



Norfolk Children’s Services Special Educational Needs and Disability Criteria for Education, Health and Care Plans.

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1. Introduction

1.1 The National Context

From September 2014, the Children and Families Act 2014 introduced changes to the way that children and young people with special educational needs and disabilities (SEND) are supported. These changes include:

- a single assessment process leading in some cases to an Education, Health and Care plan supporting 0-25 year olds who have SEN or a disability. The systems leading to statements of SEN and Learning Difficulty Assessments (LDAs) are replaced with a new streamlined assessment process which integrates education, health and social care provision for a child or young person.
- the introduction of a Local Offer which sets out all the support and services available in Norfolk for children and young people with SEND and their families, including those who do not have an EHC Plan. It explains how to access support and where to go for more help. Parents and carers can look for sessions and activities in their area listed in our searchable directory. It also invites feedback about the services available so that we can continue to develop services in Norfolk. Visit Norfolk's Local Offer website at www.norfolk.gov.uk/SEND.

A new Special Education Needs Code of Practice (SEN COP) was issued in January 2015 which provides the framework for Local Authorities and other agencies to deliver on the Children and Families Act.

Extracts from the SEN COP:

Chapter 1.17: A child's parents, young people, schools and colleges have specific rights to request a needs assessment for an EHC plan and children and their parents and young people should feel able to tell their school or college if they believe they have or may have SEN. The legal test of when a child or young person requires an EHC plan remains the same as that for a statement under the Education Act 1996.

Chapter 9.1: "The majority of children and young people with SEN or disabilities will have their needs met within local mainstream early years settings, schools or colleges... Some children and young people may require an EHC needs assessment in order for the local authority to decide whether it is necessary for it to make provision in accordance with an EHC Plan".

Chapter 9.2: The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood.

Chapter 9.3: A local authority must conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. The factors a local authority should take into account in deciding whether it needs to undertake an EHC needs assessment are set out in paragraphs 9.14 to 9.15 of the code.

Chapter 9.16: 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.

This document has been prepared for use in Norfolk in light of the above guidance.

1.2 Aims of this Document

The purpose of this document is to explain the criteria used by Norfolk when considering the need to undertake a statutory assessment of a child or young person's special educational need and, following an assessment, in considering whether to issue an Education Health Care (EHC) Plan. It also explains principles underpinning decisions to cease EHCPs. It replaces the guidance issued by Norfolk County Council in October 2014 and is underpinned by:

Primary Legislation

- Sections 36-50 of the Children and Families Act 2014,
- Sections 17, 20 and 47 of the Children Act 1989
- Section 2 of the Chronically Sick and Disabled Persons Act 1970
- Care Act 2014

Regulations

- Special Needs and Disability Regulations 2014
- The Special Educational Needs (Personal Budgets) Regulations 2014
- The Community Care, services for Carers and Children's Services (Direct Payments) Regulations 2009
- The National Health Service (Direct Payments) (England) Regulations 2013

1.3 Who is this guidance for?

This guidance is principally a document for professionals both within Norfolk Children's Services, which is responsible for decision making within the SEN statutory

process, and for other professional colleagues to enable understanding of the principles and criteria underpinning the decision making.

It is therefore for anyone involved in working with children and young people with SEN and their families and is involved in person centred planning for children and young people with SEND and/or those who are considering requesting an EHC needs and includes particularly:

- Children, young people and their parents or carers
- Staff from all education settings (pre-school settings, schools, colleges - including 6th form and FE colleges and providers of apprenticeships)
- Local Authority practitioners and their managers (including education and social care staff)
- Health practitioners (including paediatricians, therapists and CAMHS staff)

2. EHC Needs Assessments and EHC Plans

2.1 What is an EHC Plan?

An Education, Health and Care plan is for children and young people (aged 0-to-25 years old) who have SEN or a disability and who need a much higher level of support than education settings can deliver on their own. An EHC plan is led by the needs and aspirations of the child or young person and his or her parents working in partnership with practitioners and other supporters.

