INTRODUCTION

This guidance provides practical advice on the implications of the revised Code of Practice on the Identification and Assessment of Special Educational Needs, introduced in January 2002. The principle that all schools and LEAs should have a consistent approach to the identification and assessment of special educational needs (SEN) is one for which the NUT had long campaigned.

Rigid implementation of the Code and lack of training and resources, however, could bring about additional and unnecessary workload for teachers. The Government claimed that the new Code reduces the paperwork and bureaucracy involved in, for example, the writing of Individual Education Plans (IEPs).

This NUT advice is aimed at preventing that situation from occurring. The NUT urges local education authorities (LEAs) to support schools, particularly in planning and establishing a full range of SEN services. Nationally, the NUT urges the Government to provide resources to implement the Code and to ensure that schools are able to apply its provisions according to their collective professional judgement.

This document is aimed at supporting the valuable work that special educational needs coordinators (SENCOs) and all those working with children with SEN carry out, and at reducing the unnecessary bureaucratic burdens that can arise from identification and assessment of special needs.

THE CODE OF PRACTICE ON THE IDENTIFICATION AND ASSESSMENT OF SPECIAL EDUCATIONAL NEEDS

The Code was established by primary legislation in 1993. It contains excerpts from both regulations and primary legislation for SEN. The bulk of the Code is not, however, contained in primary or secondary legislation, but contains guidance to which LEAs, headteachers, school governing bodies, parents, other local authority services and teachers, particularly SENCOs, are required to have regard.

The term ‘have regard’ means that if a case of action is taken which is different to that set out in the Code, it has to be justified by those concerned as qualitatively the same or better than the Code’s own guidance, as explained in the ‘Forward’:

“This Code of Practice is effective from 1 January 2002. From that date LEAs, schools, early education settings and those who help them – including health and social services – must have regard to it. They must not ignore it. That means that whenever settings, schools and LEAs decide how to exercise their functions relating to children with special educational needs, and whenever the health and social services provide help to settings, schools and LEAs in this, those bodies must consider what this Code says. These bodies must fulfil their statutory duties towards children with special educational needs but it is up to them to decide how to do so – in the light of the guidance in this Code of Practice. The Code is designed to help them to make effective decisions but it does not – and could not – tell them what to do in each individual case. The duty to have regard to this Code will continue for its lifetime.”
THE ROLE OF THE SENCO

SENCO time

The Code states that:

“Governing bodies and head teachers will need to give careful thought to the SENCO’s timetable in the light of the Code and in the context of the resources available to the school. Experience shows that SENCOs require time for:

- planning and coordination away from the classroom;
- maintaining appropriate individual and whole school records of children at the school-based levels of intervention, School Action and School Action Plus, and those with statements;
- teaching pupils with SEN;
- observing pupils in class without a teaching commitment;
- managing, supporting and training learning support assistants;
- liaising with colleagues and with early education settings and secondary schools.

Access to a telephone and an interview room is also desirable where possible. In many schools the governing body has been able to allocate some administrative staff time to help the SENCO, thus releasing the SENCO to use their expertise more effectively.”

SENCO responsibilities

The Code describes the role and responsibilities of the SENCO for all phases of education, including early years settings. These may include:

- overseeing the day to day operation of the school's SEN policy;
- co-ordinating provision for all SEN;
- liaising with and advising colleagues;
- managing learning support assistants and, in secondary schools, the SEN team of teachers;
- overseeing the records of all children with SEN;
- liaising with parents of children with SEN;
- contributing to the in-service training of staff; and
- liaising with external agencies, including the LEAs support and educational psychology services, health and social services, and voluntary bodies.

Advice to members who are SENCOs

In the light of the listed responsibilities for the SENCO in the Code, the NUT believes that sufficient non-teaching time during the school day should be allocated for the SENCO to carry out their responsibilities as outlined in the Code and that sufficient resources should be provided for that role relative to the school budget.
The role of the SENCO is the only post of responsibility defined as a legal requirement for a teacher outside the School Teachers’ Pay and Conditions Document. The post identifies the SENCOs responsibilities in relation to the schools’ parents, governors and other teachers, as well as in relation to the LEA.

The above responsibilities for primary and secondary SENCOS are reasonable only if the consequences of those responsibilities are recognised by the school governing body. If those responsibilities are not matched by appropriate additional spine points, non-contact time and continuous professional development, then the member should seek advice from the Regional Office or in Wales, The NUT Wales Office, NUT Cymru.

Where a school has a significant incidence of pupils with SEN, the SENCO should be a member of the school’s management team. This applies both for primary and secondary SENCOs.

