



**WOKINGHAM  
BOROUGH COUNCIL**

# Learning and Achievement

## Guidance on when to request an Education, Health and Care needs assessment

Meeting the needs of children and young people with Special  
Educational Needs and Disability in Wokingham

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## Purpose of the Document

This document sets out how Wokingham and its schools provide support to ensure that children and young people who have special educational needs and/or disabilities can access an education which is inclusive and responsive to their individual needs. It describes a graduated response to providing support which, for most children and young people, will be provided in their community mainstream school.

This document describes the national requirements and also the arrangements which Wokingham local authority has made, locally, to ensure that support can be provided promptly and equitably by providing funding to groups of schools.

This document does not replicate the legislation or the statutory guidance; rather it provides an overview of how the local authority responds, in general, to special educational needs and disabilities (SEND). There are other detailed documents which sit alongside this guidance and these are referred to within the text.

## National Context

### The Children and Families Act 2014

This legislation, together with the associated regulations sets out the context for ensuring that children and young people who have special educational needs and/or disabilities are supported to access and benefit from the range of educational opportunities that are available, so that they are enabled to have fulfilling lives as members of their community. The act is supported by statutory guidance, *'The Code of Practice: 0 to 25'* (CoP) to which all local authorities, all publically funded early years and education settings (including academies, free schools and further education settings) along with a range of national and local NHS bodies must 'have regard'.

### Who is covered by the Act?

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. In the introduction of the CoP, paragraphs xiii to xvi defines this as:

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 educational facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post 16 institutions

A child under compulsory school age has special educational needs if he or she is likely to fall within the definition in paragraph xiv when they reach compulsory school age, or would do if special educational provision was not made for them

## What is 'special educational provision'?

The CoP defines special educational provision in paragraph xv as:

Special educational provision for children aged two and over is educational provision that is additional to or different from that made generally available for other children or young people of the same age by mainstream schools, maintained nursery schools, and mainstream post 16 institutions or by relevant early years providers. For a child under two years of age, special educational provision means educational provision of any kind.

National figures continue to suggest that as many as 1 in 5 children and young people are, at some stage, considered to have special educational needs. Mainstream schools, in particular, will always be employing a range of strategies to stimulate the learning of individual or groups of children. For the most part they will support learning using the additional funding which is delegated to them based on a range of indicators. These indicators include: where the pupil lives; their prior attainment levels; and, whether they have English as an additional language. Further information can be found in the document '*Funding to support learners who have special educational needs*'.

## The Local Offer: School/College Support to pupils/students who have Special Educational Needs and/or Disabilities

The Children and Families Act, supported by the funding reforms, has introduced a single pre-statutory stage called SEN Support and this is relevant at all age levels. This now means that there is greater capacity for settings to respond to the additional learning needs for children and young people with SEND.

To support children, young people and their families, the Act requires all local authorities to set out a Local Offer. The Local Offer is a description of support and services which are available to children and young people who have SEND, and their families, how services can be accessed and any criteria for accessing them. It is the opportunity to bring together in one place, information about provision, including how this can be accessed from a wide range of statutory and non-statutory providers including voluntary organisations.

Wokingham's Local Offer can be accessed on:

<http://www.wokingham.gov.uk/our-local-offer/>

Wokingham Local Authority has set out what it expects should be available in all mainstream settings to meet the needs of children and young people without recourse to a statutory EHC needs assessment. This document, '*SEN Support*' can be found on the Local Offer page.

## Local Context

### How funding is made available to schools to meet the needs of pupils who have SEND at SEN Support stage

The funding system for schools has three elements:

Element 1 – this represents the AWPU funding which is provided for all pupils and is within a school's formula. This is an amount which is nationally recognised as £4000.

Element 2 – this represents the funding, provided to schools, which is intended to be used as a contribution to the costs of the whole school's additional SEN support arrangements up to the mandatory cost threshold of £6,000 per pupil. This sits within the schools' budgets which are allocated through an agreed formula by the School Forum.

Element 3 – this represents the additional funding provided to the school from the High Needs Block where the cost of supporting a pupil's needs is deemed to exceed elements 1 and 2 combined. This funding can be accessed by the Exceptional Needs Funding or the provision of an Education, Health and Care plan.

Colleges receive their element 1 and 2 funding directly from the Education Funding Agency, and element 3 funding, as required, from the High Needs Block from the local authority. Further information on funding for SEN can be found in the document '*Funding to support learners who have Special Educational Needs*'.

