHCPs are boys.
- 12.6% of pupils require SEND support.
- The most common type of need for an EHCP is autistic spectrum.
- The most common type of need for SEND support is language and communication.
- SEN becomes most prevalent at age 10.

TAKING IT FURTHER

Consider the data shown in Table 1.1 and Figure 1.1, which show that identification of SEND and appeals against the system are increasing. Do you think, given these data, that government policy is working in relation to the education of children and young people with SEND?

You may wish to add to your knowledge and understanding of the current issues in SEND by reading the latest National Association of Schoolmasters and Union of Women Teachers survey report:

www.nasuwat.org.uk/advice/in-the-classroom/special-educational-needs.html

Table 1.1 Prevalence of SEN in England by type of school, 2020–2022

		2020/21	2021/22
Total ^a	Headcount	8,911,887	9,000,031
	EHCPs/Statements of SEN	325,618	355,566
	EHCPs/Statements of SEN (%)	3.7	4.0
State-funded nursery	SEN support	1,083,083	1,129,843
	SEN support (%)	12.2	12.6
	Headcount	37,865	38,036
	EHCPs/Statements of SEN	540	535
	EHCPs/Statements of SEN (%)	1.4	1.4
	SEN support	5,038	5,513
State-funded primary	SEN support (%)	13.3	14.5
	Headcount	4,660,264	4,655,513
	EHCPs/Statements of SEN	95,601	105,756
	EHCPs/Statements of SEN (%)	2.1	2.3
	SEN support	586,926	606,086
	SEN support (%)	12.6	13.0
State-funded secondary	Headcount	3,493,507	3,567,378
	EHCPs/Statements of SEN	68,370	76,838
	EHCPs/Statements of SEN (%)	2.0	2.2
	SEN support	401,563	425,070
	SEN support (%)	11.5	11.9
	Headcount	134,176	142,028
State-funded special school	EHCPs/Statements of SEN	132,306	140,230
	EHCPs/Statements of SEN (%)	98.6	98.7
	SEN support	1,596	1,566
	SEN support (%)	1.2	1.1
	Headcount	3,924	3,965
	EHCPs/Statements of SEN	3,850	3,890
Non-maintained special school	EHCPs/Statements of SEN (%)	98.1	98.1
	SEN support	63	64
	SEN support (%)	1.6	1.6
	Headcount	12,785	11,684
	EHCPs/Statements of SEN	3,064	3,295
	EHCPs/Statements of SEN (%)	24.0	28.2
Pupil referral unit	SEN support	7,511	6,309
	SEN support (%)	58.7	54.0

		2020/21	2021/22
Independent school	Headcount	569,366	581,427
	EHCPs/Statements of SEN	21,887	25,022
	EHCPs/Statements of SEN (%)	3.8	4.3
	SEN support	80,386	85,235
	SEN support (%)	14.1	14.7

^a Total includes state-funded nursery, primary, secondary and special schools, non-maintained special schools, pupil referral units and independent schools.

(<https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england>)

In the academic year of 2021/22 just under 1.5 million pupils in England had a recognisable SEN, which was an increase of 77,000 from the previous year; 103,400 pupils, or 1 in 3, with an EHCP were pupils on the autistic spectrum, making this the most common category of need. Of those requiring the more general SEND support the most common area of need was that of language and communication, followed by social, emotional and mental health needs and then those pupils categorised as having moderate learning difficulties (see Figure 1.1). The data reveal that SEN became most prevalent at the age of 10 (see Table 1.2).

