



Leicester City's BERA Framework - delivering high quality SEND provision, the application of Best Endeavours and Reasonable Adjustments within a mainstream setting.

Introduction

This framework associated process and documentation were developed by Leicestershire County Council. The process is now being implemented across both the County and the City and we would like to take this opportunity to thank Leicestershire County Council for their work on this. In the City this replaces the document, 'Inclusive Provision for SEND (Special Educational Needs and Disability) Pupils in Mainstream Schools.' We would also like to thank colleagues, in both mainstream schools and specialist settings, for their help with personalising the framework for Leicester City.

Leicester City Council is committed to achieving the outcomes for children and young people with Special Educational Needs and Disability (SEND) and to enable them to be successfully included in their community.

Whilst we are committed to ensuring that there are sufficient places in specialist settings and services, we know that most children and young people with SEND are educated in mainstream schools. Our strategic aim is to develop and sustain a high quality inclusive mainstream education offer for all children and young people with SEND in Leicester City, working in partnership with schools and families to achieve this.

There are many schools in Leicester that are highly inclusive and already offer excellent provision for children and young people with SEND. We want to build on that good practice. We believe, however, that the needs of some children and young people currently accessing specialist provision could and should be met in mainstream settings. We are confident that if the right support and breadth of provision is put in place, many more children can be successfully educated in their local schools alongside non-SEND children and young people.

We are committed to working in partnership with schools to build capacity, expertise, and a commitment to inclusion so that we can increase our ability to identify need and put support in place earlier. This should improve the quality of our offer to all pupils with SEND, irrespective of whether or not they have an Education Health and Care Plan (EHCP) and ensure that needs are met in the environment that is for the child or young person, mainstream wherever possible and specialist when necessary.

Purpose of the Framework

The aim of this Framework, which will be piloted and amended in line with feedback over time, is to support mainstream schools and the local authority to understand and consistently meet our shared responsibilities within the legislative framework, promoting effective inclusive practice and enabling children with SEND to achieve and thrive. It will support decision making about what constitutes appropriate 'best endeavours and/or reasonable adjustments' to meet the needs of children and young people with SEND within mainstream settings and ensure that those decisions are based on a rationale which is clear, transparent and consistently applied. It is intended to:

- support shared understanding amongst schools, all agencies, and staff on the application of best endeavours and reasonable adjustments duties, and in doing so, ensuring good inclusive practice.
- support schools and the local authority to work together to put appropriate provision or practice or services and/or resources in place to ensure that pupils with SEND are not disadvantaged in comparison with their non-SEND/non-disabled pupils.
- provide a process by which schools, the local authority and/or children and young people, parents/carers can raise concerns that 'best endeavours and/or reasonable adjustments' may not be in place.
- identify the process for decision making and the criteria which supports this process.
- support an evaluation of the application of 'best endeavours' or 'reasonable adjustment,' focussing on the impact on the children and young people, with a view to securing consensus, where appropriate, about what actions need to be taken and by whom, to facilitate positive outcomes.
- where there is no consensus, support us in making decisions as to whether there has been a failure to apply 'best endeavours' or 'reasonable adjustment,' and what actions need to be taken and by whom to remedy this.
- set out the steps that will be taken by us as a local authority to meet our responsibilities, both to provide services and provision, and to support, and where appropriate challenge schools, where it is deemed there has been a failure either to apply 'best endeavours' and/or reasonable adjustments' and/or to take the remedial action identified through the application of this process in a timely manner.
- ensure that any judgments made are set within a clear framework and underpinned by a transparent rationale, with an effective process for external moderation and conflict resolution where appropriate.

This Framework is supported by a suite of guidance documents to aid decision making and exemplify expectations in relation to effective SEND practice. The framework and associated documents will be piloted and amended in line with feedback over time.

