Barnet Complex Needs Panel – Meeting the needs of children and young people with Special Educational Needs and Disability

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**Purpose**

The purpose of this document is to describe the role of the Complex Needs Panel in providing advice and support to the decision-making function of Barnet Local Authority. The document sets out membership, scope of advice/decision making and the guidance which the EHC Panel uses to support its decision making. This document sits alongside the detailed document *‘Guidance on when to request an Education, Health and Care needs assessment*’.

The legislative framework: Section 36(1) of the Children and Families Act 2014, states:

*“36. (8) The Local Authority must secure an EHC needs assessment for the child or young person if, after having regard to any views expressed and evidence submitted under subsection (7) the authority is of the opinion that: -*

* + - 1. *(a) the child or young person has or may have special educational needs and*
			2. *(b) it may be necessary for special educational provision to be made for the child or*
			3. *young person in accordance with an EHC Plan.”*
		1. *Section 36 (8) of the Act provides for a two-stage test so that it is not*
		2. *enough simply to identify children or young people as having special educational needs.*
		3. *There are undoubtedly for example many children with special educational needs*
		4. *where suitable provision is being provided for them without an EHC Plan being in*
		5. *place.*

**The role of the Education, Health and Care Panel**

Statutory decisions can only be made by a named officer on behalf of the Local Authority. In common with many other local authorities, Barnet has a Panel to act as an advisory forum ensuring that the key decisions taken in respect of individual children and young people are open, transparent and informed through professional debate.

The panel supports with fair and consistent decisions which promote efficient use of public funds (i.e. the duty to ensure available resources in schools are effectively targeted to meet needs and improve outcomes for children with SEN, within what is ordinarily available/ avoiding unnecessary assessments which also use resource).

Throughout this document, for ease, the term ‘Panel decision’ refers to the decision the Panel reaches with regard to the advice it offers to the Local Authority. Where decisions require joint funding agreements from Education and/or Health and Social Care these are referred to the Tripartite Panel for consideration.

In line with the Children and Families Act 2014, Barnet operate a multi-agency Panel.

The Panel advises on a number of areas:

* Whether an EHC needs assessment should proceed for all cases requested
* Whether or not to issue an EHC Plan
* The type of school placement and the levels of additional support to be made available to individual Children & Young People
* Exceptional Circumstances funding for one term for Children & Young People moving into the Borough without an EHCP
* changes to placements and levels of support arising out of annual review recommendations
* decisions about if an EHC Plan should be ceased in respect of Children & Young People whose special educational needs have been met or can be provided from within the resources ordinarily available
* The Local Authority’s responses to SENDIST appeals
* Children & Young People who have moved into the Borough
* Special Educational Needs Inclusion Funding for Pre-School children

**How does the EHC Panel receive referrals?**

The areas to which the EHC Panel gives advice on are wide and agendas need to be planned so that time is used efficiently and decisions can be taken within the statutory timescales. Panels take place at appropriate times of the year to consider decisions around the needs of particular groups of children/young people, for example, Early Years, phase transfer to secondary school, post 16, and admissions for specialist resources and special schools

 The work of the Panel is organised through the SEN team. The work of the Panel falls into two main groups

* new referrals
* issues affecting children and young people who already have an EHC Plan

**New referrals**

The following people have a specific right to request an EHC needs assessment:

* the child’s parent
* a young person aged over 16 but under 25, and
* a person acting on behalf of a school or post 16 setting

In addition to these, anyone who knows the child well such as a health or social care practitioner, foster carer or family friend may refer children to the Local Authority. As with a school, they should do this with the knowledge and agreement of the child’s parent or the young person.

