

SPECIAL NEEDS
IN THE
EARLY YEARS
PARTNERSHIP AND PARTICIPATION

EDITED BY
REBECCA CRUTCHLEY



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1

LEGISLATION AND POLICY: TOWARDS A PARTICIPATORY PARTNERSHIP

REBECCA CRUTCHLEY

CHAPTER OBJECTIVES

- How does the Children and Families Act build upon and extend previous legislation and policy?
- How does the Children and Families Act position parents and children as active participants in decision making?
- Why are the voices of children and families important?
- What are the challenges?

The Children and Families Act 2014 is the largest reform of services for children with special educational needs and disabilities for a generation. Significantly, the articles in the Act relevant to the development of provision for children with Special Educational Needs and Disabilities (SEND) aim to place children and families at the centre of the decision-making process. The 2015 SEND Code of Practice, which replaces the Code of Practice published in 2001, states that local authorities (LAs) ‘must have regard to the views, wishes and feelings of the child or young person and their parents’ (DfE, 2015c: para. 1:1).

In this chapter we will consider how the Act builds upon and develops existing legislation, examine the context within which the Act was developed and explore the benefits and challenges of activating child and parent participation. The Act incorporates the existing regulations stipulated in the Equality Act (DfE, 2010b) designed to protect children and young people with SEND against discrimination or prejudice.

Over time, special needs and disabilities have been viewed according to a range of different theoretical models and perspectives. As you read through the history of SEN legislation, summarised below, consider how the following models and perspectives are reflected. Further discussion of the impact of these models on provision for children with SEND is included in Chapter 4.

MODELS OF INCLUSION

The Medical Model

The medical model of disability positions a person's disability based on their individual impairment with a focus on how the impairment can be managed and, if possible, overcome. Critics of this approach claim that it fails to recognise the way that society impairs individuals with disabilities. The medical reference refers to the perceived expertise of the medical profession in developing solutions and interventions to support the needs of children and young people with disabilities.

The Social Model

The social model of disability asserts that disability is caused by barriers existent within society which serve to prevent children and young people with disabilities and SEN from participating fully and having equal access to health, education and social care services.

The social model was initially conceptualised by the disability rights activist Paul Hunt in 1966, in his book *Stigma: The Experience of Disability*. However, the clear distinction between a medical model and a social model of disability was made through the work of Michael Oliver when, in 1990, he rewrote the questions to the UK Office for Population, Census and Surveys to consider the impact of disability from a societal perspective. Reframing questions such as 'Do your health problems prevent you from going out as often or as far as you would like?' to 'Are there any transport or financial problems which prevent you going out as far or as often as you would like?' repositioned the barriers faced by children and young people as externally rather than internally imposed upon them (Giddens and Sutton, 2013: 467).

The Affirmation Model

Initially conceptualised by Swain and French (2000), the affirmation model rests on the premise that provision for children with SEND and consideration of their strengths and needs must evolve from their own perspectives and definitions of their disabilities. Rejecting the 'tragic' model of disability, the affirmation model recognises that disability is an integral aspect of a person's identity.

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The Bio-psycho-social Model

Also known as the integrative model, this model was developed by Engel in 1977, and recognises the interplay between environmental, biological and psychological influences which affect the way in which a child or young person's disability may be experienced. Crucial to this model is the recognition that children with the same condition will have diverse experiences of their disability due to the impact of these experiences. Recognising the individual child's strengths and needs and not solely their condition is therefore key to effective provision.

A brief history of SEN legislation and policy

The following section will explore how legislation from the Education Act 1944 to the most recent, the Children and Families Act 2014, has addressed the needs of children with SEN or disabilities, with a particular focus on the extent to which successive policies have recognised the role of parents and children in decision making.

The Education Act 1944

The Education Act 1944 was the first act of legislation to suggest that children with disabilities may benefit from schooling and that local authorities (LAs) had a responsibility to provide this. Before considering the impact of this Act to the evolution of the SEND field, it is vital to consider the context within which the reforms were developed, as this provides an insight into the influences underpinning such legislative change. The Education Act 1944 (also known as the Butler Act, after the then education minister) was part of a raft of social welfare reforms which recognised the ways in which society was changing as a result of the Second World War and in the immediate post-war period. Although the main focus of the act was to seek to redress social inequality imbalances in the education system (through the introduction of the 11+ and the Grammar schools system), there were, nevertheless, some references to children with SEND when the newly appointed education minister stipulated that LAs should have regard to the education of children who 'suffer from any disability of body or mind' (Ministry of Education, 1944: 5). As such 11 categories were identified to assist LAs in assessing appropriate educational provision. LAs were thus authorised to compel parents to have their children examined by medical professionals in order for this categorisation process to take place. The perspectives of parents on their child's skills and abilities did not appear to be of relevance. The 11 categories of handicap identified in the Education Act 1944 ranged from those children considered to be 'delicate', children who were diabetic, deaf and blind children, and children with a physical handicap. Although the categories recognised, to some extent, the requirement for specialist provision to be offered to children with additional

