



BACKGROUND

Finding the right educational setting for children with special educational needs (SEN) can be a challenge for parents and local authorities. Whilst it is envisaged that the majority of children with additional educational needs will not require an Education, Health and Care Plan (EHC Plan) and their needs will be met in a mainstream setting, what other options are there for children with SEN?

Part 3 of the Children and Families Act 2014 (the Act) sets out the legal duties on local authorities in securing an appropriate education placement for a child with SEN. **The Act** and the associated **Special Educational Needs and Disability Code of Practice: 0 to 25 years (January 2015)** provide detailed guidance on the processes and procedures related to accessing special school placements. The legal framework is in place to safeguard the rights of children with SEN and ensure they receive an education tailored to their individual needs; particular attention should be paid to the below areas when choosing an appropriate setting:

1. **EHC Plans:** Local authorities are required to issue an EHC Plan if following assessment of a child's needs, it is deemed necessary. The EHC Plan outlines the child's education, health and social care needs, the support they require, and the educational placement deemed suitable to meet their needs. Special schools can be named in EHC Plans as appropriate placements for children with SEN.
2. **Parental Choice:** Parents have the right to express a preference for a particular school, including special schools, in the process of developing the EHC Plan. Local authorities must take these parental preferences into account when making decisions about placements.
3. **Local Offer:** Local authorities are required to publish a Local Offer, providing information about the support and services available for children with SEN and their families, including details about special schools in the area.
4. **Transition Planning:** **The Act** emphasizes the importance of effective transition planning for children and young people with SEN, including planning for transitions between educational phases or to adulthood. This ensures that appropriate support and placements are identified during critical periods of a child's education.
5. **Dispute Resolution:** **The Act** provides mechanisms for resolving disputes between parents and local authorities, ensuring that parents have legal avenues to challenge decisions on school placement if they believe their child's educational needs are not being met appropriately.

When exploring alternatives to mainstream settings, it's essential to conduct thorough research, visit potential schools or programs, and collaborate closely with educators, therapists, and other professionals. The goal is to find an educational environment that appropriately meets the child's SEN. Working in partnership with educational



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professionals and support services can help families make informed decisions tailored to their child's unique needs and strengths.

Now we will look at some of the most common alternatives to mainstream schools available to children with SEN.

SPECIALIST SEN UNITS/ALTERNATIVE RESOURCE PROVISIONS WITHIN MAINSTREAM SCHOOLS

Although still legally mainstream school placements where they are part of the mainstream school, SEN units are specialised provisions within mainstream schools that offer additional support and resources to pupils with SEN.

Pupils in SEN units have access to the mainstream curriculum, allowing them to learn alongside their peers in subjects such as mathematics, science, and humanities. Modifications and accommodations are made as needed to accommodate the diverse learning needs of pupils while ensuring they can engage with age-appropriate educational content. SEN units often have additional resources and facilities within the mainstream school, such as quiet rooms, sensory spaces, and assistive technology. These resources are designed to create an inclusive learning environment, accommodating various learning styles and sensory preferences.

SEN units at mainstream schools play a crucial role in promoting inclusive education, allowing pupils with SEN to access high-quality education while benefiting from the social and emotional aspects of mainstream schooling. This approach not only supports the academic progress of pupils with SEN but also promotes understanding, acceptance, and empathy among all pupils in the school community.

SEN units are often designated for supporting children with a specific area of need, e.g., Autism, cognition and learning or social, emotional and mental health needs.

PUPIL REFERRAL UNITS (PRUs) / ALTERNATIVE PROVISION ACADEMIES

PRUs/ alternative provision academies are designed for pupils who have been excluded from mainstream schools due to behavioural issues or other challenges. Some PRUs specialize in supporting pupils with SEN, providing additional resources, therapeutic interventions, and individualized education plans to address their specific needs. These settings focus on re-engaging pupils with education and promoting positive behaviour and emotional well-being.

MAINTAINED SPECIAL SCHOOLS / SPECIAL ACADEMIES

Specialist SEN schools are specifically designed to cater to pupils with a wide range of SEN. These schools have highly trained staff, specialist facilities, and tailored curricula to support various learning difficulties, disabilities, and behavioural challenges. Most pupils in these schools will have an EHC Plan and will receive individualised provision and a comprehensive support system.

Special schools are equipped with specialised facilities and resources designed to support pupils with diverse needs. This may include sensory rooms, adapted classrooms, assistive technology, and mobility aids. These facilities are crucial in creating an inclusive and accessible learning environment for all pupils.

