**Newcastle City Council**

**How we decide whether an Education, Health, and Care Needs Assessment (EHCNA) is necessary**



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# Introduction

1. The [SEND Code of Practice](https://www.gov.uk/government/publications/send-code-of-practice-0-to-25) (the code) provides statutory guidance on the duties, policies and procedures relating to part 3 of the Children and Families Act.
2. The majority of children and young people with special educational needs and/or disabilities (SEND) will have their needs met within local mainstream early years settings, schools or colleges.
3. Where a child/young person is identified as having a SEND, early years providers, schools and post-16 institutions should take relevant and purposeful action to identify, assess and meet the SEND needs of children/young people through providing SEN support, a four-part cycle (assess, plan, do and review). This is known as the graduated response. For more detail, please refer to [Children and Families Act 2014 - Section 66 - the Best Endeavours Duty](https://www.legislation.gov.uk/ukpga/2014/6/section/66)
4. Our [SEND Local Offer](https://www.newcastlesupportdirectory.org.uk/) contains lots of information and guidance about identifying and meeting the needs of those who require SEN Support at the following pages:

* [Newcastle's SEND Graduated Response explained and SEND ASAP](https://www.newcastlesupportdirectory.org.uk/newcastle-send-advice-and-support-allocation-panel-send-asap#:~:text=Newcastle%27s%20Graduated%20Response%20to%20meeting,guidance%20to%20support%20mainstream%20inclusion.)
* [Universally Available Provision October 2023.pdf](https://www.newcastlesupportdirectory.org.uk/sites/default/files/Local%20Offer/School%20Effectiveness/Universally%20Available%20Provision%20October%202023.pdf)
* [Universally Available Guidance.pdf](https://www.newcastlesupportdirectory.org.uk/sites/default/files/Local%20Offer/Early%20years/Universally%20Available%20Guidance.pdf)
* [SEND Descriptors of Need](https://www.newcastlesupportdirectory.org.uk/send-descriptors-need#:~:text=Descriptors%20of%20Need%20at%20various,to%20support%20the%20child%27s%20progress.)

# What is an EHC needs assessment (EHCNA)?

1. An EHCNA is a detailed exploration to find out what a child's special educational needs are, and what provision should be put into place to meet them. It is the step before an Education, Health and Care Plan, but doesn't always lead to a plan being written.
2. The EHCNA should not normally be the first step in the process, rather it should follow on from any planning already undertaken by the school /setting with parents/carers.

# Legal test and criteria for EHCNA

1. The Children and Families Act 2014 requires that the Local Authority must secure an EHCNA for children/young people if, after having regard to any views expressed and evidence submitted the Local Authority is of the opinion that:

* the child/young person **has or may have** special educational needs; and
* it may be necessary for special educational provision to be made for the child/young person in accordance with an Educational Health and Care Plan (EHCP).

1. In considering whether an EHCNA is necessary, the [SEND Code of Practice](https://www.gov.uk/government/publications/send-code-of-practice-0-to-25) says 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 SEND needs of the child or young person, the child/young person has not made expected progress.
2. The Local Authority must consider if the child or young person may have:

* a significantly greater difficulty in learning than the majority of other of the same age, or
* a disability which prevents or hinders the child or young person from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

1. The Local Authority must then consider if the child or young person needs educational or training provision that is additional to, or different from, that made generally for others of the same age in:
2. mainstream schools in England
3. maintained nursery schools in England
4. mainstream post-16 institutions in England, **or**
5. places in England at which relevant early years education is provided
6. After considering the evidence, the Local Authority may decide that an EHC needs assessment is not necessary and that the child/young person’s needs could met through other sources of support such as:
7. [Supporting pupils with medical conditions at school](https://www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions--3): This is statutory guidance for the governing bodies of maintained schools and academies in England. It sets out what schools are required to do to meet the needs of children attending school who have health needs.
8. [Early help for your family](https://www.newcastle.gov.uk/services/care-and-support/children/getting-help-children-and-families/early-help-your-family) : This sets out Newcastle’s early help offer of support. This may help children and young people where there may be housing, family or other domestic circumstances contributing to their social and emotional presentation. For this group of children, a multi-agency approach supported by the use of approaches such as the Early Help Assessment should be adopted.

# How do we decide whether a needs assessment is required?

1. The SEND Code of practice states that:

*‘Local authorities may develop criteria as guidelines to help them decide when it is necessary to carry out an EHC needs assessment (and following assessment, to decide whether it is necessary to issue an EHC plan). However, local authorities must be prepared to depart from those criteria where there is a compelling reason to do so in any particular case and demonstrate their willingness to do so where individual circumstances warrant such a departure. Local authorities must not apply a ‘blanket’ policy to particular groups of children or certain types of need, as this would prevent the consideration of a child’s or young person’s needs individually and on their merits.’*

1. In common with other local authorities, Newcastle (the Local Authority) has delegated the responsibilities set out above to the Education, Health and Care (EHC) panel. This EHC panel is an advisory body to the delegated decision maker, which is the Local Authority. The panel is not a decision-making body.
2. The panel includes a range of representatives to ensure it can make robust and transparent recommendations to the Local Authority. To do this the panel has identified the following sources of evidence that will be considered in deciding whether an EHC needs assessment is necessary. This evidence should be submitted as part of the EHC needs assessment request.

