Section 1
Contextualising Special Educational Needs and Disabilities
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Introduction

This chapter will introduce you to the concept of SEN. It will include definitions of SEN and special needs and will outline the scale of the issue in England and Wales. It will also provide you with a number of case studies which will help you to develop a better understanding of these key concepts. The final section of the chapter suggests additional reading and offers practical activities that will further develop your knowledge and understanding of SEN and inclusion.

DEFINING SEN IN ENGLAND

A child has special educational needs if he has a learning difficulty which calls for special educational provision to be made for him. A child, for the purposes of the SEN provisions, includes any person under the age of 19 who is a registered pupil at a school. (Education Act 1996 [DfEE, 1996] and SENDA, 2001 [DfES, 2001b, section 312])

Following a formal assessment under section 323 of the 1996 Education Act, a local authority may issue a Statement of Educational Needs. This is a legal document which describes the SEN of the child and states how these needs will be met.

The term SEN was coined by the Warnock Report of the late 1970s (DES, 1978). Previously, children had been labelled by employing ten categories of ‘handicap’ as set out in the regulations of the 1944 Education Act (DoE, 1944) (see Chapter 4).
The ten categories of ‘handicap’ as defined by the 1944 Education Act were:

- blind
- partially sighted
- deaf
- delicate
- diabetic
- educationally subnormal
- epileptic
- maladjusted
- physically handicapped
- speech defect.

The Warnock Report in 1978 (DES, 1978), followed by the 1981 Education Act (DES, 1981), radically altered the conceptualisation of special education by emphasising that a child’s educational need should be prioritised first and not their individual learning disability or impairment. Today, in the context of educational provision, the term SEN has a legal definition which refers to children who have learning difficulties or disabilities that make it more difficult for them to learn or access education than most children of the same age.

In terms of current government legislation children require special educational provision if they:

- have a significantly greater difficulty in learning that the majority of children their age
- have a disability which either prevents or hinders them from making use of educational facilities of a kind generally provided in schools
- are under the age of five years and are (or if special educational provision were not made for them) likely to fall within either of the above sections when over that age
- are over two years of age and receive educational provision which is additional to, or different from, provision made generally for children of the same age in local schools; or
- are under the age of two years and receive educational provision of any kind. (DfEE, 1996)

The 1996 Education Act (DfEE, 1996) offers guidance that is intended to help teachers and other professionals make accurate decisions in relation to deciding whether a child has a SEN or not. For example, the law states that
children do not have a SEN if they have a learning difficulty because of the language or form of language of their home background. In addition, under the terms of the Act, pupils who are considered to be gifted or talented, or very able, would not be classed as having a SEN either, unless they had an associated learning difficulty. Furthermore, section 7:52 of the Special Educational Needs Code of Practice (DFES, 2001a) provides practical advice to local authorities, maintained schools and Early Years education settings on how to identify, assess and make provision for children's SEN. The Code of Practice recognises that there are no hard and fast categories of SEN and that there is a wide spectrum of SEN that are frequently inter-related. The Code does however indicate that a child’s needs and requirements may fall into at least one of four areas:

- communication and interaction
- cognition and learning
- behaviour, emotional and social development
- sensory and/or physical.

To enable the government to collect detailed information on a child’s educational requirements a broad set of categories is employed, which define types of SEN and special need. These categories sub-divide into:

(A) Cognition and Learning Needs
- Specific Learning Difficulty (SpLD)
- Moderate Learning Difficulty (MLD)
- Severe Learning Difficulty (SLD)
- Profound and Multiple Learning Difficulty (PMLD).

(B) Behaviour, Emotional and Social Development Needs
- Behaviour, Emotional and Social Difficulty (BESD).

(C) Communication and Interaction Needs
- Speech, Language and Communication Needs (SLCN)
- Autistic Spectrum Disorder (ASD).

(D) Sensory and/or Physical Needs
- Visual Impairment (VI)
- Hearing Impairment (HI)
- Multi-sensory Impairment (MSI)
- Physical Disability (PD).
Defining Special Educational Needs

Case Study 1

Specific learning difficulties

Asif is an eleven year old child who is a pupil in a Year 6 class in a small rural primary school. He is a very articulate child who is a well liked member of the class. Asif, however, has difficulties in any activities that involve reading, writing, or spelling. Despite several attempts Asif’s teacher has been unable to help him make progress with his school work. Recently, Asif has become more and more frustrated with his inability to keep up with the rest of the class, especially in his English lessons. In light of Asif’s continuing difficulties he was referred to an educational psychologist for an assessment of his needs. After completing several tests the educational psychologist detailed that Asif was some 36 months behind in his spelling and reading ability compared to that which might be expected for a child of his age. It is interesting to note that, when questioned, Asif’s father stated that he had had similar difficulties with his English work when he was at school.

