

# Information for Schools and Professionals: The SEND Code of Practice and Additional Support Contracts

This information is extracted from the [Joint Working Protocol](#), published on the Sutton Local Offer Website, and has previously been shared through the Education Bulletin, February 2019.

## **Our Vision**

***We are collectively ambitious for our children and young people. Together we want to provide them with the best chances to achieve their best outcomes in life whatever their starting point and prepare them effectively for adulthood.***

## **1. Guidance on Roles and Responsibilities from the [SEND Code of Practice 2015](#)**

### **1. A Family Centred System**

The code explains that local authorities (LAs) must ensure that children, their parents, and young people are involved in discussions and decisions about their individual support and about local provision.

Early years providers, schools and colleges should also "take steps to ensure that young people and parents are actively supported" in contributing to needs assessments, developing and reviewing education health and care (EHC) plans.

The assessment and planning process should enable parents, children and young people to express their views, wishes and feelings, and to be part of the decision-making process.

The process should also:

- Focus on the child or young person as an individual
- Be easy for children, young people and their parents to understand and use clear ordinary language and images, rather than professional jargon
- Highlight the child's or young person's strengths and capacities
- Enable the child or young person, and those who know them best, to say what they have done and is interested in and what outcomes they are seeking in the future
- Tailor support to the needs of the individual
- Organise assessments to minimise demands on families
- Bring together relevant professionals to discuss and agree together the overall approach
- Deliver an outcomes-focused and co-ordinated plan for the child or young person and their parents

### **2. Education Providers**

**All** schools must have regard to the Special Educational Needs and Disability (SEND) Code of Practice when taking decisions relating to pupils with SEN or disabilities. The code applies equally to maintained schools, academies, and free schools.

Previously, the 2001 code of practice had separate sections for primary and secondary schools. The current code does not distinguish between the primary and secondary phases.

While both mainstream and special schools must have regard to the Code of Practice, some sections of it make particular reference to mainstream or special settings.

Chapter 6 outlines information on how mainstream providers and specialists can ensure that they improve attainment for children and secure good outcomes whether or not they have an EHC plan.

Paragraph 6.2 notes that maintained nursery schools, mainstream schools (including academies and free schools), 16 to 19 academies, alternative provision academies and pupil referral units (PRUs) are required to:

- Use their best endeavours to make sure that a child with SEN gets the support he/she needs – this means doing everything they can to meet children's and young people's SEN
- Ensure that children and young people with SEN engage in the activities of the school alongside pupils who do not have SEN
- Designate a teacher to be responsible for co-ordinating SEN provision (the SEN co-ordinator or SENCO). (This does not apply in 16 to 19 academies)
- Inform parents when they are making special educational provision for a child
- Prepare an SEN information report and their arrangements for the admission of children with disabilities, the steps being taken to prevent children with disabilities from being treated less favourably than others, the facilities provided to enable access to the school for children with disabilities and its accessibility plan showing how they plan to improve access progressively over time

The chapter also provides details about the four broad areas of SEN:

1. Communication and interaction difficulties
2. Cognition and learning needs
3. Social, emotional and mental health difficulties
4. Sensory and/or physical needs

Paragraph 6.36 says that teachers are responsible and accountable for the progress and development of the pupils in their class, including where pupils access support from teaching assistants or specialist staff.

Paragraphs 6.45-6.56 look at the types of action to be taken when a potential SEN is identified: a cycle of "assess, plan, do, review". If the support is not sufficient to help the child or young person to achieve their desired outcomes, an EHC needs assessment might be required.

Chapter 9 of the code of practice focuses on EHC needs assessments and plans. In paragraph 9.3, it says:

*An LA must conduct an assessment of EHC needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.*

In paragraph 9.5, the code explains that EHC plans should be "forward-looking". They should help raise aspirations and outline the provision required to meet the pupil's needs and support them in achieving their ambitions. It adds:

*EHC plans should specify how services will be delivered as part of a whole package and explain how best to achieve the outcomes sought across education, health and social care for the child or young person.*

At paragraph 9.14 the Code states that

*In considering whether an EHC Needs Assessment is necessary, the local authority should consider whether there is evidence that despite the early years provider, school or post-16 institution having taken relevant and purposeful action to identify, assess and meet the special educational needs of the child or young person, the child or young person has not made expected progress.*