There are a number of types of special schools that support specific types of learners, including autism, communication and language, sensory impairment and social, emotional and mental health.

Each type of special school is tailored to address specific challenges and provide appropriate support for pupils with diverse SEN. The goal is to create a supportive and inclusive learning environment where every child can achieve their full potential and lead a fulfilling life.

NON-MAINTAINED SPECIAL SCHOOLS

These schools are approved by the Secretary of State under section 342 of the Education Act 1996. They are not-for-profit and most are run by charitable foundations. The schools support children with complex SEN, most of whom will have EHC Plans.

INDEPENDENT SPECIAL SCHOOLS

These are private schools that exclusively serve students with SEN. These schools offer individualized education, therapy, and support services tailored to the specific needs of each child. Independent special schools often have smaller class sizes and a focus on personalized learning plans.

RESIDENTIAL SPECIAL SCHOOLS

Residential special schools provide full-time education and accommodation for pupils with severe or complex SEN. These schools offer a holistic approach, combining education, therapy, and care in a supportive residential setting. Residential special schools cater to pupils who require round-the-clock support and benefit from a structured and nurturing environment.

FURTHER CONSIDERATION & CONCLUSION

A further point to consider when choosing an independent school is whether the establishment is "section 41 approved". A section 41 approved school has been approved by the Secretary of State for Education under **section 41 of the Act**. These schools are officially recognized as suitable institutions to provide SEN support and services for children and young people with EHC Plans.

Implications of not being on the approved list:

1. **Naming the School in an EHC Plan:** Independent schools that are not on the section 41 approved list cannot be named in an EHC Plan without a positive offer of a place from the school. The school retains control over its admissions and this cannot be overruled by a local authority or Tribunal.
2. **Parental Choice:** If the parents' desired school is not on the approved list, the local authority does not have the same legal duty to name the school in the child's EHC Plan, although it must still have regard to the general principle that children are to be educated in accordance with the wishes of their parents.
3. **Quality Assurance:** Section 41 approval ensures that approved schools meet certain standards and criteria set by the government. Schools that do not receive approval might lack the necessary quality assurance measures, potentially affecting the quality of education and support provided to students with SEN.
4. **Access to Specialized Services:** Approved schools often have access to a range of specialized services, therapists, and resources that are essential for supporting students with complex needs. Schools lacking approval might struggle to provide these services, impacting the overall learning experience of students with SEN.
5. **Legal Protections:** Pupils attending section 41 approved schools have legal protections and rights outlined in **the Act**. Schools lacking approval might not be able to provide the same level of legal safeguards and advocacy for pupils and their families in case of disputes or disagreements.

Understanding the types of placements available is key to making informed decisions on how to support a child with SEN to ensure that their needs are met academically, socially, and emotionally. It is essential to explore these to find an educational environment where the child can receive the necessary support to meet their needs.

About Pathfinder Legal Services Ltd's SEN Team

We have a highly skilled team of lawyers specialising in Special Educational Needs and Disability Tribunal cases. We advise and represent local authorities in appeals and advise schools in respect of disability discrimination claims. Our lawyers have a wealth of experience in identifying needs, provision, and placement issues and work closely with SEN officers, educational psychologists, and other specialist witnesses. We pride ourselves on our collaborative approach with parents, for whom the tribunal process can be very stressful. We get to know our client and their schools and colleges very quickly and are able to tailor our service to our client's needs.

About Pathfinder Legal Services Ltd

As a 'social enterprise law firm', Pathfinder Legal Services Ltd is one of the first of its kind to be established in the UK and is wholly owned by Cambridgeshire County and Central Bedfordshire Councils. We are experts in our field and provide a tailored legal service exclusively to the public and not-for-profit sectors, our clients are key, and our fees reflect this: our charging rates are substantially reduced and our billing system transparent. Our credibility, values and focus remain paramount to all that we do as a publicly owned legal service provider, with clients including Local Authorities, Integrated Care Boards, Foundation Trusts, Charities and Fire Services. In 2021 the firm was awarded 'Law Firm of the Year' (under its previous trading name of LGSS Law Ltd) at the prestigious Cambridgeshire Law Society's legal awards.

If you are keen to find out more about Pathfinder Legal Services including how our services work, our billing process and how to instruct us, please contact us at operations@pathfinderlegal.co.uk

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