

Clarification on EHCP request evidence and the school consultation process

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Key documents for schools to refer to

- ❖ [SEND Code of Practice 2015](#) - Statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities
- ❖ [Children and Families Act 2014](#)
- ❖ [Special Educational Needs and Disability Regulations 2014](#)



Special educational needs and disability code of practice: 0 to 25 years

Statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities

January 2015



EHC Needs Assessment (EHCNA)

In considering whether an EHC needs assessment is necessary, 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.

To inform their decision the local authority will need to take into account a wide range of evidence, and should pay particular attention to:



Evidence required:

- 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** being taken by the early years provider, school or post-16 institution to meet the child or young person's SEN
- **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.



The Children and Families Act 2014, s77 makes it clear that **“The persons listed in subsection (1) must have regard to the code in exercising their functions under this Part”**. Persons listed include all schools.

“must have regard” - means to take account of the guidance/ Code and carefully consider it. Having done so, there would need to be a good reason to justify not complying with it.

Taken together, this means that schools must follow the code of practice or provide “good reasons” for departing from it.

Schools are inspected by Ofsted on their compliance to the SEND Code of Practice 2015.

Whilst local authorities cannot require schools to fill in particular templates or other similar forms when requesting assessments, local authorities can expect schools that depart from that to provide them with sufficient information/ evidence to assist the local authority in making its decision.

There are two elements to the decision as to whether to assess, and the LA needs schools to provide evidence that

- a) the child or YP has or may have special educational needs, and
- b) it may be necessary for special educational provision to be made for the child or YP in accordance with an EHC plan.

All local authority decisions need to be **evidence based**.



School Admissions Code of Practice

The School Admissions Code of Practice requires children and young people with SEN to be treated fairly. Admissions authorities:

- must consider applications from parents of children who have SEN but do not have an EHC plan on the basis of the school's published admissions criteria as part of normal admissions procedures
- must not refuse to admit a child who has SEN but does not have an EHC plan because they do not feel able to cater for those needs
- must not refuse to admit a child on the grounds that they do not have an EHC plan

The Equality Act 2010 prohibits schools from discriminating against disabled children and young people in respect of admissions for a reason related to their disability

