

SEN and Social Care

Eleanor Wright
SOS SEN

Social care in EHC Plans

- EHC Plans are intended to be holistic documents, recognising that children rarely have SEN in a vacuum and often have health and social care needs.
- Therefore the main difference between EHCPs and Statements is that there are separate sections for education-related health and social care needs and provision.
- However, only education and health care provision are enforceable; social care provision in the EHCP is not.

Assessment

- Under Article 6 Special Educational Needs and Disability Regulations, when carrying out an EHC Needs Assessment prior to issuing an EHCP, LAs must request advice and information from social services.
- Social services often respond to state that the child or young person is not known. That does not comply with Article 6 and, if social care is relevant, should be challenged.
- Even if SS have not been involved previously, social care is particularly relevant to older CYP as they will need help on moving into adulthood.

Assessment 2

- It is generally sensible to request a care assessment under other statutory provisions (Children Act 1989 or, for adults, Care Act 2014, if this has not been done already. That is because this can lead to a Care Plan, the provisions of which are enforceable where the EHCP is not.
- If this is in place, the LA can incorporate the findings of the care assessment in the EHCP so that all needs are covered.

Section D of EHC Plans

- See para. 9.69 Code of Practice for full details of requirements for sections D and H
- The EHCP **must** specify any social care needs which relate to the CYP's SEN or which require provision for under 18s under s2 Chronically Sick and Disabled Persons Act 1970.
- LA may choose to specify other social care needs. This can include child protection plans or child in need plans, but **only** with the consent of the child and their parents.

Section H1 – s2 CSDPA

- Must contain any social care provision which must be made for a **CYP under 18** resulting from s2 CSDPA. This includes:
 - Practical assistance in the home
 - Provision or assistance in obtaining recreational and educational facilities at home or outside it.
 - Assistance in travelling to facilities.
 - Adaptations to the home.
 - Facilitating taking holidays.
 - Provision of meals at home and elsewhere.
 - Provision of or assistance in obtaining a telephone and any special equipment necessary
 - Non-residential short breaks

Section H1 - 2

- Provision should be detailed and specific and should normally be quantified, e.g. in terms of the type of support and who will provide it (including whether this is to be secured through a social care direct payment).
- It should be clear how provision will support achievement of the outcomes, including any provision secured through a Personal Budget.
- May include services provided for parent carers of disabled children.

Section H2

- Other social care provision reasonably required by the learning difficulties or disabilities which result in the child having SEN.
- This includes adult social care provision for YP over 18 under Care Act 2014.
- LA can choose to specify other social care provision required by the CYP.

Social care in section F?

- Social care provision can and should be in section F if it **educates or trains** the CYP.
- In that event it will be enforceable against the local authority

Social care where a residential school placement is sought

- In considering school or college placements, normally a residential placement will only be agreed if there is an educational need for it, or if the cost of the placement to public funds is less than a day placement.
- “Public funds” includes all public costs including social care costs.
- Therefore it may be very relevant to push for social care provision, e.g. respite care, to be properly defined and provided for, as the cost of the day placement + transport + therapies/1:1 support etc + social care may be similar to or exceed residential school costs.

Maintaining social care provision in EHC Plans

- Adult and children's social services are responsible for providing Section H support but it is not enforceable against them as such.
- However, support under s2 CSDPA is enforceable: LA has a duty to provide the services assessed by them as being needed.
- Support may be enforceable under other statutory provisions where there is a care plan in place.

Tribunal appeals

- No power at present for the tribunal to consider appeals concerning sections D and H.
- However, under the National Trial due to start in April 2018, they will have the power to consider these sections and make non-enforceable recommendations about these sections.
- If LA decides not to follow the recommendations, it must say so and explain why. It may be subject to complaint to the Local Government Ombudsman or challenge by way of a judicial review application.