



EDUCATION, HEALTH AND CARE PLAN PANEL (EHCP Panel)

Terms of Reference May 2022

Reviewed August 2023

Reviewed July 2024

1 Introduction

The Solihull EHCP Panel is established to support the statutory EHC assessment process as outlined in the Children and Families Act 2014 and the Special Educational Needs and Disability Code of Practice (January 2015).

The purpose of the EHC Panel is to provide a clear and equitable framework and process for considering the assessed needs of children and young people with Special Educational Needs and Disability (SEND). It is also to ensure that all decisions are evidence based and are taken co-productively with partners. Solihull Council is the lead partner in decision making; but the EHCP panel has an advisory function.

The EHCP panel is a decision making forum, and not a casework discussion forum, for children resident in Solihull. Children looked after by Solihull but living out of borough will be considered by the Local Authority in which they live, with the support of Solihull Virtual School.

2 Functions of the EHC Panel and basis for decision making

The function of the EHCP Panel is to support the EHC Pathway by advising on 4 keys decisions:

i. Decisions on whether to undertake an EHCP assessment.

The panel will consider whether the statutory test for assessment is satisfied (section 36.8 of the Children and Families Act(CfA))

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.

For Young People over 18 Section 10 of the CfA must also be considered:

In making a determination or forming an opinion for the purposes of this section in relation to a young person aged over 18, a local authority must consider whether he or she requires additional time, in comparison to the majority of others of the same age who do not have special educational needs, to complete his or her education or training.

The SEND Code of Practice 2015 says in 9.14:

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 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, and*
- where a young person is aged over 18, the local authority must consider whether the young person requires additional time, in comparison to the majority of others of the same age who do not have special educational needs, to complete their education or training. Remaining in formal education or training should help young people to achieve education and training outcomes, building on what they have learned before and preparing*

As part of the consideration of each case a social care manager will triage to ascertain whether an EHCP Social Care assessment is required.

ii Decisions on whether to issue an EHCP following an assessment

Review the outcome of statutory assessment and determine whether a Plan should be made (s.37 CFA2014).

The SEND Code of Practice 9.54 and 9.55 says the following should be considered:

In deciding whether to make special educational provision in accordance with an EHC plan, the local authority should consider all the information gathered during the EHC needs assessment and set it alongside that available to the local authority prior to the assessment. Local authorities should consider both the child or young person's SEN and the special educational provision made for the child or young person and whether:

- the information from the EHC needs assessment confirms the information available on the nature and extent of the child or young person's SEN prior to the EHC needs assessment, and whether*
- the special educational provision made prior to the EHC needs assessment was well matched to the SEN of the child or young person*

9.55 Where, despite appropriate assessment and provision, the child or young person is not progressing, or not progressing sufficiently well, the local authority should consider what further provision may be needed. The local authority should take into account:

- whether the special educational provision required to meet the child or young person's needs can reasonably be provided from within the resources normally available to mainstream early years providers, schools and post-16 institutions, or*
 - whether it may be necessary for the local authority to make special educational provision in accordance with an EHC plan*
- 9.56 Where a local authority carries out an EHC needs assessment for a child or you*

iii. Decisions regarding funding for mainstream schools

The panel will consider Element 3 funding levels for EHCPs at the point of issuing new plans or following a request for an increase from a school following an Annual Review.

Requests for additional funding for special schools are considered through the special school funding panel arrangements.

iv. Special school placement requests

The panel will consider these requests following parental representation that a special school is their preference at draft plan stage or following an Annual Review.

The panel will make a decision on **TYPE** of school e.g. mainstream, specialist autism, specialist learning difficulty setting but will not recommend a specific placement – this is defined through the legal consultation process.

3 Representation on EHCP Panel and Procedure

- The panel will be chaired by a member of the EHCP Service – usually the Manager or Deputy Manager, although on occasion this may be a Senior EHCP Officer or educational psychologist.
- The Chair of the panel is responsible for reminding members of the legal framework they are making decisions around.
- The panel will consist of representatives from the Council's Specialist Inclusion Support Service (SISS), Community Educational Service (CEPS), Childrens' Social Care (Adult Social Care will be invited to attend when there are relevant cases), Designated Clinical/Medical Officers for Health, Inclusion Service and school SENCOs (term time panels).