needs, following these medical assessments many children were deemed 'ineducable' and placed in non-educational settings where the emphasis was more on their medical care than on their education. These apparently 'ineducable' children were categorised as 'educationally sub-normal' (ESN). This reliance on what we would now regard as the 'medical model' approach to children with SEND disempowered parents from taking an active role in decisions made about their child's education and instead gave authority to medical professionals who pathologised the child's additional needs. Indeed, the role of children and their families was in some ways perceived to be problematic, as it was anticipated that some parents might reject the decision of medical practitioners if their child was deemed unsuitable for mainstream provision. As such, parents were compelled to sign a form, the Handicapped Pupils Form, effectively agreeing with the decision made by the medical profession for their child to be 'educated' in alternative provision. Therefore although the Education Act 1944 asserted local education authorities' responsibilities to ensure provision for children regardless of their abilities, the nature of this provision was decided without consultation or consideration of child and parent perspectives and did not reflect equal access to educational opportunities on the same terms as their non-disabled peers. It is clear, then, that the legislation above reflects the authority invested in the medical profession within society at the time, with little acknowledgement of the personal experiences of families raising children with disabilities. Furthermore, access to information regarding effective approaches to supporting children with disabilities was only just emerging, again from the medical profession who were therefore 'gatekeepers' of this expertise. Thus, according to Tomlinson (1982), children and parents' perspectives were not merely invisible, they were also seen as problematic. This failure to provide equal access to educational opportunities for the 'educationally subnormal' was further compounded by children being placed in residential settings far from their family and community, thus heightening their vulnerability and isolation.

It was not until the 1970 Education Act (DES, 1970) (also called the Handicapped Child Act) that access to education started to be considered as a right for all children, regardless of ability, and as such special schools were further developed. One of the consequences of the 1970 Education Act was the transferring of responsibility for provision for children categorised as educationally sub-normal (ESN) from health authorities to education authorities. The ESN category was sub-divided into educationally sub-normal severe (ESNS) and educationally sub-normal moderate (ESNM). However, despite the responsibility shifting from health to education, the vast majority of children in both the ESNS and the ESNM categories continued to be educated in special schools where there was an emphasis on 'functional skills' rather than educational attainment. Nevertheless, the Handicapped Child Act did hint at the emergence of a developing awareness that children previously deemed 'ineducable' could, with appropriate educational support and expertise, attain skills and knowledge perceived to be necessary for integration into society. Such perceptions were influenced by earlier comments made in the Plowden Report (1967), originally commissioned to address concerns about inappropriate pedagogy in primary schools as a result of

pressure to meet the demands of the 11+ system, and which led to changes in teaching and learning practices in pre-school and early primary provision, which stated that 'Modern society accepts responsibility for the welfare of its handicapped members to a greater extent than did earlier generations and much has been done during the last 50 years to enable children suffering from all kinds of handicap to take their place in society as they grow up' (1967: 296).

Although there would appear to be the roots of a more social model of disability emerging here (see above), it is not clear from either the Plowden Report or from the Handicapped Child Act, if the environmental barriers referred to are poor parenting practices or barriers existent within wider society in general.

The Court Report

So far much of the legislation discussed has focused on the development of provision for children with SEND within (or indeed separate from) primary and secondary school provision. The Court Report (1976) (titled *Fit for the Future*) by contrast could be described as the precursor to the early intervention approach (discussed in depth in Chapter 7) in that it advocated a developmental approach to assessment and provision for children with SEND and recognised the benefits of early health screening. Although the medical model still dominates in much of the report, for example, 'the arrangements may provide for the education of the pupils in special schools appropriate to the category to which the pupils belong or in schools not maintained by a local education authority' (1976: 33, 2b), there is nevertheless an emerging acknowledgement of the need to consider the social determinants of health and disease, and to act to mitigate such determinants, advocating a community-based approach rather than an institutionalised one.

The Warnock Report and the Education Act 1981

Published in 1978, the Warnock Report was commissioned to explore provision for handicapped children and young people. The report findings were to influence SEND provision for many years to come. Warnock referred to the changes within society, which recognised more fully the rights of children and young people with disabilities. The report also outlined new approaches to assessing the needs of children, which signalled a move away from the previous reliance on intelligence quotient tests and to more holistic, multi-disciplinary assessments. The 11 categories of handicap (Butler, 1944; DfES, 1981) and the distinctions between degrees of educational subnormality (DfES, 1970) were replaced within the broad continuum of the term 'special educational need', and crucially there was acknowledgement of the need to consider children's individual needs, rather than provide services based on the label or category previously ascribed. Significantly, partnerships between professionals and parents were advocated, while responsibility for ensuring appropriate provision for children with SEND was with local education authorities. Perhaps the most significant recommendation from the Warnock Report was that children with SEND should, wherever possible, be integrated into mainstream provision. This, more than any other act of legislation, heralded the drive to inclusion that has characterised SEND educational provision thereafter. While there is

