

Eligibility Criteria for Education, Health and Care (EHC) Needs Assessment

1 Introduction

This document provides guidance on the evidence required and the expectations of those schools and other education providers making a request for an EHC Needs Assessment.

The Special Educational Needs and Disability (SEND) Code of Practice: 0-25 years provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations. It relates to children and young people with special educational needs (SEN) and disabled children and young people and is based on the core principles of section 19 of the Children and Families Act 2014. This makes clear that Local Authorities, in carrying out their functions under the Act in relation to disabled children and young people and those with special educational needs (SEN), must have regard to:

- the views, wishes and feelings of children and their parents, and young people;
- the importance of them participating as fully as possible in decision-making and providing the information and support to enable them to do so; and
- supporting children and young people's development and helping them to achieve the best possible educational and other outcomes.

See appendix for weblink to the SEND Code of Practice: 0-25 years.

The SEND Code of Practice: 0-25 years takes precedence over the local criteria. The Local Authority will depart from the local criteria where there is a compelling reason to do so, and will consider each child's needs individually on their merits.

The SEND Code of Practice: 0-25 years defines "special educational needs" as follows.

A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her.

A child of compulsory school age or a young person has a learning difficulty or disability if he or she:

- *has a significantly greater difficulty in learning than the majority of others of the same age, or*
- *has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.*

- *For children aged two or more, special educational provision is educational or training provision that is additional to or different from that made generally for other children or young people of the same age by mainstream schools, maintained nursery schools, mainstream post-16 institutions or by relevant early years providers. For a child under two years of age, special educational provision means educational provision of any kind.*
- *A child under compulsory school age has special educational needs if he or she is likely to fall within the definition in the paragraph above when they reach compulsory school age or would do so if special educational provision was not made for them.*

One of the aims of an EHC Needs Assessment is to support the local authority in making a decision about “*whether it is necessary for it to make provision in accordance with an EHC plan*”. This means that a child or young person requires special educational provision to be made that is *additional and different* to the educational provision made for children of a similar age. The SEND Code of Practice: 0-25 years states:

*“A local authority **must** conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan”* (paragraph 9.3)

An EHC Needs Assessment should be part of a graduated response to provision for children and young people with special educational needs. The requirement for an EHC Needs Assessment is likely to be triggered, when it is likely that the special educational provision required to meet the child or young person’s special educational needs cannot reasonably be met within the resources ordinarily available to the early years providers, school, post 16 institution or other educational provider, and /or the setting has shown that they have used their best endeavours to meet a child’s needs

It should be noted that:

“An EHC needs assessment will not always lead to an EHC plan. The information gathered during an EHC needs assessment may indicate ways in which the school, college or other provider can meet the child or young person’s needs without an EHC plan” (paragraph 9.6)

2 Responsibilities of education providers

The SEND Code of Practice: 0-25 years says:

“Where a child or young person does not have an EHC plan they must be educated in a mainstream setting except in specific circumstances...” (paragraph 1.26)

The Equality Act 2010 and Children and Families Act 2014 reinforce the right for all children to be educated in mainstream schools. All schools “*...must make reasonable adjustments, including the provision of auxiliary aids and services for disabled children, to prevent them being put at a substantial disadvantage*” (paragraph 6.9). It is expected that the majority of children and young people with SEN and disabilities can have their needs met through the Local Offer without needing an EHC Plan.

“Every school is required to identify and address the SEN of the pupils that they support. Mainstream schools, which in this chapter includes maintained schools and academies that are not special schools, maintained nursery schools, 16 to 19 academies, alternative provision academies and Pupil Referral Units (PRUs), 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” (paragraph 6.2)

All schools and colleges are provided with funding for meeting the needs of children and young people with SEN and disabilities. The provision they make (known as SEN Support) to meet these needs, as well as those of children and young people who have medical needs, must be set out and published in their SEN Information Report on their website and updated at least annually.