Principles:

- The child or young person and their family is at the heart of what we do. Their views, wishes and aspirations are always taken into account.
- All children and young people with SEND can expect to be treated fairly and have their needs met.
- The curriculum offer is appropriate, accessible and focuses on securing outcomes which matter to the children and young people and will support positive future lives.
- Our focus is on difference and not deficit, and we are committed to ensuring that 'best endeavours' and 'reasonable adjustments' are used effectively to maximise progress and secure positive outcomes.
- We have high expectations and promote positive attitudes to SEND.

Terminology

Throughout this document the term 'school' is used to refer to:

- Mainstream schools (including mainstream academies)
- Maintained (state funded) nursery schools and Private/Voluntary/Independent sector
- 16-19 academies
- Alternative provision academies
- Further Education Institutions
- Pupil Referral Units.

The National Context

In the last 10 years we have experienced the most comprehensive reform of Special Educational Needs in a generation. In considering and developing our provision for pupils with SEND, there are two key pieces of legislation which need to be taken into account – [The Equality Act](#) (2010), and subsequent amendment (2012) which introduced 'Reasonable Adjustments' and the [Children and Families Act](#) (2014), which identifies the schools' responsibilities in relation to 'Best Endeavours'.

'Best Endeavours' and 'Reasonable Adjustments' within Leicester City

In the past, a lack of shared understanding about what we mean by these two terms has meant that it has been difficult to effectively support schools either to meet their responsibilities or to provide effective challenge where they do not. This framework and its supporting guidance document, which has been co-produced with schools, SENCOs, local authority staff, parents, and carers, is intended to clarify what we mean by these terms and to support us in ensuring the legislation is consistently applied. It is also intended to support the possible outcomes for our children and young people with SEND.

The Legislative context: The Children and Families Act and associated Code of Practice 2014

The [Children and Families Act 2014](#), and associated [SEND Code of Practice](#), which came into force on 01 September 2014, aims to ensure that children and young people with disabilities achieve well, have choice and control over their support and are enabled to progress from education into happy and fulfilling lives, including employment.

The Act enshrines the importance of ensuring that young people and their families or carers are fully involved in decisions about their support and the outcomes they want to achieve. The legal framework is designed to join up support across education, health, and care, from birth to 25 by bringing about key changes to the way in which departments, providers and practitioners work together to facilitate this. The expectation is that these changes will result in improved outcomes for children and young people and ensure that their experiences will be a journey which is less confrontational and more efficient than in the past.

Best Endeavours

The [Children and Families Act 2014](#) and associated [SEND Code of Practice](#) (2014) states that:

‘Mainstream schools **must** use their best endeavours to make sure that a child with SEN gets the support they need – this means doing everything they can to meet children and young people’s SEN.’

SEND CoP (Code of Practice) 6.2 pg.92

This duty applies irrespective of whether the children and young people have an EHCP or not. Although there has been less legal challenge about what this means than one might have expected, nonetheless, it is a requirement with legal status. There is value in identifying what we mean and expect by ‘best endeavours’ in Leicester City.

Within the code of practice, the terms ‘must’ and ‘should’ are used to differentiate between ‘duties’ (i.e., legal requirements) and ‘expectations.’ This framework and the supporting guidance documents will consider what we mean by ‘best endeavours,’ with reference to both duties (musts) and expectations (should) in relation to Leicester City’s ‘graduated response.’

Using ‘best endeavours’ means doing everything the school can to meet the children and young people’s SEND.

The Equality Act - Reasonable Adjustments

Schools and local authorities have a duty to provide reasonable adjustments for disabled pupils under the [Equality Act 2010](#). From 1 September 2012, the reasonable adjustments duty for schools and education authorities includes a duty to provide auxiliary aids and services for disabled pupils.

Leicester City’s approach to determining whether a duty re ‘Best Endeavours’ and/or ‘Reasonable Adjustments’ applies.

Who does it apply to?

