

# THE SPECIAL EDUCATIONAL NEEDS and DISABILITY (SEND 0-25) PANEL

Guidance/ Terms of Reference

Updated 2016

## **FOREWORD**

This guidance has been produced to support the work of the Special Educational Needs and Disability (SEND) Panel and to highlight for parents, schools/settings and other stakeholders how the Panel operates and how it is involved in the SEND decision-making process.

Southwark Council has set out some key principles that underpin the way services operate and the Panel processes have been developed to reflect these values;

- Treating residents as if they were a valued member of our own family
- Being open, honest and accountable
- Spending money as if it were from our own pocket
- Working for everyone to realise their own potential
- Making Southwark a place to be proud of

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## CONTEXT

The SEND Code of Practice 2015 offers the following advice for local authorities regarding decision-making. *“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.”* (SEND Code of Practice, paragraph 9.60)

Southwark Local Authority’s SEND decision-making has benefited from the use of a moderating group, namely SEND Panel, prior to the new SEND Code. Panel will continue to be used as one of the moderating groups available to ensure decisions are made in as transparent a manner as possible.

The role of the SEND Panel is to support the decision making process in Southwark with regard to children and young people with special educational needs and disabilities (SEND). This is with a view to ensuring that SEND matters are dealt with consistently and in accordance with Southwark’s statutory responsibilities under the SEND legislation. In September 2014 the SEND Panel was reviewed and reconfigured to be better aligned with the expectations of the new SEND legislation.

As well as reflecting local values all panel processes comply with the relevant legislation and statutory guidance and where appropriate have regard to non-statutory guidance. The principles guiding the legislation also inform the way panel works.

### National legislation and guidance includes:

- Children and Families Act 2014 and its associated regulations:
  - The Special Educational Needs and Disability Regulations 2014 (as amended)
  - The Special Educational Needs (Personal Budgets) Regulations 2014 (as amended)
  - The Special Educational Needs and Disability (Detained Persons) Regulations 2015
- Education Act 1996
- Equality Act 2010
- The Mental Capacity Act 2005The Children Act 2004
- Supporting pupils at school with medical conditions (2014, updated December 2015)
- SEND Code of Practice (this statutory guidance has had subsequent changes and versions, and this guidance for Panel refers to the January 2015 version)

### Local guidance includes:

- Southwark’s Funding framework for mainstream schools
- Southwark’s criteria for statutory assessment

### Principles and Objectives

The principles of the new SEND legislation are designed to support:

- the participation of children, their parents and young people in decision making
- the early identification of children and young people's needs and early intervention to support them
- greater choice and control for young people and parents over support
- collaboration between education, health and social care services to provide support
- high quality provision to meet the needs of children and young people with SEN
- a focus on inclusive practice and removing barriers to learning
- successful preparation for adulthood, including independent living and employment

### Objectives of the SEND Panel

The Panel plays an important part in the SEND decision-making process, through offering considered and informed options to the designated officer who makes the final decision.

The objectives of the Panel are:

- To provide a forum for multi-agency consultation and discussion aiming to support consistent and transparent SEND decision-making.
- To ensure that assessment is co-ordinated, holistic and person centred with close multiagency partnership identifying appropriate actions, provisions and support throughout the process.
- To ensure that children's Education, Health and Care needs are met locally, quickly and in the most inclusive educational setting.
- To have regard for the effective distribution of Local Authority resources based on informed decision-making.
- To contribute to the development of the Local Authority's approach to inclusion and meeting the needs of children with special educational needs

## **THE ROLE OF THE SEND PANEL**

### Functions of the Panel

Southwark's SEND Panel has been established to fulfil the following functions:

- (i) To consider/moderate requests for Education, Health and Care assessment (EHC assessment), including requests for reassessment.
- (ii) To consider whether it is necessary to issue an Education, Health and Care Plan (EHCP) following an EHC assessment, and to advise of options if not. To identify indicative resource implications if EHCP is necessary (final resourcing decisions are made post co-production meeting).
- (iii) To consider any cases which the Head of SEND deems appropriate including issues raised via Annual Review, Looked After Children or other complex SEND cases.

The Head of SEND may make decisions on urgent cases outside of Panel meetings.