A child’s parent, or the young person over 16, can request an EHC needs assessment by writing to the Local Authority SEN team. When the SEN team receive the request, they will:

* Write to the parent, setting and relevant practitioners
* Following receipt of reports, advice and information gathered, input into Panel to assist the Panel in making its decisions

**Who sits on the Panel?**

Rather than list names which may be quickly out of date, the table which follows provides the roles of the people attending Panel. In addition to ‘time proofing’ this also emphasises that each person is carrying out a professional duty relating to their area of expertise representing their services.

|  |
| --- |
| **Independent Chair employed to chair all EHC Panels** |
| **Agency** | **Role** |
| Chair | SEN Team Head of Service  |
| Health | Designated Clinical Officer/ Children’s Integrated Therapies/Community Paediatrician |
| Social Care | Representative of the Disabled Children’s Social Care Team – provides the link also to mainstream social care and early intervention services |
| Education | Educational Psychologist |
| School reps – a Head Teacher and a SENCO  |
| Early Years Representative |

**Operation of the Panel**

* The Panel meets weekly, currently on Thursday morning (during term time and school holidays
* Papers, together with an agenda, are made available in advance of the meeting to Panel members
* There is an expectation that Panel members will have read the Panel Papers in advance and come informed to represent their service
* At the meeting a collective decision is reached in respect of each case submitted
* In exceptional situations where a consensus cannot be reached, and sufficient information is available, the Chair has the casting vote
* A formal record of the decision is noted
* Panel discussions are confidential

The Panel has a role in ensuring that decisions taken across the borough are equitable and reflect agreed understanding. The combined expertise of the group provides supportive advice to schools, colleges and settings.

**Following the Panel Meeting**

Parents and/or the referrer will be contacted by the SEN Team to inform them of the Panel decision. If the decision is not to proceed with an Education, Health and Care Needs Assessment, or that following a needs assessment the Local Authority decides that an EHC Plan is not required, a letter is sent to inform parents of that decision and why it was reached, where they can get further advice, and what their legal rights are to challenge the decision. The letter also offers a meeting with parents to discuss the Panel decision. The meeting offered by the Local Authority can include representatives from the school or educational setting and any practitioners who support the child/young person including, for example, the Educational Psychologist or Specialist Teacher. The meeting will focus on supporting the child/young person to make progress and look to improve practice in supporting and promoting good outcomes.

Barnet is committed to working in partnership with parents and, where there is a disagreement associated with a decision made, will always seek to come to an agreement and continue to discuss any issues. Barnet believes that this approach is in the best interests of our children and young people. Parents can also ask the Local Authority to take part in formal mediation.

Where a school or setting has referred a child to the Local Authority, they will receive feedback on the outcome and, if appropriate support and advice.

In all cases, if new or additional advice is made available which may change the decision; this can be presented at a future Panel.

**How the Panel makes decisions**

The Code of Practice expects local authorities to consider:

‘whether there is evidence that, despite the early years, school or post-16 institution has taken relevant and purposeful action to identify and meet the special educational needs of the child or young person, the child or young person has not made expected progress.’

Code of Practice (2014) 9.14

EHC assessments are ‘statutory’ assessments. This means that decisions made by the Local Authority can be challenged through the Special Educational Needs and Disability Tribunal (SENDIST). The Panel recognises that each child and young person is unique and the questions asked by the Panel reflect the individual circumstances of that child or young person. The Panel advises the Local Authority on three decisions:

* whether the needs of a Children & Young People require an EHC assessment to be undertaken;
* if the assessment has been carried out, whether or not the child or young person requires an EHC Plan to be issued;
* where an EHC Plan exists, if this plan requires amendment.

In deciding whether to carry out an assessment, Barnet Local Authority takes the requirement for ‘relevant and purposeful action’ and asks two questions about the ‘process’ and one about the severity/complexity of need of the child/young person:

1. Has the child/young person had access to all the relevant resources available including Elements 1 and 2 funding from their educational setting, universal and targeted health services, and social care services?
2. Has the setting coordinated the involvement of the child/young person’s parents, the young person and all the relevant professionals/practitioners with specialist knowledge and expertise in seeking to meet the needs of the child or young person?
3. Is there evidence to indicate that the child or young person has significantly greater difficulty in learning than the majority of others of the same age?

The Barnet Local Offer outlines details below

**14. How does the LA decide whether to conduct an EHC needs assessment?** *(Chap 9 para 9.14 -9.15)*

The LA will be looking for evidence that the child or young person has a significant difficulty in learning compared to other child or young person of the same age and that the child or young person has not made expected progress despite the setting taking relevant and purposeful action to identify, assess and meet their special educational need.

