



Education Rights Series

Factsheet 4

Education, Health and Care Needs Assessments

Publication date: May 2015

Statutory assessments under the Children and Families Act

This factsheet relates to children and young people in England only, who do not have an existing statement of special educational needs. For young people age 16 and over please read in conjunction with Factsheet 1 - Young People over 16 with SEND. For children transferring from a statement to an EHCP see Factsheet 3 – Transfer Reviews.

All children and young people with Down's syndrome will need additional help in school. The amount and type of help will vary according to the needs of the individual child. There is a legal framework to ensure that children get the help they need. This is set out in the Children and Families Act and the associated code of practice.

An **Education Health and Care Plan** (EHCP) is a formal document describing your child's needs and the help they must have. Although it can cover health and social care as well, it can only be triggered by an educational need

Extra help in school or nursery

All schools and early years settings (preschools / nurseries) must provide extra help for children who need it. It is particularly important that early years settings do not delay in making provision for children with SEND. See the early years education section of the DSA website for examples of what may be provided. The process for giving additional help is set out in the Special Educational Needs and Disability Code of Practice. This is known as 'SEN support' and parents must be informed that it is happening. The school or nursery should use a 4 stage approach of:

- assess
- plan
- do
- review

This should be repeated as necessary. Parents and children should be involved. The school should review the child's progress regularly – the Code of Practice suggests at least 3 times a year for school aged children. It is up to individual schools how they keep records – parents should ask for copies of these.

If necessary the school or early years setting should be involving appropriate specialists. These might be an educational psychologist, a speech and language therapist, or for very young children a portage worker. The school or early years setting in collaboration with parents should be building up a considerable amount of knowledge about the child's strengths and difficulties.

To find out what you might expect in terms of additional support and services for your child, go to your local authority's Local Offer website. This will tell you what services and support you can expect to be available locally for children and young people with special educational needs or disabilities (SEND) In addition, all schools must publish an SEN information report setting out the kind of help they can generally provide. Some children, including the majority of those with Down's syndrome, will need more help than is available from the school's own resources in order to make progress. They will require a statutory assessment EHC needs assessment leading to an education, health and care plan.

What is an EHC needs assessment?

Children with Down's syndrome are likely to have had many assessments of different sorts from an early age. It is important not to confuse these with the statutory assessment (EHC needs assessment) which follows a process set out in law and is carried out by the local authority.

EHC needs assessments can be carried out for children and young people age 0-25. In practice, the timing will depend on the severity of the child's needs and the amount or type of help that can be provided in the educational setting the child attends. For instance, some children with Down's syndrome receive excellent support in inclusive early years settings so do not need the statutory assessment or EHC Plan at this stage. However, the vast majority of children with DS will require an Education Health and Care Plan in school, so it is sensible to ask for the EHC needs assessment at least a year before your child starts school.

Who can ask for an EHC needs assessment?

Either the school or the parent has a legal right to ask for an assessment. However others such as an early years practitioner or a health professional can bring a child to the LA's attention as having special educational needs and the LA must then consider whether an assessment is necessary.

The Down's Syndrome Association recommends that parents always make the request themselves, even if the school or nursery are putting things in motion, as you will then know when the clock starts ticking. Discuss this with the school or nursery to get their support and inform them when you have sent in your request; the local authority will ask them to supply information about your child's needs

Your LAs Local Offer must give you information about how to make the request. You must do this in writing. There may be forms available but there is no legal requirement to use these. You can also make your request by letter to the Director of Children's Services. See under *Further information* for links for model letters. Keep a copy of your letter and record the date sent. You may also want to send your letter by recorded delivery.

Include with your request some information about your child's needs, but don't worry too much as there will be other opportunities for you to put forward your views

Tip: *There is no legal requirement for your child to have a particular type of local plan or a particular level of input before you can ask for an assessment. LAs may have their own triggers as guidelines but they must not have blanket policies limiting assessment to particular categories of children. Any decision must be made on the needs of the individual child.*

Stage 1 – the decision to carry out an EHC needs assessment

The local authority has 6 weeks from the date of the request to decide whether to carry out the assessment. They must consult parents and will also seek information from the school or nursery. In particular they will want to know what help the school or nursery has already put in place from their own resources. You may want to send in any reports that you already have, for instance from your child's paediatrician.

If your local authority refuses the EHC needs assessment

Sometimes LAs do turn down requests for assessment for children with Down's syndrome. It may be because there is a lack of evidence or because they have not looked at your child's individual needs but relied on a blanket policy.

If you are turned down then there is a legal right to mediation and to appeal to the First Tier Tribunal (Special Educational needs and Disability). Make sure that you get the LA's decision in writing. They must then give you details of the mediation and appeal process.

See under *Further information* for help with appeals

Preparing for the assessment

You can use the 6 weeks' decision time to prepare for the EHC needs assessment and gather your evidence together. You can also start this at an earlier stage before you put in your request.

Spend time thinking about your child's strengths and difficulties. As a parent you know your child best and will have valuable information about how your child learns, communicates and interacts, their likes and dislikes, what works and what doesn't. Consider whether your child needs more or different help than others of the same age. It can be useful to keep a diary for a while to give you some concrete examples. It is natural and right to celebrate your child's achievements but it is also important not to underestimate the considerable support required to make them possible.

Your local authority may have templates for you to record your views.