### Exceptional Needs Funding

Wokingham has developed an Exceptional Needs Funding model which can provide the additional resources to meet learning needs in mainstream settings. The exceptional needs process uses existing school partnership clusters which come together to look at individual cases where a school feels that the support needs for that pupil are exceptional. In addition to providing a system which is transparent and supports schools based decisions, this process allows for the sharing of the wide pool of expertise within Wokingham. Cluster moderation meetings are an opportunity to share ideas and expertise on how best practice approaches, provisions and interventions could be used effectively.

Exceptional Needs Funding is particularly helpful when the needs of the child/young person would not be considered to be long-term and having a substantial adverse effect on their ability to carry out normal day to day activities.

School representatives at cluster groups peer-moderate each other's cases and can agree a level of funding up to £2000 to support an individual child. Where the amount of funding requested is greater than £2000, a school representative from the cluster attends a borough-wide moderation meeting to consider those requests. At both the local clusters and borough-wide cluster meetings, the representatives can advise if they believe a request

for a statutory EHC needs assessment should be made. Further information about exceptional needs funding can be found in the document 'Exceptional needs funding: Procedures and guidance'

## Education, Health and Care (EHC) Needs Assessments and Plans

### What are statutory needs assessments?

Statutory assessments are carried out in order to achieve a thorough picture of a child or young person's needs and to identify appropriate outcomes and the provision which will be required to support them. They are carried out within a legal framework which has requirements on the local authority and its partners, including the timescales which are required to be met. The CoP provides detailed guidance and can be downloaded at [www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25).

EHC needs assessments are person-centred and are carried out in genuine partnership with children, young people and their families so that any resulting EHC plan is accessible and meaningful to everyone involved.

### Who can request an EHC needs assessment?

The following people can request an EHC needs assessment:

- the child's parent;
- a young person aged over 16 but under 25; and
- a person acting on behalf of a school or post-16 setting.

In addition to these, anyone who knows the child well such as an early years, health or social care practitioner may bring the child or young person to the attention of the local authority where they think an EHC needs assessment may be necessary. As with a school, they should do this with the knowledge and agreement of the child's parent or the young person.

### Education, Health and Care plans

Following an EHC needs assessment, an EHC plan may be produced. The purpose of an EHC plan is:

'...to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood.'

Code of Practice 9.2

An EHC plan would usually be issued when the provision necessary to meet the child/young person's needs cannot reasonably be provided from the resources normally available to mainstream providers.

EHC plans set out clearly the child's/young person's strengths, needs and outcomes to be achieved, together with the support required to achieve this. These plans are forward looking documents and should help to raise aspirations as well as detailing the provision required.

### Which children/young people may require an EHC plan?

Education, Health and Care plans are required by those pupils/students:

- where the resources required to meet their special educational needs, **cannot** reasonably be provided from the resources **normally available** to mainstream providers and
- who have a significantly greater difficulty in learning than the majority of others of the same age

### The link between special educational needs and disability

Many children and young people who have special educational needs may also have a disability. The Equality Act 2010 defines disability as '*...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*'. In this context 'long term' means over a year and 'substantial' means 'more than minor or trivial'. This definition includes long term health conditions such as asthma, diabetes, epilepsy, cancer and sensory impairments. Many children and young people who have these medical/health conditions will not have special educational needs and their safe and full access to learning and progress will be covered by the duties set out in The Equality Act, including the requirement on all public bodies to make reasonable adjustments.

Where a child or young person has a disability, the way in which their needs are met will depend on the impact the disability has on their access to learning. If, with the appropriate non-discriminatory practices and reasonable adjustments, they can access learning and make progress commensurate with their peers by accessing the resources 'normally available' to their educational setting, there will not require an Education, Health and Care plan (EHC). Some of these children and young people with long term health conditions will have a Health Plan which addresses their safety, health and wellbeing whilst in the early years, school or college setting. The Department for Education (DfE) has published guidance, '*Supporting pupils at school with medical conditions*' which can be found at

<https://www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions>

## Deciding whether to undertake an EHC Needs Assessment

Following a request, Wokingham is expected to consider:-

'-whether there is evidence that, despite the early years, school or post-16 institution has taken relevant and purposeful action to identify and meet the special educational needs of the child or young person, the child or young person has not made expected progress.'

