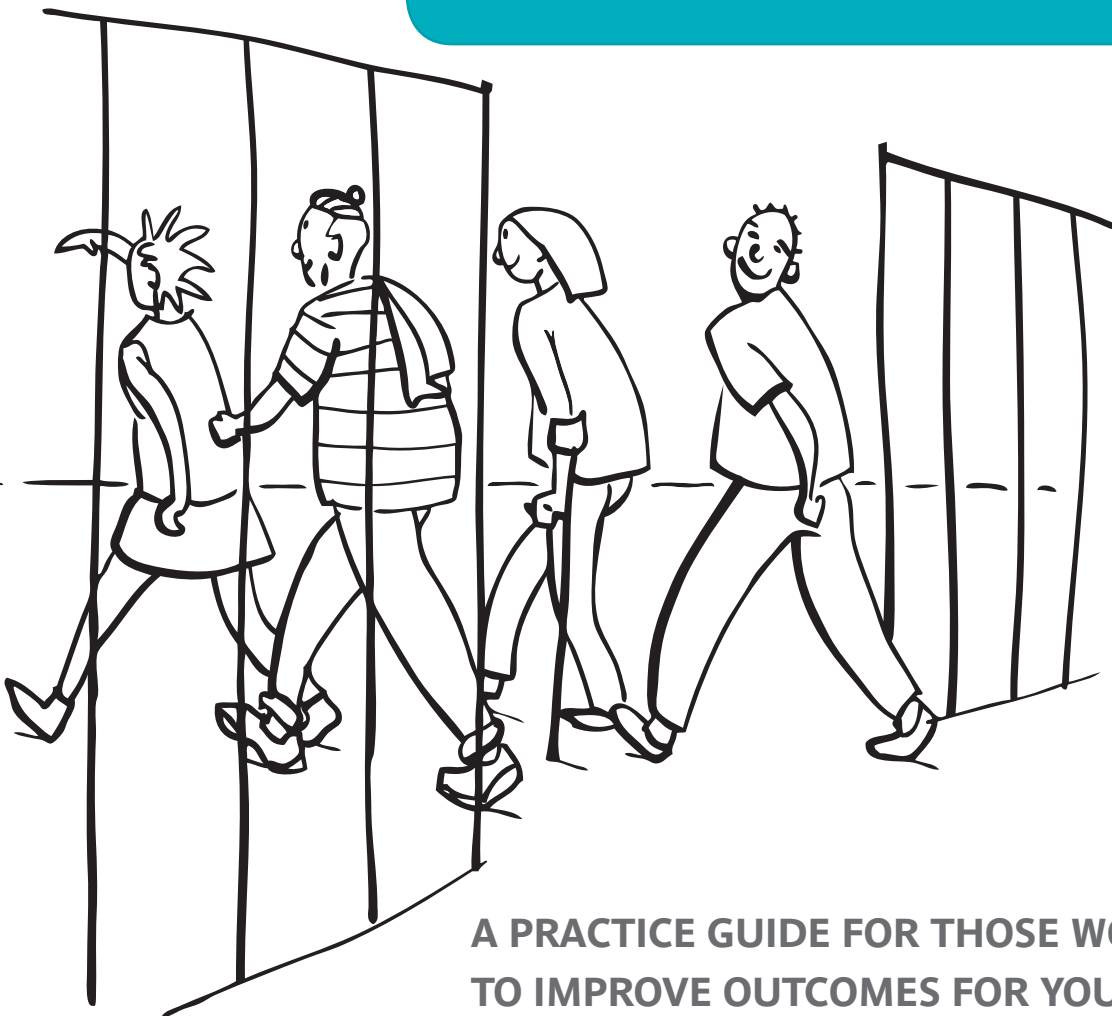


Supporting Children and Young People with Special Educational Needs in Youth Custody



A PRACTICE GUIDE FOR THOSE WORKING
TO IMPROVE OUTCOMES FOR YOUNG
OFFENDERS WHO HAVE OR MAY HAVE
SPECIAL EDUCATIONAL NEEDS

Part 1 : Strategy

Supporting children and young people with special educational needs in youth custody

IMPLEMENTING THE YOUNG OFFENDER DUTIES IN THE CHILDREN AND FAMILIES ACT 2014

About this resource

It's for:

- Directors of Children's and Adults Services and others local leaders
- Persons in charge of Youth Custodial Institutions
- Health service commissioners, including NHS England
- Local Authority Special Educational Needs (SEN) Teams
- Local Authority Youth Offending Team Managers
- Local authority looked after children teams

It provides:

Part 1

- A summary of the Children and Families Act duties on supporting children and young people with special educational needs in youth custody;
- Information and key questions for strategic leaders in developing local policies, commissioning services and establishing systems to meet the new duties; and

Part 2

- Information and key questions to help those putting the new duties into day to day practice.