a clear shift in the Warnock Report away from a medicalised perspective towards children and young people with SEND and a recognition of the importance of parent's perspectives, the report (and the subsequent Education Act of 1981, which enshrined the committee's recommendations in law) has been criticised for, amongst other things, not raising the expectations for children with disabilities sufficiently. For example, as Tomlinson notes (1982), Warnock appears to convey the message that the workplace cannot accommodate handicapped workers, suggesting that educational goals and targets would be set accordingly with a continued emphasis on functional life skills rather than academic attainment. Similarly, the statement below suggests that appropriate provision for children with SEND remained constrained by financial priorities.

In present economic circumstances there is no possibility of funding the massive educational resources ... which would be required to enable every ordinary school to provide an adequate education for children with serious educational differences.

(Department for Education and Skills, 1981 quoted
in Tomlinson, 1982: 54)

Warnock herself, in 2005, questioned the appropriateness of the drive to inclusion for all children with disabilities, stating that special schools were still the most appropriate educational setting for children with profound or multiple disabilities, and appearing to question the ability of mainstream schools to accommodate the needs of all children with SEND. Nevertheless, despite the criticisms levelled at the Warnock Report and the 1981 Education Act, several key principles were conveyed by the committee which continue to be relevant today, for example the importance of suitable educational provision appropriate to the needs of the individual child, the significance of holistic, multi-disciplinary assessment methods, and the role of parents as partners in decisions made about their child's educational future.

The Salamanca Statement

In 1994, the United Nations Educational Scientific and Cultural Organization (UNESCO), working in collaboration with 92 government representatives and 23 international organisations, developed the Salamanca Statement, aimed at stating a clear commitment to 'Education for All'. UNESCO recognised that provision for children with SEND cannot occur in isolation but needs to be developed alongside reform of 'ordinary schools' and through changes in attitudes and perspectives towards inclusion for children with diverse needs and aptitudes. For example, section 2 of the Salamanca Statement clearly outlines the committee's commitment towards inclusion, stating that all children have a 'fundamental right' to education and must be given the opportunity to reach their potential. Furthermore the statement recognises that all children have unique characteristics, interests, abilities and learning needs and that education systems should be sufficiently flexible to respond to this diversity. The statement advocates that children with SEN should be assured access to 'regular' schools where the pedagogy is appropriate to support

their learning and development, and through which discriminatory attitudes within schools and wider communities can be challenged (UNESCO, 1994).

However, while the intentions of the Salamanca Statement were laudable and widely welcomed in the field of special education, there have been concerns raised, not least by UNESCO itself, five years after the statement was produced, that insufficient progress has been made in assuring education for all (UNESCO, 1999). The significance of a rights-based approach rather than a needs-based approach is further reflected in subsequent legislation, and has been influential amongst parent advocate groups and disability rights activists in campaigns for these rights to be realised.

Furthermore, in the UK, successive legislation and policy guidance has shown an ongoing commitment to addressing inequalities in education opportunities for children with SEND, as outlined in the examples below.

Evaluation Reports and Guidance Documents

As legislation aimed at enhancing provision for children with SEND was introduced, evaluation reports of current provision and guidance materials which reflected changes to legal requirements for schools and settings in regard to inclusion began to emerge, aimed at capturing the key challenges faced by children with SEND and their families and assisting educational providers to meet the revised requirements. Table 1.1 provides a brief summary of the key reports.

Table 1.1 Guidance and publications

<i>Special Educational Needs: A Mainstream Issue</i> (Audit Commission, 2002)	This report evaluated the progress made by local authorities in addressing the needs of children with SEND and made ten recommendations aimed at ensuring that all children regardless of gender, ethnicity or family background received appropriate support.
<i>Supporting Families Who Have Children with Special Needs and Disabilities</i> (Sure Start, 2002: 5)	As this guidance was produced by Sure Start, its aim was to ensure that Sure Start programmes were delivering on their commitment to support children with SEND and their families
<i>National Service Framework for Children</i> (DoH, 2003)	This framework set out 11 standards to be met in addressing children's health needs, eight of which were specifically directed at children with disabilities or complex health needs.
<i>Removing Barriers to Achievement: The Government's Strategy for SEN</i> (DfES, 2004a)	The Labour government's programme for a 'sustained strategy' of support for children with SEND and their families, focusing on 'partnership working between local authorities, early years settings, schools, the health service and the voluntary sector and incorporates our strategy for improving childcare for children with special educational needs and disabilities' (p. 4).