Code of Practice 9.14

EHC needs assessments are 'statutory' assessments. All decisions regarding EHC needs assessments are considered by the EHC Panel. Further information on this panel can be found in the document '*The Education, Health and Care Panel*'. This group considers each case and looks at individual need, progress and the type and level of support and intervention provided. It recognises that each individual child or young person is unique and the questions asked by the panel reflect the individual circumstances of that child or young person. The Panel advises the local authority on three decisions.

- whether the needs of the pupil requires an EHC needs assessment to be undertaken;
- if the assessment has been carried out, whether or not the child or young person should be issued with an EHC plan.
- Where an EHC plan exists, if this plan requires amendment or ceasing

In deciding whether to carry out an assessment, Wokingham local authority takes the requirement for relevant and purposeful action and asks two questions about the process and one about the severity/complexity of need of the child/young person.

- Has the child, young person had access to all the relevant resources available including elements 1 and 2 from their educational setting and universal and targeted health and social care services?
- Has the setting coordinated the involvement of the child's parents, the young person and all the relevant professionals/practitioners with specialist knowledge and expertise in seeking to meet the needs of the child or young person?
- Is there evidence to indicate that the child or young person has a significantly greater difficulty in learning than the majority of others of the same age?

For each of these questions, the EHC Panel considers the following in discussing the evidence presented and coming to its decision:

#### Question 1

- In the last 12 months what resources has the setting used?
- Have appropriate health referrals, assessments and intervention plans been implemented?
- Are IEPs/provision plans relevant to the presenting need? Are targets SMART, and have they been reviewed?
- Has the provision been appropriate to the child, young person and their needs? Is the provision evidence based and cost effective?
- If a relevant resource has not been in place, is it likely that this would have enabled the child, young person to access the curriculum?
- Where high levels of support have been provided and have allowed progress, are they unsustainable without additional high needs funding?

#### Question 2

- Has an assessment of unmet needs been undertaken?
- Have parents/carers been fully and appropriately involved?
- Have relevant professionals/practitioners been involved in the last 12 months? Is there evidence to show that the advice/strategies have been followed and evaluated?

#### Question 3

- Is there a clear presentation of the child's/young person's needs?
- Would the child's/young person's needs be considered exceptional in all our settings at that age level?

It is important to note that, whilst the local authority expects to find that these areas will have been positively answered, each request is considered on merit including whether there are circumstances which may be exceptional and therefore warrant an assessment. It is important to state that these are not definitive 'lines' to be crossed, rather, they are guidance to support discussion and each case is considered both for individual levels of severity and the cumulative impact of their needs. For this reason, the local authority does not have 'severity' thresholds.

Where a child/young person has needs in more than one area the Panel considers the cumulative impact of those needs. Low attainment does not automatically indicate a need for an EHC needs assessment as the progress made may still represent adequate progress relative to the child/young person's ability.

### Consideration for an assessment for a young person beyond statutory school age

All young people are required to continue in education or training until the end of the academic year in which they turn 18. All young people have a choice about how they continue in education or training post-16, this can either be:

- full-time study in a school, college or with a training provider
- full-time work or volunteering combined with part-time education or training
- an Apprenticeship. Further information is available at [www.apprenticeships.org.uk](http://www.apprenticeships.org.uk)

The majority of young people with significant SEN requiring an EHC needs assessment will already have had their needs identified by their previous educational setting. However, by 16+ there may be a range of circumstances whereby a young person who previously did not require an EHC needs assessment would now benefit from this. These situations may include but are not limited to:

- young people whose needs have changed significantly, e.g. as a result of a road traffic accident, due to a degenerative condition or due to a newly identified or increasing mental health need
- young people who are not in education, employment or training (NEET). These young people may have had needs which previously, had not been identified and supported, e.g. young people who have 'fallen out of school' or school refusers
- young people who require additional time, in comparison to peers to complete their education or training

Young people who do not already have an EHC plan continue to have the right to request an assessment of their SEN at any point prior to their 25<sup>th</sup> birthday (unless an assessment has been carried out in the previous six months). Where a request is made, or where the young person is brought to the attention of the local authority as being someone who may have SEN, the local authority **must** follow the guidance for carrying out EHC needs assessments.

Post 16 education and training is diverse and where the term 'college' is used in this document it includes 16-19 academies, school sixth forms, general and specialist colleges. All these providers must have regard to the CoP and work with the local authority to secure the special educational provision which young people need. The duty of colleges covers

students up to 25 but does not apply to students on higher education courses who can access the Disabled Students Allowance (DSA).