The LA should pay particular attention to:

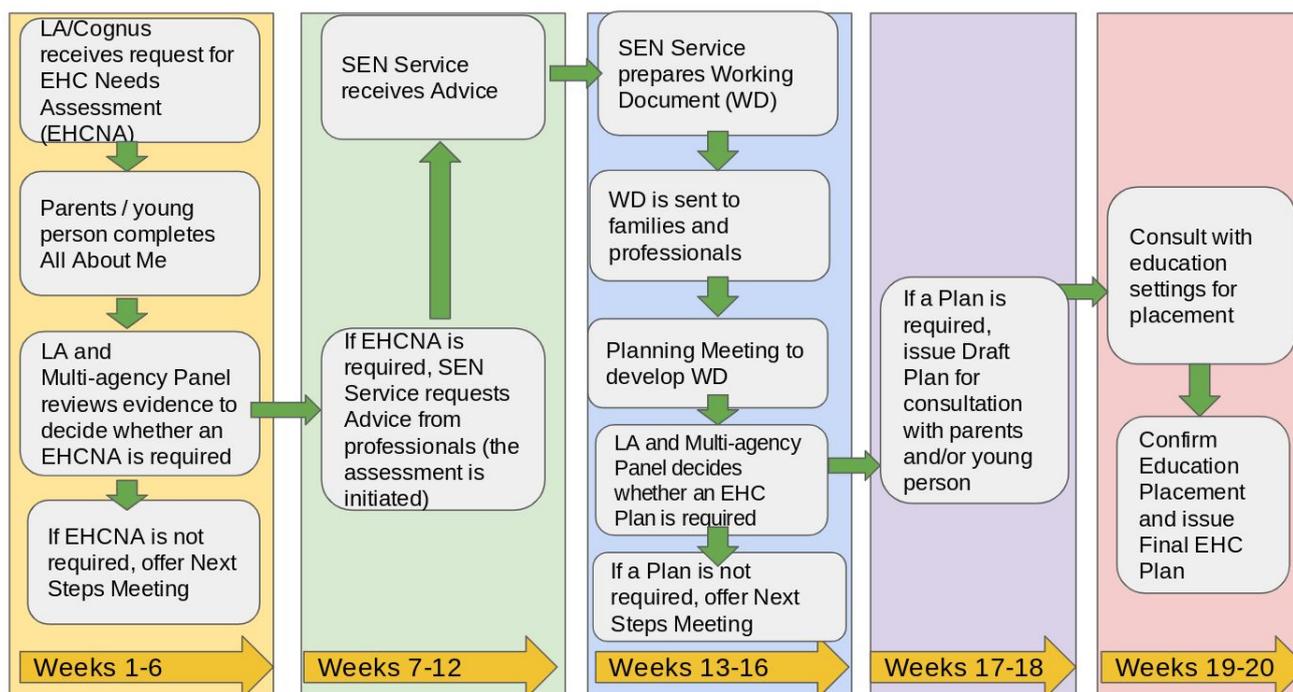
- evidence of the child or young person's academic attainment (or developmental milestones in younger children) and rate of progress;
- information about the nature, extent and context of the child or young person's SEN;
- evidence of the action already taken by the school or other setting;
- evidence that where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided;
- evidence of the child or young person's physical, emotional and social development and health needs, drawing on relevant evidence from clinicians and other health professionals and what has been done to meet these by other agencies.

### **3. EHC Needs Assessment Process**

The EHC Needs Assessment must be completed within 20 weeks of receipt of the request.

The LA has 6 weeks to make a decision whether or not to assess. If the decision is made to assess, advice requested from professionals must be returned within 6 weeks of the date of the request for advice.

The LA has 16 weeks from the receipt of the request for an EHC Needs Assessment to make a decision whether or not to issue a plan. If a decision is made that an EHCP is required, the local authority must send the draft Education, Health and Care Plan (including the appendices containing the advice and information gathered during the Education, Health and Care Needs Assessment) to the child/young person/parent and give them at least 15 days to provide their views and make representations on the content. The diagram below illustrates the process:



### 3.1 Requesting and Assessment

An Education, Health and Care Needs Assessment is an assessment undertaken by a local authority of the education, health and care needs of a child or young person aged 0-25 with Special Educational Needs (SEN) or disabilities to determine whether it is necessary to make provision for those needs in accordance with an Education Health and Care Plan. The assessment process is coordinated by the SEN Service in Cognus.

