

# Kent SEND- Notice of Change May 2023 EHCP Decision Process



## Decision to assess/Decision to issue criteria

There are criteria laid out in the SEND Code of Practice which tell us how we should make decisions of whether to accept a request for assessment and whether to issue an EHC plan. However, these criteria require the consideration of multiple complex factors, so we've broken them down into manageable chunks to help our officers to apply the criteria in a consistent and fair way - ensuring we consider all the relevant aspects of a child or young person's situation when making a decision.

This isn't a change to the criteria that we have always used from the SEND Code of Practice, but we believe it will improve the consistency of how they are applied. We are sharing these with you so that there is transparency around how we are making these decisions and so that you can take them into consideration when judging whether to request an assessment. The two sets of criteria are included below:

## Decision whether to assess

The four threshold criteria questions (for whether to assess) clearly lay out the criteria from paragraph 9.14 of the SEND Code of Practice 2015:

- 1) Is the child or young person's academic attainment (or developmental milestones) below the expected range when considered against peers born in the same school term as them?
- 2) Has the child or young person either: (a) not made the expected progress, or (b) only made the expected progress as a result of much additional intervention and support over and above that which can usually be provided outside of an EHC plan?
- 3) Are we (the LA) of the opinion that the child or young person has or may have special educational needs which may require the support of an EHC plan?
- 4) Has the setting taken relevant and purposeful action to identify, assess and meet the child or young person's special educational needs, including making full use of its delegated funds and additional spending above this level?

If any of the above criteria are not met, is there evidence of any other mitigating or special circumstances which mean the child or young person should be assessed?

*If the answer to **all four** questions is yes, then the decision should be to assess. If any of the four criteria questions are not met, then we would usually only assess if there are mitigating or special circumstances that justify this.*

## Decision whether to issue

The threshold criteria questions (for whether to issue) clearly lay out the criteria from paragraph 9.54-9.56 of the SEND Code of Practice 2015:

1. Has the EHC Needs Assessment confirmed the information available on the nature and extent of the child or young person's special educational needs prior to the EHC Needs Assessment **and** was the special educational provision made prior to the EHC Needs Assessment well matched to these needs?
  - a. **If yes:** *Proceed to considering criteria 2.*
  - b. **If no:** Are there mitigating circumstances which mean the setting could not have been reasonably expected to have done this (i.e. the circumstances have changed significantly, **or** the child or young person has only recently been placed in the setting, **or** their special educational needs were only identified shortly before the EHC needs assessment)?
    - i. **If yes:** *Proceed to considering criteria 2.*
    - ii. **If no:** *The setting should take relevant and purposeful action to identify, assess and meet the child or young person's special educational needs, including making full use of its delegated funds **and** additional spending above this level. Until this happens it will not be possible to judge whether an EHC Plan may be required. A request for a subsequent EHC Needs Assessment will not be considered for at least 6 months, except in exceptional circumstances.*
  
2. Is the provision required to meet the child or young person's special educational needs 'over and above' what can reasonably be provided from within the resources normally available to mainstream early years providers, schools and post-16 institutions?
  - a. **If yes:** *Decision should be to **issue an EHC Plan**.*
  - b. **If no:** *Decision should be **not to issue an EHC Plan** (unless there are other exceptional circumstances which would require the local authority to make special educational provision in accordance with an EHC plan).*

## Who makes the decision?

Where the criteria are met and we intend to proceed with an assessment or issuing an EHC plan, these decisions will generally be checked and approved by an Assessment Team Manager. If there is a decision not to assess or not to issue an EHC plan, these decisions will be made within a panel, made up of a range of professionals to ensure that the criteria have been properly applied and that any special circumstances for the child have been taken into account.