The SEND Code of Practice: 0-25 years gives more detail of what:

- Early years settings should do in paragraphs 5.27 – 5.54 (pages 84 -89)
- Schools should do in paragraphs 6.14 – 6.99 (pages 94 – 110)
- Colleges should do in paragraphs 7.13 – 7.35 (pages 114 – 119).

If a parent/carer feels that their child’s school or other education provider is not meeting its responsibilities under the SEND Code of Practice: 0-25 years, e.g. using the SEN services and funding delegated to it, then the parent should, in the first instance, raise their concerns directly with the school, if necessary via the school’s complaints procedure.

Settings have access to both services to support children with SEND, and also funding.

The services available include Areas Senco’s, Advisory Teachers, School Nursing, Therapy Services such as Speech and Language Therapy and Child and Adolescent Mental Health Services, and Educational Psychology.

The funding available to the Early Years Settings is the Inclusion Fund, which is available to settings for children with additional needs at the point of identification, and the Disability Access Fund, provided to settings to help support children who receive Disability Living Allowance

School funding includes the age weighted pupil unit (AWPU), funding related to deprivation and also additional funding provided by Haringey such as the SEND contingency fund for schools. This fund is provided to schools who have higher numbers of children with Education Health and Care Plans, but proportionately lower levels of deprivation funding. The utilisation of the SEN funding for a school should be clear from their SEN information report.

For more information on the support children can receive, please refer to Haringey’s local offer at: <http://www.haringey.gov.uk/children-and-families/local-offer>

3 Who can request an EHC Needs Assessment

Where a request for an EHC Needs Assessment is made under Section 36 of the Children and Families Act 2014, it is usually made by the child/young person's school or college, or in early years by an early years specialist practitioner (see SEND Code of Practice: 0-25 years Chapter 9).

“The following people have a specific right to ask a local authority to conduct an education, health and care needs assessment for a child or young person aged between 0 and 25:

- *the child's parent [or carer]*
- *a young person over the age of 16 but under the age of 25, and*
- *a person acting on behalf of a school or post-16 institution (this should ideally be with the knowledge and agreement of the parent or young person where possible)” (paragraph 9.8)*
- *A professional acting on behalf of a child or parent with the consent of the parent*

“Children and young people under 19 in youth custodial establishments also have the right to request an assessment for an EHC plan. The child's parent, the young person themselves or the professionals working with them can ask the home local authority to conduct an EHC needs assessment while they are still detained....” (paragraph 9.10)

When making a decision to agree an EHC Needs Assessment or not, the same range of evidence is considered and the same criteria applied, regardless of who makes the request.

Typically, schools and education providers will work collaboratively with parents, carers and young people through the Assess-Plan-Do-Review cycle (described in Section 6 of this document). It is advisable (though not compulsory) for parents/carers and young people considering making a request for an EHC Needs Assessment to discuss this first with the early years provider, school, post 16 institution or other educational provider that they attend. This is because the Local Authority will ask the education provider for evidence of the action that it has already taken to meet the child's special educational needs.

For children under two

In a very small minority of cases, children with very complex needs would benefit from an EHC Needs Assessment to determine the special provision that would best meet their needs and cannot be met by the local offer.

4 Process of requesting an EHC Needs Assessment

A school or other education provider seeking to make a request for an EHC needs assessment should send a completed Haringey Education Health and Care Needs Assessment Request form with the parents/carers' signature together with the required evidence to the Special Educational Needs Team at SEN@haringey.gov.uk. If you require a copy of the Haringey Education Health and Care Needs Assessment Request form, please ask for one from the following email address - SEN@haringey.gov.uk.

A parent or young person who wishes to make a request for an EHC needs assessment should either send an email to the Special Educational Needs Team or write to them at
Special Educational Needs Team

Alexandra House,
2nd Floor, 10 Station Road, Wood Green, N22 7TR
T. 020 8489 3190

stating the child's full name and date of birth and the name of the school or other education provision they attend.

Timescales for responding to requests

The Local Authority is obliged under the SEN Code of Practice: 0-25 years to notify the parent/carer that it is considering a request by an education provider for an EHC needs assessment. The Local Authority must make a decision within 6 weeks of receipt of the request (from either a parent or an education provider) as to whether they will carry out an EHC needs assessment. The Local Authority must notify the parent and the education provider of their decision in writing, and if they have decided not to carry out an EHC needs assessment, the Local Authority must give the reasons for their decision. The Local Authority may provide the parent/carer with information about the feedback regarding the child's progress and attainment gathered in the course of considering the EHC needs assessment request.

Flowchart attached in appendix.

Appeal process

If a parent/carer or young person wishes to appeal against a Local Authority decision to refuse to start an EHC needs assessment, they may apply to the SEND Tribunal (see appendix to this policy for local sources of independent information advice and support). If an education provider or a parent/carer wishes to re-apply following the Local Authority's refusal of an EHC needs assessment, then this may be done by resubmitting further evidence in response to the refusal to re-assess. If this is not available then they should complete a further assess-plan-do-review cycle. Following this they may re-apply.

5. Decision to assess for an educational health and care plan

When requesting an EHC Needs Assessment, it is expected that an early years provider, school, post 16 institution or other educational provider will demonstrate how they have used their best endeavours to utilise funding from their delegated budget to address an individual child/young person's special educational needs. It is important that the evidence provided gives information that shows that they have used a graduated response to implement what is ordinarily available in mainstream settings, and that a level of provision, which is higher than can be reasonably met with the delegated funding, is needed to support the child/young person's special educational needs.

The guidelines set out in Chapter 6 in the SEND Code of Practice: 0-25 years, with particular reference to SEN Support in schools (paragraph 6.44- 6.62), need to be followed and the early years provider, school, post 16 institution or other educational provider needs to provide evidence of this in their written submission. Emphasis should be placed on a graduated response which follows the cycle:

- **Assess** - to identify the child/young person's special educational needs

- **Plan** - to provide a child/young person with support ensuring that parents are fully involved in this process
- **Do** - ensure that appropriate intervention and support is in place for the child/young person
- **Review** - to consider the effectiveness of the programme and impact on the child/young person's progress



Early years providers, schools, post 16 institutions or other educational providers are also expected to provide evidence in their written submission of how they have involved specialists where it is clear that the child/young person is making less than expected progress in spite of the evidence-based support and intervention that they have put in place.

The early years provider, school, post 16 institution or other educational provider should demonstrate that its actions have been purposeful, relevant and sustained. Children and young people eligible for an EHC Needs Assessment would usually have been supported at SEN support, with resources available from within the early years provision, school, post 16 institution or other educational provider for a period of time, as well as being provided with access to the curriculum through the normal teaching arrangements. Haringey recognises that this is not always possible however, and decisions will be made on a case by case basis when children are considered to be in need and the school has used their best endeavours to meet needs. Examples of exceptional cases might be a child where there is risk of placement breakdown, a child who has moved to the country recently, or where there is a new or emerging need for the child with has not previously been evident e.g. as a result of an accident or injury

The following evidence will be taken into account:

- Evidence of a baseline assessment from which progress can be measured
- Review dates, with recorded evidence of formal reviews and subsequent adaptations to targets and strategies
- SMART targets set and pupil achievement towards these monitored and recorded
- Parent/carer involvement in discussion of the child/young person's special needs and provision supporting child/young person's achievement of targets
- External advisory professionals involved. including specialist teachers, external agencies working in consultation with teachers e.g. educational psychologist, speech and language therapist; Area SENCo

- Information about exclusions, including exclusions from lessons
- Haringey considers that it is best practice to show evidence of at least 2 cycles of advice, implementation of SEN Support plan in a timely manner and review of progress with the involvement of external agency, and these should be submitted if available.
- Early years provider, school, post 16 institution or other educational provider's provision map and cost of intervention for the individual child/young person
- Strategies used with details of arrangements which are beyond differentiation and are additional to and different from those normally available in school
- Additional resources made available to the child that would enable the child/young person to achieve the targets
- The child/young person's One Page Profile
- Medical history, where relevant
- Why do you think the child/young person needs an EHCP now?