It will need to consider whether the child or young person now requires support that is different/additional to the provision normally available in a mainstream setting.

professionals

A wide range of evidence will be considered such as:

* The views, wishes and feelings of the child or young person and his/her parents
* Academic attainment and rate of progress
* Detailed information about the child or young person’s SEN
* Evidence of action already being taken to address the child or young person’s SEN
* Evidence of the difference that the additional support and enhanced teaching and learning strategies have made
* Evidence of the child or young person’s physical, emotional and social development and health needs. – this can be by way of reports from other professionals
* For a child over the age of 18, whether they need additional time to complete their education or training.

For each of these questions, Barnet uses a set of ‘prompts’ to discuss the evidence presented. These are not a tick list exercise but rather form the basis of the discussion within the Panel which advises its decision making.

 Question 1 prompts

* Has the setting used the resources within the last 12 months?
* Have appropriate health referrals have been made, assessments and intervention plans undertaken and implemented?
* Are the Assess/Plan/Do/Review [APDR] cycles relevant to the presenting needs? Are targets SMART, have they been reviewed and do they show progression?
* Has the provision made been appropriate to the child/young person and is it specific to them and their needs?
* Has the provision been evidence based and cost effective?
* If a relevant resource has not been in place, is it likely that this would have enabled the child/young person to access the curriculum?
* Where high levels of support have been provided and have allowed progress, are they unsustainable without ‘top up’ funding?

 Question 2 prompts

* Have assessments of unmet needs been undertaken, where appropriate?
* Have parents/carers been fully and appropriately involved?
* Have relevant professionals/practitioners been involved in the last 12 months?
* Is there evidence of professional/practitioners’ advice and strategies having been followed and evaluated?

 Question 3 prompts

* Is there a clear presentation of the child/ young person’s needs?
* Would the child/young person’s needs be considered exceptional in all our mainstream settings at that age level?

It is important to note that, whilst the Panel expects to find that these areas will have been positively answered, **each request is considered on merit** including whether there are circumstances which may be exceptional and therefore warrant an assessment.

In order to consider whether a child or young person’s needs are exceptional relative to those of the same age, the Panel has information about expected performance and severity of need, and the **impact which this has on learning.**

As with the first two questions, it is important to state that these are not definitive ‘lines’ to be crossed; rather they are guidance to support discussion and each case is considered both for individual levels of severity and the cumulative impact of their needs. For this reason, Barnet does not have ‘severity’ thresholds.

The thresholds should take account of the 4 main areas of special educational needs:

* + Cognition and Learning
	+ Communication and Interaction
	+ Social, Emotional and Mental Health
	+ Sensory and Physical

Where a child/young person has needs in more than one area, the Panel considers the cumulative impact of those needs. Low attainment does not automatically indicate a need for an EHC needs assessment as the progress made may still represent adequate progress relative to the child/young person’s ability.

It is important to note that children and Young People may have health and /or social care needs, however, this does not necessarily mean that an EHC needs assessment is required. Please see below:

* The Code of Practice 6:11 and the DfE Guidance on Supporting Pupils at School with Medical Conditions sets out what school are required to do to meet the needs of children who have health needs attending school. <https://www.gov.uk/government/publications/supporting-pupils-at-school-with-medical-conditions--3>
* Some children may be experiencing difficulties within their home life which impact on their social and emotional skills but do not impact significantly on educational progress. For this group of children, it may be more appropriate that parents and school work with Early Help and Social Care to provide the support necessary.

**Consideration for an assessment or making an EHC Plan for a young person beyond statutory school age**

The majority of young people with significant SEN requiring an EHC assessment will already have had their needs identified by their educational setting. However, by the age of 16 and above, there may be a range of circumstances which mean that a young person who previously did not require an EHC needs assessment or plan, would now benefit from this. These situations may include but are not limited to:

* young people whose needs have changed significantly, e.g. as a result of a road traffic accident, due to a degenerative condition or due to a newly identified or increasing mental health need
* young people who are not in education, employment or training (NEET). These young people may have had needs which previously had not been correctly identified and supported, e.g. young people who have ‘fallen out of school’ or school refusers
* young people who require additional time, in comparison to peers to complete their education or training.

