

Education Health and Care (EHC) Needs assessment

An Education, Health and Care (EHC) needs assessment is an assessment of a child or young person's education, health and care needs. It's the first step to getting an Education, Health and Care plan.

Most children and young people with SEND go to a mainstream nursery, school or college and are supported by their staff, resources and funds. Outside specialists sometimes help too. This is called SEN support and for most this support works, and they make progress.

But for some children, even though support is in place, it doesn't seem to be enough or be the right kind of support. Your child may not make progress and start to fall behind other children their age. Or their difficulties in school may get worse not better and behaviour at school or home becomes more challenging.

If that happens, then you or the professionals involved with your child may decide to ask for an **EHC needs assessment**. This can help to make their special educational needs and the support they need clearer.

What happens when I ask for a needs assessment?

When you ask for an assessment, you'll be sent information about the services that can give you impartial support and advice, and how to contact in the SEND Statutory team. This team used to be called the SEND 0-25 team.

A member of staff at the SEND Statutory team at Devon County Council will look at the information that you've given them. They will contact your child's nursery, school or college to

ask them for information. They will also contact other Devon services such as:

- social care services
- the main hospitals and health services
- specialist services, such as educational psychology, youth intervention team and specialist teachers

When they contact these services, they will share the information that you or the school have given and ask whether your child is 'known to them'. That means, 'has your child been seen by that service for assessment, support or treatment?'

If the answer is yes that service will send the information about it to the SEND Statutory team through the EHC Hub. If the answer is no, they may look at the information they've been sent and decide that they should find out about your child and their needs.

If that happens, they could arrange for your child to be assessed. So, for example, if staff at your child's school have said they're having difficulty communicating, then speech and language services may decide to arrange an assessment to find out more. Depending on the service, this may not happen within the time it takes for the needs assessment to be done.

At this stage, you can look at the EHC Hub to see who has been contacted and what reports have already been included. The SEND Statutory team contact the main education, health and social care services only. So, if your child is supported by professionals outside Devon, or by private practitioners, you'll need to ask the SEND Statutory team to contact them directly for their advice.

While the assessment is being done, the support your child gets at school or college will

stay in place. The assess, plan, do and review cycle should carry on too and any regular meetings or reviews should still happen.

How is the decision made about whether my child needs an assessment?

Based on the information they have from you, your child and other services, the SEND Statutory team must decide whether they think your child needs an EHC needs assessment. They must do this within six weeks of the date when you put in the request.

The final decision about whether a needs assessment should go ahead is made by looking at the support your child is already getting, and what difference it's making. In Devon, decisions are checked by a panel of people from education, health and social care.

A wide range of evidence is taken into account, such as

- your child or young person's academic progress, or their developmental milestones if they're very young
- information about their special educational needs and what support has already been given
- information which shows that where they've made progress it's because of the support they've had, which is more than what's usually given
- evidence of their physical, emotional and social development and health needs, including information from doctors and other health professionals

If the local authority decides to carry out a needs assessment for an EHC plan, you'll get a letter telling you about it. This will come by email from the EHC Hub or by post if you're not using the Hub. The needs assessment will start then.

If the local authority decides not to carry out an EHC needs assessment, they must tell you no later than six weeks from the date when you or the school first asked for the assessment. They will send you a letter telling you why. This will come by email from the EHC Hub or by post if you're not using the Hub. They must also give you information about your right to appeal their decision. You can find out more about what to do if this happens at the end of this factsheet.

What happens during the needs assessment?

The assessment - and deciding whether to issue a plan - must take the local authority no more than 16 weeks from the date when an assessment was asked for.