The following have a specific right to ask a local authority to conduct an Education, Health and Care Needs Assessment:

- A child's parent;
- A young person over the age of 16 but under the age of 25; and
- A person acting on behalf of a school or post-16 institution (this should be with the knowledge and agreement of the parent or young person where possible).

In addition, anyone else can bring a child or young person who has (or may have) SEN to the attention of the local authority, e.g. foster carers, health and social care professionals, education staff, youth offending teams or Probation Providers, or a family friend.

Following a request or a child having been brought to its attention, the local authority must (unless it has already undertaken such an assessment during the previous six months) determine whether an Education, Health and Care Needs Assessment is necessary and communicate that decision within 6 weeks. It must give its reasons where it decides not to proceed.

Where the local authority considers that special educational provision may need to be made in accordance with an Education, Health and Care Plan and is considering whether an Education, Health and Care Needs Assessment is necessary, it must notify:

- The young person/parent (and must inform them of their right to express written or oral views and submit evidence);

- The health service (the relevant Clinical Commissioning Group (CCG) or NHS England where it has responsibility for a child or young person);
- Local authority officers responsible for social care for young people with SEN;
- Where the child or young person attends an education establishment, the principal (or equivalent).

In considering whether an Education, Health and Care Needs Assessment is necessary, the local authority should consider whether there is evidence that despite the education establishment having taken relevant and purposeful action to identify, assess and meet the special educational needs of the child/young person, s/he has not made expected progress.

If the local authority decides not to conduct an Education, Health and Care Needs Assessment, it must notify the young person/parent, the education provider and the health service and give the reasons for its decision. The local authority must also inform the young person/parent of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services (see Section 15, Resolving Disagreements). The local authority should also provide feedback collected during the process of considering whether an Education, Health and Care Needs Assessment is necessary, including evidence from professionals, which the parent, young person, early years provider, school or post-16 institution may find useful (all of these can be discussed at the Next Steps Meeting - guidance can be found at the end of the document).

### ***3.2 Undertaking an EHC Needs Assessment***

Local authorities must consult the child/young person/parent throughout the process of assessment and production of an Education, Health and Care Plan.

Education, Health and Care Needs Assessments should be combined with other social care assessments where appropriate. As far as possible, there should be a 'tell us once' approach to sharing information during the assessment and planning process so that families and young people do not have to repeat the same information to different agencies, or different practitioners and services within each agency. It must be discussed with the child/young person/parents what information they are happy for the local authority to share with other agencies. A record should be made of what information can be shared and with whom.

Where particular services are assessed as being needed, their provision should be delivered and should not be delayed until the Education, Health and Care Plan is complete.

Following the completion of an Education, Health and Care Needs Assessment, if the local authority decides that an Education, Health and Care Plan is not necessary, it must notify the child/young person/parent, the education and the health service and give the reasons for its decision. This notification must take place as soon as practicable and at the latest within 16 weeks of the initial request or of the child or young person having otherwise been brought to the local authority's attention. The local authority must also inform the child/young person/parent of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services.

### ***3.3 Requesting advice from professionals***

The LA must seek advice from a range of people. The list is set out in Part 2 of Regulation 6(1) of the [Special Educational Needs and Disability Regulations 2014](#) (the “SEN Regs”) and comprises:

- the child’s parent (s)/carer(s) or the young person;
- educational advice (usually from the head teacher or principal of the education setting the child/young person is attending);
- medical advice and information from a health care professional;
- psychological advice and information from an educational psychologist;
- advice and information in relation to social care;
- advice and information from any other person the local authority thinks appropriate;
- where the child or young person is in or beyond year 9, advice and information in relation to provision to assist the child or young person in preparation for adulthood and independent living; and
- advice and information from any person the child’s parent or young person reasonably requests that the local authority seek advice from

The LA is legally required to seek all of this information as a minimum.

If a child or young person is hearing impaired and/or visually impaired the educational advice must come from a suitably qualified person (SEN Reg 6(2)).