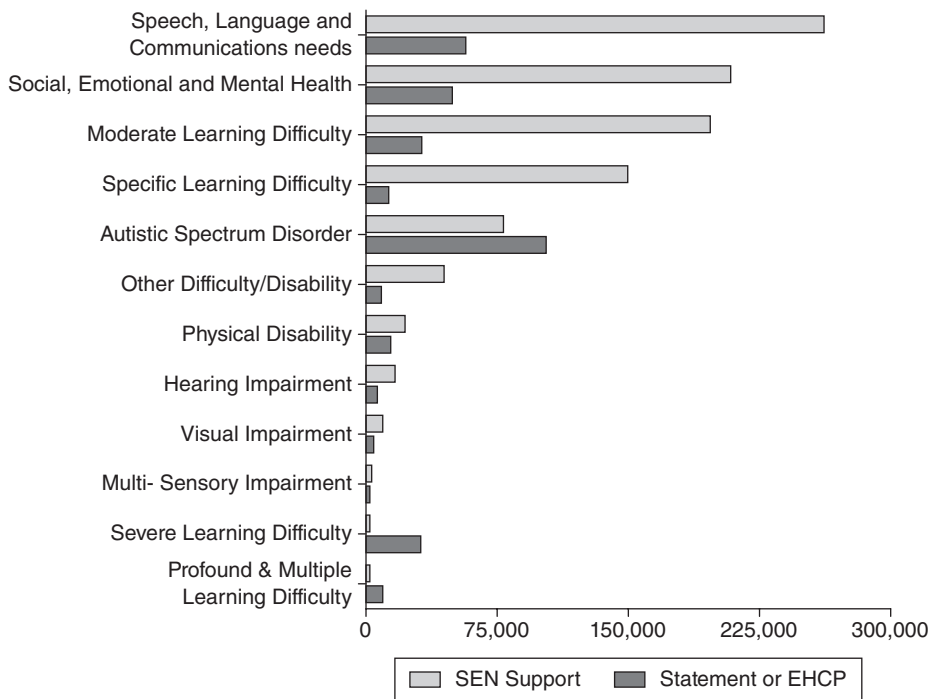


Figure 1.1 Number of pupils with an EHCP or SEN support by type of need, 2022

(<https://explore-education-statistics.service.gov.uk/find-statistics/special-educational-needs-in-england>)

Table 1.2 Number of EHCPs and statements, by age band, 2015–2022

	2015	2016	2017	2018	2019	2020	2021	2022
Number of statements and EHCPs combined								
Under 5	11,250	10,513	11,629	12,516	14,094	15,398	16,536	18,054
Age 5–10	91,045	92,213	97,379	105,689	117,222	128,764	142,342	154,940
Age 11–15	112,340	111,225	112,540	117,354	126,332	137,639	151,572	167,305
Age 16–19	25,538	41,300	58,034	70,084	77,587	83,095	90,715	98,647
Age 20–25	10	1,064	7,708	14,176	18,760	25,213	29,532	34,309
Total	240,183	256,315	287,290	319,819	353,995	390,109	430,697	473,255
Percentage of statements and EHCPs combined								
Under 5	4.7%	4.1%	4.0%	3.9%	4.0%	3.9%	3.8%	3.8%
Age 5–10	37.9%	36.0%	33.9%	33.0%	33.1%	33.0%	33.0%	32.7%
Age 11–15	46.8%	43.3%	39.2%	36.7%	35.7%	35.3%	35.2%	35.4%
Age 16–19	10.6%	16.1%	20.2%	21.9%	21.9%	21.3%	21.1%	20.8%
Age 20–25	0.0%	0.4%	2.7%	4.4%	5.3%	6.5%	6.9%	7.2%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

(<https://explore-education-statistics.service.gov.uk/data-tables/fast-track/57e1744b-061d-4f00-aece-11b3f1c11a79>)

From 2014 onwards, a child must have an EHCP to receive the highest levels of special educational provision. The EHCP replaced the Statement of Special Educational Need.

A mainstream school is one that provides an education for all pupils, including those with SEND.

A special school is normally one that provides an education for children who have an EHCP.

EHCPs AND SEN SUPPORT IN ENGLAND

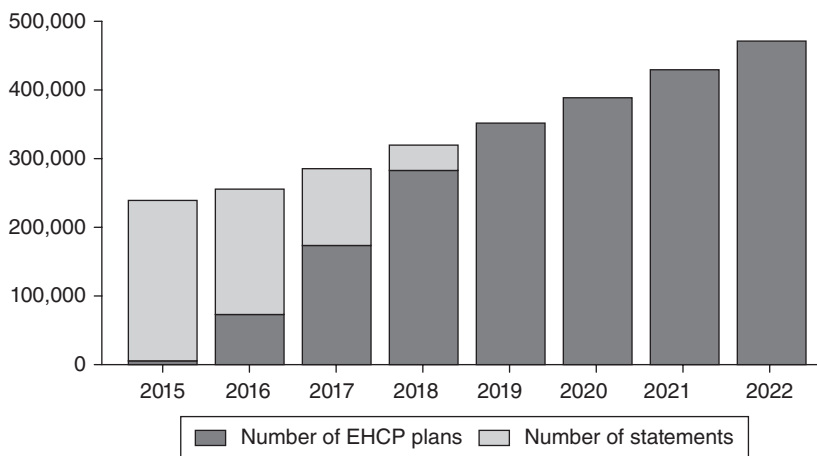


Figure 1.2 Number of EHCPs and statements of SEN, 2015–2022

(<https://explore-education-statistics.service.gov.uk/find-statistics/education-health-and-care-plans>)

