

The SEND Information, Advice & Support Service Children, Young People & Parents



Information for Parents, Children and Young People

Introduction

SENDIASS is the organisation that has the statutory responsibility to provide advice, information and support to parents of children with special educational needs or a disability (SEND) and to young people with SEND.

The work of SENDIASS is supported and overseen by the Information Advice & Support Services Network (IASSN) based in The Council for Disabled Children.

All staff in SENDIASS are legally trained, and we can offer advice and support on all aspects of the education, health and social care process, including representation at Appeal Tribunals if required. The support provided is to help parents, carers and young people to make informed decisions about SEND issues, including additional provision and early years, school or college placement.

Although SENDIASS is part of the Local Authority, we are expected to operate at an 'arms-length distance' from SEND decision makers, so that we can continue to provide an impartial, rights-based approach to those who request support.

Our Helpline - **0121 303 5004** – is open from **8:45 - 5:15** each day. We are a small team that is expected to cover the entire city, and will allocate Support Officers in complex cases.

The information on this website is aimed at providing some initial advice and information on the law, LA processes and the ways to resolve disagreements.

There is information available from the Council for Disabled Children website: **councilfordisabledchildren.org** and from IPSEA: **ipsea.org.uk** and from Special Needs Jungle: **specialneedsjungle.com**

The SEND Code of Practice is also available online: **www.gov.uk/government/publications/send-code-of-practice-0-to-25**

What are special needs?

The definitions of SEND are straightforward, and there is no need for any additional criteria to be added. Any reference to such needs having to be 'severe' or 'complex' are not part of the legal definitions.

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

Special educational provision is defined as provision that is different from or additional to that normally available to pupils of the same age

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*

Many children and young people who have SEN may have a disability under the Equality Act 2010 – that is 'a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities'. This definition provides a relatively low threshold and includes more children than many realise.

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.

Not all children with SEND will require an Education Health and Care Plan (EHCP). Nationally and locally around 3.5% of pupils have an EHCP. Around 15% of pupils have their SEND met from resources already available within the educational placement.

The assessment process

The definitions of SEND are straightforward, and there is no need for any additional criteria to be added. Any reference to such needs Requests for EHC Needs Assessments can be made by parents or carers, young people with SEND, schools or other education providers and some professionals such as Educational Psychologists.

There is often confusion around the criteria for assessment, that is, the legal tests that must be applied.

The legal tests are that a child or young person:

- i. **HAS** or **MAY HAVE** special educational needs or a disability and
 - ii. **MAY REQUIRE** additional support through an EHCPlan.
- i) Evidence here could be a diagnosis of Autism or ADHD, a physical disability or sensory impairment, a report from a Speech Therapist indicating that a child has a significant communication difficulty, a dyslexia assessment or evidence from school that attainment is well below age related expectations.

In some cases, it will be important to seek an Assessment as soon as possible in nursery or school provision. In other cases it is advisable to allow teaching and advisory staff to suggest additional provision

and then review how effective it has been. This is called the 'graduated approach'.

There are application forms available on the Local Authority Local Offer pages but it is also acceptable to make a request in the form of a letter. The more information that can be provided with this request the better chance there is of Assessment being agreed.

If a request is made for EHC Needs Assessment, then a decision has to be made within six weeks. It is possible to Appeal against such a decision.

If a request for Assessment is refused, it is also possible to make another request for Assessment – for example, if you have an updated report or a letter from a health professional – without having to wait for any specific length of time.

SEN Support and school funding

The definitions of SEND are straightforward, and there is no need for any additional criteria to be added. Any reference to such needs The majority of pupils and students with SEND do not require an Education Health and Care Plan (EHCP).

This means that the additional needs of those children and young people are being addressed with relatively low levels of support, funded through resources already available within the educational placement.

Funding available to meet these needs is a little complicated.

For example, schools receive a level of funding for ALL pupils -this is known as Core Funding (or Age Weighted Pupil Unit). This is expected to meet the costs of mainstream education.

In addition, all maintained* schools will receive a Notional SEN Budget from which to fund most of the special educational provision that pupils require. From this budget schools are expected to pay for the first £6,000 of special educational provision each year for an individual pupil. This can refer to additional equipment, Teaching Assistant support, some small group or individual work, some therapeutic interventions.

If the LA decides that an EHCP is not necessary, then a SEN Support Plan should be made available, which will list the range of special educational needs identified

By the Assessment, as well as what provision is needed to meet those needs. The Support Plan carries no legal weight and is not the equivalent of an EHCP.

Ideally, the SEN Support Plan should be sent with the decision letter so that an informed decision can be made as to why an EHCP is regarded as not being necessary.

One of the factors in deciding if a pupil requires an EHCP will be how much the additional provision is expected to cost. If it can be shown that the required provision is likely to cost significantly less than £6000 then this may be a reason not to Issue an EHCP. It is, therefore, crucial that if the LA thinks that no EHCP is necessary, any SEN Support Plan is detailed and can be accurately costed.

Schools can also access Pupil Premium funding for certain groups of children – those on Free School meals, Looked-After children, children of Armed Forces parents. This can involve support for pupils with SEND if they are eligible for the Pupil Premium.

Decisions on issuing an EHCP

Unfortunately, the law around when an EHCP should be issued is less clear than that dealing with Assessment.

Legislation states that an EHCP should be issued when it is 'necessary'.

Case law has not clarified this in any great detail, beyond stating that necessary means something between 'useful and essential'.

An important factor is what provision is normally available within mainstream schools. This is when available funding can be considered.

**maintained schools means any LA school, or any Academy school or free school*

If an EHC Needs Assessment request is agreed, then the LA has a further 10 weeks by which time a decision has to be made either to issue a Draft EHCP, or to make a decision that no EHCP will be issued.

If a Draft EHCP is issued, there is an opportunity to comment on the content of any of the Sections. It is always worth comparing the content of the EHCP with the reports that were used to inform the writing of the EHCP. SENDIASS can help with this. It is at this point that a preference can be made for the educational placement that a parent/carer of young person wants named.

If a decision is made not to issue an EHCP, there is a right of appeal. Mediation has to be considered before an appeal can be made to SENDIST.

It is possible to make another request for an EHC Assessment after a decision is made not to issue an EHCP but there has to be a six month period until this can be done.

