



Offering Early Years Places for children with SEND

'Every child deserves the best possible start in life and the support that enables them to fulfil their potential.' EYFS Statutory Framework 2023

This advisory document aims to guide all Early Years (EY) providers¹ on their legal and ethical responsibilities regarding the admission of all children to their settings. EY providers can play a crucial role in early childhood development and, although do not provide statutory schooling, must follow the principles of the Equality Act 2010, the Children and Families Act 2014, the SEND Code of Practice 2015, and the EYFS Statutory Framework 2023. All EY providers have a responsibility to provide places and an inclusive environment for all children, including children with diagnosed conditions as well as those with emerging or undiagnosed SEND. The Equality Act 2010 prohibits discrimination against children with SEND in all educational and childcare settings. Key points of the act include:

Disability Discrimination: Children with disabilities must not be treated less favourably than others. For example:

A nursery refuses to offer a place to a child who has Autism because they claim they do not have the resources to support his needs. Despite his parents providing information about his needs, the nursery insists they cannot accommodate him.

This refusal to offer a place is a form of disability discrimination because he is being treated less favourably than other children who do not have a disability.

Duty to Make Reasonable Adjustments: EY providers must make reasonable adjustments to ensure children with disabilities have the same access to services as children without disabilities. For example:

Parents of a child with Cerebral Palsy apply for a place at a local nursery. The nursery offer her a place, however, before her start date, her parents give the nursery more information about her disability. They request reasonable adjustments such as providing storage for her walking aid, having activities provided at a certain height, and requesting additional staff to support her. The nursery, after receiving the information, tells her parents that they do not have the resources or staff available to make these changes and that the nursery is unable to accommodate her needs. They do not make any effort to adapt the environment, apply for funding or provide support before her start, despite the fact that these adjustments are reasonable and necessary to ensure her access to the nursery.

This is a failure to make reasonable adjustments and disability discrimination. EY Providers cannot refuse to admit a child solely because they have SEND unless there is a legitimate, non-discriminatory reason for doing so. They also cannot offer a place and then withdraw the offer after finding out a child has emerging or diagnosed SEND. EY Providers do however have the right to consider factors like their capacity to support the child's specific needs, provided these decisions are made in a fair and non-

¹ EY providers includes Private, Voluntary and Independent nurseries, maintained nurseries, school nurseries and childminders



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discriminatory manner. If admitting a child with SEND would place undue hardship on the provider, they may be able to justify not offering a place. **However**, this decision must be made carefully, ensuring that it is based on objective factors and not discriminatory assumptions.

What can EY providers do to ensure they can meet the needs of all children?

Explore all options for support: It is advisable that EY providers have in depth conversations with parents, and make contact with Camden support services to discuss the needs of children they are planning to admit if they need support. Services available for discussion include The Early Years Quality Support and Training team (EYQST) earlyyearstraining@camden.gov.uk (for PVI nurseries, maintained nurseries and childminders) and the Early Years Inclusion Team (EYIT) eyitenquiries@camden.gov.uk (for PVI nurseries, maintained nurseries, childminders and schools).

Work in partnership with parents and support services: This can ensure smooth transition from home to EY setting and that the child's needs are understood and met from the start (even before a formal diagnosis). It also ensures that appropriate strategies and approaches are put in place to support the child's development.

Make reasonable adjustments: EY providers should make every effort to adapt their environment or practices to accommodate the child's needs.

Consider offering additional support staff: If additional support staff could be beneficial, you can fulfil your anticipatory duties by applying for Camden Local Inclusion Funding (CLIF) before a child starts at your setting so that support can be in place from day one.

Training: EY providers should seek advice from support services about what SEND training is currently on offer to support staff knowledge and understanding of SEND and appropriate approaches to support the child's needs.

Review policies: To ensure that all children, including those with undiagnosed or emerging SEND, are appropriately supported, EY providers may want to review their admission policy and make it more inclusive. This will ensure that children with diagnosed, emerging or undiagnosed SEND are not excluded or discouraged from applying for a nursery place. Clear, inclusive admission statements should demonstrate that all children are welcome, regardless of their needs.

Camden is committed to creating an education system that promotes equality and equity, so that: 'Children and young people with SEND lead happy, fulfilled and rewarding lives' (Camden SEND Strategy 2022-2027).

For support and advice, settings and parents can access the Camden Local Offer website families.camden.gov.uk/send-local-offer