SEND Panel also has a monitoring, moderation and quality assurance role:

- Identifying potential trends and patterns, e.g. of provision in schools
- Identifying good practices
- Identifying value for money e.g. where provision is achieving good outcomes in a cost effective way
- Maintaining an overview of the general quality of provision used by the LA
- Identifying Safeguarding and Equality issues.

## **THE MEMBERSHIP & OPERATION OF THE SEND PANEL**

The SEND Panel comprises of “Core Members” and “Non-Core Members”. The Core Members of the Panel are:

- The Chair of the Panel
- Principal /Senior Educational Psychologist
- Representative from the specialist teaching and support teams (rotating through Inclusion and Monitoring Team, Autism Support Team, Visual Impairment Team, Hearing Support Service, Early Years Autism Support Team)
- Representative from Health (usually the Designated Officer)
- Representative from Social Care (usually the Lead for Children with Disabilities Team)

The non-Core members are:

- Representatives from Early Help
- Representative from other support services (e.g. Virtual school, KIDS home learning, SIAS)
- Representatives from Schools/settings

Participation of non-core members is voluntary so not all panels will have any representation from these groups.

Panel is constructed this way to allow for genuine joint working and shared decision making across education, health and social care. Additionally panel members can identify cases that will require more or less multi-agency input throughout the EHCP process, which supports more effective use of practitioner time.

We are working with adult health and social care colleagues to consider ways to facilitate their participation in SEND panel processes that reflect the numbers of cases involving young adults.

### The roles and responsibilities of the Core and non-Core members

The Local Authority delivers its responsibilities for making SEND decisions through the Head of SEND with advice from the Panel. The Panel members themselves have no decision-making powers and attend the Panel to provide advice and recommendations only.

For all attendees strict confidentiality must be observed. Information is shared to a specified group of people with the permission of the family and professionals involved and should only be shared further if there is a safeguarding issue.

### Chair of Panel

The chairperson's roles and responsibilities are to ensure:

- 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 and refers panel members to statutory/legal issues as appropriate.
- Each Panel member has been given the opportunity to express their views.
- Any blocks, gaps in provision, policy issues are referred to the Head of SEND.
- Discussions lead to clear recommendations and advice for the designated officer and others.
- That the minutes of the Panel are recorded accurately and sufficient information is available for others to action following the Panel meeting.
- That data is collated and analysed to provide reports as required.

The SEND Panel is chaired by the Head of Inclusion and Monitoring, who has knowledge and experience of SEND practice, guidance and policy at both local and national level. They are responsible for deciding the advice and recommendations of panel on all cases. In their absence the Head of SEND will chair or will nominate another core panel member to stand in.

### Core Panel Members

Core Panel Members roles and responsibilities are to ensure that they:

- Read all information available in advance of the Panel.
- Participate in discussions and bring experience and knowledge from their own service area to the issues which arise in each case.
- Remind the Panel members of any areas of policy/practice and resourcing from their own sector if relevant.
- Provide a link between their own area of service and the Panel so that there is a greater understanding of the scope and nature of the process.
- Feedback any issues pertinent to their service area which might impact or influence the delivery of service/policy in their own area.
- Commit to regular attendance or arrange named representation to ensure consistency of decision-making.

### Principal /Senior Educational Psychologist

The advice of the principal/ senior educational psychologist is important as they can compare and explain a range of assessment and observation data given in evidence and extend opinion as to the relative significance of it. They are able offer a view as to how the special educational needs identified in the evidence provided could have implications for access to the learning environment and wider society and offer comparisons with the typical rate of development for children of that age.

### Specialist teaching and support teams

Members of these teams are able provide the panel with their knowledge of the impact of SEND on pupils and implications for teaching and learning. They can also share knowledge of provision and best practise including that within the borough, from their role in supporting schools, training, developing provision and attendance at annual review meetings.

### Health representative

This is usually the designated Health Officer, but can be deputised by other senior practitioners who are able to make decisions that have budgetary implications. The contribution of the health representative is a key to ensuring that decisions are genuinely holistic. They are able to give panel an accurate understanding of the impact of health conditions on access to education, learning and general development, as well as wider outcomes such as staying healthy.

### Social Care representative

This is usually the lead for the Children with Disabilities Team, but can be deputised by other team leads or senior practitioners with budgetary authority.

