



**SURREY**  
COUNTY COUNCIL

# **Request for an Education, Health and Care (EHC) Needs Assessment**

**Guidance for parents and professionals  
to L-SPA processes and practice**



# The following guidance explains.

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# 1. The duties on schools and settings to identify and meet special educational needs.

The 2015 SEN Code of Practice placed new duties on all education establishments, to identify and support a child with SEND. This is referred to in the Code of Practice as SEN Support or the graduated approach. The Code of Practice also states that all schools must:

- Use their best endeavours to make sure that a child with SEN gets the support they need. This does not mean they should immediately seek additional funding.
- Ensure that children and young people with SEN engage in the activities of the school alongside peers who do not have SEN.
- Designate a teacher to be responsible for co-ordinating SEN provision – the SENCO. This was new to Early Years and Further Education settings in 2015.
- Inform parents when they are making special educational provision for a child.
- Ensure they publish a document which details their arrangements for the admission of disabled children, the steps being taken to prevent disabled children being treated less favourably than others, the facilities provided to enable access to the school for disabled children and their accessibility plan showing how they plan to improve access progressively over time. This is usually published as the SEND Information Report and should be updated annually.
- Appoint or designate a member of the Board of Governors with specific oversight for SEND.

The benefits of early identification and interventions are well evidenced in research and are proven to have a positive impact on the long-term outcomes for children. If needs are identified early and the appropriate support is put in place and monitored most children will not require an EHC Needs Assessment or Plan.

Schools should use a need led or social model to identify and meet special educational needs and not wait for a diagnosis or clinical assessment before making reasonable adjustments or putting in place Ordinarily Available Provision. They should use their notional SEN budget to do this.

A child who is accessing additional support should have a SEND Support Arrangements plan co-produced with the family that demonstrates what support is being put in place and how its impact is monitored. This plan needs to be reviewed at least termly but, in some circumstances, may be reviewed more frequently dependent on individual circumstances. This process is referred to as the Assess, Plan, Do, Review cycle of support.

- **ASSESS** – carry out a clear analysis of the pupil's needs and remain responsive to how the pupil responds.
- **PLAN** – involve the child and parents. All school staff should be aware of their needs, the outcomes sought, the support provided and any teaching strategies or approaches that are required for the individual.
- **DO** – the class teacher or subject teacher should remain responsible for working with the child daily. The SENCO should support the class or subject teacher in the further assessment of the child's particular strengths and weaknesses in problem solving and the effective implementation of support.
- **REVIEW** – progress should be reviewed regularly, involving the parents and where appropriate the child. Progress should be assessed based on what is working well, not working well and what actions can be undertaken to address the deficit.

## 2. How schools are funded to meet special educational needs

Schools funding is allocated in three parts:

- Basic per pupil funding previously known as the age weighted pupil unit

All schools get basic per-pupil funding for every child or young person on their roll. There is usually more funding for each pupil in a secondary school than in a primary school. This makes up the core budget for each school and it is used to make general provision for all pupils in the school **including pupils with SEN**. Schools may also get additional funding for Children Looked After and through Pupil Premium, which is based on deprivation indicators, prior attainment amongst other factors.

- Notional SEN budgets.

Mainstream maintained schools and academies (“schools”) are notified each year of a clearly identified but notional budget, within their overall budget allocation, towards the costs of fulfilling their duty to use their ‘best endeavours’ to secure that special educational provision for their pupils with SEN.

The government has recommended that schools should use this notional SEN budget to pay for up to £6,000 worth of special educational provision to meet a child’s SEN. Most children with SEN need special educational provision that comes to less than this amount. This funding is not instead of the basic per-pupil funding funds, it is additional to it.

- High Needs Block or EHCP funding:

For children with the most complex and enduring needs the school may be awarded top up funding from the High Needs Block. In Surrey this is usually allocated only for children with an EHCP unless there are exceptional circumstances. This funding is specific to the named child on the EHCP and must transfer with the child if they move school in county. The EHCP will detail what the funding is to be used for and what outcomes it supports.

It is important to note that a child who is awarded Element 3 funding also attracts Element 1 and 2 funding so the resources funded are cumulative.