The definition of special educational needs and provision is the same for young people as that for children of statutory school age. The questions which the EHC Panel considers for young people are similar to those for younger children:

1. Evidence to indicate that the young person has a significantly greater difficulty than peers
2. Has the young person had access to all the relevant resources available from education, universal and targeted health and social care services?
3. The setting can demonstrate using an APDR cycle evidence of appropriately targeted assessment, support and review
4. Has the setting coordinated the involvement of the young person, their parents (where appropriate) and all the relevant professionals/practitioners with specialist knowledge and expertise in seeking to meet the needs of the young person?

In addition to the three questions about process and exceptionality of need, where the young person is over 18, the Panel considers whether:

* The young person requires additional time, in comparison to peers to complete their education or training, or;
* A young person who has been supported through the local offer and needs an EHC Plan for moving to a further education placement.

**Arrangements for children/young people whose circumstances are exceptional and need to proceed to an EHC needs assessment**

In very exceptional circumstances, children and young people whose needs are clearly exceptional may need to progress to the EHC needs assessment process more quickly. The actual assessment process will still take the same time as other assessments agreed normally, in accordance with statutory timescales.

Examples of exceptional circumstances which may be considered are:

* children or young people who have arrived in the Local Authority recently where there is clear evidence of severe and complex needs
* children or young people who have significant, long-lasting and urgent need arising from a sudden deterioration or onset of a medical condition or accident
* children or young people whose families, for some reason, have not accessed the relevant services
* very young children with profound, multiple and complex needs.

Where a school or college believes that exceptional circumstances apply, they should contact the SEN team. Where a child is looked after, the Local Authority might also agree that an EHC needs assessment is required urgently to secure appropriate educational provision e.g. special school.

**Deciding whether to issue an EHC Plan**

Once all the advice for the EHC needs assessment has been received, the Local Authority must decide whether to draw up an EHC Plan. To do this the Panel considers the level of the child’s or young person’s learning difficulties and the special educational provision required.

If the assessment confirms the provision being made is appropriate but the child or young person is not progressing sufficiently well, then the authority will consider what further provision is needed and whether this can be made within the school’s resources, or whether an EHC Plan is necessary.

If the child or young person’s difficulties require frequent and regular direct specialist teaching, daily individual support from a support assistant, significant pieces of equipment and/or the regular involvement of non-educational agencies, the authority may consider that this level of provision needs to be specified in an EHC Plan.

An EHC Plan will also be considered appropriate where it is likely that a child or young person may require a specialist school placement.

If it is felt that the child or young person’s needs can be met with a level of advice, support and equipment that is available through the resources normally available to mainstream providers, an EHC Plan may not be necessary. In these situations, the Local Authority will issue an SEN Support Plan. The SEN Support Plan is similar to an EHC Plan but is non- statutory as the provision required can be made from the resources which are available to schools and colleges.

The Panel’s decision will depend on **the precise circumstances of each** **case** in the context of local resourcing and provision arrangements.

EHC Assessment Flow Chart with Timeframes – see Appendix A

**Ceasing to maintain an Education Health and Care plan**

The progress of children and young people with EHC Plans is monitored through a statutory annual review process. At each annual review, the child or young person’s needs and progress are reviewed against the outcomes laid out in the EHC Plan and with reference to the question of whether the needs can only be met by resources not ordinarily available to the setting.

Where it is judged that the child or young person no longer requires an EHC Plan, the Local Authority will consult with the parents and the school about ceasing the EHC Plan.

Where there are parental concerns about the intention to cease an EHC Plan, Barnet will consider the following:

* obtaining updated advice from appropriate professionals

When an EHC Plan is ceased before the child or young person finishes their education, the event should be celebrated in some way with the child or young person and his or her parents to acknowledge the progress made.