The contribution of the social care lead is also a key component of ensuring holistic decision making. They are able to offer panel insight into the impact of the SEND needs on the wider functioning and development of independence especially in the home and community setting. They can also share their knowledge of the impact of care issues such as 'child in need' status and support panel with the consideration of any safeguarding issues.

### Adult Health and Social Care representatives

This is being developed but would match the roles of their counterparts for children.

### Roles of non-core panel members

Early Help or other education officers and external representatives

- Attendance at Panel meetings is for observation and personal development purposes.

- Are not expected to read all the papers but it is a useful part of the process to allow time to look through at least some.
- Are not expected to contribute to the panel discussion except if they have relevant information to share from their professional perspective.

### School/Setting Representatives

Head teachers and Inclusion Managers/SENCOs from across Southwark's schools and settings are invited to attend Panel meetings. School representation alternates at each meeting.

Colleagues from schools are not obliged to read papers or contribute to the discussion but they offer a wealth of knowledge and experience and can often provide Panel with an insight into how the needs of the children discussed could be met or how they may impact on the working practices of classroom, playgrounds and the school/setting day in general.

### Parental representation

Whilst parents do not attend panel meetings they are still an integral part of the EHC assessment process.

- Southwark is committed, through its schools/settings, Southwark Information, Advice and Support Team (SIAS) and the voluntary sector to welcoming and valuing the views and involvement of parents. The Local Authority provides a range of opportunities for parents to inform the panel about their child's special educational needs and/or disability.
- Parents are able to send written comments and evidence for the Panel to consider in the advice submitted when they or others make a request for an EHC needs assessment or during the assessment itself.
- Parents can meet with an independent supporter or a member of the SEND Team at any point in the assessment process. Support and advice is given, as well as, where required, direct support in writing or completing forms and additional representations for the panel.

It is important that the Panel is accessible for parents as:

- Parents hold key information and have a critical role to play in the identification and assessment of their child's special education, health or care needs.
- Parents are also encouraged to identify any other agencies/professionals that can provide additional evidence to be considered by the panel.
- Parents can be assured that no papers will be considered by the Panel that have not already been shared with them.

A parent moderating group is also in the process of being developed, where cases and decisions can be retrospectively sampled and compared. This will offer parents the opportunity to contribute the development of robust practices, and to ensure LA

processes are more easily understood. Parent representatives will be offered training in the legal aspects and local guidance.

### Child and Young Persons representation

The SEND Code of Practice reinforces the rights of the individual to also be a part of the decision making process. Wherever possible, Southwark will seek to ensure that the views of the child are sought and taken into account by the Panel.

Children and Young people are offered support to contribute, in whatever form best suits them through their schools/settings, SIAS and the voluntary sector. Our Educational Psychology Service also helps children and young people to share their views during the assessment process.

## **SUPPORT PROVIDED TO THE PANEL**

The panel will be clerked by a member of the SEN team.

The Chair and the clerk will receive advice, support and training from the Head of SEND and Legal Services to ensure that discussions and subsequent panel recommendations are in accordance with statutory requirements and guidance.

### The clerk

The clerk is responsible for ensuring that:

- Panel members have access to all of the relevant paperwork in advance to allow for reading time.
- Cases are prepared for the Panel members to consider, identifying the relevant issues which the Panel should consider.
- Recommendations of the Chair are confirmed and recorded with clear reasons for decisions given.
- Minutes of the Panel meeting are kept.
- Meetings are planned to facilitate the meeting of statutory timeframes and where possible fairly incorporate the balance of cases on the agenda and priorities of Panel members.

### Legal Support

Legal Services will support the operation of the panel in the following manner:

- Regularly keep the panel updated, via the Chair, concerning changes in legislation, regulation and case law that might affect the operation of the panel or the process of decision making.
- Provide training for panel members as appropriate and in particular for the Chair and clerk to be able to fulfil their duties.
- Receive copies of the panel minutes for cases that panel are seeking advice upon, and provide feedback to the clerk, Chair and panel, as appropriate, on any issues arising.
- Through consultation regarding any cases the panel feels requires legal input.

## **PANEL PROCEDURES**

### Frequency of Meetings

The SEND Panel meets weekly on a Tuesday afternoon throughout the majority of the year. It breaks for Christmas, and reduces to alternate weeks over Easter and the summer break.