The resource draws on discussions with local authority Youth Offending Teams and SEN Teams, Young Offender Institutions and other secure establishments, local education, health and social care professionals and NHS England at events organised by the Council for Disabled Children with the National Development Team for Inclusion between October 2015 and March 2016. The events were held to raise awareness and understanding of the Children and Families Act duties and discuss their implications for local practice.



Part 1

Improving support for young people with special educational needs in custody

- **The Children and Families Act 2014 SEN duties**
- **Information and key questions for leaders**

Young people in youth custody

The average population of young people aged 18 or under in youth custody in the year ending March 2015 was 1,037.

While overall numbers are small, young people in custody are some of the most disadvantaged in society. Many have complex needs; some have a history of substance misuse, mental health needs, and disrupted family backgrounds. Many will be in care or 'looked after' under the Children Act 1989. Around 38% of young people who entered custody in 2014 reoffended within 12 months of release and the rate of re-offending has been increasing since 2008.¹

Some 18% of young people in custody in 2013 had a statement of SEN compared to less than 3% in the general population². And research suggests that the prevalence of neuro-developmental disorders, such as autism, dyslexia, epilepsy and communication disorders, among young people in custody is higher than in the general youth population³ and that over 60% of those in the youth justice estate have difficulties with speech, language and communication.⁴

Young offenders have often had difficult and often poor previous experiences of education. As well as special educational needs, low attainment, persistent truancy, exclusion and child sexual exploitation are some of the most prevalent risk factors associated with offending behaviour. To help address these issues the Government introduced new duties through the Children and Families Act 2014 to improve identification, assessment and support of young offenders with special educational needs and reduce reoffending. More recently, the Taylor Review of the Youth Justice System recognised the strong links between education and offending and affirmed the central importance of education to improving outcomes for young offenders and ensuring an effective youth justice system.⁵

1 Youth Justice Statistics 2014/15 England and Wales – Ministry of Justice/Youth Justice Board (January 2016)

2 Transforming Youth Custody – Government response to the consultation (Ministry of Justice, January 2014)

3 Hughes, N et al (2012) Nobody made the connection: The prevalence of neuro-disability in young people who offend

4 Bryan et al (2007) Prevalence of speech and language difficulties among young offenders

5 Review of the Youth Justice System: An interim report of emerging findings, Ministry of Justice (February 2016)

Youth offending is costly

The costs of offending to the life chances of individual children and young people are significant.

The costs of youth offending to society are also significant, including physical and emotional costs to the victims of offending. Estimates of the financial costs vary. The average cost per year of a place in the youth secure estate ranges from £65,000 in a Youth Offender Institution to £178,000 in a Secure Training Centre, and £212,000 in a Secure Children's Home⁶. The National Audit Office estimate that on average each young offender costs £8,000 per year to the criminal justice system alone (each of the most costly offenders costs £29,000).⁷ There are further costs to individuals and businesses in protecting themselves from offender behaviour and additional costs to the economy and public services from young offenders being out of education, employment and training and requiring extra support from a range of services.

Better identification of children and young people's needs and better support in custody and on release can play a major role in assisting their resettlement in the community, enabling them to be in education, employment or training and avoid reoffending. As well as improving long term outcomes for children and young people this has the potential to reduce expenditure in the future and enable better use to be made of resources.

The young offender duties

New duties on local authorities, health bodies and youth offending institutions in relation to children and young people up to 18 years of age with special educational needs in youth custody were introduced by the Children and Families Act from April 2015. They are designed to promote better outcomes for children and young people by:

- providing continuity by making their home local authority responsible for their special educational provision in the community and in custody,
- helping resettlement by ensuring that appropriate special educational provision continues when a child/young person returns to the community, and
- making best use of the time in custody by enabling assessment of the child/young person's special educational needs to get underway and support to be put in place immediately they are released.



6 Transforming Youth Custody: Putting education at the heart of detention, Ministry of Justice (February 2013)

7 The cost of a cohort of young offenders in the criminal justice system – Technical Paper, Ministry of Justice/National Audit Office (June 2011)

THE MAIN CHILDREN AND FAMILIES ACT DUTIES ARE SUMMARISED BELOW⁸:

Relevant body/statutory provision	Duties
Home Local Authorities Section 74(2)	To keep an Education, Health and Care Plan for a child/young person when they enter custody
Section 74(4)	To arrange appropriate SEN provision for a child/young person with an Education, Health and Care Plan while they are in custody
Section 71(3)	To consider whether to carry out an assessment for an Education, Health and Care plan on request from the parent of a child in custody, a young person in custody or the person in charge of the custodial establishment or when a child/young person is brought to their attention as someone who has or may have SEN.
Section 72	To secure EHC plans for a child/young person where necessary. Plans in custody must relate to provision to be made <i>on release</i> .
Sections 28 and 31	To cooperate with youth custodial institutions, Youth Offending Teams, Clinical Commissioning Groups and NHS England
Section 73	To make parents and young people aware of their rights to appeal to the SEN and Disability Tribunal if they disagree with a decision of the local authority: <ul style="list-style-type: none"> • not to carry out an EHC needs assessment; • not to prepare an EHC plan following an assessment; or • about Section I of the EHC plan (educational institution named)
Youth Offending Teams Sections 28 and 31	To cooperate with local authorities
Section 77(1)	To have regard to the SEN and Disability Code of Practice*
People in charge of relevant youth accommodation (see paragraph below) Sections 28 and 31 Section 77(1)	To cooperate with local authorities To have regard to the Special Educational Needs and Disability Code of Practice*

⁸ The detailed requirements are set out in the Special Educational Needs and Disability (Detained Persons) Regulations 2015 and guidance is given in the Special Educational Needs and Disability Code of Practice (January 2015) – particularly Chapter 10.

Relevant body/statutory provision	Duties
Clinical Commissioning Groups Section 28	To cooperate with local authorities
NHS England Section 74(5) Sections 28 and 31	To arrange health care provision for a child/ young person with an Education, Health and Care Plan while they are in custody To cooperate with local authorities <i>*Bodies must consider the guidance in the Code and explain any departure from it</i>

Responsibility for education provision in the secure estate is arranged by the Ministry of Justice and Youth Justice Board through contracts with private providers. In addition to their duties under the Children and Families Act, persons in charge of establishments must ensure that appropriate provision is made for children and young people with special educational needs and must cooperate with local authorities in doing so for those with Education, Health and Care plans in particular.

NHS England commissions health care in custodial establishments and manages contracts with health care providers to ensure delivery of agreed services for detained children and young people. Home local authorities are responsible for considering whether any social care needs identified in a child or young person's EHC plan will remain whilst the detained person is in custody and make appropriate provision as necessary.

Questions for senior leaders in education, youth offending, health and social care

Part 2 includes a map of the child/young person's journey through the youth justice system in custody and sets out the key processes involved. The Children and Families Act duties provide new opportunities throughout that journey to identify where children and young people have special educational needs and provide the right support. But making the most of these opportunities requires clear leadership and close working across a number of agencies including:

- the police
- children/young people and their parents/carers
- Youth Offending Teams (YOTs)
- local authority SEN and disability, social care and other teams
- the clinical commissioners for health (NHS England/CCG) and relevant health services in the secure estate eg CAMHS

- Education institutions (including schools and colleges)

The quality and effectiveness of local partnerships between agencies in improving outcomes for children and young people is a central part of Ofsted/CQC inspections of how local areas are implementing the special educational needs and disability reforms in the Children and Families Act, including those relating to young offenders.

Clear leadership at a senior level from Directors of Children’s and Adults Services, NHS England, and Youth Offending services is essential to:

- provide a strong impetus for change;
- build strong partnerships between agencies;
- put effective systems in place for identifying and supporting children and young people with special educational needs; and,
- make the best use of resources.

There are a number of questions local leaders should consider:

SUPPORTING CHILDREN AND YOUNG PEOPLE WITH SEN IN YOUTH CUSTODY

Can you answer these questions?

- What arrangements are in place across education, youth offending, health and social care teams for assessment, placement and review of support for children/young people with special educational needs in custody?
- Who’s leading, who needs to be involved, how will they be involved and who’s responsible and accountable?
- What processes are in place to resolve disagreements and disputes between parties? Are they clear, robust and well understood?
- How do you know whether the arrangements are working well and making a positive difference?

Key areas to consider

- Lines of communication and protocols for sharing information
- Involvement of children/young people and parents/carers (including looked after children)
- Commissioning and responsiveness of health services
- Meeting the social care needs of children and young people, including disabled children and looked after children
- Resettlement of children/young people leaving custody, including accommodation, education, training and employment, health care, social care and support in their community



About the Council for Disabled Children

The Council for Disabled Children (CDC) is the umbrella body for the disabled children's sector in England, with links to the other UK nations. CDC works to influence national policy that impacts upon disabled children and children with Special Educational Needs (SEN) and their families. The CDC Council is made up of a variety of professional, voluntary and statutory organisations, including disabled young people and parent representatives. CDC's broad based membership and extensive networks of contacts provides a unique overview of current issues. It also enables us to promote collaborative and partnership working among organisations.

CDC hosts the following networks and projects:

IASS Network

Independent Support

Making Ourselves Heard

Preparing for Adulthood

Special Educational Consortium

Transition Information Network