

# Terms of Reference for the EHCP Decision Making Panel

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Where the term ‘child’ is used throughout this document it refers to children within the Early Years sector and of statutory school age and the term ‘young people’ refers to those in further education, training or apprenticeships up to 25 years old.

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## 1. Context

The Special Educational Needs and Disability Code of Practice states ‘It is helpful for local authorities to set up moderating groups to support transparency in decision making. Such groups can improve the consistency of decision making about whether to carry out an EHC needs assessment and whether to issue an EHC plan’ (9.60, SEND Code of Practice).

The Local Authority **must** assess where:

- (a) the child or young person **has or may have** special educational needs, and
- (b) it **may be** necessary for special educational provision to be made for the child or young person in accordance with an EHC plan (**section 36(8)**)

The Children and Families Act 2014 specifies the Local Authority determines whether it **may** be necessary for Special Educational Placement to be made in accordance with an EHC plan (Children and Families Act 2014 section 36(3)) in consultation with parent/YP (section 36(4)). Where it is determined it is not necessary the parent/YP is notified of this with reasons (section 36(5)).

Terms of reference of the EHC Decision Making Panel should be read as part of the full Council's Scheme of Delegation for SEND and High Needs funding. The Scheme of Delegation outlines all relevant national legislation and local guidance.

In line with the SEND Code of Practice, Kirklees Local Authority is committed and aims to ensure that the following principles are met throughout the decision-making process:

- The views of children, their parents and young people are clear when making decisions aspirational and person-centred approach.
- Focus on inclusive practice and removing barriers to learning.
- Ensuring high quality provision to achieve good and outstanding progress.
- Evidence based decision making, proportionate to identified need and agreed outcomes.
- Efficient use of resources.

## 2. Role of EHCP Decision Making Panel

There are two types of SEN panels:

- EHC Needs Assessment Panel
- EHC- Decision to Issue and Type Panel

The key purpose of the EHC Needs Assessment (EHCNA) Panel is to:

- consider requests for EHC.

The key purpose of the EHC- Decision to Write and Type Panel is to:

- consider whether to write and issue the Education, Health and Care Plan (EHCP)
- identify the appropriate 'type of' educational placement i.e. Mainstream or Special School
- consider significant changes to EHC Plans, through the review process, that may result in a change in EHCP.
- consider any recommendations to cease an existing EHCP.

## 3. Membership

Panel members are equal participants, whose professional views are equally valued and considered. They offer advice and recommendations that enable the LA decisions to be made by the Chair. Every effort is made to reach agreement on each case. The final responsibility for decisions is with the LA through the Chair of the Panel. To enable effective and informed decisions a minimum of three members are required for the Panel to be quorate.

Members work to principles set out above and:

- Provide expertise in their own specialist area and offer impartial advice on individual cases without promoting the interest of their service or setting.
- Use their experience and knowledge and offer views on assessment, outcomes, appropriate and proportionate provision and other matters in relation to children and young people with SEN age 0-25.
- Offer relevant advice about legislation, codes of conduct, reforms and priorities in education setting, services and organisations.
- Provide a moderating function by seeking to ensure consistent decision making across all cases.

Members of the Panel are required to read all relevant papers in advance of the meeting. They make recommendations to the Local Authority Officer (the Chair of the Panel) who will make final decisions on a case-by-case basis.

EHCP- Decision Making Panel members include representatives from:

- Chair- Senior Manager from EHCP Team
- Educational Psychology Service
- Children's/Adults Social Care representative

- ICB representative (DCO)
- LA Commissioning Team
- Kirklees Learning Partner
- SEN Support Service Representatives

EHC Case work officers will present the case to the panel who then make a professional judgement and recommendation.

Role	Role on Panel	Contribute or/ advisor to decision maker	Decision making responsibility
LA EHCP Senior Manager	Panel Chair - Responsible LA Officer for decisions on requests for EHC needs assessment, agreement to draft an EHCP issuing EHC Plans and allocating resources for EHC plans. Compliance with statutory duties.	✓	✓
LA Educational Psychology Service	Advice on psychological needs of child and interventions.	✓	
Specialist Outreach Service	Advice relevant to their areas of expertise.	✓	
IBC representative Designated Clinical Officer	To provide health advice and sign off on the health elements of Education, Health and Care Plans.	✓	
Social Care	To provide advice and 'sign off' of the social care element of Education, Health and Care Plans.	✓	✓
Panel Administrator	To ensure all relevant information is circulated in advance, compiles and maintains the list of attendees and observers, panel decisions are accurately recorded, and actions arising are cascaded to the relevant persons for further action if required.		