From 2021 to 2022 there was a 9% increase in the number of pupils requiring an EHCP (see Figure 1.2). Up until 2016 the rate of issuing of EHCPs had remained relatively constant at 2.8%; however, since this time the number of EHCPs has been increasing more rapidly. Indeed, since 2016 there has been a 50% increase in the number of pupils requiring an EHCP. It is now the case that pupils with an EHCP make up one quarter of all the pupils requiring SEN support in England. Of interest, is that boys make up 72.8% of the pupils requiring an EHCP. In primary schools, 2.3% of pupils require an EHCP and in secondary schools this figure is 2.2%. In 1978 the Warnock Report (DES, 1978) initially estimated that around 2% of all pupils of school age may have an educational need so severe that they would require a Statement of SEN (an equivalent document to an EHCP). Nearly 45 years later, Warnock's initial estimates of the levels of SEN have been consistently proved to be correct.

In relation to the more generalised SEN support it is the case that during 2021/22 those pupils in this category have increased from 12.5 to 12.6%. This increase continues a rising trend that has been apparent since 2016. In the primary phase of education 13% of pupils require SEN support and in secondary school this figure is 11.9% of pupils. The

data also reveal that the most prevalent group of children to require SEN support is those from a Traveller of Irish heritage ethnic group. The lowest is for those children who declare being from a Chinese ethnic group (see Table 1.3). It is still the case that children who are eligible for a free school meal are more likely to require SEN support. Indeed, in 2022 39.7% of pupils with an EHCP and 36.4% of those requiring SEN support were also eligible for a free school meal.

Table 1.3 Prevalence of SEN support and EHCPs by 'ethnic' group

	2021/22		
	Total	SEN support	Statement or EHCP
Asian – Bangladeshi	151,613	15,125	6,242
Asian – Chinese	48,396	2,422	1,100
Asian – Indian	289,179	18,084	6,850
Asian – Pakistani	380,781	41,762	13,881
Asian – Any other background	170,572	13,238	5,952
Black – Black African	338,614	35,604	14,967
Black – Caribbean	82,402	13,277	4,444
Black – Any other Black background	65,501	8,085	3,387
Mixed – White and Asian	134,821	12,985	4,158
Mixed – White and Black African	76,262	9,205	3,159
Mixed – White and Black Caribbean	133,504	21,603	6,490
Mixed – Any other mixed background	213,597	23,601	8,534
White – Gypsy/Roma	27,359	6,040	1,258
White – Irish	21,495	2,851	901
White – Traveller of Irish heritage	6,903	1,675	393
White – White British	5,379,748	730,654	220,689

(<https://explore-education-statistics.service.gov.uk/data-tables/fast-track/57e1744b-061d-4f00-aece-11b3f1c11a79>)

From 2015 onwards, the data reveal that mediation cases have been on the rise (see Figure 1.3). Indeed, during 2021, 5,100 mediation cases were held. This represents an increase of nearly 1,000 cases since the year 2020. Furthermore, although there was a small decrease in tribunal cases from 2020 to 2021, it is the case that the general trend in cases has, since 2015, risen.

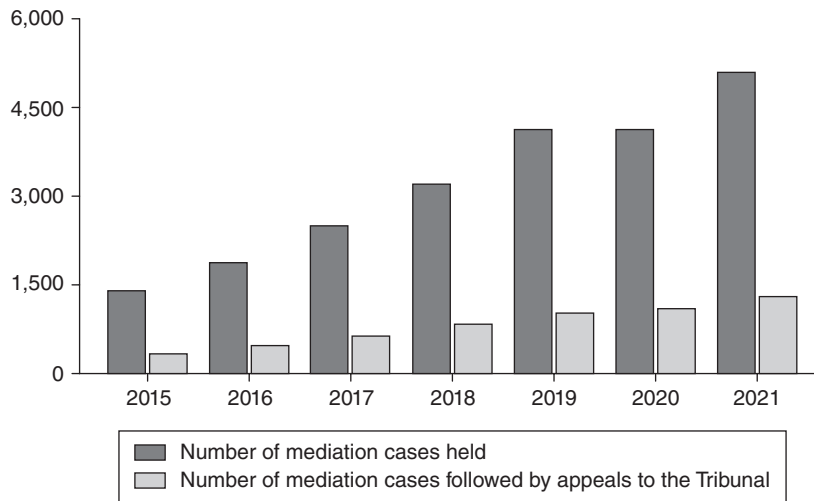


Figure 1.3 Number of mediation and tribunal cases held, 2015–2021

(<https://explore-education-statistics.service.gov.uk/find-statistics/education-health-and-care-plans>)