Their advice must be clear, accessible and specific (see paragraph 9.51 of the SEN and Disability Code of Practice). In particular, it should address the child or young person’s needs, the special educational provision required to meet those needs, and the outcomes which this provision will aim to achieve.

For more guidance on Social Care Policies around SEND please check [tri.x](#). For more guidance on Health advice please check [CDC pack](#). Or for further guidance on Social Care advice please check [CDC pack](#).

#### **4. Children and Young People with SEND in Specific Circumstances**

Chapter 10 outlines information on supporting children and young people who have SEN and whose individual circumstances require additional consideration.

The chapter covers children and young people with SEN who:

- Are looked-after or care leavers
- Have social care needs, including those who are 'children in need'
- Are educated out of area, in alternative provision, in hospital or at home
- Are the children of service personnel
- Are in youth custody

On children and young people who have SEN and are looked after, for example, the code explains in paragraph 10.3 that all schools must have a designated teacher for looked-after children as well as a SENCO, and where these roles are carried out by different individuals they should work closely together to ensure relevant school staff fully understand the implications of a child both being looked after and having SEN.

Paragraph 10.7 adds that where a looked-after child is being assessed for SEN, the information set out in their care plan must be taken into account, and SEN professionals must work closely with other relevant professionals, such as the child's social worker. EHC assessments for looked-after children must be carried out by the LA in which the child is ordinarily resident, which may be different from the LA that looks after the child.

On children and young people with social care needs, paragraph 10.13 of the code explains that LAs

have a statutory duty to safeguard and promote the welfare of 'children in need' in their area, including children with disabilities, by providing appropriate services to them. This could include short breaks for parents/carers, equipment or adaptations to the home, and support for parents from social workers.

Paragraph 10.18 says that any EHC assessment of a child or young person with social care needs should be a holistic assessment of their education, health and social care needs, and should be combined with social care assessments where appropriate.

The code adds in paragraph 10.19 that EHC plan reviews should be synchronised with social care plan reviews.

## **5. Reviewing the Plans**

Education, Health and Care Plans should be used to actively monitor the progress of children/young people towards their outcomes and longer term aspirations. They must be reviewed as a minimum every 12 months. The local authority's decision following the review meeting must be notified to the child/young person/parent within four weeks of the review meeting.

Reviews must focus on the child/young person's progress towards achieving the outcomes specified in the Plan, and whether these outcomes and supporting targets remain appropriate.

Reviews should also:

- Gather and assess information so that it can be used by education settings to support the child/young person's progress and their access to teaching and learning;
- Review the special educational provision made for the child/young person to ensure it is being effective in ensuring access to teaching and learning and good progress;
- Review the health and social care provision made for the child/young person and its effectiveness in ensuring good progress towards outcomes;
- Consider the continuing appropriateness of the Plan in the light of the child/young person's progress during the previous year or changed circumstances and whether changes are required including any changes to outcomes, enhanced provision, change of educational establishment or whether the Plan should be discontinued;
- Set new interim targets for the coming year and where appropriate, agree new outcomes;
- Review any interim targets set by the education provider;
- Review any existing Personal Budget arrangements including the statutory requirement to review any arrangements for Direct Payments;
- Review any transition plan that is in place.
- Reviews must be undertaken in partnership with the young person/parent and must take account of their views, wishes and feelings, including their right to request a Personal Budget.

Professionals across education, health and care must co-operate with local authorities during reviews.

For Looked After children the annual review should, if possible and appropriate, coincide with one of the reviews in their Care Plan and in particular the Personal Education Plan (PEP) element of the Care Plan.

Local authorities must also review and maintain an Education, Health and Care Plan when a young person has been released from custody. The responsible local authority must involve the young person in reviewing whether the Plan still reflects their needs accurately and should involve the youth offending team in agreeing appropriate support and opportunities.

The Education, Health and Care Plan review at Year 9, and every review thereafter, should include a focus on preparing for adulthood. It can be helpful for reviews before Year 9 to have this focus too.

## **6. Educational support for children with medical needs**

**6.1** Children may experience ill health at some point during their time at school and others may have an ongoing medical condition that potentially impairs their ability to access education in school. In the majority of cases, schools are able and have a duty under Children and Families Act to support pupils in such circumstances effectively. Schools also have duties under the Equality Act to ensure that they do not discriminate against disabled pupils and to make reasonable adjustments for disabled pupils.