## 4. The Chair

The EHCP Decision Making Panels are chaired by the EHCP Senior Manager. The Chair is the responsible Local Authority Officer who makes final decisions on all issues referred to the Panel.

The Chair must ensure:

- All cases are dealt with fairly and decisions are reached consistently.
- Information is GDPR compliant with clear consent.
- Panel members are aware of the purpose of the meeting.

Panel members are aware of the statutory provisions and national and local guidance which must be applied in each case.

Each panel member has been given the opportunity to contribute to the decision in accordance with the legal test.

- the child or young person **has or may have** special educational needs, and
- it **may be** necessary for special educational provision to be made for the child or young person in accordance with an EHC plan (**section 36(8)**) [Children and Families Act 2014 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2014/26/section/36)
- The decision including reasons and actions (if relevant) are recorded accurately and sufficient information is available for case officers as a result of the panel meeting.
- Data is collated and analysed to provide reports as required.

## 5. Observers

In order to promote continuing joint working, joint understanding and workforce development, observers are welcome to attend the panel at the discretion of the Chair. They will need to request attendance in advance with the Panel Administrator and observe strict confidentiality. Observers should not take part in any elements of the Panel discussion and will not have access to any documentation relating to the child/ young person.

## 6. Confidentiality

Panel representatives must uphold confidentiality in all cases considered at the panel and act in accordance with the GDPR duties of the LA and working together to safeguard children.

Panel members should not advise on decisions about cases which they are directly involved in or where there may be a conflict of interest.

## 7. Frequency and structure of the panels

Both the EHCP Decision Making Panels are held weekly throughout the year.

## 8. Pre-panel preparation

The EHCP Caseworkers act as a keyworker for children, young people and their families. They are in regular contact with parents or young people and take responsibility for ensuring that all appropriate contributions, representations, views, wishes and professional assessments and reports are available to the Panel Members.

Caseworkers must complete a panel sheet (Appendix A) and outline:

- What decision is requested
- Ensure that the panel pack reflects the evidence necessary to make that decision, e.g., a decision to issue EHCP must include all appendices, a request for change of placement must include all relevant evidence and options including availability of places and transport costs.

This information must be submitted to the panel administrator so that papers can be circulated in advance of the Panel meeting. In exceptional circumstances, new or additional information can be presented at the panel meeting.

It is important that the information and evidence presented to the panel is up to date and relevant.

## 9. Administration details

- Required paperwork must be shared with panel members.
- Agenda and paperwork are circulated to all Panel members by Friday of the preceding week.
- Following the discussion, the Chair, who is the officer with designated Local Authority decision making responsibility makes the decision and explains the reasons.
- The Panel Administrator records the decision, the reasons for the decision, and any relevant actions.
- Decisions are signed by the Chair.

## 10. Post Panel arrangements

Following the panel meeting, the EHCP Caseworker:

- Confirms all decisions, using a standardised letter to the family within 2 working days.
- The relevant case records including resource implications (electronic or file) must be updated.
- Data recording systems are updated including the provision on relevant IT systems.

## 11. Review arrangements

These terms of reference will be reviewed by the ECHP Head of Service within six months and then annually. Changes will be presented to the Quality and Compliance Governance Group- Decision Making Subgroup.

## 12. Reading panel papers advice for new panel members

Reading panel papers may seem daunting at first. Here are some tips from established panel members that will support you.

- First make a note of the purpose for the paperwork (Panel log) being submitted to panel contained within the panel agenda. Is this a request for an assessment? A completed assessment where panel have to decide whether to write the EHCP and decide “type” of placement issue a plan?
- When reading reports, it is often helpful to read the conclusion or summary first overview first, particularly the EP and S&LT reports.

Allocate enough time for reading.

- Break up the task.
- Focus on the decision that is being required to make - Note key information that will inform your decision and any information that presents discrepancies or gaps in the information submitted. [Children and Families Act 2014 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2014/11)
- The panel's strength is its multi-disciplinary composition, this means that each member contributes their own area of expertise.

## 13. Your contribution at the panel

- The chair of the panel will run the meeting and will ensure that all members contribute using the legal test. [Children and Families Act 2014 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2014/11)

The panel is an advisory body, decisions will be made by the chair of panel though they will be informed by your contributions.

## 14. Feeding back to your service

Panel members are responsible for feeding back to their services so that improvements can continuously be developed.