TAKING IT FURTHER

Watch the videos produced by the Ministry of Justice, the first of which introduces who is who at a SEND tribunal. The second video presents a personal voice of those who have attended a tribunal.

www.youtube.com/watch?v=M_FRTYyo6dQ

www.youtube.com/watch?v=-_AnjXTvYnY

SEND – A CONTESTED CONCEPT

In relation to an individual and the implementation of government legislation deciding what is or is not a learning difficulty, and what counts or does not count as a SEND, or at what age support for a SEND should or should not be withdrawn, this can be difficult (Palikara et al., 2019). For example, Terzi (2005) argues that the concept of SEND itself is difficult to specify and in practice unworkable. Others have argued that a label of SEND necessarily leads to children and young people being placed within a system of education that sorts, categorises and segregates (Hodkinson and Burch, 2019). Ironically, the current Code employs SEND to categorise pupils into four main areas of need (see page 5), despite it stating that ‘the purpose of identification is to work out what action the school needs to take, not to fit a pupil into a category’ (see Allan and Youdell, 2017). Of interest is that Ofsted, in its review of special educational provision in 2010, found

wide variations both within local authorities and within schools themselves in the numbers of pupils specified as having a SEND. It is of further interest to note that their investigations revealed an inconsistency as to how SEND was defined within schools in England. Moreover, Ofsted expressed a concern that some schools were employing the term SEND to refer to those pupils who simply needed better teaching or pastoral support. It seems apparent that SEND is not defined solely in relation to pupils who have a learning difficulty.

In recent times, it has become even more apparent that educational professionals have been subject to difficulties and confusion in establishing the differences between disability/special needs and the legal definition of SEN itself (Curran et al., 2017). This confusion, it seems, is exacerbated by the employment of the new terminology of SEND brought into being by the Children and Families Act 2014. For example, a pupil may have a special need and so be labelled as SEND but might not actually have a SEN in terms of the legal definitions that have continued to be employed in the Children and Families Act 2014. Special needs in the UK, like SEND, do not have a legal basis in terms of the legislation governing this area of education. Many people do confuse SEN, SEND and special needs and this can result in serious consequences. For example, this form of confusion may lead to low expectations of achievement for all pupils whose first language is not English. In addition, difficulties in defining special needs and SEN may lead to confusion in planning support: for example, expecting the same staff to have an expertise in teaching English as a second language as well as teaching children with reading difficulties (Frederickson and Cline, 2015).

SPECIAL NEEDS, SEND OR SPECIAL EDUCATIONAL NEEDS?

A child or young person has a special need if they ‘come from a social group whose circumstances or background are different from most of the school population’ (Frederickson and Cline, 2002: 36). A special need may relate to any pupil, at any time, during their school career. So, for example, a pupil could have a special need if they have emotional or physical challenges not normally experienced by their peers; or if they have a history of physical abuse; or if they are a member of a religious or cultural group. The difference between this concept and that of SEN is that a special need does not necessarily manifest itself as a barrier to learning. As such, a pupil with a special need would not normally need access to SEND provision as detailed within the Children and Families Act 2014.

READER REFLECTION

Using the information given in each of the case studies below, and the detail offered above in relation to special provision, decide whether each child has a SEN, a special need or both.

CASE STUDY 1.4

Hao's story

Hao is a bright and energetic nine-year-old boy who simply loves Star Wars – Star Wars movies, Star Wars comics, Star Wars spin-off series, but most of all he especially enjoys building the characters from Star Wars out of plastic blocks. Hao uses a walking frame to move around the school, and often can be found 'taking a break' on the seat that is built into his walking frame. Hao loves numeracy, swimming and geography. However, he does not like learning his spellings for his weekly tests. His parents have to force him to learn spellings each night but are really pleased that Hao often scores 10 out of 10 on his tests.

CASE STUDY 1.5

Paulo's story

Paulo (aged eight) migrated to England with his family three months ago. He has a hearing impairment and has had difficulty in learning English in the time he has been in school.

In examining the cases studies above, you may have found that defining special needs and SEN can be a difficult thing to do. In the first case study, Hao might be considered as having a special need because of his reduced mobility. Yet whilst he might not enjoy having to learn his 'spellings', this would not be classified as a barrier to his ability to learn. In the second case study, Paulo presents quite a different and rather interesting case, as he perhaps could have a special need as a result of being from a minority cultural group. In terms of the Children and Families Act 2014 though, Paulo's employment of English as a second language would not constitute a SEN. What is interesting here is that his inability to learn English is being complicated by his hearing impairment. If you examine the categories box on page 7, it is clear that a hearing impairment would indeed be considered as a SEN.