Members should not accept automatically extra responsibilities which arise from the SEN and Disability Act 2001 in relation to disability discrimination. They are advised to seek meetings with their headteachers to ascertain whether additional time will be made available to carry out those duties. It should not be assumed by the headteacher that the SENCO will take on these additional duties. They may be more appropriate for a teacher in the leadership group.

The Code makes it clear that, although SENCOs have responsibilities outlined in the Code, the first point of call for outside agencies, parents or members of the public seeking to make contact with a school on SEN issues should be the headteacher, not the SENCO. The SENCO does not have responsibilities separate from the overall management responsibilities of a headteacher.

Where members who are SENCOs are given extra responsibilities which they believe to be unreasonable, or expected to carry out their responsibilities without sufficient recognition within the school’s management team, they should contact their Regional Office or in Wales, The NUT Wales Office, NUT Cymru for advice.

Record keeping

The guidance, as set out in the Code and further developed in the accompanying SEN Toolkit, sets out an expectation that schools maintain individual and whole school records for children with SEN, who are at the school-based levels of intervention and for children with statements of SEN. All teachers are expected to be part of the record-keeping and target-setting process for pupils with SEN. The SEN Toolkit specifies that:

“the SENCO should not be solely responsible for devising and delivering all IEPs within the school...effective delegation of individual education plans (IEPs) to class or subject teachers requires a regular and cyclic programme of SEN INSET.”

The content of IEPs, which has been reduced, includes:

- the short term targets set for the child;
- the teaching strategies to be used;
- the provision to be put in place;
- when the plan is to be reviewed; and
SENCOs are responsible for the co-ordination of IEPs, but the Code does not expect that SENCOs should write them.

The decision on whether to use IEPs separate from the school’s arrangements for record keeping rests with the headteacher. The NUT believes that integrating IEPs within the general organisation of planning, assessing, recording and reporting will reduce the burden of managing IEPs. Group IEPs can be considered for a group of children with similar needs. Where members who are SENCOs believe that IEPs can be integrated within the school’s reporting and recording arrangements, they are advised to seek meetings with their headteachers and colleagues in order that they can propose any changes.

**Working in Partnership**

SENCOs inform their headteachers when they first identify that children have SEN. Headteachers have the responsibility for the arrangements for informing parents.

In secondary schools, members who are SENCOs should ask their headteachers for guidance which the LEA may have published on working with Connexions Personal Advisers. Such guidance should set out the role of the Personal Adviser in transition planning.

Time allocated for SEN co-ordination should take into account the full range of responsibilities of the SENCO, including time spent in liaison with colleagues, parents, and external partners. Any SENCO who is concerned about their role and the work they are expected to carry out with external partners or with mentors or advisers should contact their Regional Office, or in Wales, the Welsh Office, NUT Cymru.

**THE SEN CODE: WHAT ALL MEMBERS NEED TO KNOW**

The SEN Toolkit, published by the Department for Education and Skills (DfES), is a good starting point for classroom teachers. All schools should have copies. It is available from www.dfes.gov.uk/sen.

The Code stresses the importance of working with and taking into account the views of parents and pupils. It emphasises the need for early identification and assessment of SEN and describes the conditions for the inclusion of pupils with SEN within mainstream schools. The Code simplifies annual reviews and IEPs, removes the requirement for schools to keep SEN registers, reduces the number of stages for assessment of SEN and clarifies the roles of teachers and SENCOs.

**Identification, Assessment and Provision in all Phases of Education**

There are three stages of identification of SEN compared with the previous three. The revised Code sets out two school-based levels of intervention: *School Action* and *School Action Plus* in primary and secondary schools, and *Early Years Action* and *Early Years Action Plus* in early years settings. These correspond broadly to the stages 1 to 3 of the original Code.

1. **School Action**

When a teacher identifies a pupil as having SEN, relevant teachers, in consultation with the SENCO, are expected to devise interventions *additional to or different from* those provided by
the school's usual curriculum. Subject and pastoral teachers remain responsible for working with the pupil on a daily basis and for planning and delivering individualised programmes. An IEP can be devised at this stage, although this is not required. The SENCO is expected to take the lead in planning future interventions for the pupil in discussion with colleagues, then monitoring and reviewing the action taken.

ii. School Action Plus

*School Action Plus* is characterised by the involvement of external support services which, for example, provide advice on:

- new IEPs and targets;
- more specialist assessments;
- advice on the use of new or specialist strategies or materials; and
- in some cases, provide support for particular activities.

The Code sets out the expectations for all education phases, including early years settings. The importance of early intervention is stressed, as is working with other providers of support such as LEA support services, health care professionals and social services departments. The information about strategies employed to help children with SEN to make progress can be recorded in IEPs.