Colleges are expected to meet the special educational needs of a wide range of students from within their core funding. Colleges are expected to provide appropriate, high quality SEN support using all available resources. Colleges can receive top-up funding for a student without the need for an EHC plan until the young person is 19 and beyond via the Skills Funding Agency.

It should not be assumed that students have SEN just because they have lower attainment levels, or that students working at higher levels do not have difficulties or disabilities which may need special educational provision. The definition of special educational needs and provision is the same as that for children of statutory school age.

The questions which the EHC Panel considers for students are similar to those for younger children. In addition to the three questions about process and exceptionality of need, where the young person is over 18, all local authorities **must** consider whether:

- the young person requires additional time, in comparison to peers to complete their education or training, or;
- the young person who has been supported through the Local Offer needs an EHC plan when moving to a further education placement, such as where there is an acquired or progressive condition.

### **Arrangements for pupils/students whose circumstances are exceptional and need to proceed to an EHC needs assessment**

In very exceptional circumstances, some pupils and students with exceptional needs may require an EHC needs assessment to start immediately. The actual assessment process will still take the same time in accordance with statutory timescales.

Examples of these exceptional circumstances are:

- children or young people who have arrived in the country recently where there is clear evidence of severe and complex needs;
- children or young people are looked after and a specialist placement requires securing;
- children or young people who have significant, long-lasting and urgent need arising from a sudden deterioration or onset of a medical condition or accident.

Where it is believed that exceptional circumstances apply, the SEN team should be contacted at (0118) 974 6216 or [sen@wokingham.gov.uk](mailto:sen@wokingham.gov.uk) to discuss the case.

## Deciding whether to issue an EHC plan or SEN Support Plan

Once all the advice for the EHC needs assessment has been received, the EHC Panel decides whether to issue an EHC plan. To do this, they consider the level of the child's or young person's learning difficulties and the special educational provision required to meet these needs.

If the EHC Panel decides to issue an EHC plan, it determines the provision required to meet the needs of the child/young person and whether this can be provided in a mainstream school or a specialist placement. If the assessment confirms the provision being made is appropriate but the child or young person is not progressing sufficiently well, the EHC Panel will consider what further provision is needed and whether this can be made within the school's resources.

If the child's or young person's difficulties require frequent and regular direct specialist teaching, daily individual support from support assistants, significant pieces of equipment and/or the regular involvement of non-educational agencies, the authority may consider that this level of provision needs to be specified in an EHC plan

An EHC plan will also be considered appropriate where it is likely that a child or young person may require a specialist school placement.

The authority's conclusion will depend on the precise circumstances of each case in the context of local resourcing and provision arrangements.

An EHC needs assessment will not always lead to an EHC plan being issued, if it is felt that the child's or young person's needs can be met with a level of advice, support and equipment that is available through the resources normally available to mainstream settings. In these situations, the local authority will issue an SEN Support Plan. The information gathered during the assessment will support the school, college or provider in meeting the identified needs of the child/young person. The SEN Support Plan is similar to an EHC plan but it is not a 'statutory' plan as all the provision can be made from the resources which are normally available to schools and colleges.

## Ceasing to Maintain an Education Health and Care Plan

When an EHC plan is issued, it should not necessarily be regarded as being in place for the rest of the child/young person's time at school or college. In many cases, intervention using the resources and programmes provided through the EHC plan will be successful in enabling the child or young person to progress to a level at which he or she can access curriculum and learning experiences using the school's or college's existing resources and normal arrangements.

The progress of children and young people with EHC plans is monitored through a statutory annual review process. At each annual review, the child's or young person's needs and progress will be reviewed against the outcomes set out in the EHC plan and with reference to the question of whether the needs can be met by the resources available to the setting.

Where it is considered that the child or young person no longer requires an EHC plan, the local authority will consult with the parents and the school about ceasing the EHC plan.

Where there are parental concerns about the intention to cease an EHC plan, the local authority will consider:

- obtaining further advice from appropriate professional/s
- maintaining an EHC plan for monitoring purposes for a further year with a view to it ceasing the following year if progress is maintained.

When an EHC plan is ceased before the child or young person finishes their education, the event should be celebrated with the child or young person and his or her parents/carers.

### **Right of Appeal**

Decisions made by the local authority can be challenged through the Special Educational Needs and Disability Tribunal (SENDIST). Information regarding the right of appeal is set out in the written response to parents following the decision by the local authority.