A further issue with the employment of the term SEN is that the definition itself is negatively linked with a medical view of disability. In addition, Frederickson and Cline (2015) believe that SEN is a problematic term because it is associated with negative conceptualisations and difficulties in decision making such as those implied in the case studies above. Terzi (2005) suggests that the term SEN, rather than moving away from the notion of categorising children as Warnock (DES, 1978) envisaged, in reality does nothing more than introduce a new category – that of SEN! As such, any difficulty a pupil may have with learning may be seen by the professionals involved as resulting from a personal deficit and difference, and not from the barriers created by such things

as inaccessible buildings, inflexible curricula, inappropriate teaching and learning approaches, and school organisation and policies (we will discuss these ideas more fully in Chapter 2). This form of labelling not only is disrespectful and hurtful to the individual pupil but also has repercussions for the manner in which their learning is supported. To some academics and practitioners these issues have led them to believe that the term SEN has outlived its usefulness (Norwich, 2010). Despite these beliefs and arguments, we must remember that SEN has, within the context of the English educational system, a legal status, and is a term commonly employed without the 'D' for disability alongside the new term of SEND in the vast majority of early years, schools and colleges.

CONCLUSION

In this chapter, you have gained knowledge and understanding of:

- the scale of SEND in England;
- the differences between SEN, special needs and SEND; and,
- how the SEND legislation employed in England, Scotland, Wales and Northern Ireland is similar and also different.

Within this chapter the definition of SEND and associated terms of additional support needs were considered in terms of the legislation that governs England, Scotland, Northern Ireland and Wales. Recent data were detailed that determined how many children in England were considered to have a SEND and how these figures showed that males have a greater prevalence of SEND than do females. The final section of this chapter demonstrated the difficulties professionals sometimes have in deciding whether a child has a special need or a SEN or SEND.

The 'Taking it further' boxes in the chapter, along with the student activities, reflective questions and further reading detailed below, will help you develop a much deeper understanding of the terminology and operation of SEND in our schools. These are also designed to make you question whether SEND is still a term that is useful for pupils being educated in the 21st century.

STUDENT ACTIVITIES

1. Scotland utilises the term 'additional learning needs' to describe pupils that need support to overcome barriers to learning. However, England continues to utilise the term SEND. Using internet resources, contrast the definition of SEND used in England with the term 'additional needs' employed in Scotland. Which of the terms do you feel would be the best to employ in the new legislation that is being developed in England?

2. Watch the short video provided by the Suffolk SEN team, which explains what a SEN is. Note down how this authority defines what is and is not a recognised SEN. In addition, note what key issues the Suffolk SEN team feel are important within the SEND legislation. The video is available at: www.youtube.com/watch?v=9Zk129Rwpxs&t=5s
3. Download the Nasen Policy Option Paper *Special Educational Needs Has Outlived its Usefulness: A Debate* (www.researchgate.net/publication/249402991_Special_Educational_Needs_has_outlived_its_usefulness_a_debate). With other students, consider what the benefits and drawbacks are of the continued employment of the term SEND within an educational system. You may wish to use your reading and discussion to plan for a debate in one of your seminar sessions.

REFLECTIVE QUESTIONS

In reviewing Case Studies 1.3 and 1.4 do you think the usage of the term SEND could lead to confusion in schools, especially considering the legal definition of SEN that was offered earlier in the chapter?

Do you believe that the term 'additional learning needs' as employed in Scotland and Wales leads to a better approach than that in English schools?

FURTHER READING

Frederickson, N. and Cline, T. (2015) *Special Educational Needs, Inclusion and Diversity* (3rd edn). Maidenhead: Open University Press.

Chapter 1 provides an expansive overview of the principles of SEND.

Goepel, J., Scruton, J. and Wheatley, C. (2020) *A Critical Guide to the SEND Code of Practice 0–25 Years*. St Albans: Critical Publishing.

This is a useful and practical book which employs personal perspectives and detailed case studies to provide a very accessible guide to the current legislation operating in schools and colleges.

Shakespeare, T. (2018) *Disability: The Basics*. Abingdon: Routledge.

Chapter 1 of this book will enable you to gain a conceptualisation of how we might understand disability outside of that presented by cold statistics and categorisation.

Wearmouth, J. (2022) *Special Educational Needs and Disability: The Basics*. Abingdon: Routledge.

This comprehensive book examines the 2014 legislation in detail. It contains an extensive discussion of such things as social, emotional and mental health and learning difficulties, which will be useful to gaining an understanding of these complex areas.