Whilst ‘reasonable adjustments’ applies to disabled pupils as defined in the Equality Act 2010, the Code of Practice applies to children and young people with SEND. The Equality Act says that a pupil has a disability if he or she has a physical or mental impairment that

has a **long-term and substantial adverse** effect on his or her ability to carry out normal day-to-day activities. The Code of Practice identifies that:

'This definition provides a relatively low threshold and includes more children than many realise: 'long-term' is defined as 'a year or more' and 'substantial' is defined as 'more than minor or trivial.' This definition includes sensory impairments such as those affecting sight or hearing, and long-term health conditions such as asthma, diabetes, epilepsy, and cancer. Children and young people with such conditions do not necessarily have SEN, but there is a significant overlap between disabled children and young people and those with SEN. Where a disabled child or young person requires special educational provision, they will also be covered by the SEN definition.'

CoP (2015) xviii. Pg.16

Some disabled pupils will also have special educational needs (SEN) and may be receiving SEN support or have an EHCP. The fact that a disabled pupil has SEN Support or an EHC (Education Health and Care) plan does not take away a school's duty to make reasonable adjustments for that pupil. In practice of course, many disabled pupils who also have SEN Support or an EHC plan will receive all the support they need through the SEN framework and there will be nothing extra that the school must do. However, some disabled pupils will not have SEN and some disabled pupils with SEN will still need reasonable adjustments to be made for them in addition to any support that they receive through the SEN framework. Schools should therefore consider whether there is a 'Best Endeavours' and/or 'reasonable adjustments' duty for all children and young people with a SEND, irrespective of whether or not they have an EHCP plan or are on SEN support.

The [Reasonable Adjustments for Disabled Pupils Guidance for Schools in England](#) requires schools:

'To take such steps as it is Reasonable to have to take to avoid the substantial disadvantage' to a disabled person caused by a provision, criterion or practice applied by or on behalf of a school, or by the absence of an auxiliary aid or service.'

The reasonable adjustments duty is triggered only where there is a need to avoid 'substantial disadvantage.' 'Substantial' is defined as being **anything more than minor or trivial**. Whether a disabled pupil is at a substantial disadvantage or not will depend on the individual situation.

In the reasonable adjustment guidance, the term 'school' is used to refer to both schools and local authorities, so this is a shared responsibility. This responsibility is also referenced in the [SEND Code of Practice \(2014\)](#), which states that schools **must**:

'Make reasonable adjustments, including the provision of auxiliary aids and services, to ensure that disabled children and young people are not at a substantial disadvantage compared with their peers. This duty is **anticipatory** – it requires thought to be given in advance to what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage.'

Send CoP pg.17

There are three elements to **reasonable adjustments**:

- **Provisions, criteria, and practices** – this relates to the way in which a school operates daily, including its decisions and actions.
- **Auxiliary aids and services** – this means anything that constitutes additional support or assistance for a disabled pupil, such as a piece of equipment or support from a member of staff.
- **Physical features** – whilst this element does not apply to schools in relation to disabled pupils, they do have a duty to plan better access for disabled pupils including in relation to the school's physical environment.

For this reason, in the framework and supporting guidance we do not distinguish between whether the action taken to support a pupil to achieve and thrive falls under 'best endeavours' or 'reasonable adjustments. Instead, we consider the impact it has on the children and young people.

Best endeavours or reasonable adjustments are effectively the first tier of putting in appropriate support to meet SEND and they complement quality first teaching. Wherever there is concern about progress or wellbeing, consideration should always be given as to whether the concern may be related to an undiagnosed/ unrecognised SEND. Recognising this and taking appropriate action to address it would fall within the 'best endeavour/reasonable adjustment duty.' It is important to be aware therefore, that although it is a possible outcome of the process, **children and young people do not need to be on a SEN support register or have an EHCP before consideration is given to the relevance of 'best endeavours/reasonable adjustments.'**

How do we apply it?

Within the code of practice, the terms 'must' and 'should' are used to differentiate between duties (i.e., legal requirements) and 'expectations.' Within Leicester City, we are expecting that in order to deliver 'best endeavours,' schools will be able to evidence that they are meeting the vast majority, if not all the expectations set out in the code – the 'shoulds.'

Inevitably, there will be some overlap between 'best endeavours' and 'reasonable adjustments,' but while 'shoulds' are recommendations, and are therefore potentially discretionary, a reasonable adjustment is mandatory. Those who must have regard to it are expected to explain any departure from it.