<i>Improving the Life Chances of Disabled People</i> (DfES, 2005)	Joint report by the Department for Work and Pensions (DWP), the Department for Education and Skills (DfES) and the Department of Health (DoH) charged with addressing the barriers to effective life chances for people with disabilities.
<i>Inquiry into Special Educational Needs</i> (IPSEA, 2005)	Critical report by Independent Panel for Special Education Advice which evaluated the impact and effectiveness of Government SEN strategy.
<i>Aiming High for Disabled Children</i> (HM Treasury, 2007)	Additional (Labour) government strategy with a focus on: <ul style="list-style-type: none"> • access and empowerment; • responsive services and timely support; and • improving quality and capacity.
<i>Inclusion Development Programme</i> (DCSF, 2009c)	A series of guidance documents focusing on different areas of SEND aimed at supporting practitioners working in the early years sector through to secondary stage.
<i>The Bercow Report</i> (Bercow, 2008)	A report into the causes and consequences of Speech Language and Communication Needs (SLCN) in the early years.
<i>Raising Standards, Improving Outcomes</i> (DCSF, 2008b)	Published as guidance to accompany the Children Act 2006, and aimed at reducing inequalities between children aged 0–5 years.
<i>Healthy Lives, Brighter Futures</i> (DCSF, 2009a)	A health-led initiative which recognised that steps needed to be taken to address inequalities arising from the social determinants of health, including for children with SEND.

PAUSE FOR REFLECTION

- How is the medical model still evident in some examples of provision for children with SEND in schools and settings?
- How effective do you think the social model of disability has been in changing society's perception of children and young people with SEND?
- How might the social model empower parents and children to be active participants in the development and provision of services for children with SEND?

The Equality Act 2010

Although this Act focuses beyond provision for children with SEND, it is worth noting that it recognises disability as one of its protected characteristics, and as

such this Act (which supersedes all previous disability discrimination legislation) places requirements on schools (section 6) and all other public institutions to make reasonable adjustments relating to three key requirements (DfE, 2010b):

- To develop amendments to any provision, criterion or practice.
- To make changes to physical features.
- To offer auxiliary aids and services.

The Code(s) of Practice (1994, 2001, 2015)

As noted earlier, one of the key legacies of the Warnock Report was the shift away from IQ-based assessments of children's capacity for learning towards a holistic approach which recognised the parent's and to a lesser extent the child's voice in decision making. Guidance for schools on effective assessment of children with SEND was initially published in the Code of Practice in 1994. This was the first in a series of guidance documents which accompanied relevant legislation and advised schools and settings on their responsibilities to ensure provision was made to meet the needs of all children. The first Code of Practice (DfES, 1994) advocated a five-stage process for assessment, known as the Graduated Approach. It also introduced the statementing process for the first time for children whose needs required significant additional support, and initiated the role of the Special Educational Needs Coordinator (SENCO). Subsequent Codes of Practice have developed the guidance in line with legislative change. The most recent Code of Practice published in January 2015 (DfE, 2015c, amended May 2015) outlines how schools and settings must meet the legislative changes introduced in the Children and Families Act 2014, the details of which are discussed later in the chapter.

The Changing Role of the SENCO

The DfE 1994 Code of Practice and its 2001 revision formally introduced the role of the SENCO, outlining this role as:

- overseeing the day-to-day operation of the school's SEN policy
- coordinating provision for children with special educational needs
- liaising with and advising fellow teachers
- managing learning support assistants
- overseeing the records of all children with special educational needs
- liaising with parents of children with special educational needs
- contributing to the in-service training of staff
- liaising with external agencies including the LEA's support and educational psychology services, health and social services, and voluntary bodies.

(DfES, 2001: 56)

The SENCO role has continued to evolve as an increasing number of children with SEND begin to attend mainstream schools and in response to the multi-agency framework (discussed more in Chapter 9) which required professionals from education, health and social care to work in partnership to support children's development

and learning. In 2009, the workload and responsibilities of SENCOs (in statutory school provision at least) were recognised further with the introduction of the National SENCO award, a Master's level qualification which became a compulsory requirement for professionals working in this role in maintained schools. This award has been praised for its recognition of the complex and challenging role of the school SENCO, in particular the acknowledgement that in order for the roles and responsibilities of the SENCO to be conducted effectively they must be members of the school leadership team (SLT), and must be supported through policy and practice by the values and ethos of the headteacher (Griffiths and Dubsy, 2012). However, for non-maintained early years settings, there have been concerns that since the National SENCO award can only be completed by qualified teachers, the valuable work of inclusion workers in private, voluntary and independent early years settings (PVI) remains unrecognised and the role of staff in these settings in the initial assessments and intervention support provided for children with SEND and their families is under appreciated. For example Marrs-Grant (2015) advocates a broad range of training opportunities for SENCOs in PVI settings, from level 4 qualifications through to Master's level, while simultaneously stressing the need to safeguard the role of the Area SENCO (qualified teachers who support PVI settings with their SEND provision). Despite these differences between the maintained and the non-maintained sector, all provision needs to comply with the legal requirements of the 2015 Code of Practice. Further discussion on access to training is provided in Chapter 8.