In exceptional cases support can be made available so as to minimise any serious disruption to a child's education and whose medical needs cannot normally be met by their school.

The school governing body has a duty to make arrangements to support children at school with medical conditions. Pupils at school with medical conditions should be properly supported so that they have full access to education, including school trips and physical education. Governing bodies must ensure that arrangements are in place in schools to support pupils at school with medical conditions.

Governing bodies should also ensure that school leaders consult health and social care professionals, pupils and parents to ensure that the needs of children with medical conditions are effectively supported. Schools have the freedom to determine their own arrangements on the following guidance which will be overseen by a named person in the school:

- Procedures to be followed when advised by a medical practitioner that a pupil has a medical condition
- Individual healthcare plans
- Staff training and support
- Children's role in managing their own medical needs
- Managing medicines on school premises
- Emergency procedures
- Day trips, residential visits and sporting activities
- Home to school transport for pupils requiring special arrangements
- Unacceptable practice
- Liability and indemnity
- Complaints

The governing body should ensure that their arrangements give parents confidence in the school's ability to support their child's medical needs effectively. The arrangements should show an understanding of how medical conditions impact on a child's ability to learn, increase their confidence and promote selfcare. There should be recognition that some medical conditions if not managed well can be fatal.

For full details see the [Department for Education's supporting pupils at school with medical conditions statutory guidance](#).

### **6.2. Additional funding for children with significant medical and health needs to access their education**

For children with significant medical and health needs in Sutton who attend mainstream schools, early years providers and further education colleges, additional funding can be requested to minimise the impact of these difficulties on their access to the curriculum. The 'request for medical funding' application form should be completed by the education setting and the health professional or GP who oversees the individual care plan to ensure that the provision within school is clinically appropriate in meeting the child's individual medical health needs; it is good practice to involve parents in this discussion.

On receipt of the request for additional funding, a representative of the Clinical Commissioning Group (CCG) and the responsible Local Authority officer will confirm the recommendations for the appropriate clinical provision and the funding agreed.

Each case is considered on its individual merits but in general funding is awarded for 12 months. The education setting will need to review the provision and reapply for further funding depending on the outcome of the review.

### **6.3 Continuing Care**

Some children and young people (up to their 18th birthday), may have very complex health needs. These may be the result of congenital conditions, long-term or life-limiting or life-threatening conditions, disability, or the after-effects of serious illness or injury. These needs may be so complex, that they cannot be met by the services which are routinely available from GP practices, hospitals or in the community commissioned by clinical commissioning groups (CCGs) or NHS England. A package of additional health support may be needed. This additional package of care has come to be known as continuing care.

Continuing care is not needed by children or young people whose needs can be met appropriately through existing universal or specialist services through a case management approach. The assessment is led by a children and young people's health assessor nominated by the CCG. In Sutton's case this is delivered by the Epsom and St Helier Trust community nursing team who complete and carry out assessments on behalf of the CCG. Referrals for continuing care will need to be completed in the form of a positive checklist. Referrals need to be sent to [esth.chctqmh@nhs.net](mailto:esth.chctqmh@nhs.net). If the checklist meets the threshold and it is confirmed that the children or young person's needs cannot be met through existing universal or specialist services a full assessment via the national decision support tool will be carried out. The outcome of the assessment is a recommendation from the assessor as to whether or not the child or young person has continuing care needs.

The second phase, decision-making involves the case being presented the Sutton Continuing care panel that considers the evidence and the assessor's recommendation, to reach a decision as to whether or not the child or young person has a continuing care need. The Panel has representation from SEN and Social Care to help support the CCGs decision making. Continuing Care eligibility is ultimately a CCG decision to ratify.

This is followed by the development of a package of care. Commissioners will decide how the continuing care will be provided, what proportion and level of resource is required to deliver it and how much needs to be specially commissioned, again taking into account the recommendation of the assessor on nature of the child or young person's needs. Costed options may need to be separately considered by a funding panel.

Following agreement on the package of care the CCG make the necessary arrangements to deliver the package of care as soon as possible. When determining what the package of care should include, commissioners will consider what additional care might need to be commissioned to fulfil their statutory duty to meet the reasonable needs of an individual.

