

## **Factsheet #4: The Education, Health and Care Needs Assessments**

This factsheet is aimed to provide you with an overview of the Education, Health and Care Needs Assessment (EHC needs assessment) process and in particular to 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 required by the process of EHC needs assessment including timescales

### **Who can request an assessment?**

The following people have a specific right under the Act to ask a local authority to conduct an EHC 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, and
- a person acting on behalf of a school or post-16 institution (the SEND Code of Practice states that this should be with the knowledge and agreement of the parent or young person where possible).

In addition, anyone else can bring a child or young person who has (or may have) SEN to the attention of the local authority, particularly where they think an EHC needs assessment may be necessary. This could include, for example, 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 is a right to request an assessment up to the young person's 25<sup>th</sup> birthday.

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

Section 36 of the Children and Families Act 2014 provides that when a request for an EHC needs assessment for a child or young person is made, the local authority must determine whether it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.

In reaching making this determination, the local authority must consult the child's parent or the young person as soon as practical after receiving a request and notify the parent or young person 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 secure an EHC needs assessment, it must also notify:

- the responsible 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 school the child or if the child receives education from a provider of relevant early years education, the person identified as having responsibility for special educational needs (if any) in relation to that provider;
- in relation to a young person, the head teacher of the school or if the young person is a student at a post-16 institution, to the principal of that institution.

The local authority must secure an EHC needs assessment for the child or young person if, after regard to the views of the parent or young person and evidence submitted, the local authority 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.

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 Code of Practice sets out factors which local authorities must pay particular attention to when determining whether an EHC needs assessment is required. These include:

- Academic attainment and rates of progress
- Nature, extent and context of CYP's SEN
- Evidence of action already being taken by placement
- Evidence that where progress has been made, only as a result of additional intervention and support above usually provided
- Evidence of physical, emotional and social development and health needs

Local authorities may develop criteria or guidelines to help them decide but must be prepared to depart from criteria where compelling reason to do so. They must not apply a blanket policy to particular groups / types of needs and must consider the child or young persons needs individually and on their merits.

Where the local authority determines that it is not necessary for special educational provision to be made in accordance with an EHC plan it must notify the child's parent or young person of:

- the reasons for the determination not to secure an EHC needs assessment;
- their right of appeal
- the time limits for doing so;
- information concerning mediation,
- the availability of disagreement resolution services and information and advice about matters relating to the special educational needs of children and young people.

The local authority is not required to secure an EHC assessment if the child or young person has been assessed during the previous six months although can do so if it considers necessary.

The local authority must make its determination regarding whether to secure an EHC needs assessment within 6 weeks of the request subject to exceptions outlined below.

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

Where the local authority secures an EHC needs assessment for a child or young person, it must seek the following advice and information, on the needs of the child or young person, and what provision may be required to meet such needs and the outcomes that are intended to be achieved by the child or young person receiving that provision:

- The child's parent 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 who is qualified to teach children or young people with visual or hearing impairment before they provide their advice.

When the local authority is requesting advice, they must provide the person or body with a copy of any representations made by the child's parent or the young person and any evidence submitted.

Partners must respond within a maximum of 6 weeks of request although there are exceptions to the time limits as outlined below.

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

Regulation 7 of the Special Educational Needs and Disability Regulations 2014 states that when securing an EHC needs assessment a local authority must:

- a) consult the child and the child's parent, 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 parent or the young person;
- c) consider the information and advice obtained;
- d) engage the child and the child's parent, or the young person and ensure they are able to participate in decisions; and
- e) minimise disruption for the child, the child's parent, the young person and their family.

There is an emphasis in the SEND Code of Practice on ensuring all assessments have a person centred approach and there is effective co-ordination. 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 have done, what they are interested in and what outcomes they are 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 together the overall approach, and
- deliver an outcomes-focused and co-ordinated plan for the child or young person and their parent
- support and encourage the involvement of children, young people and parents or carers by:
  - providing them with access to the relevant information in accessible formats
  - giving them time to prepare for discussions and meetings, and
  - dedicating time in discussions and meetings to hear their views

In addition, the local authority must not seek any of the advice referred to above if such advice has previously been provided for any purpose and the person providing that advice, the local authority and the child's parent or the young person are all satisfied that it is 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 parent or the young person requires any information, advice and support in order to enable them to take part effectively in the EHC needs assessment, and if it considers that such information, advice or support is necessary, it must provide it.

### **Timescales**

If a local authority decides, following an EHC needs assessment, not to issue an EHC plan, it must inform the child's parent or young person within a maximum of 16 weeks from the request for an EHC needs assessment.

Where the local authority decides to issue an EHC plan, the child's parent or young person must be provided with a draft plan and given 15 days to provide their views.

The entire process of EHC needs assessment and EHC plan development, from the point when an assessment is requested (or a child or young person is brought to the local authority's attention) until the final EHC plan is issued, must take no more than 20 weeks.

Where there are exceptional circumstances, it may not be reasonable to expect local authorities and others partners to comply with the time limits above. The Special Educational Needs and Disability Regulations 2014 set out specific exemptions. These include where:

- the local authority has requested advice from the head teacher or principal of a school or post-16 institution during a period beginning one week before any date on which that school or institution was closed for a continuous period of not less than 4 weeks from that date and ending one week before the date on which it re-opens;
- exceptional personal circumstances affect the child, the child's parent, or the young person during the time period; or
- the child, the child's parent, or the young person, are absent from the area of the authority for a continuous period of not less than 4 weeks during the time period referred to in paragraph.

Chapter 9 of the SEND Code of Practice provides further information on the statutory assessment process. A separate factsheet is available on EHC plans.