

**Children & Young People's Services
Special Educational Needs and Disability Service**

**0-25 Education, Health and Care SEND Decision Making and Moderation
Processes**

Haringey will have 2 SEND panels to ensure that decisions to assess or issue an Education, Health and Care Plan are fair, open and transparent.

Relevant legislation

The panel has a duty to uphold the statutory duties placed upon Haringey Council but not limited to:

- The Special Educational Needs and Disability Regulations 2014.
- SEND Code of Practice 2015.
- Children and Families Act 2014.
- Equality Act 2010 (incorporating Disability Discrimination Act 1995).

Panel 1: Tuesday morning

Decision to proceed with statutory assessment using legal threshold.

In considering whether an EHC needs assessment is necessary, the local authority applies the statutory tests as described in section 36 (8) of the Children and Families Act 2014:

The Local Authority will undertake an EHC assessment where it is of the opinion that:

- (a) the child or young person has or may have special educational needs, **and***
- (b) it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.*

Panel 2: Thursday morning

Decision to issue a plan based on legal thresholds; provision within plan; changes to provision arising from Annual Review.

- Completed new statutory EHC needs assessments - decision to issue a plan, draft EHC plans and indicative budgets/requests for a personal budget.

And also:

- Requests or recommendations for a change of placement from a mainstream setting into a maintained special school or specialist mainstream attached unit provision.
- Requests for an increase in the level of high needs block (education) resource allocation and exceptional packages.
- All requests for an out of authority placement in a non-maintained special or independent special school or specialist post 16 provision (this would be a recommendation based on the need of the child as would need approval from the AD Commissioning, Performance & Inclusion).
- Outcomes of tribunals and overturned mediations.
- Cessation of plans.

Principles and Values

The panels will consider the evidence provided by parents/carers and, where possible, children and young people, alongside practitioners from relevant agencies.

The following principles are applied by the panel:

- Aspirational and person centred.
- Empowerment of children/young people and families.
- Promotion of equality.
- Preparation for transition at appropriate phases.
- Preparation for adulthood.
- Evidence based, transparent and consistent processes and decision making.
- Effective and efficient use of resources and range of provision to be considered.
- Evidence that level of resources is aligned to the needs/outcomes of the child and young person.
- Working together for positive outcomes for children and young people.

1.1 Membership of the SEND Panel

Membership of the panel reflects responsibility for budgets, specialist service delivery and placement across education, health and social care to enable decisions to be taken promptly and to ensure the efficient use of wider public resources.

The panel will consist of managers/senior leadership representatives from the following:

- Head of SEND (Chair)
- Service Manager statutory Assessment Team
- Principal Education Psychologist
- Service Leader: Inclusion Support Services
- DCO
- Children's Social Care representative
- Virtual School
- School representatives
- Minute taker

The panel will involve and be supported by the following officers in attendance:

- SEN Case Officers (to support as required)

If a panel member is unable to attend the meeting they may arrange an appropriate representative, who must be a senior manager from the service, to attend on their behalf or, if relevant, submit written views.

From time to time, the local authority receives requests for colleagues to join the panel to observe panel business. The local authority agrees to this in the spirit of promoting joint working, joint understanding, professional development and workforce development. In order to manage this effectively, observers must

book in advance to attend by contacting the Senior Administration Officer. Observers should note that they MUST NOT take part in any elements of the panel's case discussions and fully observe Local Authority policy in relation to confidentiality in line with GDPR regulations.

This is a closed panel and as such members of the public, parents/carers or a young person are not able to attend for reasons of confidentiality.

1.2 Decision making

Decision making panel members will be responsible for providing advice, professional guidance and recommendations to the chair of the panel to enable fair and consistent decision making. Every effort is made to reach agreement on each case. The final decision remains with the local authority through the chair of the panel. The Head of SEND is authorised to make a decision out of panel if required. This may include whether to start a statutory assessment or issue an EHC plan. Out of panel decisions will be reported to the next available panel. Decisions from the panel will be recorded on the management system and communicated to families by phone and writing within one working day. Decisions will also be shared with schools in writing within one working day.

1.3 Frequency

The panel will meet weekly throughout the year. Where timelines require decisions outside these meeting dates, papers will be shared via secure means and a virtual panel will be held.

Panel papers will be ready for distribution prior to panel to enable attendees to review the papers by:

Thursday panel – paperwork to panel members by the Monday

Tuesday panel – paperwork to panel members by Thursday

Decisions will be recorded during the panel meeting.

1.4 Confidentiality, Data Management and Sharing

Information is essential to support the consistency of decisions making. Section 28 of The Children's and Families Act 2014 places a duty on the council to co-operate with local partners when assessing, determining, and implementing provisions for children and young people with special educational needs.

All member organisations are considered data controllers in their own right and must adhere to the requirements the Data Protection Act 2018 when processing personal data. The lawful basis for processing personal and special category data is:

Article 6 (1) (e) - processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller.

Article 9 (2) (g) - processing is necessary for reasons of substantial public interest, based on Union or Member State law which shall be proportionate to the aim pursued, respect the essence of the right to data protection and provide for suitable and specific measures to safeguard the fundamental rights and the interests of the data subject.

Relevant papers related to each case for discussion will be sent by secure email in advance of the meeting. It is the responsibility of the recipient to delete the electronic communications after the panel meeting has ended and should a member choose to print a hard copy they are accountable for its destruction at the end of each panel meeting in line with Haringey Council confidential waste protocols.

Haringey Council will be responsible for processing any information rights in relation to the SEND Panels. Any request for information received should be notified to Haringey Council as soon as possible but no less than 5 working days from receipt of the request.

All members agree to provide support as required by the council to fulfil any request for information. This may include full details of any information they hold about the individual that has been shared as part of the panel review process.

Panel representatives must uphold confidentiality in all cases considered and act in accordance with the data protection legislation and working together to safeguard children. Any member who has personal knowledge of a case will be asked to leave the room during discussion. This is to ensure that personal knowledge or bias does not influence decision making.

Panel representatives must uphold confidentiality in all cases considered at SEND Panel and act in accordance with the General Data Protection Regulation (GDPR). (GDPR) duties of the LA and working together to safeguard children.

Membership of the panel has a duty to report on all declarations of interest, including relationships to any child or young person, etc.

There may be diverse views discussed at panel given the different representations from the different services and a consensus will be agreed by members and recorded in the minutes.

1.4 Reviewing of the Panel Processes

It is recommended that this document is reviewed annually and amended in accordance with any changes or developments nationally or locally.

These terms of reference are designed to be realistic and practical and provide the right balance between helping the system to work for the children, young people and families living in Haringey and the need for the local authority and Integrated Care Board to carry out their statutory duties, using robust decision making and accountability procedures.