The purpose of an EHC plan is

- to secure the special educational provision assessed as being necessary to meet the SEN of the child or young person
- to secure the best possible outcomes for them across education, health and social care, and,
- as they get older to prepare them for adulthood
- establish outcomes across education, health and social care based on the child or young person's needs and aspirations
- specify the provision required and how education, health and care services will work together to meet the child or young person's needs and support the achievement of the agreed outcomes

(ref. SEN COP Chapter 9.2)

In **most** cases, children and young people will be able to access the services they require through the Local Offer and a statutory assessment (or an EHC plan) will not be needed. On **some** occasions more specialist help will be needed and their needs will be best met by having an EHC plan. In **all** cases, it will be appropriate to adopt person centred planning approaches to ensure that the child or young person remains at the centre of the planning for the services that they require.

2.2. Who can make requests for an Education Health and Care Needs Assessment?

An EHC needs assessment is the first stage of deciding whether an EHC Plan is needed. The following people have a specific right to ask the local authority to conduct an Education, Health and Care Needs Assessment for a child or young person aged between 0 and 25.

- The child's parent
- A young person over the age of 16 but under the age of 25, and
- A person acting on behalf of a school or post-16 institution (This should be ideally with the knowledge and agreement of the parent or young person where possible)

In addition, anyone else can bring a child or young person who has (or may have) SEN to our attention but with no specific right to request an assessment. Where possible this should be done with the knowledge and agreement of the child's parent or the young person. Such persons may be:

- ❖ foster carers
- ❖ health and social care professionals
- ❖ early years practitioners
- ❖ youth offending teams
- ❖ probation services
- ❖ those responsible for education in custody
- ❖ school or college staff
- ❖ a family friend

Norfolk children and young people under 19 in **youth custodial institutions**, their parents or the professionals working with them can ask us to undertake an Education, Health and Care Assessment. Young people also have the right to request an Education, Health and Care needs assessment while they are still detained.

Information on making a request for an EHC needs assessment along with the online application forms can be found by clicking [here](#).

3. Decision making for EHC needs assessments

3.1 When does the local authority have a duty to assess?

Under the Children and Families Act 2014 the local authority must conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC Plan. This is likely to be where the special educational provision required to meet the child or young person's needs cannot reasonably be provided from within the resources normally available to mainstream early years providers, school and post-16 institutions.

The EHC needs assessment looks at life beyond education and brings different services together. The local authority is responsible for ensuring that assessments are effectively co-ordinated.

3.2 Education, Health and Care Needs Assessment Criteria

In considering whether an education health and care needs assessment is necessary we will consider whether there is evidence that, despite the early years setting, school or post-16 institution taking relevant and purposeful action to identify, assess and meet the special education needs of the child or young person, the child or young person has not made expected progress.

The local authority will make its decisions based on documented, objective evidence that shows a graduated response to identifying and meeting needs.

It should not be assumed that all children and young people who have low attainment or are working below the national average or are displaying challenging behaviour have special educational needs.

Chapters 5, 6 and 7 of the SEN Code of Practice detail the support that educational settings should provide to children and young people with SEND regardless of whether or not they have an EHC Plan. In considering whether a child or young person requires a statutory assessment, the local authority will therefore be looking for evidence from the setting of good quality early planning and provision as part of any EHC needs assessment consideration.

Good and effective planning will be demonstrated by the following qualities being evident:

Person centred planning: all planning, decision making and support should follow from the experiences, opinions, aspirations, goals and hopes of the child, young person and their family and should be developed in partnership with them. This will include use of planning tools such as a ***One Page Profile***. (Click [here](#) for more information on One Page Profiles)

Focus on outcomes: particularly those important for or to the child or young person and their family.

Evidence based: interventions should be evidence based and their effectiveness monitored and evaluated over time.

Provision linked to needs: a clear link between needs and provision and progress is monitored over time.

A clear cycle of Assess-Plan-Do-Review and the Graduated Approach:

Evidence of a series of cycles over time which may include:

- the involvement of appropriate external services;
- clearly identified and monitored outcomes for the child or young person;
- involvement and support from the wider community.

Good and effective provision will be demonstrated by the following being evident:

Effective evidence-based interventions are being implemented drawing on recommendations and expertise from relevant external professionals.

The effective use of allocated SEN funds (school – delegated and cluster, college – higher needs, early years – discretionary) a plan or provision map should be submitted by the setting showing how the child or young person’s outcomes and needs will be met making use of that funding.

In order to judge this the following criterion will be considered:

Criteria One: The child has exceptional, severe or complex needs that are likely to be long term

In judging these criteria, we will consider the following questions:

- What is the child or young person’s academic attainment (or developmental milestones in younger children) and rate of progress?
- What is the nature, extent and context of the child or young person’s SEN and disabilities?
- Are the child or young person’s needs significantly greater than their same-age peers, long term and require specialist resources or provision to achieve long-term positive outcomes?
- What are 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 agencies?
- Where a young person is aged over 18, does the young person require additional time, in comparison with 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 them for adult life.

These considerations will be underpinned by the following evidence:

1. The child or young person’s academic attainment in all areas of learning.
2. The child or young person’s attainment in assessments and tests compared to the majority of children of his/her age.

3. National Curriculum levels, P Levels or Early Years and Foundation Stage evidence.
4. Evidence of the rate and style of the child or young person's progress.
5. Teachers' own recorded assessments of a child or young person's classroom work.
6. Relevant sample of the child or young person's work to illustrate their progress.
7. Whether there are any identifiable factors that could impact on learning, including:
 - Evidence of significant difficulties of sequencing or visual perception; deficiencies in working memory; or significant delays in language functioning
 - Evidence of impaired social interaction or communication or a significantly restricted repertoire of activities, interests and imaginative development
 - Any evidence that the child or young person's performance is different in different environments
8. Information about the early years setting, school or post-16 institution relating to:
 - (a) numbers on roll
 - (b) class or group size
 - (c) staff to children or young people ratios in the group or class (including teachers and learning support assistants or other support staff)
 - (d) other children with SEN or disabilities or an EHC Plan in the group or class
9. The child or young person's physical, emotional and social development and health needs, and what has been done to meet these by other agencies
10. Health Care Plans (where appropriate).
11. Evidence of significant emotional or behavioural difficulties, as indicated by clear recorded examples of withdrawn or disruptive behaviour; a marked and persistent inability to concentrate; signs that the child or young person experiences considerable frustration or distress in relation to their learning difficulties; difficulties in establishing and maintaining balanced relationships with their peers or with adults; and any other evidence of a significant delay in the development of life and social skills.
12. Evidence from assessments or interventions by child health or social services.
13. Evidence that the setting/school/institution has had regard to the DfE guidance on managing child's or young person's mental health and behaviour difficulties.

We will need to consider whether the evidence points to under-attainment rather than special educational needs and thus whether there are alternative and more appropriate ways to support the child or young person's access to learning, such as referral to the Attendance Improvement Service, professionals with a support for learning role, Early Years Team, Portage Service, social care or health professionals.

Criteria Two: Effective person centred planning is in place

In judging these criteria, we will consider the following questions:

- Has effective person centred planning been established by the setting with the parent/carer or young person?
- Have the experiences, opinions, goals and hopes of the child, young person and their family been identified and captured?
- Is planning framed using the 'Graduated Approach' (utilising assess, plan do, review) developed and delivered over an appropriate period of time (i.e. two cycles) however it is recorded?
- Does the planning involve the child, parent or the young person?
- Is there a clear focus on outcomes and are these monitored and reviewed?
- Does planning incorporate involvement and support from the wider community?

These considerations will be underpinned by the following evidence:

1. The setting has developed a One Page Profile showing that they have actively sought and responded to the views of the child or young person and used this to support the child or young person.
2. The outcome of individual education plans or equivalent frameworks demonstrating "Assess, Plan, Do, Review" and graduated approach.
3. An early years setting, school or post-16 institution should demonstrate that its actions have been purposeful, relevant and sustained. As well as providing access to the curriculum through the normal teaching arrangements and the use of differentiation, additional support and specialist advice, the action taken by the setting/school/institution to meet the child or young person's needs will be most clearly evident in the reviewed and evaluated individual education plans (IEPs) or other records of assessment which conform to the Department for Education guidance in the Special Educational Needs and Disability Code of Practice 2015
4. The early years setting, school or post-16 institution has, in consultation with relevant specialists, formulated, monitored and regularly evaluated the IEP or other records of assessment, intervention and review, i.e. "Assess, Plan, Do, Review" and/or graduated approach records and whether the child or young person's progress continues to be significantly and consistently less than that which may be expected for the majority of children and young people.

Criteria Three: The setting has fully explored and used all resources and funding available under the Local Offer and has delivered appropriate interventions and provision.

In judging these criteria, we will consider the following questions:

- What action has already been taken by the early years setting, school or post-16 institution to meet the child or young person's SEN, such as:
 - Has the setting provided targeted intervention addressing the child or young person's individual needs?
 - Is there evidence of individual or small group support?
 - Is there evidence of active monitoring and adjustments to the child or young person's programmes in the event of limited progress being made?
 - Has the funding available to the setting been utilised fully and appropriately. Has its value been evaluated?
 - Have services available through the Local Offer been accessed? Has this been evaluated?
 - Has the setting sought advice or support from external services?
 - Has the setting acted on and implemented programmes/strategies based on those recommendations?
 - Is there evidence of differentiated teaching strategies such as Quality First teaching?
 - Is there evidence that the setting has focused the provision on meeting the agreed outcomes for the child or young person?

- Is it shown that where progress has been made, it has only been as the result of much additional intervention and support at a sustained level over and above that which is usually provided?

These considerations will be underpinned by the following evidence:

1. Evidence that the early years setting, school or post-16 institution has obtained recent and relevant reports from external specialists whose advice has been used in devising appropriate strategies and programmes.
2. The early years setting, school or post-16 institution has deployed its delegated resources appropriately to meet the child or young person's needs.
3. The school has deployed cluster delegated resources to meet the child or young person's needs.
4. The setting/school/institution has deployed an exceptional amount/proportion of delegated resources including cluster support (for schools and maintained settings) to meet the child or young person's needs.
5. A record of two cycles of "assess, plan, do review" which details the support provided giving clear reasons why the setting/school/institution feels that the current programme of intervention is not meeting the child or young person's needs.
6. Clear indication of the outcomes of the strategies in place on the child or young person's learning and/or behaviour.
7. Settings/schools/institutions must have regard to the Equalities Act 2010 with regard to their responsibility to make reasonable adjustments to enable access for disabled children and young people to the curriculum, the physical

environment and information within the setting/school/ institution without recourse to the need for a Plan.

Criteria Four: There is evidence that the child may require provision over and above that afforded under the Core Offer.

In judging these criteria, we will consider the following questions:

- Is there evidence that the child's needs cannot be met with application of specialist provision available to settings, schools and colleges such as:
 - School to school support (S2S)
 - Specialist Resources Bases (SRBs)
 - Specialist behaviour support
- Is there evidence that the child or young person will require a specialist educational placement in the short to medium term that needs to be arranged by the Local Authority, such as:
 - A complex needs school
 - Specialist social, emotional, mental health or behavioural provision (i.e. The Compass, Eaton Hall Specialist Academy)

These considerations will be underpinned by the following evidence:

1. The setting has already accessed provisions available to them and there is evidence of limited impact on meeting the child/young person's SEN
2. Professional advice clearly specifies that specialist provision may be required (i.e. from an Educational Psychologist).

3.3. Decision that an EHC needs assessment is not needed

Where the Local Authority concludes that an EHC needs assessment is not required we will inform the educational establishment attended by the child and provide feedback collected during the process of our consideration which the parent, young person and setting may find useful.

4. Decision making for the making of an EHC Plans

4.1 Criteria for making an Education, Health and Care Plan

The purpose of an EHC Plan is to make special educational provision to meet the special educational needs of the child or young person, to secure improved outcomes for them across education, health and social care and, as they get older, prepare them for adulthood. To achieve this we will use the information from the assessment to:

- a. Establish and record the views, interests and aspirations of the parents and child or young person and:

- Consider all the information gathered during the EHC needs assessment and set it alongside all that available to us prior to the assessment
- Consider both the child or young person's SEN and the special educational provision made for the child or young person
- Consider 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
- Consider whether the special educational provision made prior to the EHC needs assessment was well matched to the SEN of the child or young person
- If the child or young person, despite appropriate assessment and provision, is not progressing, or not progressing sufficiently well, we will consider what further provision may be needed and whether that provision can be made within the early year provider, school or post-16 institution's resources or whether an EHC Plan is necessary
- Consider whether it may be necessary for us to make special educational provision in accordance with an EHC Plan
- We will take into account whether the SEN provision required to meet the child or young person's needs can reasonably be provided from the resources normally available to mainstream early years providers, schools and post-16 institutions

b. Provide a full description of the child or young person's special educational needs and any health and social care needs

c. Establish outcomes across education, health and social care based on the child or young person's needs and aspirations

d. Specify the provision required and how education health and care services will work together to meet the child and young person's needs and support the achievement of the agreed outcomes

Where we have carried out an EHC needs assessment for a child or young person and:

- Their circumstances have changed significantly
- The child or young person has recently been placed in a new setting
- Their special educational needs were identified shortly before the EHC needs assessment and no comparable special educational provision was being made for the child or young person prior to the EHC needs assessment then we will consider what new special educational provision is needed.

We will consider making an EHC Plan if the assessment concludes that the child or young person's learning difficulties call for provision that the early years provider, school or setting could not reasonably be expected to make from within its own delegated SEND resources, and/or those available via school clusters or early years discretionary funding. For example, if the child or young person requires a special school or specialist provider placement. However the making of an EHC Plan should

not be seen as confirmation that a child or young person requires a special school or specialist provider placement.

4.2 Decision not to make an Education, Health and Care Plan

An EHC needs assessment will not always lead to an EHC Plan. The information gathered during an EHC needs assessment may indicate ways in which the setting, school, college or other provider can meet the child or young person's needs without an EHC Plan. (SEND COP 9.6)

We may conclude that the child or young person's special educational needs can be met from within the resources available from the Local Offer.

For example:

We may feel that the early years setting, school or post-16 institution could reasonably be expected to make such provision from within its own resources through SEN support if the child or young person's learning difficulties call for:

- Occasional or irregular advice to the school from an external specialist
- Occasional or irregular support with personal care
- Access to a particular piece of equipment such as Information and Communication Technology, audio or visual equipment
- Minor building alterations such as improving the acoustic environment

In such a situation we would not issue an Education, Health and Care Plan.

If a decision is taken not to issue an EHC Plan we will give our reasons for this decision and will offer written feedback collected during the EHC needs assessment process. The written feedback will comprise:

- Copies of all the advice collected during the EHC needs assessment
- A description of the child or young person's needs based on the evidence from the education health and care needs assessment
- Advice for the school/setting/institution as to how they could meet the child or young person's needs and the provision the child or young person requires
- Identification of the aspects of the Local Offer which can address those needs

The feedback does not place the local authority under an obligation to ensure that the child or young person receives the support we recommend.

We must inform parents/carers of our decision not to issue an EHC Plan within a maximum of sixteen weeks from the date of the request for an EHC needs assessment.

5. Ceasing to maintain an Education, Health and Care Plan

We may cease to maintain an EHC Plan only if we decide that it is no longer necessary for the Plan to be maintained, or if we are no longer responsible for the child or young person. (SENCOP 9.199)

5.1 Criteria for ceasing to maintain an Education Health and Care Plan

The legal definition of when a child or young person no longer requires an EHC Plan remains the same as that for a statement under the Education Act 1996 (SENCOP 9.199), which are:

The circumstances where a local authority may determine that it is no longer necessary for the EHC Plan to be maintained include:

- the child or young person no longer requires the special educational provision specified in the EHC Plan
- The objectives of the Plan have been met
- The child or young person's needs can be met in future within the resources of a setting/school/institution
- The child or young person's special educational needs no longer significantly impede access to the National Curriculum
- The child or young person no longer requires daily adult supervision or substantial adaptation of teaching materials to access the curriculum fully
- The child or young person can cope with everyday social interaction at setting/school/institution
- The child or young person has no significant self-help difficulties that require more provision than is normally available within the school (SENCOP 2001 8:119)

For young people over the age of 19 the LA must take account of whether the education or training outcomes specified in the EHC Plan have been achieved.

The circumstances where we are no longer responsible for the child or young person include where any of the following conditions apply:

- A young person aged 16 or over leaves education to take up paid employment (including employment with training but excluding apprenticeships)
- The young person enters higher education
- A young person aged 18 or over leaves education and no longer wishes to engage in further learning
- The child or young person has moved to another local authority area
- The above circumstances are subject to certain situations set out below:

We may not cease an EHC Plan unless we decide that it is no longer necessary for special educational provision to be made for the child or young person in accordance with their EHC Plan. Where a young person over compulsory school age but under

the participation age (i.e. under the age of 18), is excluded from their education or training setting or leaves voluntarily, the focus of support should be to re-engage the young person in education or training as soon as possible and we will review and amend the EHC Plan as appropriate to ensure the young person continues to receive education or training.

For a young person aged 18 or over who leaves education or training before the end of their course we will not cease to maintain the Plan unless we have reviewed the EHC Plan to determine whether the young person wishes to return to education or training, either at the educational institution specified in the EHC Plan or somewhere else. If the young person does wish to return to education or training and we think it appropriate we will amend the EHC Plan as appropriate and we will maintain the Plan. We will seek to re-engage the young person in education or training as soon as possible.

6. Moderating our decision-making

The local authority will make decisions about an EHC needs assessment and the making of an EHC Plan in a timely manner and in line with the requirements of the overall assessment and Plan time-limits. The decision will be taken by the Locality Inclusion Team Manager who has delegated responsibility for these decisions on behalf of the local authority. Their decision will be underpinned by recommendations and findings from the case responsible EHCP Coordinator.

In many circumstances decisions are taken within individual teams, however, where there is particular complexity and/or there could be elements of disagreement between the local authority and parents/carers or professionals, moderation will be sought by other professionals within Children's Services including Educational Psychologists.

In addition, quality assurance and standardisation mechanisms are in development to ensure rigour and consistency to decision making across Norfolk.

7. How we check if an EHC Plan is working - Annual Reviews

EHC Plans should be used to actively monitor children and young people's progress towards their outcomes and longer term aspirations. The EHC Plan must be reviewed by us at least every twelve months and reviews must focus on the child or young person's progress towards achieving the outcomes specified in the EHC Plan. The review must also consider whether these outcomes and supporting targets remain appropriate.

Reviews should also:

- Gather and assess information so that it can be used by early years settings, schools or post-16 institutions to support the child or young person's progress and their access to teaching or learning
- Review the special educational provision made for the child or young person to ensure that it is being effective in ensuring access to teaching and learning and good progress
- Review the health and social care provision made for the child or young person and its effectiveness in ensuring good progress towards outcomes
- Consider the appropriateness of the EHC Plan in the light of the child or young person's progress during the previous year or changed circumstances and whether changes are required including any changes to outcomes, enhanced provision, changes of educational establishment or whether the EHC Plan should be discontinued
- Set new interim targets for the coming year and where appropriate, agree new outcomes
- Review any interim targets set by the early years setting, school or post-16 institution or other education providers

Reviews must be undertaken in partnership with the child and their parent/carer or the young person, and must take account of their views, wishes and feeling, including their right to request a Personal Budget.

8. Dispute Resolution and Mediation

8.1 What is Dispute Resolution?

This is used when there are disagreements which cannot be appealed to the **Special Educational Needs and Disability Tribunal, SENDIST**. These can be when:

- The parent or a young person disagrees with any aspect of how **SEN support** is provided in a maintained nursery or school, academy or free school. How they are carrying out their education, health and care duties.
- How local authorities are keeping their duties under review, assessing needs and drawing up Education Health and Care Plans. Also the duties on governing bodies and proprietors to use their 'best endeavours' to meet children and young people's special educational needs.
- Also disagreements about what is provided (**provision**) for children and young people in maintained nurseries and schools, academies and free schools.
- Disagreements about health and social care provision **during** the time the Education Health and Care Plan is being drawn up, reviewed or the child or young person is being reassessed.
- Help to resolve disagreements between health commissioning bodies and the local authorities during EHC Plan assessments and reassessments, drawing up or reviewing an EHC Plan. This can include the description of the child or

young person's health, education and care provision. These disagreements will not include parents and young people.

Nurseries, schools, post-16 institutions, parents, young people, health and children's services of the local authority may request the service; it is free to parents, young people and education providers.

All parties need to agree to take part as it is a voluntary process. This is a confidential service unless there are child protection issues. Please visit the Local Offer website [here](#) for more information.

8.2 Mediation

In Norfolk the mediation service is also delivered by Cambridge Family Mediation Service **CFMS**. The Children and Families Act uses Dispute Resolution and Mediation to describe different processes but the meetings are held in the same way. Mediation is held when there is a disagreement between the local authority's children's service, social care and/or health with parents of children with SEND and/or young people with SEND which can be appealed to the **SENDIST** tribunal. The letter from the local authority will say if there is a right to appeal the decision to SENDIST tribunal and will give details of the mediation service.

CFMS will be happy to talk through issues and let parents/carers know if dispute resolution or mediation may help. It will then be parents'/carers' decision if they would like to continue.

Mediation gives everybody a chance to give their own views and listen to others. It is not confrontational but looks for solutions that everybody can agree. If a parent or young person wishes to **appeal to SENDIST** they **must consider mediation** unless it is only about (I) placement.

A mediation advisor will discuss whether mediation might be a suitable way to resolve the disagreement and will answer any questions.

The parent or young person will decide if they wish to go to mediation. If they decide not to then CFMS will issue a certificate, within three working days of being told to say that the information about mediation has been provided by them. The parent or young person can then appeal, producing a copy of the certificate. The appeal must be made within two months of the decision being sent or one month of receiving the certificate depending on which gives the most time. This means:

- if the letter is dated 30 April parents/carers/young people have until 30 June to appeal.
- but if the certificate is not dated until 13 June parents/carers/young people have until 13 July

- If the parent or young person decides to go to mediation the certificate will not have any details about what happened. Mediations are confidential and will not be shared with tribunals; comments about them will be disregarded. If there has been partial agreement the tribunal can be focus on any areas which were not agreed.

8.3 Appeals to the Special Needs and Disability Tribunal

Parents and young people must have a certificate from CFMS if they wish to go to SENDIST tribunal about:

- Decisions made by Norfolk's local authority not to carry out an EHC needs assessment or re-assessment
- A decision by a Norfolk's local authority that they will not issue an EHC Plan following a needs assessment or re-assessment
- The description of a child or young person's SEN in an EHC Plan
- The provision (help) specified in an EHC Plan
- Amendments made to the description of SEN or provision in the EHC Plan
- The decision by Norfolk's local authority not to amend an EHC Plan following a review or re-assessment
- A decision by Norfolk County Council to cease to maintain an EHC Plan, (to stop it)

Parents and young people do not have to go to mediation and get a certificate for the named nursery, school or post 16 institutions, the type of institution or if there is no institution named in the Plan, part I.

- Young people and parents have two months to appeal to the SENDIST tribunal.
- The local authority has 30 days from when it was asked to take part in mediation to fit in with CFMS arrangements.
- A person from the local authority who can make a decision must attend the mediation.
- If the local authority cannot arrange to take part in mediation within the 30 days the child's parent or young person will be given a certificate as if they had taken part.

Young people and parents can also ask for mediation through the local authority because there is no health care provision mentioned in the EHC Plan, or it is not of the kind of health care they wish for, they must also tell the local authority the provision they want mentioned in the Plan. It is for the local authority to notify health and for health to set up the mediation.

Parents/carers/young people can ring Cambridge Family Mediation Service or Norfolk SEND Partnership who will help them understand the details and guide them through dispute resolution or mediation.

To contact Cambridge Family Mediation Service call: 01223 576308
Email: families@cambridgefms.co.uk

For impartial information, advice and support you can contact Norfolk SEND Partnership (formerly Parent Partnership).
Telephone: 01603 704070
Email: sendpartnership.iass@norfolk.gov.uk
Website: www.norfolksendpartnershiass.org.uk