In terms of government legislation it may be observed that Asif will require SEN provision because he has a ‘significantly greater difficulty in learning’ than other children of the same age. If we examine the categories box on page xxx above we can see that Asif’s needs would be considered under Section A (those of cognition and learning) and that his SEN would be described as a specific learning difficulty.

Case Study 2

Behaviour, emotional and social development needs

Natasha is a five year old pupil who is a member of a reception class in a large urban primary school. Natasha is very immature for her age and as a result has found difficulty in making friends. She is often to be found playing by herself both in the classroom and in the school playground. Unlike the other pupils Natasha has found difficulty learning to sit still and is also unable to share toys with other people.

Although Natasha is mainly well-behaved there are periods during the day when she exhibits challenging behaviour. These outbursts are intense and severe and they often disrupt the learning of the other class members. During these outbursts Natasha has tantrums and displays physical aggression towards other pupils and teaching staff. When she does not get her own way she will fall to the ground and scream loudly. Despite
the best efforts of the teachers and her parents the school has been unable to improve Natasha’s behaviour.

Natasha is presenting with significant behaviour and emotional difficulties which are a barrier to learning. In terms of the legislation, Natasha’s behaviour is so severe that she would be classified as having a SEN.

Case Study 3

Sensory needs

Joanne is a very happy, polite and well motivated pupil who is due to sit her GCSEs next year. She has a very wide circle of friends and is often to be found at the centre of any playground games. She is an avid reader and likes nothing better than reading her favourite stories to her friends. She is an extremely well liked pupil and her teachers had expected her to do very well in her forthcoming exams. However, recently Joanne’s handwriting had become very untidy and she was becoming increasingly slower at copying work from the board during lessons. Her teachers had also noticed that she been finding it more and more difficult to navigate around the school. At a recent hospital assessment Joanne was found to have a deteriorating eye condition. With this knowledge the school has begun to make adaptations both to Joanne’s classroom and to her curriculum. The teachers have made sure that she always sits at the front of the class in lessons that involve reading from the board. They have also provided Joanne with large print books and with these she has rediscovered her love of reading.

For the purposes of the Code of Practice (DfES, 2001a) Joanne would be classified as having a SEN that is sensory in nature. This is because her deteriorating eyesight is adversely affecting her ability to learn and her educational progress is therefore being restricted because of this.

SEN in Scotland, Northern Ireland and Wales

Within the United Kingdom the educational provision for children with learning difficulties broadly operates under similar legislative systems, although England and Wales are perhaps closest in terms of the operation of their legal and organisational systems. It is important to remember, however, that aspects of the Northern Ireland and especially the Scottish system can differ substantially from those observed within English schools. Whilst this book will mainly focus on England and Wales it will, when relevant, make reference to those systems currently operating within Northern Ireland and Scotland.
For further, and more detailed, information on the organisation of SEN support in Scotland, Northern Ireland and Wales, you will need to access the following links:

**Scottish Executive**  
www.scotland.gov.uk/Publications/Recent

**Northern Ireland Department of Education**  
www.deni.gov.uk/index/7-special_educational_needs_pg.htm

**Welsh Assembly**  
http://wales.gov.uk/topics/educationandskills/policy_strategy_and_planning/schools/127044211-wag/%3Flang%3Den

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**Scotland**

Until fairly recently, special education in Scotland was governed by a legal framework established within the Education (Scotland) Act 1980 as amended by the 1981 Act. These acts organised SEN provision in a broadly similar way to that observed in England. However, in 2005 the legal framework in Scotland substantially changed with the implementation of the Education (Additional Support for Learning) (Scotland) Act 2004, as this abolished the employment of the term SEN and replaced it with a much broader definition – that of ‘additional support need’. Additional support need, as defined by the Act, refers to any child or young person who would benefit from extra help in order to overcome barriers to their learning.