As the role of the SENCO has continued to develop and increase in status and responsibility, the role has become increasingly more managerial, thus the role of the class teacher (or key worker in early years settings) as the member of staff accountable for the progress and development of children with SEND has increased in importance. The many references to 'quality-first teaching' in the 2015 Code of Practice reflects this accountability. Emanating from Ofsted's report into SEN (2010) which suggested that provision within the classroom needed to be considered as a contributory factor in the under-achievement of children with SEND, the focus on quality-first teaching coincided with the re-categorising of children with additional needs, from School Action/School Action Plus (Early Years Action/Early Years Action Plus) to a more generic category of 'SEN support', alongside SEND funding changes (see below).

To conclude this section on the development of the Codes of Practice since the initial Code in 1994, consider this paragraph from the 2015 version:

When a child is very young, or SEN is first identified, families need to know that the great majority of children and young people with SEN or disabilities, with the right support, can find work, be supported to live independently, and participate in their community. Health workers, social workers, early years providers and schools should encourage these ambitions right from the start. They should seek to understand the interests, strengths and motivations of children and young people and use this as a basis for planning support around them.

(DfE, 2015c: 19)

PAUSE FOR REFLECTION

- Consider the shift in expectations for children with SEND compared to comments made in the Warnock Report which recommended counselling for parents whose children were identified as having SEND.
- How is the social model of disability reflected in this paragraph?

Impact of Educational Policy upon SEND Provision

Provision for children with SEND is strongly influenced by changes in educational policy in general. For example, the introduction of the National Curriculum and age-related attainment targets have been criticised by disability rights campaigners for establishing a 'normative' developmental pathway which may not be appropriate for children with SEND and immediately creates a deficit model of their attainment. The publication of school league tables and parental choice in schooling places schools in competition with each other and may deter them from admitting children with SEND and/or entering them for examinations. Finally, the academisation of the state school system with the freedom for schools to set their own admission procedures has raised concerns that the availability of mainstream school placements for children with SEND could be jeopardised (Norwich, 2014)

Development of Early Years Education and Care and SEND Provision

As noted earlier, much of the legislation discussed refers to SEND provision within the maintained primary and secondary education sector. However, it is important to recognise concurrent developments across the early years sector in England during the same time period, not least because the recognition of the importance of early intervention placed considerable responsibilities upon early years providers to provide inclusive education provision for children with an increasingly wide range of needs. In addition, many of the principles of effective partnership with parents initiate from practice within early years settings as it is often during this period of education and care that a child's SEN may be first identified (Wall, 2011). Therefore sensitive relationship building between parents and professionals needs to be developed. As will be shown, however, despite recognition from successive governments of the importance of early identification and intervention for children with SEND, allocation of funding to support practitioners to meet the needs of children and families has been adversely affected by the removal of 'ring-fencing' for SEN services since 2010, and the reduction in the number of Children Centres (see below) created to serve as multi-agency service hubs. As discussed above, the impact on the PVI sector, has been further exacerbated by their inability to access the full range of SENCO training opportunities offered to maintained sector early years providers (nursery schools and foundation stage units in primary schools) due to the requirement after 2009 for SENCOs to be qualified teachers, very few of whom work in the PVI sector. This is despite the fact that 80 per cent of children under three are cared for in the PVI sector (Lloyd and Penn, 2013).

Sure Start and the Evolution of Children Centres

Following the election of a Labour Government in 1997, there was considerable investment in early childhood services, influenced largely by research from the High/Scope Perry project in the USA (Schweinhart et al., 1993), which revealed the economic benefits in later years of investment in high quality early education and care, notably reduced unemployment, reduced drug and alcohol dependency, reduced anti-social behaviour and criminality and reduced educational intervention services. Further evidence has been highlighted in the Effective Provision of Pre-School Education (EPPE) project (Sylva et al., 2010) which has demonstrated that high quality pre-school environments, particularly those led by graduate level staff, where practitioners engaged in ‘Sustained Shared Thinking’ produced long term positive benefits for children’s cognitive development and personal, social and emotional development. In addition the introduction of the Sure Start Local Programmes (SSLPs) initiated the introduction of community based programmes and intervention projects in the 30 per cent most deprived areas of the country. Initial projections were for there to be 250 Children Centres each serving 600–800 children and families. The initial SSLPs had a strong emphasis on parental partnership and community decision making. As reported by Naomi Eisenstadt (2011), the original director of Sure Start, local parents were involved in the decision making and planning process from the start, through the introduction of partnership boards where service providers and parent carers would discuss the needs of local families and communities. However, due to perceived concerns about financial accountability within the SSLPs, and the complexities involved in evaluating the impact of the programmes, the provision of services was removed from local community management into local authority Children Centres (although some voluntary providers remained), culminating in the development of 3,500 centres by 2008 (Eisenstadt, 2011). It should be noted that since the recession in 2008, and the election of the Coalition Government (continued by the Conservative Government in 2015), Children Centres in many local authorities have been closed or had their services combined in a hub/spoke model following the removal of ring-fenced funding for Children Centres. As such Children Centres across the country have been merged, with services serving a larger population or in some cases closed altogether (Butler, 2013). Since this time, the Education Improvement Grant (EIG), which did not include the 2-year-old offer (funding for this is now part of the dedicated schools grant) steadily decreased from £3.3 billion in 2010/11 to £1.5 billion in 2015/16 (National Children’s Bureau, 2015) and was recently subsumed into general LA funding allocations. Although the early evaluations of Children Centres were inconclusive about the direct impact the programme had on the most vulnerable families (Eisenstadt, 2012), including those with children with SEND, nevertheless it was recognised amongst the service providers that the expectation for professionals to work in collaboration with each other and more significantly in partnership with parents, offered the opportunity to enhance relationships with key stakeholders and facilitate greater communication and shared understandings of children’s needs. The co-location of these services in the initial phases of the Children Centre programme greatly facilitated this collaboration.