**Evidence required by panel to make recommendations as to whether an EHCNA is required. (Please note each point should be not considered as standalone criteria).**

* Evidence that parents/carers and the child/young person have clear information about the impact of the support and interventions provided, enabling them to be involved in decision making and planning next steps.
* Evidence of the child/young person’s academic attainment (or developmental milestones in younger children) and rate of progress over time.
* Information about the nature, extent, and context of the child/young person’s SEN. (See [SEND Descriptors of Need](https://www.newcastlesupportdirectory.org.uk/send-descriptors-need#:~:text=Descriptors%20of%20Need%20at%20various,to%20support%20the%20child%27s%20progress.) for guidance).
* Evidence of the action already being taken by the early year’s provider, school or

post-16 institution to meet the child/young person’s SEN. For example, reference to the SEND Universal Guidance and SEND ASAP. Where a child/young person’s needs align to ranges 0-3 of the [SEND Descriptors of Need](https://www.newcastlesupportdirectory.org.uk/send-descriptors-need#:~:text=Descriptors%20of%20Need%20at%20various,to%20support%20the%20child%27s%20progress.) it is unlikely that an EHCNA will be agreed.

* Evidence that all of the relevant and available professionals/practitioners with specialist knowledge and expertise have been involved and evidence that this has led to focused planning of provision. This is a consideration, but it cannot be a deciding factor on whether to assess.
* Evidence of the child/young person’s physical, emotional, and social development and health needs, from clinicians and other health professionals and what has been done to meet these needs. It is understood however that children/ young people may be on a waiting list to access specialist services.
* Evidence through support plans of how the setting has implemented the provision and that the effectiveness of the support and impact on the child/young person’s progress has been reviewed against short-and long-term outcomes.
* Evidence that the setting made full use of the resources (including finance) that are universally available to them. If this is identified the school will be advised on what support needs to be provided.
* Evidence that the setting included a fully costed, evidence-based, provision map.
* Evidence that despite the setting having implemented a graduated approach which includes taking relevant and meaningful steps to identify, assess and meet a child/young person’s needs they have not made expected progress or that any progress is contingent on special educational provision.
* Evidence (where a young person is aged over 18) whether the young person requires additional time (in comparison to the majority of others of the same age who do not have SEND) to complete their education or training.

# Appendix 1: Checklist of evidence required for EHC panel to decide whether a needs assessment is required

|  |  |  |
| --- | --- | --- |
| **Evidence of SEND and attainment levels:** | **YES** | **NO** |
| 1. Does the child or young person have: |  |  |
| 1. a significantly greater difficulty in learning than the majority of others of the same age, despite appropriate interventions over time? |  |  |
| Or |  |  |
| 1. a SEND which prevents or hinders *them* or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions? |  |  |
| **Need for educational or training provision:** | **YES** | **NO** |
| 2. Does the child or young person need educational or training provision that is additional to, or different from, that made generally for others of the same age in: |  |  |
| 1. mainstream schools in England? |  |  |
| 1. maintained nursery schools in England? |  |  |
| 1. mainstream post-16 institutions in England? |  |  |
| or |  |  |
| 1. places in England at which relevant early years education is provided? |  |  |
| **Parent/carer involvement:** | **YES** | **NO** |
| 3. Has the setting involved the child/young person and their parent/carers in the decision making? |  |  |
| **Agencies Involvement:** | **YES** | **NO** |
| 4. Has the setting made use of all of the appropriate universal services available to children/young people in Newcastle? |  |  |
| 5. Have all of the relevant professionals/practitioners with specialist knowledge and expertise to meet the needs of the child or young person been involved?  For example, has the educational setting implemented recommendations from SEND ASAP? Has the school involved an Educational Psychologist?  These recommendations may be provided through whole school training/consultation or at an individual child level. |  |  |
| 6. Is there evidence through the support plans that the advice from external agencies has been implemented and reviewed? |  |  |
| **Evidence of graduated response:** | **YES** | **NO** |
| 7. Evidence that the first steps of the graduated response have been tried, such as high-quality teaching and differentiated teaching for individual pupils. |  |  |
| 8. Evidence that the effectiveness of the support and interventions on children/young people’s progress been reviewed against outcomes. Ideally this should be over at least 2 cycles of the assess, plan, do and review process, however this is dependent on eth needs of each individual child/ young person. |  |  |
| 9. Evidence that despite the setting having implemented a graduated approach, the child/young person has not made expected progress? |  |  |
| **Provision in place and annual spend:** | **YES** | **NO** |
| 10. Evidence that the setting made full use of the resources and funding available the school. |  |  |
| 11. The setting has included a fully costed, evidence-based, Provision Map. |  |  |
| **Exceptional circumstances** | **YES** | **NO** |
| 12. Examples of exceptional circumstances which may be considered are: |  |  |
| a) children/young people who have arrived in the Local Authority recently where there is clear evidence of severe and complex needs. |  |  |
| b) children/young people who have significant, long-lasting and urgent needs arising from a sudden deterioration or onset of a medical condition or accident. |  |  |
| c) children/young people whose families, for some reason, have not accessed the relevant services. |  |  |
| d) Very young children with profound, multiple, and complex needs. |  |  |
| 13. In addition to the three questions about process and exceptionality of need, where the young person is over 18, the EHC Panel would specifically consider: |  |  |
| a) Whether the young person requires additional time, in comparison to peers to complete their education or training; |  |  |
| or |  |  |
| b) A young person who has been supported through the graduated response and needs an EHC Plan for moving to a further education placement. |  |  |