



Department  
for Education

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September 2014

To: Directors of Children's Services,  
SEN and Disability lead officers,  
Local Safeguarding Children Boards

## **SPECIAL EDUCATIONAL NEEDS AND DISABILITY AND SOCIAL CARE REQUIREMENTS**

We are writing to provide clarification following a number of queries that we and our partners have received about Education, Health and Care (EHC) plans and social care services to be provided to disabled children and young people. The queries relate to the Chronically Sick and Disabled Persons Act (CSDPA) 1970 and its relationship to section 17 of the Children Act 1989. **In summary, it is important to be clear that the introduction of the EHC plan does not affect a local authority's duties to provide social care services to disabled children and young people.** The new EHC plan requirements are simply to provide clarity to families. They mean that services that already have to be provided to a disabled child or young person under 18 under section 2 of the CSDPA 1970 must be separately identified in any EHC plan.

You will be aware that from 1 September, EHC plans replace statements of SEN and post 16 Learning Difficulty Assessments, with all new referrals being under the new system. The SEN and Disability Code of Practice<sup>1</sup> sets out in chapter nine the statutory process for the EHC needs assessment and preparing the EHC plan. The assessment process should be fully co-ordinated across education, health and care services, and take account of relevant social care assessments where appropriate, including child in need and child protection assessments, or adult social care assessments for young people over 18. The EHC plan must include (in section H1) any social care provision made for a child or young person under 18 resulting from section 2 of the CSDPA. Other social care provision is to be included in section H2, including any adult social care provision for a young person over 18. The range of services covered under section 2 of the CSDPA is broad and it is described in chapter nine of the SEND Code of Practice (in section H1 of the table after paragraph 9.69).

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<sup>1</sup> The SEND Code of Practice has been approved by Parliament and is available here:  
<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

## **Relationship between the Children Act 1989 and section 2 CSDPA 1970**

Local authorities are under a general duty to provide social care services for children 'in need'. Section 17 of the Children Act 1989 sets out this duty which encompasses a wide range of needs and specifically identifies disability as one of the three criteria for determining whether or not a child is to be taken as 'in need'.

When undertaking an assessment of a disabled child or young person under section 17, the local authority must consider whether it is necessary for the authority to provide support of the types listed under section 2 of the CSDPA. Local authorities are under a specific duty to provide support and assistance for a disabled child under section 2 of the CSDPA once they are satisfied that the identified support and assistance is necessary in order to meet that child's needs. Where a local authority decides that support and assistance of the types listed under section 2 of the CSDPA is needed it must arrange to provide that support and assistance under section 2, not under its general duty under section 17 of the Children Act 1989.

A local authority is entitled to take into account the resources available to it when assessing an individual's needs under section 2 of the CSDPA and in making any necessary arrangements to meet such needs. Working Together 2013<sup>2</sup> explains that the Local Safeguarding Children Board (LSCB) should agree with the local authority and its partners the levels for the different types of assessment and services to be commissioned and delivered.

Having clear thresholds for action which are understood by all professionals, and applied consistently, should ensure that services are commissioned effectively and that the right help is given to the child at the right time. The LSCB should publish a threshold document that includes the criteria, including the level of need, for when a case should be referred to local authority children's social care for assessment and for statutory services.

### **Forthcoming practice guidance**

We are working with the Council for Disabled Children to develop further implementation support materials for practitioners involved in the co-ordinated assessment process for the EHC plan and share examples of good practice around co-ordinated planning and support for SEN and social care needs. We will also be sharing good practice in planning for young adults up to the age of 25 with an EHC plan, in advance of the Care Act 2014 being implemented from April 2015.



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<sup>2</sup> Working Together to Safeguard Children was published in March 2013 as a guide to inter-agency working to safeguard and promote the welfare of children. It is available at:

<https://www.gov.uk/government/publications/working-together-to-safeguard-children>