Any supporting reports provided should be up to date and normally no more than 18 months old. For children who are under 5 years old, supporting reports would normally be less than 12 months old. Reports that are more than 2 years old will not be considered.

6. Decision to issue an Education Health and Care Plan

In order to determine whether a child or young person requires provision to be made in accordance with an EHC Plan, local authorities have to pay attention to the following:

- the views and wishes of the child and their parent/carer
- evidence of the child or young person's academic attainment (or developmental milestones in younger children) and rate of progress
- information about the nature, extent and context of the child or young person's special educational needs
- evidence of the action already being taken by the early years provider, school or post-16 institution to meet the child or young person's special educational needs
- evidence that where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided
- evidence of the child or young person's physical, emotional and social development and health needs, drawing on relevant evidence from clinicians and other health professionals and what has been done to meet these by other agencies
- where a young person is aged over 18, the local authority must consider whether the young person requires additional time, in comparison to the majority of others of the same age who do not have special educational needs, to complete their education or training. Remaining in formal education or training should help young people to achieve education and training outcomes, building on what they have learned before and preparing them for adult life.

Rate of progress refers to the child/young person's progress:

- being significantly slower than that of their peers starting from the same baseline
- failing to match or better the child/young person's previous rate of progress
- failing to close the attainment gap between them and their peers

- widening the attainment gap between them and their peers. (See paragraphs 6.17 and 6.18 of the SEND Code of Practice: 0-25 years for more details)

Haringey Council needs to consider the following key questions and be satisfied that the early years provider, school, post 16 institution or other educational provider has provided sufficient evidence to address them.

7. Does the child/young person have a significant barrier to learning, i.e. in terms of their cognition and learning, communication and interaction, social, emotional and mental health and/or sensory and/or physical needs, in comparison with others of her/his age?
8. Has the early years provider, school, post 16 institution or other educational provider sought advice from parents, carers, young person, external specialists/professionals and implemented it with SMART targets?
9. Has the child/young person's progress been reviewed over time?
10. Has the early years provider, school, post 16 institution or other educational provider given clear information about how the SEN budget has been used to support the child/young person's special educational needs?
11. Are the child/young person's special educational needs greater than can be reasonably met through the funding delegated to the early years provider, school, post 16 institution or other educational provider to meet special educational needs?
12. Has the early years provider, school, post 16 institution or other educational provider provided clear evidence that despite using delegated funding to meet the child/young person's special educational needs they have not made adequate progress?

In Haringey, requests for an EHC Needs Assessment are considered by a panel which includes local authority and health professionals and Special Educational Needs Co-ordinators (SENCOs). The Panel meets on a weekly basis and the parents/carers, early years provider, school, post 16 institution or other educational provider are informed in writing of the panel's decision within 10 days following the meeting.

Appendix

- Haringey Local Offer
<http://www.haringey.gov.uk/children-and-families/children-and-young-people-special-educational-needs-and-disabilities-our-local-offer>
 - Special Educational Needs Code of Practice: 0-25 years
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417435/Special_educational_needs_and_disabilities_guide_for_parents_and_carers.pdf
 - SEND Guide for Parent and Carers
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/417435/Special_educational_needs_and_disabilities_guide_for_parents_and_carers.pdf
- Easy read guide for Parent and Carers
<https://www.mencap.org.uk/sites/default/files/2016-08/FINAL%20DESIGNED%20Easy%20read%20SENDreforms%20parents%20v11.pdf>
- Easy read guide for children and young people
https://www.mencap.org.uk/sites/default/files/2016-08/Changes%20to%20SEN%20reforms%20guide%20for%20children%20and%20young%20people_0.pdf
 - Local advice and support for parents/carers and young people: Haringey Special Educational Needs & Disabilities Information Advice & Support Service (SENDIASS) telephone: helpline on **0208 802 2611**
<https://markfield.org.uk/haringeys-send-information-advice-support-service/>

Flowchart to show EHC Needs Assessment Process