Therefore, in order to determine when a 'should' under 'best endeavours' becomes a 'must' or a 'reasonable adjustment,' the judgment relates to **whether or not the children and young person is at a substantial disadvantage in comparison with non-disabled /non-SEND peers, because of action taken, or not taken.** If so, the school is potentially in breach of the Equality Act and/or the Code of Practice.

As with 'reasonable adjustments,' the disadvantage will be deemed to be 'substantial' when it is judged to be anything more than minor or trivial. Whether a pupil with SEND is at a substantial disadvantage or not will depend on the individual situation

Therefore, in making judgments about what constitutes a ‘reasonable adjustment’ or a ‘best endeavour’ it will be important to consider the context and individual circumstance of both the children and young people and their school.

As noted above, in applying the legislative responsibilities associated with ‘best endeavours/reasonable adjustments’ it is important to take the context into account. All children and young people are individuals and the ‘best endeavours/reasonable adjustments’ that are appropriate for them will depend upon the way in which their SEND affects them, and the context in which they are being educated.

Framework and Supporting Guidance

The supporting guidance ‘**Delivering high quality inclusive provision for SEND Pupils in Mainstream Schools: Best Endeavours and Reasonable Adjustments - A guide for Schools**’ has therefore been developed to support schools and the local authority in assessing the need for or appropriateness of ‘best endeavours/reasonable adjustments’ and to provide a resource for schools to draw on in evaluating and developing their current SEND practice. It provides examples of what might reasonably be expected of schools in relation to ‘best endeavours’ and/or ‘reasonable adjustments,’ in terms of both general SEND and with reference to specific areas of need.

The supporting guidance draws heavily on the Code of Practice and as such provides a summary of the responsibilities the school has in relation to the Children and Family Act. It also exemplifies where and how the duties under the Equality Act might be applied.

Section 1 Applying Best Endeavours/Reasonable Adjustments to SEND Provision

‘Part 1 Applying best endeavours/reasonable adjustments to SEND provision’, considers what might reasonably be expected of a mainstream school’s overall SEND provision in order to meet its responsibilities with respect to the legislative expectations associated with providing ‘best endeavours/reasonable adjustments’.

These expectations are considered in relation to:

- **People and Services** – providing general guidance relating to expectations in relation to best endeavours/reasonable adjustments for teaching assistants (TAs), teachers, SENCos (Special Educational Needs Co Ordinators) and leaders/head teachers, in terms of effective SEND practice (general).
- **Provision and practice** – considering a range of aspects which might impact on the quality of a schools SEND provision, such as curriculum and policy.
- **Environment** – considering what adaptations the school might reasonably be expected to make to accommodate the needs of its pupils with SEND.
- **Resources for learning** - this section, whilst not exhaustive, provides some examples of the types of resources for learning schools might reasonably be expected to provide for pupils with SEND out of their SEN budget.

It is anticipated that schools, governors, and parents of pupils with SEND might draw on this guidance to help them evaluate and develop their overall SEND provision, and to reassure themselves, that the schools are fulfilling their responsibilities in relation to SEND provision. Schools might also find it useful as a tool to help them to evaluate and develop effective inclusive practice.

Section 2 Applying Best Endeavours/Reasonable Adjustments to specific areas of need.

The duty to provide best endeavours/reasonable adjustments applies to both schools and local authorities. 'Part 2 Applying best endeavours/reasonable adjustments to specific areas of need' therefore explores how this shared responsibility might be addressed in relation to children and young people with:

1. [Speech, Language and Communication Needs](#)
2. [Autism Spectrum Disorder](#)
3. [Specific Learning Difficulties](#)
4. [Moderate Learning Difficulties](#)
5. [Social Emotional and Mental Health](#)
6. [Hearing Impairment](#)
7. [Visual Impairment](#)
8. [Multisensory Impairment \(MSI\)](#)
9. [Physical Disability](#)
10. [Medical Conditions](#)

It is important to note that the guidance contained in '**Delivering high quality inclusive provision for SEND Pupils in Mainstream Schools: Best Endeavours and Reasonable Adjustments - A guide for Schools**' is illustrative of expectations, but not exhaustive. It is neither possible nor appropriate to set out every situation/context/ example whereby a reasonable adjustment or best endeavour should be applied. Judgments about the appropriateness of this must be determined on a case-by-case basis, taking the needs and situation of the individual children and young people and their school context into account.

