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**Background Information**

**EHCNA Parental Request**

**Introduction**

The law expects most children with SEN and/or disabilities to receive support for their Special Educational Needs through the graduated cycle of ‘SEN Support’. However, for those with more complex needs, an *EHC needs assessment* (EHCNA) may be needed to help to identify the education, health and care needs which are making it difficult for a child or young person to learn in a nursery, school or college. AN EHCNA may also identify any specialist provision that will be needed to meet those needs and remove the barriers to learning so that they make academic progress and achieve good outcomes.

An Education Health & Care Needs Assessment is the first part of the process to potentially obtaining an EHC Plan. Parents (or school) should first request the Local Authority (LA) to undertake an EHCNA. If this is agreed, the LA then use the evidence gathered during this process to determine whether provision should be made through an EHC Plan (or continued through SEN Support).

**The Law**

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| For an EHCNA to be agreed to, the law states there are 2 criteria that the LA should consider (section 36(8) of the Children and Families Act 2014) –* whether the child or young person **has or may have** special educational needs (**SEN**); and
* whether they ***may*** need special educational provision to be made through an EHC plan.

If the answer to both is ‘yes’ then the LA **must** carry out an EHC Needs Assessment. |

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| The SEN Code of Practice 2015 9.14 states that “*the local authority should consider whether there is 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*”*.* The LA should pay particular attention to:* 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;
* evidence of the action already taken by the school or other setting;
* 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;
* 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.
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**Translation**



* This means the LA **must** assess if there is a possibility that a child’s SEN *could* need support which goes beyond the resources and advice routinely available to a setting. If there is any uncertainty, the LA **must** carry out an EHCNA to establish this for sure.
* To request an EHCNA, there must be Educational (learning) needs (SEN), not just health or social care needs (unless they impact learning in which they are counted as an educational need).
* There are only 2 criteria that the LA must consider if parent or school etc make a request for an EHCNA. Like other counties, West Sussex usually ask schools for things such as 2 terms of evidence, for the child to be 2 years behind, for the full 20 hours / £6000 of support to be used before making a request etc. Whilst these can be included in their decision making, a request should not be refused on the basis that they do not meet any of their own local criteria, esp where the 2 lawful criteria are ‘yes’.
* All settings must use their *‘best endeavours’* to make sure that a child with SEN gets the support they need – this means doing *everything they can* to meet children and young people’s SEN.
* Where a pupil continues to make less than expected progress, despite evidence of additional support and interventions being in place, the setting should consider involving outside professionals for advice and recommendations. In West Sussex, this could be input from the Learning and Behaviour Support Team/Autism & Social Communication Team or a telephone consultation with an Educational Psychologist etc.
* Therefore, when an EHC needs assessment is requested, the Local Authority would expect to see evidence that the setting has done everything it can to meet the special educational needs of the pupil, and evidence to show it has sought specialist advice, and implemented / reviewed their recommendations over time, to address those needs.

Common reasons for requesting an EHC needs assessment are:

* There is little or no progress despite support and best endeavours from the setting and seeking specialist advice,
* Where there are gaps in knowledge about the child or young person’s SEN – it is not known what the needs are or what provision is required to meet those needs, and an EHC needs assessment is the only way to make these clear, or
* The setting needs help (funding) from the Local Authority to provide the special resources or equipment needed.

Ideally if school have been using their *best endeavours*, they should be making the request if it is for any of the above but parents and young people do have the legal right to make the request yourself if needed.

**What can I do if I don’t think school are using their best endeavours?**

If it seems that the school are not putting in much support (because they do not agree with the SEN, the provision needed, do not have the finances etc) AND the child is not making progress / is falling behind / is struggling with the work / is refusing to attend school etc, then it is more likely to need a discussion with the school (or possibly a complaint) which SENDIAS may be able to support with. Ideally conversations should happen before consideration of an EHCNA request is made.

Depending on what type of school the child attends, if you as a parent do not have much school evidence, you can request to have a copy of all their child’s records under a SAR (Subject Access Request). More information on the ICO website: <https://ico.org.uk/your-data-matters/schools/pupils-info/>

If a request for assessment is refused, then you have the right to appeal to the tribunal. SENDIAS can support with this if needed.

**What will I see change if an EHC Needs Assessment is agreed?**

****Even though a Needs Assessment may be agreed (or ordered via an appeal) it does not automatically mean that an EHC Plan will be issued. If LA decide not to issue a Plan, they will inform as to the reasons why they feel one is not needed and what provision should be made instead, based on the information gathered through the assessment. This is known as an inclusion plan and there will be opportunity to discuss this if wanted. A new right of appeal is given if parent or young person disagree with the decision not to issue a plan.

Even if an EHC Plan is agreed, it will not automatically bring additional funding to a setting – but the plan may well identify new, previously unrecognised needs and the provision (support) required to meet those needs.

In a nutshell, the ECHNA gives a chance for an holistic picture of the child to be ‘painted’; of their needs and the impact that this is currently having on their learning (and access to learning) both now and in the future (i.e. if transition to secondary school / college etc will be happening) and includes both cognitive and emotional learning.

**Further reading that may be of help**

* Blog post - How to apply for an EHCNA: <https://westsussexsendias.org/2019/12/30/dec-blog-how-to-apply-for-an-ehc-needs-assessment/>
* Downloadable leaflets (from our website): SEN Support, EHC Needs Assessment & EHC Plans <https://westsussexsendias.org/sendias-resources/>
* Webinar re EHCNA process: <https://westsussexsendias.org/videos-webinars/>.
* Also, see separate document named “1. Guide to Making an EHCNA requested”. If you do not have this, email send.ias@westsussex.gov.uk to request one.