- The relevant Service Managers will ensure that the above services are represented at panels and cover is arranged if needed.
- The panel members will contribute to discussions with their relevant professional experience and expertise, as well as bringing the service knowledge on the individual cases being discussed.
- Panels will be observed by a member of Solihull Parent Carer Voice. Parents are asked to consent to this. If they have not consented then the representative is asked to leave panel whilst that case is discussed.
- Panels take place all year on Tuesdays. With cases in the Early Years and Primary sectors in the morning and Secondary and Post 16 cases in the afternoon. Regularity of panels is imperative to meet the statutory deadlines.
- Panel agendas with relevant paperwork (including a panel summary sheet for each case), and these Terms of Reference, will be circulated to all attendees on the Thursday afternoon prior to panel; and panel members are expected to have read these prior to the meeting.
- All panel members have a duty of confidentiality and must not discuss cases outside of the panel. External panel members will have paperwork sent to them via secure email systems All paperwork must be destroyed by panel members not employed by the council after the panel meeting.

- EHCP Officers will attend Panel, present a summary of each case, and answer any queries the panel may have. The panel summary sheet is an 'Aide memoire' to support panel members with recalling salient facts but it is not a document decisions are based on – it is expected that panel members will have read the paperwork for the case.
- Draft EHCPs will be included in the paperwork for decisions on whether to issue an EHCP and panel will be used as a forum for health and social care to quality assure the content of their sections.
- All representatives on panel will be asked their views on cases, and to contribute to the decision making. The Chair of the panel is responsible for making the ultimate decision, but if this defers from the majority view clear reasoning must be given.

4. Sharing of decisions

- Discussions at panels are not recorded but a decision log, with reasoning for decisions, is maintained by the EHCP Service Admin; along with a list of the services represented at each meeting.

i. Decisions to assess

- Panel decisions are shared with parents by phone, and schools by email, within 48 hours of the panel being held.
- Parents are contacted by phone to explain the rationale and then sent the statutory decision letter.
- Schools are contacted by phone or email, with a copy of the statutory decision letter that has been sent to parents.

- The Inclusion Service will also contact the family to see if any additional support is needed.

ii. Decisions to issue

- Panel decisions are shared with parents by phone within 48 hours of the panel being held.
- If the decision is yes to issue an EHCP the draft plan will be sent to the parents by the 16 week date. School will be informed of the decision by email but will not receive a copy of the draft plan (this cannot be legally shared at this point). Schools will be notified by email that we are progressing to an EHCP.
- If the decision is no to issue the Written Feedback document and the statutory letter will be sent to parent. School will receive a copy of both of these documents via email.

iii. Decisions regarding funding for mainstream schools

- Schools will be notified of the decision via email.

iv. Special School placement decisions

- Panel decisions are shared with parents by phone, and schools by email, within 48 hours of the panel being held.
- An updated EHCP will be issued if required (a change of placement is agreed or a new EHCP), naming the placement, or type of placement to parents and the named school. This will be accompanied by the statutory letter to parents.

Declaration of Interest

If any Panel Member has any direct involvement with a child, young person or their family in a non-professional context, or a conflict of interest and is present at the meeting at which the matter is under discussion, he/she will declare that interest at the start of the meeting and will withdraw from the meeting during that specific discussion, not participating in the discussion of that case. In such cases the Panel Member will, if necessary, provide independent input from the organisation they represent.

The Chair will have the power to request that a member withdraw until the EHC Panel consideration has been completed.

All declarations of interest will be recorded.

Review of the Terms of Reference

The Terms of Reference will be reviewed annually or sooner if required by the EHC Panel or in light of national/local policy changes.

Data in respect of the decisions made will be provided to the Joint Additional Needs Management Board, School Forum and EdSEND upon request.