How the framework and supporting guidance will work in practice to support the provision of Best Endeavours/Reasonable Adjustments.

The framework and supporting guidance are designed to provide a useful resource to which schools, parents and/or the local authority might refer when identifying where, whether and how the duty to provide 'reasonable adjustments' or 'best endeavours' might apply. It provides a framework to support judgments about the adequacy of 'best endeavour/reasonable adjustment' put in place and helps identify what more needs to be done where the judgment is made that a pupil has been substantially disadvantaged because of action taken or not taken, whether by the school or the Local authority.

It is anticipated that:

Schools may use the Framework and Supporting guidance as a reference to support them in identifying what 'Best Endeavours/Reasonable Adjustments' they might need to have in place in terms of generic special needs and/or with reference to a specific type of need. Where appropriate, schools should seek specialist expertise from relevant professionals in line with their responsibilities, as identified within the code of practice.

Parents may draw on the Framework and supporting guidance to help them consider whether and/or what 'best endeavours/reasonable adjustments' they might reasonably expect a school to put in place to address their son or daughter's SEND.

Local authority staff/relevant specialist experts will ensure their advice and guidance, where appropriate, refers to the 'best endeavours/reasonable adjustments' that a school should have in place to support the provision of high-quality inclusive SEND provision and, where appropriate, references specific actions/provision required to meet the needs of a particular pupil.

Visits to schools by local authority staff, such as the SEND Support Service, may involve identifying and/or reviewing the 'best endeavours/reasonable adjustments' which are needed/have been put in place, with a focus on impact for children with SEND in general and/or the specific needs of a children and young people depending upon the nature and purpose of their involvement.

Best endeavours/reasonable adjustments are effectively the first tier of putting in appropriate support to meet SEND needs. Therefore, in order to progress any additional interventions, including requests for funding and/or requests for EHCP assessments it is essential that the schools can evidence, to the satisfaction of the Local authority, that appropriate 'best endeavours/reasonable adjustments' have been put in place and how this has impacted the child or young person.

It is hoped that by working in partnership and drawing on this framework and the **Delivering High Quality Inclusive Provision for SEND Pupils in Mainstream Schools: Best Endeavours and Reasonable Adjustments - A Guide for Schools**, consensus can be secured about what 'best endeavours/reasonable adjustments' should be put in place, by whom and within what timescales.

In all cases, when considering judgments, although consideration is given to what has or has not been put in place, the focus must always be on how this has impacted on the children and young people. Where this is negatively affecting progress and wellbeing, it is important to identify what needs to be done to address this in a timely manner.

Process for determining the need for/adequacy and/or form of Best Endeavours/Reasonable Adjustments

Where a concern about the progress and/or wellbeing of a children and young people which may be related to a SEND is identified, the following process will be applied:

Step 1.

A concern about the progress and/or wellbeing of a children and young people which may be related to a SEND, is identified. A concern:

- may be raised by a Parent/carer, SENCo (Special Education Needs Co Ordinator), School, or Specialist expert e.g., Specialist Teacher/EP.
- might relate to practice/ support for a child with an identified SEND – e.g., a concern that actions taken or not taken to support identified need is having a negative impact on progress/wellbeing or experience.

Step 2.

A meeting is held to discuss the concern.

This is an informal meeting, the aim of which is to develop shared understanding about the children and young peoples' needs and facilitate consensus about next steps. The meeting should take the form of a supportive conversation between the relevant parties – this might be parent and child, SENCo and/or head teacher, and/or where appropriate the relevant representative from the local authority, or any combination of the above appropriate to the children and young people and context. Ideally this meeting should be held within 2 weeks of the concern being raised, unless for example, there are school holidays which preclude this.

