

SEN factsheet

What are special educational needs?

Special Educational Needs (SEN) means a difficulty in accessing education. Whilst, in most cases, it is clear whether a child does or does not have SEN, the legal test should always be understood from the outset.

The following is addressed to parents of children and young people but is intended as guidance for anyone involved, including the young person themselves. “Young people” is a phrase the Children and Families Act 2014 has introduced which means a person between 16 – 25 years of age, in education and with mental capacity.

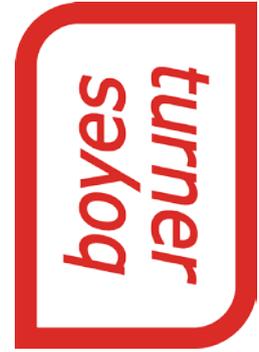
The Children & Families Act 2014 states that a child or young person (CYP) has SEN if they have a “learning difficulty” or “disability” which requires “special educational provision”.

A CYP has a “learning difficulty” if they:

- Have a significantly greater difficulty in learning than the majority of others of the same age.
- Have a disability which prevents or hinders them from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

“Disability” is defined by the Equality Act 2010. A person is disabled if they:

- Have a physical or mental impairment. The court has ruled that this simply means something physically or mentally “wrong”.
- The impairment is long-term. This means that it will last more than 12 months or has a repeated short-term impact which will, in total, last more than 12 months.
- The impact of the impairment is significant. The court has given little guidance on this and has simply indicated that the impact cannot be minor or trivial.



Specific exemptions to “disability” exist. For example, people with a tendency to set fires or to physically and/or sexually abuse others cannot be treated as having a “disability”.

“Special Educational Provision” is defined as being:

- For CYP over two years old, educational provision that is additional to or different from the provision generally made for CYP of their age in mainstream maintained schools in the area.
- For children under two years old, educational provision of any kind.
- CYP with SEN may need extra support in the classroom because they have problems accessing the curriculum.

This could be because the CYP has difficulties associated with:

- Fine and gross motor skills.
- Sensory or medical needs.
- Emotional, behavioural difficulties.
- Attention difficulties.
- Communication needs – both receptive and expressive language.

Many CYP have SEN but those difficulties are supported with timely intervention from teachers and other experts. It should not be assumed that a CYP making slower progress than expected, has SEN. However, some children receive additional support over time and still fail to make progress. These children may need additional provision that can be provided via an Education, Health & Care Plan. Please see our factsheet “What additional support is available for my child/young person”.

As SEN has a particular legal definition, a specialist solicitor may help you to identify whether your child would meet the requirements of this test.

If you have any questions or require advice, please contact the Special Educational Needs team on **0118 467 6547** or senexpertsolicitors@boyesturner.com.

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