The Act stipulates that some children and young people may require additional support for a variety of reasons, such as those who:

- have motor or sensory impairments
- are being bullied
- are particularly able or talented
- have experienced a bereavement
- are looked after in social care surroundings
- have learning difficulty
- are living with parents who are abusing substances
- are living with parents who have mental health problems
- have English as an additional language
- are not attending school regularly
- have emotional or social difficulties
- are on the child protection register
- are young carers.
Northern Ireland
The organisation of special educational provision, and the definition of SEN employed in Northern Ireland, are similar to those which operate within England. Special education in Northern Ireland is governed by the legal framework established within the Education (Northern Ireland) Order 1996 as amended by the SEN and Disability (Northern Ireland) Order 2005 (DoE, 2005). These orders place a statutory duty for the provision for children with SEN upon the education and library boards and the boards of governors within mainstream schools. SENDO (DoE, 2005) increased the rights of children with SEN to attend mainstream schools and, for the first time, introduced disability discrimination laws for the whole of the education system in Northern Ireland. Similar to Scotland, Wales and England, the Department for Employment and Learning in Northern Ireland offers advice and guidance on how to operate a system for identifying and assessing children with learning difficulties. This guidance is contained within a Code of Practice which came into effect in Northern Ireland on the 1 September 2005.

Wales
The organisation of special educational provision in Wales and the definition of SEN are exactly the same as those which are to be found in England. The legal framework for the provision of special education is governed by the Education (SEN) (Wales) Regulations 2002. Wales, however, does have its own Code of Practice which became operational on the 1 of November 2001 and schools have had to observe this since April 2002. The Welsh Assembly has also provided additional advice to teachers and local authorities on how to operate the SEN Code of Practice for Wales, with a handbook entitled ‘Good Practice for Children with SEN’.

SEN – The Scale of the Issue
In 1978, the Warnock Report (DES, 1978) initially estimated that as many as 20 per cent of children, during their time at school, might experience a SEN that would necessitate additional educational provision to be made. The report also estimated that around 2 per cent of all children and young people of school age may have an educational need that was so severe that they would require a Statement of Educational Need. Nearly thirty years later, data from the Department of Education and Skills (DfES, 2007a) continue to show that approximately one in five children is currently identified as having a difficulty with learning that requires extra help to be given in class (see Chapter 7 for a further analysis of the legislation). The data also reveal that the figure of 2 per cent initially provided by the Warnock Committee in relation to children who would require a Statement vastly underestimated the numbers of children and young people who would need the highest level of special educational provision.
In 2007, government data (DCSF, 2008) indicated that 16.4 per cent of all pupils had a SEN and that an additional 2.8 per cent also had a learning difficulty that was so severe that they would require the provision of a statement (see Figures 1.1 and 1.2 following data). These represent an increase of 15.7 per cent in the incidence of SEN over the previous year. Additionally, in 2007,
there were 1,293,000 children of school age who had a SEN, and 229,100 had a Statement of SEN (DCSF, 2008).

Government data (DCSF, 2008) also indicated that the incidence of children with SEN who did not require a Statement was higher in primary schools (17.7 per cent) than it was in secondary schools (16.2 per cent). Furthermore, it was interesting to note that the incidence of SEN was greater for males (1 in 5) than for females (1 in 8). Moreover, in 2007, nearly 95,000 males had a Statement (1 in 40) as opposed to 35,800 females (1 in 100). An overview of the data also revealed that the majority of statements in mainstream primary schools were categorised within the area of speech, language and communication (23 per cent) and within secondary and special schools around 25 per cent of the statements issued were maintained, by local authorities, for children who had moderate learning difficulties.

- A mainstream school is one that provides an education for all pupils, including those with SEN and disabilities.
- A special school is normally one that provides an education for some children who have a Statement of SEN.

SEN – A Contested Concept

In relation to individual children and the implementation of government legislation deciding what is, or is not, a learning difficulty and what counts, or does not count, as a SEN can be difficult. For example, Terzi (2005) argues that the concept of SEN itself is theoretically difficult to specify and in practice is unworkable. Indeed, OFSTED, in its (2004) review of special educational provision, found wide variations both within local authorities and within schools themselves in the numbers of children specified as having a SEN. It is also interesting to note that their investigations revealed an inconsistency as to how SEN were defined within schools in England. Moreover, OFSTED expressed a concern that some schools were employing the term SEN to refer to those children who simply displayed low attainment or were ‘below average’ on their entry to school. It thereby seems apparent that for some schools SEN are not defined solely in relation to children who have a learning difficulty.

In recent years, it has also become apparent that educational professionals have been subject to increasing difficulties and confusion in establishing the differences between disability/special needs and the definition of SEN itself (see Education and Skills Committee, 2006). A child, for example, may have a special need but might not actually have a SEN in terms of the 1996 Education Act. Additionally, it might be the case that a child has a SEN but might not have a special need or disability in terms of the Special Educational Needs and Disability Act (DfES, 2001b) or the Disability and Discrimination
Act (DDA, 2005). Many people do confuse SEN and special needs and this can result in serious consequences (Frederickson and Cline, 2002). For example, this form of confusion may lead to low expectations of achievement for all children whose first language is not English. In addition, difficulties in defining special needs and SEN may lead to confusion in planning educational support; for example, expecting the same staff to have an expertise in teaching English as a second language as well as teaching children with reading difficulties (Frederickson and Cline, 2002).