Commissioners will also keep the package of care under regular review to ensure the developing child or young person's needs continue to be supported. Any package of care which a CCG agrees should aim to be integrated or aligned with other relevant services, such as primary care.

## 2. The Additional Support Contract (ASC)

Additional Support Contracts (ASC) are available for SEN support interventions which require funding in addition to the £6000 which is provided from the school's block notional SEN Budget to meet a child or young person's SEND. It is to enable specified outcomes to be achieved through an enhanced school offer for a time-limited period of one or two terms, to a maximum of £6,000 per academic year, pro rata ie £2,000 per term. It is provided through the High Needs Block.

To request an ASC for a child or young person without an EHC Plan, schools/educational settings complete the EHC Needs Assessment Request form.

To support the request, the educational setting meets with the parents or young person to identify the the desired SMART outcomes for the child or young person, and the additional resources and interventions that will be put in place to enable those outcomes to be achieved within the specified timescales.

All funding will be agreed on a termly basis; continued funding will be subject to head teacher moderation. The maximum period for an ASC allocation is two terms. If support is still required after this point, it is likely that the LA would consider an EHC Needs Assessment.

The benefit of an ASC is that it allows the school to put extra support measures into place very quickly and flexibly, without the need to go through a full EHC assessment, which is up to a 20 week process.

### Process for Requesting an ASC

#### Who can request the ASC?

##### **a) The educational setting**

When a school or setting requests an ASC, the decision is based on provision of information that clearly indicates how the school has used the £6000 notional SEN budget to provide SEN support and that through exceptional circumstances and/or less than expected progress given the child/young person's needs and the interventions already provided, the school / setting is intending to provide an enhanced Local Offer of provision for a time-limited period.

The information that the school / setting provides will demonstrate an 'Assess, Plan, Do, Review' approach to SEN support, with a clear focus on the achievement of outcomes for the child. There will be evidence of parent / carer / young person involvement in planning and decision-making.

##### **b) The multi-disciplinary panel**

The panel can suggest additional support through an ASC as follows:

- i. **When a request for an EHC Needs Assessment is made:** the LA may decide that a child or young person does have identified special educational needs which require provision that is different from, or additional to, what their educational setting would normally provide through SEN Support, but that the child or young person may not require a full EHC Needs Assessment. In these circumstances an ASC might be offered to support the child/ young person for a limited period of time.
- ii. **After the EHC Needs Assessment has been completed:** the LA may decide that a child or young person does have identified special educational needs, which require provision that is different from, or additional to, what their educational setting would normally provide through SEN Support, but that the child or young person may not require an EHC Plan. In these

circumstances an ASC might be offered to support the child/ young person for a limited period of time.

#### How is a decision on the ASC made?

The multi-disciplinary panel will consider whether an ASC is required and the specific amount of funding, with a maximum limit of £2,000 per term, and a maximum length of two terms. The responsible Local Authority officer will make the decision on the basis of the evidence and the advice of the panel.

#### What is the process?

The process is as follows:

1. If the multi-disciplinary panel decides an ASC is appropriate, the school / setting will convene a meeting with the child/young person and family at the educational setting to discuss
  - a. Specific targets and outcomes the ASC is intended to achieve
  - b. How impact will be assessed and measured during the term
  - c. How the additional funding requested (up to £2000 for the term) will be used
2. The information above will be discussed by the multi-disciplinary panel which will decide
  - a. Whether the targets and outcomes sought through the ASC are sufficiently robust to ensure the child/young person makes progress
  - b. The specific amount of funding the ASC will attract

#### Who do I send the request for ASC to ?

Requests submitted to the SEN Service ([sen.team@cognus.org.uk](mailto:sen.team@cognus.org.uk)) by secure email.

#### Disagreement resolution

There is no disagreement envisaged and there is no right of appeal against the panel decision. This does not affect a parent/carer's or young person's right to appeal LA decisions not to initiate an EHC needs assessment or not to issue an EHCP.

#### **Review of ASC**

Progress will be reviewed after this funding has been in place for one term. If it has been successful in ensuring progress and the educational setting, the young person and/or his/her family wish to extend it to another final term, they will refer their request to the multi-disciplinary panel.