Step 3.

Meeting the need of my child (Form A) is completed with a view to establishing consensus around actions.

During the meeting Form A should be completed to reflect the discussions that have taken place and any actions agreed. Attendees might also wish to refer to the supporting guidance prior to and/or during the meeting. The Supporting Guidance provides examples of what might reasonably be expected of schools in relation to 'best endeavours' and 'reasonable adjustments,' in terms of both general SEND and with reference to specific areas of need. It is a valuable reference tool to support an assessment of the need for/ appropriateness of 'best endeavours/reasonable adjustments.

It is expected that schools and attendees will refer to the relevant annotated template to support them in the effective completion of Form A.

Form A prompts attendees to jointly consider:

- why the meeting has been called, who has raised the concern and what is the nature of that concern.
- whether these concerns are shared by others.
- what the impact is on the children and young people.
- whether this falls within the best endeavours/reasonable adjustments duty.
- where there is consensus that it does, what needs to be done, when by whom and within what timescales.
- what the process for review should be?

The preferred and intended outcome of the process is that consensus is established. It is anticipated that for most of the cases informal discussion, supported by the completion of Form A, should secure agreement about the relevant course of action. The outcome is then implemented in a timely manner, and their impact monitored and evaluated by relevant parties.

Where this addresses the initial concern to the satisfaction of all, no additional action in relation to best endeavours and reasonable adjustments will be required at this stage. School and parents should keep a copy of the completed 'Form A.'

In a minority of cases, however, consensus may not be secured. Where this is the case, a more formal review is undertaken, as described under step 4.

Step 4.

Consensus is not secured.

This may be the case where:

A parent remains concerned, but the school does not accept there is a SEND and/or that it needs to put a best endeavour/reasonable adjustment in place. In this case, the next step would be for the school to notify the local authority that a concern has been raised but not resolved and the local authority will identify the most appropriate specialist to review the outcome. This person would then contact the school with a view to ascertaining where the dispute lies and, wherever possible, establishing consensus. The specialist will endeavour to achieve consensus using Form B to include an agreement amongst all parties as to what should happen next. It is anticipated that in most cases this would mean that an agreement was secured amongst all parties as to what should happen next. Any agreed actions would then be implemented, and the impact monitored. If a consensus cannot be agreed at this stage, the specialist will refer to the Head of Service.

In the unlikely event that the school does not notify the Local Authority that consensus has not been achieved, parents may contact the LA directly via the SEND Support Service, who will instigate the process as described above.

A specialist remains concerned. This is likely to occur where a children and young people have a recognised SEND, and the specialist, such as a SEND Support Service teacher is concerned that recommendations/ appropriate best endeavours/reasonable adjustments have not been put in place in a timely manner. In this case, the next step would be for the specialist to refer the concern on to their line manager, who would then contact the school directly with a view to ascertaining where the dispute lies, and wherever possible, establishing consensus, using BERA (Best Endeavours Reasonable Adjustments) Concerns (Form B).

The line manager would also be able to draw on their extensive experience of children with similar needs in similar settings. It is again anticipated that in most cases this would secure an agreement amongst all parties as to what should happen next. Any agreed actions would then be implemented, and the impact monitored.

If a consensus cannot be agreed at this stage, the specialist will refer the case on to the Head of Service.

It is important to recognise that in every case, the aim of the process is to ensure that a pupil with SEND is not disadvantaged in comparison with his non-SEND/non-disabled peers. That appropriate resources, services, provisions and/or practice are put in place to enable him or her to succeed and thrive, wherever possible, within the local mainstream school.

Therefore, the process should be one of collaboration and consensus rather than confrontation, where all parties, the local authority included, seek to resolve the situation as creatively and collaboratively as possible.

BERA Unresolved Concerns (Form B)

Form B is used where a concern has been raised but not resolved through an informal meeting using Form A. It will be completed by a specialist with relevant experience and expertise who will review existing information, seeking additional information where required, and come to a judgment.