Subsequent phases of the Children Centres were able to reduce the services provided under a revised core offer; however, there was a clear direction of travel towards inter-agency cooperation which reflects the widest remit facilitated by such mechanisms as the Common Assessment Framework and the Lead Professional role. Thus the multi-agency approach had a significant impact on service provision for vulnerable children, including those with SEND, and perhaps more significantly on perspectives and attitudes towards inclusion. The abandonment of the Every Child Matters (ECM) agenda, following the election of the Coalition Government in 2010, may have removed the five outcomes, but multi-agency approaches continue to be promoted at policy level and in professional practice (see below). Concerns raised by professionals from the fields of early education and special educational needs about the cuts to Children Centre funding (Butler, 2013) have been challenged by the DfE, who stress that their commitment to early education is reflected in their manifesto pledge to increase funding for 3-year-olds' places from 15 hours to 30 hours per week (due to be rolled out in September 2017) and to continue the expansion of the 2-year-olds' provision for vulnerable families (including families with children with SEND). However, in addition to the questions raised by the National Day Nurseries Association (2017) in their response to the DfE report on childcare and education in England (DfE, 2017), about the affordability and capacity for providers to offer the 30 hours (only 63 per cent of private nurseries and 44 per cent of school-based providers have so far pledged to offer the extra 15 hours), other professionals in the field are critical of the qualification levels and expertise amongst staff in the PVI sector and within school-based settings, where many of the children now access their early education and where early identification of additional needs is imperative in order for support to be most effective (Hillman and Williams, 2015).

Early Education Curriculum Development

Alongside structural change to services for children under five, including those with SEND as outlined above, came curriculum change. In 2000, the Curriculum Guidance for the Foundation Stage was introduced for children aged 3–5 (DfES, 2000), followed by the Birth to Three Matters in 2003 (DfES, 2003), and finally in 2008, the combined Early Years Foundation Stage (EYFS) framework for all children aged 0–5 regardless of the early years setting they attended (DCSF, 2008c). Significantly, these successive curricula frameworks, despite their 'age/stage' expectations, were promoted as inclusive curricula suitable for the assessment and provision for all children, regardless of ability (see Chapter 4). The play-based approach stipulated in the EYFS enabled an individualised approach to learning where activities and interventions could be planned and amended according to children's particular needs and interests, while the introduction of the key worker approach, whereby each child (and their family) would have an allocated member of staff to assess and monitor their progress, aimed to enable a source of communication and partnership between home and nursery. Further support materials which aimed to improve teacher's expertise when working with children with SEND were developed through the Inclusion Development Programme (DCSF,

2009c) (with support materials on autistic spectrum disorders, Down syndrome and speech and communication delays amongst others) and the raft of National Strategies (Early Years) publications which offered a wide range of materials and training packages for practitioners working with children in mainstream and special school provision across the PVI and maintained early years sector, for example Learning, Playing and Interacting (DCSF, 2009b) Not only did these support materials aim to address the need to raise expertise and knowledge across the early years sector, through the introduction of formal qualifications such as the Early Years Professional Status (since evolved into the Early Year Teacher Status), it demonstrated a recognition of the importance of enhancing assessment and identification and support for children with SEND and their families. The Inclusion Development Programme is discussed in more depth in Chapter 7.

Early Support Programme

Initially a pilot project and introduced in 2003, in response to the Together from the Start agenda (DfES, 2003), the Early Support programme (DfES, 2004a) was introduced for children with severe or complex needs, whereby the family are allocated a support worker (key worker) to navigate the SEND support services available to them. There was recognition therefore that access to services was patchy and complex and that partnerships with parents and carers were crucial to effective and appropriate provision for children with SEND. Although the nationalisation of the programme ended in 2015 due to reallocation of central government funding, organisations such as Council for Disabled Children and the National Children's Bureau continue to work with LAs using the principles of the Early Support programme. The Early Support programme is discussed in more depth in Chapter 7. The principles of the Early Support programme are embedded in the Children and Families Act 2014.