**Special Needs or Special Educational Needs?**

A child has a special need if they ‘come from a social group whose circumstances or background are different from most of the school population’. (Frederickson and Cline, 2002: 36)

A special need may relate to any child, at any time, during their school career. So, for example, a child could have a special need if they have emotional or physical challenges not normally experienced by their peers; or if they have a history of physical abuse; or if they are a member of a religious or cultural group. The key difference between this concept and that of SEN is that a special need does not necessarily manifest itself as a barrier to learning. As such, a child with a special need would not normally need access to SEN as detailed within the 1996 Act.

**Reader Reflection: Special Need or Special Educational Needs?**

Using the information given in each of the case studies below and the detail offered above in relation to special provision, decide if each child has a SEN, a special need, or both.

**Case Study 1**

Ben (aged 10) employs a wheelchair to aid his mobility around his school. He enjoys learning about history but he does not like having to learn his times tables in his numeracy lessons.

**Case Study 2**

Maria (aged 12) migrated to England with her family a month ago. She has a hearing impairment and has had difficulty in learning English in the time she has been in school.
Case Study 3

Paula (aged 10) really enjoys primary school. She always comes first in the class in any test that her teachers set. Paula does though sometimes find it difficult to complete her homework because she is the main carer for her mother who has a disability.

In examining the cases studies above you may have found that defining special needs and SEN can be a difficult thing to do.

In the first case study, Ben would be considered as having a special need because of his reduced mobility. Yet while he might not enjoy his ‘times tables’, this would not be classified as being a barrier to his ability to learn.

In the second case study, Maria presents quite a different and rather interesting case, as she perhaps could have a special need as a result of being from a minority cultural group. In terms of the 1996 Act, though, Maria’s employment of English as a second language would not constitute a SEN. What is interesting here is that Maria’s inability to learn English is being complicated by her hearing impairment. If you examine the categories box on page xxx, it is clear that a hearing impairment would indeed be considered to be a SEN.

In Case Study 3, Paula clearly has no issues with learning in class, indeed, she often comes first in any test that the teacher sets. Paula’s home background, though, means that she is often distracted from her homework because she is the main carer for her disabled mother. While in this case Paula does not have a SEN, she is however still subject to a special need.

A further issue with the employment of the term SEN is that it has been argued that the definition itself is negatively linked with a medical view of disability. Terzi (2005) suggests that the concept of SEN is inscribed within the medical model of disability, and rather than moving away from the notion of categorising children as Warnock (DES, 1978) envisaged in reality it does nothing more than introduce a new category – that of SEN! As such, any difficulty a child may have with learning may be seen by the professionals involved as resulting from personal deficit and difference and not from the barriers created by such things as inaccessible buildings, inflexible curricula, inappropriate teaching and learning approaches and school organisation and policies (we will discuss these ideas more fully in Chapter 2). This form of labelling, it has been suggested, is not only disrespectful and hurtful to the individual child but also has repercussions for the manner in which their learning is supported (CSIE, 2005). Despite these arguments it is important to remember that the term SEN has, within the context of the English and Welsh educational systems, a legal status, and that as such it is a term that is commonly employed in the vast majority of state and independent schools.
Conclusion

Within this chapter the definition of SEN was considered in terms of the legislation that governs England, Scotland, Northern Ireland and Wales. The difficulties professionals sometimes have in deciding whether a child has a special need or a SEN were also discussed. The final section of the chapter determined how many children in England and Wales were considered to have a SEN and how these figures showed that males have a greater prevalence of SEN than do females.

Student Activities

1. With another student, discuss the definition of SEN as outlined in this chapter. Use the internet to contrast and compare definitions of SEN in England and Wales with those available in other European countries.

2. Read section 9 of the Education and Skill Committee Inquiry into SEN memorandum evidence submitted by the Centre for Studies on Inclusive Education (see CSIE – September 2005). Make a list of the reasons why the CSIE disagrees with the employment of the term SEN. (Document available at http://inclusion.uwe.ac.uk/csie/campaigns.htm)

Suggested Further Reading


The first few pages of this chapter offer a good overview of what is actually meant by the term SEN.


Pages 1–5 of this text offer a concise but wide ranging discussion of the definition of SEN.