The Code sets out an expectation that IEPs will only need to record that which is *additional to* or *different from* the usual differentiated curriculum plan. The need to monitor pupils' progress and regularly review IEPs is stressed. The IEP should be crisply written and focus on three or four key targets. There is an expectation in the Code that IEPs are working documents all teaching staff. Each child’s IEP is expected to be evaluated at a minimum of twice yearly. All teachers who teach a pupil with SEN should be made aware of the individual targets and the planned strategies.

Pupil Participation

The Code provides guidance on how the views of pupils can be taken into account both within the school-based levels of intervention and during full assessments. The LEA has a key role in:

- developing consultation arrangements with children and young people;
- ensuring that parent partnership services work with pupils as well as with parents;
- providing information and training for school and LEA staff around consulting with pupils; and
- including elements about pupil participation in training for all staff working with children with SEN.

Further information

The following documents will be distributed to schools:
• “Inclusive Schooling - Children with SEN” - statutory guidance which describes the steps that the DfES advises maintained schools and LEAs to consider in order to include children with statements of SEN in mainstream schools where this is compatible with the efficient education of other children;

• The Disability Rights Commission Schools’ Code of Practice – a code which explains the new duties required of schools, beginning from September 2002, which are aimed at protecting disabled pupils from discrimination; and

• The SEN Toolkit – a collection of booklets which provides practical guidance on the implementation of the Code.

The SEN register

Schools are not required to keep SEN registers. There is no explicit reference in the Code to the SEN register. This does not mean, however, that a register may not exist. An SEN register can be a useful planning tool for schools and for LEAs in collecting data about children at the earlier stages of the Code. It can also be useful if a case goes before an SEN Tribunal. For ease of use, the register could be a working document, in ring-binder format, stating on one page the needs of an individual pupil.

OFSTED inspections

OFSTED inspection teams will consider the effectiveness of schools’ policies and practices on special education and the extent to which teachers have regard to the Code.

Annual reviews of statements of SEN

Amendments have been made to the annual review process. They are designed to reduce paperwork for schools and LEAs, whilst enhancing the rights of the parents and children. The headteacher is now responsible for co-ordinating annual reviews.

In many respects, the new SEN Code of Practice is a significant improvement on the original Code. The new Code does, however, have significant training implications for both SENCOs and classroom teachers. All teachers are teachers of children with SEN. In light of this, the NUT believes that the Government needs to give further thought to the professional development needs of teachers and SENCOs if the needs of pupils with SEN are to be met effectively within mainstream schools.

The NUT will continue to campaign to ensure that LEAs maintain a range of provision within mainstream schools, special schools and pupil referral units, to meet behavioural needs.

As a result of its key role in advising its Parliamentary consultants and peers during the passage of the SEN and Disability Act, the NUT is able to provide detailed information and advice about the Act's implications, as well as specific advice on the SEN Code. The NUT is a source of expert advice to members on the application of the new Code. Members who need further advice should contact their Regional Office or in Wales, the Welsh Office, NUT Cymru in the first instance.
A SUMMARY OF THE CHANGES TO THE SEN CODE OF PRACTICE

- The right of children with SEN to be educated at a mainstream school is set out with two caveats. A child who has special educational needs and a statement should normally be educated within a mainstream school unless this would be incompatible with the wishes of the parents or with the efficient education of other children.

- LEAs are given new duties to arrange for parents of children with SEN to be provided with services offering advice and information and with a means of resolving disputes.

- A new duty is given to schools and relevant nursery education providers which requires them to tell parents when they are making special educational provision for their child.

- Schools and relevant nursery education providers are given a new right to request a statutory assessment of a child.

- Separate chapters are set out describing assessment and identification procedures in the early years, primary and secondary phases.

- The Code contains new chapters on:
  - working in partnership with parents;
  - pupil participation; and
  - working in partnership with other agencies.

- Annual Reviews and IEPs have been simplified.

- The requirement for schools to keep SEN registers is removed.

- The roles of teachers and SENCOs are clarified.

- The importance of multi-agency approaches is emphasised.

- LEAs are now required to demonstrate that they are fulfilling their statutory duty to have regard to the Code. OFSTED inspection teams are now required to consider the effectiveness of policies and practices and the extent to which those policies and practices have regard to the Code.

- The five stages of identification and assessment of SEN have been reduced to three.

- LEAs are expected “normally” to quantify the provision in statements.

- Transition Planning has been revised to reflect the role of the new Connexions Service input.

- The headteacher, rather that the LEA, now initiates the annual review of statements.