As can be seen from the above discussion, there has been consideration of child and parent voice in previous legislation and documentation. So, how does the most recent legislation build on this? As mentioned at the start of the chapter, the Children and Families Act marks a considerable change in service provision for children with SEND and their families, not simply in the context of education but in the health and social care services too. It would be useful therefore to consider the key influences upon the development of these SEND reforms.

Background to the Children and Family Act 2014

As suggested earlier, it is important to acknowledge the social, political and economic contexts within which the SEND reforms were developed. The year 2008 marked the start of a global recession which had an impact on service provision across the UK, while the election of a Coalition Government in 2010, followed by the election of the Conservative Government in 2015, led to a shift away from previous frameworks, including the abandonment of the Every Child Matters Framework, which had outlined the five outcomes which all services working with children and young people should strive to achieve.

In the lead up to the parliamentary presentation of the Children and Family Act 2014, the newly established Coalition Government launched the green paper

‘Support and Aspiration’ (DfE, 2011a) which was a consultation document eliciting the views and experiences of professionals working in the SEND field, and of parents and children who have been recipients of SEND provision and services. The report made a range of proposals based on this consultation exercise, many of which form part of the Children and Families Act, for example greater autonomy for children with SEND and their parents/carers, improved communication between local authorities and parents about services available to them (the local offer), improved identification of SEND, and a combined education, health and care (EHC) plan to replace statements and learning disability agreements. The ‘Support and Aspiration’ paper reaffirmed many of the concerns parents had raised in the 2009 Lamb Enquiry (Lamb, 2009) which had been tasked specifically with assessing parents’ and children’s experiences of SEN services. Notably that many felt disempowered and excluded from the system of support for children with SEND which was seen as being dominated by the voices and perspectives of professionals.

In 2010, the Office for Standards in Education (Ofsted), the body responsible for monitoring performance in schools and educational provision, including childcare, across England and Wales, published a report into provision for children with SEND across the early years, primary, secondary, and health and social care services entitled *The Special Education and Disability Needs Review: A Statement Is Not Enough* (Ofsted, 2010). While recognising some examples of excellent practice, it was nonetheless critical of much of the provision provided, and concluded with the controversial comment that too many children are being labelled as having SEN when they just need better teaching. Although there was opposition to this comment from the teaching unions, the comment did in fact echo parents’ own comments, that once their child had received an identification of SEN, this label served to determine the level and nature of support, rather than the individual needs of the child.

Similarly influential during the same period is the Salt Review (DCSF, 2010), which examined the education experiences of children with profound and multiple difficulties (PMLD) and expressed concerns about the level of expertise of professionals working with children with the most complex needs. The report recommended raising the status and specialism of staff working with children with PMLD, and acknowledged the need for this expertise to be shared across the special school and mainstream sector. Interestingly, despite the acknowledgement of the importance of parent and child voice in subsequent legislation, none of the 23 recommendations in the Salt Review explicitly recognise the importance of professionals being skilled and trained to work in effective partnership with parents and carers.

Nevertheless the recommendations from the reports such as those cited above coupled with the cost of intervention services for children with SEND during a period of economic recession sets the backdrop for the SEND reforms.

Key Changes to SEND Provision in the Children and Families Act

The Children and Families Act consisted of ten parts, of which only part 3 is directly relevant to the theme of this book. In addition, there are both explicit

Table 1.2 Summary of key changes in the Code of Practice (2015)

- The Code of Practice (2015) covers the 0–25 age range and includes guidance relating to disabled children and young people as well as those with SEN.
- There is a clearer focus on the participation of children and young people and parents in decision making at individual and strategic levels.
- There is a stronger focus on high aspirations and on improving outcomes for children and young people.
- It includes guidance on the joint planning and commissioning of services to ensure close co-operation between education, health and social care.
- It includes guidance on publishing a Local Offer of support for children and young people with SEN or disabilities.
- There is new guidance for education and training settings on taking a graduated approach to identifying and supporting pupils and students with SEN (to replace School Action and School Action Plus).
- For children and young people with more complex needs, a co-ordinated assessment process and the new 0–25 Education, Health and Care plan (EHC plan) replace statements and Learning Difficulty Assessments (LDAs).
- There is a greater focus on support that enables those with SEN to succeed in their education and make a successful transition to adulthood.
- Information is provided on relevant duties under the Equality Act 2010.
- Information is provided on relevant provisions of the Mental Capacity Act 2005.
- There is new guidance on supporting children and young people with SEN who are in youth custody.

