



## Education, Health and Care Needs Assessments

An overview

An Education, Health and Care (EHC) needs assessment is carried out by a local authority to decide if a child or young person needs an Education, Health and Care Plan (EHCP). It also looks at what support should be provided.

In this factsheet we'll outline:

- When a local authority must carry out an EHC needs assessment, including in response to a request
- Who must be consulted and provide advice
- The statutory steps that need to be followed, including timescales.

### Who can request an assessment?

The following people have a right under the Children and Families Act 2014 (the Act) to ask a local authority to conduct an EHC needs assessment for a child or young person aged between 0 and 25:

- The child's parent
- A young person over the age of 16 but under the age of 25
- A person acting on behalf of a school or post-16 institution (the Special Educational Needs and Disability (SEND) Code of Practice states that this should be with the knowledge and agreement of the parent or young person where possible).

Anyone else can bring a child or young person to the attention of the local authority if they think an EHC needs assessment may be necessary. This could include foster carers, health and social care professionals, early years practitioners, youth offending teams or probation services, those responsible for education in custody, school or college staff or a family friend.

This should be done with the knowledge and, where possible, agreement of the child's parent or the young person.

Where a child or young person has been brought to the local authority's attention, they must determine whether an EHC needs assessment is required.

There's a right to request an assessment up to the young person's 25th birthday.

### How does the local authority decide whether to secure an EHC needs assessment?

Section 36 of the Act says that when a request for an EHC needs assessment is made, the local authority must decide whether it's necessary for special educational provision to be made for the child or young person under an EHCP.

The local authority must consult the child's parent or the young person as soon as practical after receiving a request and tell them that they have the right to express views to the authority (orally or in writing) and submit evidence.

Where a local authority is considering whether to carry out an EHC needs assessment, it must also notify:

- The responsible Clinical Commissioning Group (CCG)

- The officers of the local authority who exercise the local authority's social services functions for children or young people with special educational needs
- In relation to a child, the head teacher of the child's school, or if the child receives education from a provider of relevant early years education, the responsible person for special educational needs (if any) in relation to that provider
- In relation to a young person, the head teacher of their school or if the young person's a student at a post-16 institution, the principal of that institution.

The local authority must secure an EHC needs assessment for the child or young person if, after considering any evidence and views submitted, it's 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 under an EHCP.

In relation to a young person over the age of 18, the local authority must consider whether he or she requires additional time, in comparison to the majority of others of the same age who do not have special educational needs, to complete his or her education or training.

Paragraph 9.14 of the SEND Code of Practice sets out factors which local authorities must pay particular attention to when deciding whether an EHC needs assessment is needed. These include:

- Academic attainment and rates of progress
- Nature, extent and context of the child or young person's special educational needs
- Evidence of action already being taken by the education provider
- Evidence that where progress has been made, it's only as a result of additional intervention and support over what's usually provided
- Evidence of physical, emotional and social development and health needs.

Local authorities may develop decision making guidelines but they must be prepared to depart from them if there are compelling reasons to do so. They can't apply a blanket policy to particular groups or types of needs and must consider the child or young person's needs on their own merits.

Where the local authority decides that an EHCP isn't necessary it must notify the child's parents or young person of:

- The reasons for the decision
- Their right of appeal
- The time limits for appeal
- Information about mediation
- The availability of disagreement resolution services and information and advice about the special educational needs of children and young people.

The local authority doesn't have to secure an EHC needs assessment if the child or young person has been assessed during the previous six months unless it feels it's necessary.

The local authority must decide whether to secure an EHC needs assessment within six weeks of the request unless an exception applies as outlined in the timescales section below.

### **The assessment process – who must provide advice?**

Where the local authority secures an EHC needs assessment it must seek advice and information about the needs of the child or young person, what provision may be required to meet their needs, and the intended outcomes for the child or young person receiving that provision from:

- The child's parents or the young person
- Manager, headteacher or principal of education institution
- Medical advice and information from a health care professional identified by the responsible commissioning body
- Psychological advice and information from an educational psychologist
- Advice and information in relation to social care
- Advice and information from any other person the local authority thinks is appropriate
- Any person the child's parents or young person reasonably request the local authority obtain advice from
- From Year 9 onwards – advice to assist with preparation for adulthood and independent living
- Where it appears that the child or young person is either visually or hearing impaired or both, the school or placement should consult with a person qualified to teach children or young people with visual or hearing impairment.

When the local authority requests advice, they must provide copies of representations made by the child's parents or the young person and any evidence submitted.

Partners must respond within six weeks unless an exception applies as outlined in the timescales section below.

### **The assessment process – principles underpinning co-ordinated assessment and planning**

Under Regulation 7 of the SEND Regulations 2014, when securing an EHC needs assessment a local authority must:

- a) Consult the child and the child's parents, or the young person and take into account their views, wishes and feelings
- b) Consider any information provided to the local authority by or at the request of the child, the child's parents or the young person
- c) Consider the information and advice obtained
- d) Engage the child and the child's parents, or the young person and ensure they're able to participate in decisions and
- e) Minimise disruption for the child, the child's parents, the young person and their family.

The SEND Code of Practice emphasises the need for all assessments to follow a person-centred approach with effective coordination. Paragraph 9.22 states that the assessment and planning process should:

- Focus on the child or young person as an individual
- Enable children and young people and their parents to express their views, wishes and feelings
- Enable children and young people and their parents to be part of the decision-making process
- Be easy for children, young people and their parents or carers to understand, and use clear ordinary language and images rather than professional jargon
- Highlight the child or young person's strengths and capabilities
- Enable the child or young person, and those that know them best to say what they've done, what they're interested in and what outcomes they're seeking in the future
- Tailor support to the needs of the individual
- Organise assessments to minimise demands on families
- Bring together relevant professionals to discuss and agree the overall approach
- Deliver an outcomes-focused and co-ordinated plan for the child or young person and their parents
- Support and encourage the involvement of children, young people and parents or carers by:
  - Providing them with the relevant information in accessible formats
  - Giving them time to prepare for discussions and meetings
  - Dedicating time in discussions and meetings to hear their views.

The local authority must not seek any of the advice referred to above if it's already available and all parties agree that it's sufficient for the purposes of an EHC needs assessment.

When securing an EHC needs assessment the local authority must also consider whether the child's parents or the young person requires any information, advice and support to be able to take part in the assessment process effectively. If it considers that support is necessary it must also provide it.

### Timescales

If after an EHC needs assessment, a local authority decides not to issue an EHCP, it must inform the child's parents or young person within a maximum of 16 weeks from the date the assessment was requested.

Where the local authority decides to issue an EHCP, the child's parents or young person must be given a draft plan. They have 15 days to provide their views.

The process from an assessment request (or a child or young person being brought to the local authority's attention) to the final EHCP being issued, must not take longer than 20 weeks.

In exceptional circumstances, it may not be reasonable to expect local authorities and others partners to comply with the time limits.

The SEND Regulations 2014 set out specific exemptions where:

- The local authority has requested advice from the head teacher or principal of a school or post-16 institution, the education provider was closed for a continuous period of at least four weeks, and the request was made at any point from one week before it closed until one week before it reopened
- Exceptional personal circumstances affect the child, the child's parents, or the young person during that time
- The child, the child's parents, or the young person, are absent from the local authority area for a continuous period of not less than four weeks during the relevant time period.

### More information

Chapter 9 of the SEND Code of Practice provides further information on the statutory assessment process.

A separate factsheet is available on EHCPs.

If you'd like to speak to a member of our team, please call 0808 291 1083 or scan the QR code to visit our website:

