



Cumbria Information, Advice & Support Service (Parent Partnership)

SEN & Disabilities

Offering impartial information, advice and support to children and young people with special educational needs and or disabilities and their parents & carers.

Factsheet #7: Social care assessments and duties: Children and young people under 18

This factsheet provides an overview of the social care assessment and service provision process for disabled children and young people under the age of 18 and how this links in with the EHC needs assessments and planning.

Social care assessments and service provision

Local authorities have a duty under Section 17 of the Children Act 1989 to safeguard and promote the welfare of 'children in need' in their area, including disabled children, by providing appropriate services to them. These services might include short breaks for parent carers, equipment or adaptations to the home. The courts have held that local authorities have to assess all children who are or may be 'in need' – so there is a duty to assess any child who is or might be disabled (broadly defined).

Section 17 does not impose a duty to provide services to every individual child 'in need'. However there is a duty to provide services to individual disabled children under section 2 of the Chronically Sick and Disabled Persons Act 1970. This duty arises where it is 'necessary' to provide services to the child – a question that can only be answered once there has been a proper section 17 assessment. In deciding whether support is 'necessary' a local authority is allowed to take into account its resources, so that more children will get support when more money is available. However there will be some cases where the needs are so great that it is obviously 'necessary' for the local authority to provide services no matter how little money it has. Also, once a local authority accepts that it is necessary to provide support under section 2 then it must fund a sufficient level of services to actually meet the needs identified through the assessment.

Following acceptance of a referral by the local authority children's social care service, a social worker should lead a multi-agency assessment under section 17 of the Children Act 1989. The purposes of social care assessments are:

- to gather important information about a child and family
- to analyse their needs and/or the nature and level of any risk or harm being suffered by a child
- to decide whether the child is a child in need (section 17 of the Children Act 1989) and/or is suffering significant harm (section 47 of the Children Act 1989), and
- to provide support to address those needs to improve the child's outcomes

The statutory guidance "Working Together to Safeguard Children 2013" sets out the process for managing individual cases which are referred to and accepted by children's social care.

All assessments should be child centred, focused on outcomes, transparent, timely and proportionate to the needs of each child. The maximum timeframe for a social care assessment to conclude that a decision can be taken on next steps is 45 working days from the point of referral.

Where there is an EHC needs assessment, it should be a holistic assessment of the child or young person's education, health and social care needs. EHC needs assessments should be combined with social care assessments under section 17 of the Children Act 1989 where appropriate.

If services are to be provided following an assessment there should be a 'child in need plan' which sets out who is going to do what, where and when to help the child.

Interface with EHC Plans

Local authorities with their partners should develop and publish local protocols for assessment which should set out how the needs of disabled children will be addressed in the assessment process and clarify how statutory social care assessments will be informed by and inform other specialist assessments including EHC needs assessments leading to an EHC plan.

If a local authority determines following assessment that a disabled child needs support under Section 17, it must first consider whether such support is of the type outlined in Section 2 of the Chronically Sick and Disabled Persons Act (CSDPA) 1970. These services include:

- practical assistance in the home
- provision or assistance in obtaining recreational and educational facilities at home and outside the home
- assistance in traveling to facilities
- adaptations to the home
- facilitating the taking of holidays
- provision of meals at home or elsewhere
- provision or assistance in obtaining a telephone and any special equipment necessary
- non-residential short breaks

Where it is, the local authority must provide that support and the provision must be included in section H1 of the EHC plan if it accepts that the support is 'necessary' to meet the child's needs.

All other social care services, including services provided under section 17 of the Children Act should be included in Section H2 of the EHC plan. Most typically, this will cover overnight short breaks.

EHC plan reviews should be synchronised with social care plan reviews.

Where a local authority has been providing children's social care services to a young person under the age of 18, and they have an EHC plan in place, local authorities can continue to provide these services on the same basis after the age of 18. The local authority retains discretion over how long it chooses to provide these services, so long as an EHC plan remains in place.

It is important to note that paragraph 9.35 of the Code of Practice states that where particular services are assessed as being needed, such as those resulting from statutory social care assessments under the Children Act 1989 or adult social care legislation, their provision should be delivered in line with the relevant statutory guidance and should not be delayed until the EHC plan is complete.

For social care, help and support should be given to the child and family as soon as a need is identified and not wait until the completion of an EHC needs assessment.