It is expected that the reviewer will refer to the relevant annotated template to support them in the effective completion of Form B.

Form B prompts the specialist to:

- review the original paperwork, including form A, and any other relevant documentation deemed relevant by the reviewer and/or other interested parties.
- have a conversation with relevant parties to understand their views and gather any supporting evidence. This conversation may take place in phone or in person.
- review the case with reference to the supporting guidance, to consider where/how the case sits in relation to Reasonable expectations/summary of legislative responsibilities in relation to effective inclusive practice, as exemplified within the guide.
- draw on their extensive experience of SEND within the authority to consider what provision has been made by similar schools for pupils with similar needs.
- consider any other relevant sources of information to inform judgment.

Drawing on the above, the specialist reviewer will:

- consider whether there is evidence to suggest that the concerns about the child are SEND related and well placed.
- identify if/how the child/young person is being affected and come to a judgment as to whether the child/young person is at a substantial disadvantage in comparison with their non-SEND/non-disabled class member.
- come to a judgment as to whether the concern falls within the 'best endeavours/reasonable adjustments' duty, and therefore requires action/s.
- and where this is the case, make recommendation/s about what needs to be done, by whom and by when and to include details about what the process for review should be.

The completed form will be shared electronically with the school, who has **two weeks** to respond. The reviewer will have had regular contact with the school during the review

process and so the outcome should not come as a surprise. It is therefore anticipated that for most cases, actions can be agreed collaboratively, put in place and their impact monitored and evaluated by relevant parties.

Where the school does not agree with the recommendations, they are requested to outline their reasons on Form B and return it to the local Authority within 2 weeks of receipt. The case will then be referred up to the Line Manager, who will review all documentation, including the reasons why the school does not agree. The Line Manager will undertake any additional investigations required and confirm in writing whether they think the school is in breach of its responsibilities and the action/s it will undertake or expects the school to undertake within identified time scales to ensure the children and young people are not disadvantaged in comparison with their non-SEND/non-disabled peers. At this point the line manager or the school may choose to refer the case for external moderation.

In the unlikely event that a school fails to comply with requested actions then the case will then be referred to a Principal SEND officer and an external moderation will be undertaken if one has not already been completed. If the judgment that the schools is in breach of its responsibilities under the BERA legislation is confirmed, then the Director will issue the school with a 'failure to apply 'Best Endeavours' or 'Reasonable adjustment' notice, which will be copied to the SEND Governor and, where appropriate, to the Chair of the Board of the Academy Trust. At this point, the school/school representatives have 2 weeks to comply/demonstrate intended compliance with the actions outlined in the notice. If the school fails to do so, the case will be referred by the Director to the Schools Commissioner.

Moderation

This framework was originally developed by Leicestershire City Council. As both councils are using the same process there is an opportunity to undertake both an internal and external moderation process. Moderation may take place for several purposes and in a variety of ways:

- As part of our internal quality assurance, a senior manager will sample several completed Form B's, to provide assurance that the process is being used consistently and applied to a high standard.
- A reviewer or a school may refer a BERA case to an internal moderator at any point in the process to seek a second opinion/ introduce objectivity. The moderator will review the documentation, undertaking any additional investigation they feel appropriate, and identifying the action/s s/he expects the school /local authority to undertake within identified time scales to ensure the children and young people is not disadvantaged in comparison with non-SEND/non-disabled peers.

Moderation can be particularly beneficial where it seems likely that at the end of the process consensus may still not have been achieved. In a case for example, where the school does not concur/accept the outcome of an investigation by a line manager, the authority may refer, or indeed the school may request the case is referred for external moderation by an appropriate representative within Leicestershire Local Authority. The

process of external moderation should be completed within 2 weeks unless school holidays preclude this.

External moderation should always be undertaken where the school rejects the judgments of the Local Authority's reviewer and before a Failure to Comply notice is served. In this case, the role of the moderator will be to provide an external objective judgment and both parties are expected to abide by the outcomes, which might include actions for the school and/or the local authority.

As above, if at this stage, the school fails to comply with any requested actions the case will be escalated as described above.