A needs assessment includes the following:

- Asking you and your child for your views (if you haven't already given them). If you have given your views, they will ask for them again or for you to update them. This is helpful as things may have changed in the time it takes to complete the process. You should also send in any reports and letters from professionals about assessments and diagnosis and anything else that might be relevant.
- The professionals already involved with your child will be asked to give information about their needs and recommended support. This might include people like teachers, an educational psychologist and health and social care staff.
- In Devon, an educational psychologist may set up and run a meeting called a Joint Assessment Meeting (JAM) as part of the EHC needs assessment. You can find out more about these meetings on the SEND Local Offer. You can find details at the end of the factsheet.
- If your child is not 'known' to social care or being supported by them, you may be offered a conversation about their social care needs. This is to see whether they need to be assessed further or need support.
- Sometimes a service may carry out a new assessment for your child. This might happen during the EHC needs assessment itself or after it, depending on how long the waiting list to be assessed is.

In reality, getting the information that's needed from the services and professionals involved with your child can sometimes take time. The EHC Hub automatically sends reminders to professionals if they haven't sent information by the deadlines, but the response from professionals can sometimes delay things.

You can find out more about Devon's needs assessment process on the Local Offer.



The EHC Hub sets the legal deadlines for each assessment as soon as a parent or school applies. You will be able to see these clearly on the Hub. If the needs assessment for your child is taking longer than it should, you might get a letter or email explaining why. Keep an eye out for these. If you do not know why there is a delay, you can contact the SEND Statutory team and ask for information. You can also contact us for information and advice.

How long does it take to do the assessment?

The EHC needs assessment process is set out in law and there is a clear timetable for what should happen by when. The whole process from the point when an assessment is asked for until the final EHC plan is issued, must take no more than **20 weeks**. There are some specific exemptions to this – you can find out more about these in the SEND Code of Practice (page 152).

Is there anything I can do?

Yes, there's lots you can do. Here are our top tips.

- Read everything carefully and make sure you know what to do and by when. Put a note in your diary or on your phone about any deadlines.
- Ask for help or more information if you're not sure about something. You can find information about who to contact on the letter you received about the assessment or on the EHC Hub. We can also advise and support you.
- Put all your paperwork or files in a folder, or all in one place somewhere, so you have everything to hand if you need it.
- Keep records of any phone calls as well as copies of any letters and emails you send to the SEND Statutory team. If you're using the EHC Hub, there is a permanent record of everything you and any professionals do.

If you're using the EHC Hub

- Look at and use the EHC Hub on a tablet, a desktop PC or laptop if you can. It can be hard to see everything and read documents on a smart phone and it may mean you miss something important.
- Have a good look around the EHC Hub at the start of the assessment. Click on all the various parts of it and have a good look at what's there so you get used to it. You can't break it!
- Visit the EHC Hub regularly if you want to know what's going on. You can see everything that's been sent in, including reports from your child's school and other professionals. You can download and read all the reports. Reading the information that professionals add during the assessment can help you feel better informed and more prepared when you check the draft plan.
- Before you write your views or help your child or young person to give theirs, have a look at the EHC Hub. There are five separate boxes for you to fill in to give your views and the eight for your child's views, each asking a different thing. It's a good idea to know what you're being asked for before you have those discussions.
- Add the Hub email address to your 'safe sender' list so it doesn't go into your spam or junk folder.

If you're not using the EHC Hub

- Keep a copy of envelopes as well as letters, as these will have a postmark saying when it was sent to you. This can help when working out the time by which things need to be done, or how long the assessment has been going.
- Print or download and save copies of any emails you have sent or received using Egress. This is a confidential email service the SEND Statutory team sometimes use – the system automatically deletes emails after a while.

How is the decision made about whether my child will get an EHC plan?

When all the reports from the assessment are put together, they should give a full picture of your child's needs and the kind of support they should have. The SEND Statutory team staff take the information they've been given and make a recommendation about whether your child should have an EHC plan.

In Devon, a moderation panel checks these decisions to make sure they are consistent and fair. The panel is made up of staff from the SEND Statutory team and health and social care, as well as people from other services such as educational psychology when needed.

If the local authority decides your child **does** need an EHC plan, they will send you a letter about their decision. If you're using the EHC Hub, you will be able to go into the Hub and see a copy of the draft plan when it's ready. There can sometimes be a delay between getting the agreement to issue letter and seeing a draft plan. If you're not using the EHC Hub, you will get a paper copy sent to you, along with the reports and information given by professionals. You will have 15 days to read the draft plan and get back to the SEND Statutory team with any comments.