# 3. The definition of special educational needs or disability

Disabilities and special educational needs have different legal definitions and although some people with SEN may be disabled and vice versa this is not always the case.

Disability across all ages is defined in the Equality Act and says that a person has a disability if.

Section 20 (2) of the Children and families Act also defines disability or learning difficulty but in the context of care and education as follows.

“ *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.*

Section 20 (1) of CAFA 2014 sets out the definition of SEN.

- *A child or young person has special educational needs if he or she has a **learning difficulty or a disability which calls for special educational provision (SEP) to be made for him or her.***

Section 21 of CAFA 2014 sets out the definition of **SEP**.

*“Special educational provision means educational or training provision that is **additional to, or different from, that made generally for others of the same age in-***

- *mainstream schools in England,*
- *maintained nursery schools in England,*
- *mainstream post-16 institutions in England, or*
- *places in England at which relevant early years education is provided.”*

## 4. Ordinarily Available Provision

The Surrey Ordinarily Available Provision offer ensures that all children and young people have access to evidence to the right support at the right time and includes provision linked to all four areas of primary need including therapeutic approaches.

The principles of the Ordinarily Available Offer are that.

- The child or young person's views and aspirations should be central to all planning with and for them.
- Parents should be equal partners in all discussions and decisions about how best to support their child.
- All pupils should have access to a broad and balanced curriculum.
- Teachers should set high expectations for every pupil, whatever their prior attainment.
- Teachers should use appropriate assessment to set targets which are deliberately ambitious.
- Potential areas of difficulty should be identified and addressed at the outset.
- Lessons should be planned to address potential areas of difficulty and to remove barriers to pupil achievement.
- In many cases, such planning will mean that pupils with SEN and disabilities will be able to study the full national curriculum.
- Assessment and intervention should be proportionate to identified need and not be reliant on a diagnosis. This is often known as a Needs Led Approach.

Details of the Ordinarily Available Provision available in schools can be accessed on the Surrey SEND Local Offer [here](#)

# 5. The legislation related to EHC Needs Assessments

If a request for an EHC Needs Assessment is received for a child or young person Surrey County Council must make a decision within 6 weeks of the date of receipt whether to secure an EHC Needs Assessment.

The Children and Families Act (CAFA) 2014 S.36 (8) states that

- *The local authority must secure an EHC needs assessment for the child or young person if, after having regard to any views expressed and evidence submitted under subsection (7), the 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*

The L-SPA multi-disciplinary team also must have due regard to the statutory duties placed on all Local Authorities as detailed above and relevant legislation as set out in

- 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)
- Education Act 2011

## 6. How the L-SPA decides about whether to secure an EHC Needs assessment

The Learners Single Point of Access is the route through which all requests for EHC Needs Assessments are received. This ensures that decision making and the thresholds for deciding whether to assess are consistent. All decisions are considered by a multi-disciplinary team of professionals usually including Educational Psychologist, Specialist Teacher for Inclusive Practice, Speech and Language Therapist, Occupational Therapist and L-SPA Send Adviser (National SENCo Award qualified)

In summary the L-SPA panel consider the following

- Whether the education provider has fully utilised the Ordinarily Available Provision core offer and sought advice and support from specialist services where necessary
- That despite relevant, purposeful, evidence-based support as detailed in the Ordinarily Available Provision guidance and making reasonable adjustments in accordance with universal legislation, it is not possible to meet the special educational needs within existing resources allocated in accordance with Element 2 of the SEND notional budget allocated to the school or setting.
- That despite consistent application of High-Quality teaching and appropriate, focused additional support the child/young person is not making anticipated progress over time.
- Evidence that the school or setting has made every effort to identify special educational needs and put in place SEND Support arrangements in accordance with their duties as set out in Chapter 6 of the [SEND Code of Practice 2015](#)
- The provider has monitored the impact of any SEND Support strategies over time and done so in collaboration with the parent/carer and if appropriate the young person. It is expected that all children/young people's progress is regularly assessed and monitored.
  - That the strategies in place as part of the SEND Support arrangements are relevant, purposeful, and evidence-based and are linked to person centred outcomes.
  - Whether there is evidence that a child or young person has SEN that requires them to access provision that is additional to or different from that which is made for the majority of others of the same age.
  - The severity, complexity, and long-term nature of the SEN
  - Whether the severity of child/young person's difficulties will prevent them accessing learning and if so which areas of learning will be impacted