### Declaration of Interests

Panel members are required to declare any personal interests in a case in advance of the Panel discussions. In addition, at the beginning of every Panel the clerk will check to ensure that the members of the Panel do not have a personal interest in any of the cases subject to discussion. If a Panel member has a personal interest in a case they will be required to leave the meeting and will play no role in the Panel discussion of that case.

### Pre- Panel

The EHC assessment officer or EHCP co-ordinator prepares the paperwork for panel, including an outline of the case and clearly identifying what panel are being asked to consider. Any relevant information such as costing implications, chronology, parent and young person's views and Ofsted reports must be included.

This relevant evidence is to be collated and available to Panel members from midday on the Friday before the scheduled Panel meeting to enable papers to be considered in advance.

A copy of the agenda and outline of the referrals to be considered will be sent electronically to all members of the Panel prior to the meeting.

### Panel recommendations and advice options:

The Chair of the Panel may make any of the following recommendations in respect of a case:

#### (i) Requests to carry out an EHC assessment

- Agree to proceed
- Not agree to proceed (*with explanations as to why this is felt to be the case and with possible suggestions as to next steps or actions required for the LA, parent or school/setting*)
- Defer decision (*if timeframes permit and further evidence is needed the Chair can defer the decision until it is available.*)

#### (ii) Consideration of whether an EHC plan is required

- Yes (*with indicative implications for resourcing, final resourcing is determined after the co-production meeting*)
- No (*with advice to parent or school on next steps e.g. amendments to provision and planning*)

#### (iii) Other cases

These can be very complex and diverse cases. Panel offer advice based on the individual case, the evidence provided and with regard to promoting principles of best outcomes for the individual within the most inclusive and cost efficient approach.

### Discussion guidelines

The Panel should consider each case on its individual facts and may depart from this guidance and indicative criteria in cases where the child's needs are exceptionally severe and require in the judgement of the Panel immediate intervention by the Local Authority.

The Panel discussions should reflect that:

- The child/young person is at the centre of all decision-making.
- Recommendations are made on the basis of the written evidence provided to the Panel.
- All recommendations are made against a background of national guidance, relevant legislation and local policy.
- All discussion at the Panel is confidential.
- The rationale for any recommendation and agreed action points will be recorded.
- Any service manager referring a case to the panel must have sought consent and have obtained the parent/carer and child/young person's views.
- The needs of the child/young person are paramount. E.g. Safeguarding.
- In circumstances where a Panel member has a personal interest in a case no part should be taken in the discussion or recommendation process to ensure equity of representation for all cases.

### Post Panel

All referral papers should be left with the Panel administrator at the end of the Panel unless action is required by the Panel member or their service.

All recommendations of the Chair of the Panel are recorded after the Panel meeting and are reviewed by the Head of SEND who then makes the decision.

The notes of decisions made are circulated to all Panel members and a record of decisions is kept by the SEND team.

The Head of SEND makes the final decision based on Panel recommendations and their knowledge of the legislation. Where the decision is different to the advice of Panel the head of SEND will inform the Chair as to why the decision has been made. The Head of SEND will make note of any training issues arising for Panel.

### Implementation of Decisions

Decisions will be implemented as follows:

- Parents are informed in writing of the decision of the LA, within 5 working days and within the 6 week timeframe, and where applicable of their right to appeal to the Special Educational Needs and Disability Tribunal.
- EHC assessments which have been agreed and notified to parents and schools will be actioned within 5 working days. The assessment will be carried out within 6 weeks of the decision to proceed.
- Referrals to other agencies for support (both internal and external) will be carried out within 5 working days.
- Schools will be notified of any decisions regarding increase/decrease in funding within 5 working days.
- All other decisions will be actioned within 10 working days.

#### Monitoring and Evaluation

Formal written and verbal feedback and evaluation is sought from Panel members at regular intervals. This is to ensure that the Panel remains effective in advising on SEND decisions. These records are kept within the SEND Department and provide strong evidence of the fair, open and accountable decision-making involved.

The Chair of the Panel will prepare an annual report on the working of the Panel. This will be sent to the Head SEND to share with Senior Management and the Parent Moderating Group. This Annual Report of the Panel's work will also be published and made available to all stakeholders