At this point, you can ask for a personal budget which shows the amount of money that's needed to deliver any highly personalised support that's set out in the plan.

If the local authority has done a needs assessment and then decides that your child **does not** need an EHC plan, they should tell you no later than 16 weeks from the date of the original request for assessment. They must tell you why they have made their decision and give you information about your right to appeal. They must also tell your young person if they're over 16.

What can I do if the local authority decides not to do an assessment or issue an EHC plan?

If the local authority refuses to do an assessment or issue a plan, you have two choices.

1. You can accept the decision.

Sometimes parents and carers choose to do this because their child's nursery, school or college makes changes after the request is put in, which mean an assessment isn't needed any more.

Or if your child has a needs assessment, it can help to make their needs clearer and that changes the support that's being given, so that a plan isn't needed.

If you decide to accept the local authority's decision, your child should continue to be supported at nursery, school or college. You should meet regularly with the staff involved to make sure your child is well supported and making progress.

If things change, or there's new information or concerns about your child's learning or behaviour, you can ask for an EHC needs assessment again.

If you have an assessment request turned down, there is no minimum time you need to wait before you can apply again. If you apply again you will need to have more evidence or information, or the same decision will be made. If you've had an assessment but a plan isn't issued, you can only ask for another needs assessment if there hasn't been one in the last six months.

2. You can disagree with the decision.

If you disagree with a decision about doing a needs assessment or issuing a plan, talk to your contact at the SEND Statutory team. You can tell them why you think the decision is wrong and talk about the main issues. Some disagreements can be sorted out this way.

If you cannot come to an agreement that way, then you can ask for disagreement resolution or mediation. These are ways of discussing things with local authority staff which are led and supported by someone independent.

If these options do not resolve the disagreement, you can appeal the decision. This means going to a SEND tribunal, which is part of the court system. At an appeal tribunal, an independent panel of people, including a judge, will listen to both sides of the argument before deciding. At an appeal hearing a judge can either:

- overturn the decision of the local authority and if that happens an assessment will go ahead, or a plan will be issued
or
- agree with the decision of the local authority, in which case an assessment will not go ahead, or a plan won't be issued

You must appeal a 'refusal to assess' or a 'refusal to issue' decision within two months of the date on your decision letter, or one month from the date of the mediation certificate – whichever is later.

How do I appeal a decision not to assess or a decision not to issue an EHC plan?

Before you can register your appeal, you must contact a mediation advisor. This is to see whether it could help you to resolve your disagreement about the EHC needs assessment or plan without going to appeal. Mediation is independent of the local authority and free for you to use.

The Mediation Service for Devon is provided by Global Mediation, and you can contact them on 0800 064 4488, email: sen@globalmediation.co.uk.

After you've spoken to them, if you decide to use mediation, a mediation meeting will be set up between you and the local authority. If you decide not to use mediation, you'll be given a certificate which will enable you to start your appeal.

To register an appeal, you must fill out an online form. You can find this on the tribunal website. Or you can contact HM Courts and Tribunal Service

Special Educational Needs and Disability Tribunal,
1st Floor, Darlington Magistrates Court,
Parkgate, Darlington DL1 1RU
Tel: 0300 303 5857

www.devon.gov.uk/educationandfamilies/special-educational-needs-and-disability-send-local-offer

IPSEA

SEND legal advice and information, including a 'refusal to assess' pack
www.ipsea.org.uk

SEND Tribunal

Information about tribunal and court process.
www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability

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Need more information?

SEND Code of Practice

Legal guidance around special educational needs
www.gov.uk/government/publications/send-code-of-practice-0-to-25

Council for Disabled Children

EHC plans – examples of good practice
councilfordisabledchildren.org.uk/

Devon SEND Local Offer

SEND services and support available in Devon.