### **Decision making in specific circumstances:**

- where the request for an EHC Needs Assessment is made by a parent

EHC Needs Assessment requests made by parents may be lacking evidence of any meaningful and purposeful action taken by an education provider at SEND Support. The LSPA will request any additional evidence necessary to make a balanced and

informed decision where that has not been provided and to notify (but not seek advice from) Health and Social Care. There is a statutory duty to make a decision within 6 weeks of receiving the request whether the request is received from a parent or school/setting

- where there is no evidence of SEND Support  
In exceptional circumstances we may not require the usual standard of SEN Support being put in place this is usually due to a child/young person, previously not known to the LA or educational setting (for example mover in from abroad who has been in receipt of a very high level of support without the requirement of an EHC plan) whose needs are so severe that they are likely to require immediate specialist support, aid or adaptations over and above that normally available through the graduated response at SEN support. These decisions are made by exception and in collaboration with a wider circle of professionals than the L-SPA
- where the evidence suggests needs that are primarily related to health, medical or physical conditions.

For the majority of children with health, medical or physical needs the duty to make reasonable adjustments to facilitate their access to education is met under the public sector equality duty (Equality Act 2010). Specific to school age children there is additional guidance of what schools are expected to provide set out in the statutory guidance : Supporting children with medical conditions at school

We also consider whether the child or young person's needs be met by the development of an Individual Healthcare Plan as set out in the guidance above?

Have all reasonable endeavours been undertaken to employ assistive technology or adaptations to support independence and dignity appropriate to the age of the young person?

Where appropriate or relevant is the child or young person medically fit to attend a school or setting and if not have alternative education arrangements been made for them that are meeting their needs?

- where the parent has exercised their right to electively home educate

A parent has the right under S.8 Education Act 2006 to electively home educate their child. Some parents may choose this because their child has SEN and as such their parents have the right to request an EHC needs assessment. When deciding about whether to proceed with an assessment in this case MDT will have to have regard to the second part of the legal test – whether the child requires special educational provision to be made for them which is different to or more than that which is ordinarily available to their peers. MDT must apply the same test in law as if the child attends a school and as far as possible engage the parent in a discussion about submitting evidence of what special educational provision, they feel their child may need if they were in a school setting.

## 7. Standards for high quality evidence that special education is required in accordance with an EHCP.

Surrey has clearly set out its expectations of what support should be ordinarily available within schools and settings, and which should be funded from within the schools notional SEN budget. This Ordinarily Available Provision offer was co-produced with school leaders and parent carer forum.

For most requests, the decision will be based on whether the child requires or may require special education to be made for them. As set out in point 2 special educational provision is anything which is over and above that which is ordinarily available to most others of the same age. In Surrey we have clearly defined what can be provided from 'ordinarily available' resources.

We therefore have a reasonable expectation that schools or settings will provide, at a minimum, the following in support of their request.

- *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 SEN.*
- *Evidence that despite the early years' provider, school or post-16 institution having taken relevant and purposeful action to identify, assess and meet the special educational needs of the child or young person, the child or young person has not made expected progress. This is commonly provided through the SEND Support Arrangements document, with reference to the OAP guidance and should be supported by evidence of attainment levels.*
- *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 SEN. This should include information as to whether the needs are or may be enduring.*
- *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. This is set out in the Ordinarily Available Provision document and should be evidenced by completion of a fully costed provision map which does not include what is ordinarily available.*
- *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. It is our expectation that health needs should primarily be met by an Individual Health care Plan*

## 8. Resolving disagreements

- Where the LSPA MDT does not agree to initiate an EHCNA we will try to resolve any disagreements through a Way Forward meeting and if this is not possible, we will review the decision with the SEN Service with all parties involved
- Detailed information about this can be found on The Surrey SEND Local Offer [here](#)