(DfE, 2015c: 14)

(clearly stated) changes to provision and implicit (underlying principles) shifts in focus which are worth discussing, in terms of the impact upon professionals, parents and indeed children and young people with SEND. Table 1.2 offers a summary of some of the key changes to SEND provision in the Children and Families Act 2014 and the related 2015 Code of Practice.

PAUSE FOR REFLECTION

- What are some of the key principles underpinning the changes to SEND provision in the Children and Families Act 2014 and the 2015 Code of Practice?
- What challenges may be presented to practitioners working in the SEND field by the changes outlined above?

The SEN Code of Practice 2015

The Code of Practice (DfE, 2015c) was revised in January 2015 (and April 2016) to reflect changes initiated by the Children and Families Act. The new code stipulated the requirements in relation to the local offer, the EHC plans and to supporting children through ‘quality-first’ teaching and evidence-based interventions.

The graduated approach of ‘assess, plan, do, review’ was maintained, and further emphasis was placed on classroom teachers being accountable for the performance of all children in their class. In order for a child to be considered for an EHC plan, schools are now required to demonstrate that they have implemented appropriate evidence-based interventions to support a child’s needs and there has been little or no impact on the child’s developmental progress.

PAUSE FOR REFLECTION

- What are some of the possible challenges of teachers being required to demonstrate that they have implemented all possible evidence-based interventions?
- What impact might the repetition of the ‘assess, plan, do, review’ cycle have on children with SEN?

CASE STUDY

Katy is an assistant head teacher and early years manager in a primary school and Children Centre in North London, who has significant experience of implementing the new reforms. While she is positive about some of the changes to the SEN Code of Practice, particularly the commitment to working with children and their families, there are concerns that the focus on evidence-based interventions and the commitment to demonstrate that all reasonable steps have been taken to support a child before additional external support through the EHC plan can be achieved, risks delaying crucial support for children. Furthermore, providing evidence that a child has not made progress despite the interventions put in place can be quite challenging, particularly when sharing this lack of progress with parents. Katherine admits that in order to access additional funding, a deficit model of the child is required which runs contrary to the ‘strengths-based’ principles behind the assessment process (see Chapter 3). In addition, parents and professionals may have differing views about the child’s needs and strengths, and partnerships are at risk of being jeopardised unless a high degree of sensitivity is present.

PAUSE FOR REFLECTION

- What are the skills and qualities required by Katy to ensure that parents and carers feel empowered to be part of the assessment process?
- How might she demonstrate the additional needs of children with SEND in a positive and non-stigmatising way?

Criticisms and Concerns

While there has been widespread support for many of the key developments introduced to support children with SEND, notably the increased emphasis on children's and parents' involvement, there have also been concerns raised about some of the key changes to the Code of Practice. For example, concerns have been raised about how the new funding arrangements for schools can ensure that appropriate support can be provided for those children whose SEN does not meet the threshold for an EHC plan, but which require considerable additional support (e.g. those previously on Early Years/School Action Plus who are now placed in the SEN Support category). Similarly, an EHC plan is only available for children and young people who have both a disability and a SEN, or who have just a SEN. For children who have a medical need or a disability but no SEN, best practice guidance for schools is stated in the Code of Practice, but this is not statutory. Disability rights groups have also commented that the Local Authority can only enforce the education requirements of the EHC plans and not the health or social care provision, which may lead to parents continuing to battle to have their child's needs met in these areas. The expansion of the Academies programme since 2014 has added additional considerations for parents of children with SEND. For example, Special Academies can admit pupils without the need for an EHC plan (funding arrangements in Academies are different to LA-run schools, and is not dependent on EHC plans being in place). While this may be interpreted as a positive move for parents awaiting their child's EHC plan, particularly those in the early years, it may also deny the parents the right to appeal against provision in the school if there is no paperwork stipulating the school's responsibilities (Apsland, 2014).

CHAPTER SUMMARY

This chapter has explored some of the historical and current legislation and policy impacting on the provision for children with SEND and their families. The emergence of a partnership approach has been considered and the principles underpinning the reforms to SEND services have been outlined.

Suggested Further Reading

The books listed below offer some further information and guidance on the key points raised in this chapter.

Nutbrown, C. and Clough, P. (2013) *Inclusion in the Early Years*. London: Sage.

As the title of the book suggests, this book considers inclusion for children with SEND in the early years in its broadest sense. With careful consideration of key issues and practical examples of best practice, the book is essential for practitioners currently in the field and those training to enter the profession.

Tutt, R. and Williams, P. (2015) *The SEND Code of Practice 0–25 Years, Policy, Practice and Provision*. London: Sage.

This is a really clear and concise summary of the key changes to SEND provision following the introduction of the Code of Practice 2015 and the implications for practitioners working in the field of SEND.

Wearmouth, J. (2016) *Special Educational Needs and Disability: The Basics*. London: Routledge.

Although this book does not focus specifically on SEND in the early years, it nevertheless provides a detailed and clear account of recent changes to SEND provision and what they mean for professionals in the field.