Think about who is already involved with your child who might be a useful source of information. This might be a speech and language therapist, physiotherapist, occupational therapist, paediatrician, portage worker, SEN advisory teacher. Don't forget health specialists if your child has additional medical needs or the LA's sensory impairment team for children with hearing or visual impairments. If your child attends a Down's syndrome specific early intervention group, you may have a programme of work done there. Start collating any reports that you already have.

The list above is by way of example and will vary from child to child; many children will only have one or two people involved.

At this stage also find out what support there is in your area to help you navigate the process. All local authorities must have an Information Advice and Support Service for parents of children with SEND and

young people. The government has also funded independent supporters to help parents navigate the new SEND system. See links under *Further information*.

Your child must have an educational need in order to trigger the assessment. Once the assessment has been agreed it must include health and social care as well – at this point you may want to think about asking for a social care assessment if this hasn't been done already. Include in your views any health needs specific to Down's syndrome, as these are likely to have a direct or indirect impact on your child's education.

Stage 2 the EHC assessment

The assessment aims to bring together all the information that is known about the child. Exactly how this is done will vary from one local authority to another. However there are some legal requirements that all LAs must meet

Who must be involved?

The LA must by law seek advice and information from the following:

- Parents (or for over 16s the young person themselves). The LA must take account of your views, wishes and feelings.
- Education. This is normally the nursery or school. If the child has a hearing or visual impairment specialist teacher/s must be consulted
- Health care professionals - there may be a number of people already involved
- Educational psychologist (EP) - normally the LA psychologist, but the EP should consult any other psychologists known to be involved
- Social care - If you want social care provision written into the EHCP, it is sensible to ensure that the LA children's services know about your child in advance
- Anyone else that parent reasonably requests. This might be for instance a speech and language therapist, an occupational therapist or mental health professional

Anyone asked for advice and information must comply within 6 weeks

Tell it once

The LA should be in continuing dialogue with you about who you want to be involved. The aim is that families don't have to repeat information that already exists and that children are not subjected to a string of unnecessary assessments. There may be enough evidence already from the previous stage. The LA must not ask for new reports where a professional report already exists, is sufficient and has parental agreement. Do however check that any reports the LA is proposing to use are up to date; young children can develop and change quite rapidly. If you consider the information is out of date, ask for a new report.

Person centred approach

The new EHC needs assessments are intended to be much more family and person centred than the old statementing process. Exactly how families are involved will differ from one LA to another. According to the code of practice the assessment and planning process should:

- focus on the child / young person as an individual
- allow children and parents to express their wishes and feelings
- use clear language – avoid professional jargon

- minimise the demands on families
- bring together professionals to discuss and agree overall approach with family

The LA should also provide information for parents in an accessible form, give them time to prepare for meetings and make sure they have time in discussions and meetings to put forward their views.

There should be effective coordination of the assessment; the local authority should appoint a single contact person for each family at the beginning of the process. Exact job titles however will vary between one LA and another. The LA representative should discuss the assessment and planning process early on with parents. If you are struggling to get in touch with the LA or any of the professionals involved, contact your local Information, Advice and Support Service for help.

Stage 3 –decision whether an EHCP is needed

Once your local authority has gathered all the evidence, they will decide whether your child needs an EHCP or whether their needs can be met within the resources generally available.

Most children with Down’s syndrome are likely to get an EHCP. The local authority will send you a draft plan and you have 15 days to make representations and ask for changes. At this stage you will be asked formally for your preference of school

For the next steps see our factsheet on Education, Health and Care Plans

If the LA decides not to issue a plan, they must inform you within 16 weeks of your initial request. They must also tell you of your rights to mediation and to appeal to the First Tier Tribunal (Special Educational Needs and Disability). See under *Further information* for help on appeals

Further information

From the DSA website

General education pages including specific pages for early years and primary education

<http://www.downs-syndrome.org.uk/for-families-and-carers/education/>

SEN and the law

<http://www.downs-syndrome.org.uk/for-families-and-carers/education/sen-and-the-law/>

From your local authority

Local Offer for Special Educational Needs and Disability. This will tell you what services and support you can expect to be available locally for children and young people with special educational needs or disabilities (SEND) - search for ‘your LA name local offer’

From other organisations

Information Advice and Support Services (formerly Parent Partnership)

<http://www.iassnetwork.org.uk/>

Independent Support

<http://www.councilfordisabledchildren.org.uk/independentsupport>

Useful flow charts produced by the Department for Education and Special Needs Jungle

<http://www.specialneedsjungle.com/flow-chart/>

IPSEA have information on EHC needs assessments and a model letter
<http://www.ipsea.org.uk/what-you-need-to-know/ehc-needs-assessments>

Information from gov.uk

Children with SEN

<https://www.gov.uk/children-with-special-educational-needs>

SEND Code of Practice and links to other guides

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

Appeals

<https://www.gov.uk/special-educational-needs-disability-tribunal/overview>

The Down's Syndrome Association

The Down's Syndrome Association provides information and support on all aspects of living with Down's syndrome. We also work to champion the rights of people with Down's syndrome, by campaigning for change and challenging discrimination. A wide range of Down's Syndrome Association publications can be downloaded free of charge from our website.

Contact us

Down's Syndrome Association, National Office, Langdon Down Centre, 2a Langdon Park, Teddington, Middlesex TW11 9PS

Tel: 0333 1212 300

E-mail: info@downs-syndrome.org.uk

Website: <http://www.downs-syndrome.org.uk/>

Blog: <http://downssyndromeassociation.wordpress.com/>

Twitter: <https://twitter.com/DSAInfo>

Facebook: <https://www.facebook.com/DownsSyndromeAssociation>

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