



# Education and health care (EHC) plans and speech and language therapy provision

## Key points from the SEND Code of Practice

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### Regarding the local offer:

New Code of Practice section under para 4.40 pages 60/61 of the new Code of Practice clarifies under Health:

"SLT and other therapies such as physiotherapy and OT and services relating to mental health— these must be treated as special educational provision where they educate or train a child or young person"

### Regarding agreeing the health provision in Education Health and Care (EHC) plans:

- Relevant legislation: Sections 26 and 37 of the Children and Families Act 2014
- Regulation 12 of the SEND Regulations 2014

- 9.70 Each CCG will determine which services it will commission to meet the reasonable health needs of the children and young people with SEN or disabilities for whom it is responsible. These services should be described in the Local Offer. Relevant local clinicians, such as community paediatricians, will participate in the development of the child's or young person's EHC plan, advising on the child's needs and the provision appropriate to meet them. CCGs must ensure that commissioned services are mobilised to participate in the development of EHC plans. The CCG as commissioner will often have a limited involvement in the process (as this will be led by clinicians from the services they commission) but must ensure that there is sufficient oversight to provide assurance that the needs of children with SEN are being met in line with their statutory responsibility. The CCG will have a more direct role in considering the commissioning of a service that does not appear in the Local Offer to meet the complex needs of a specific individual, or in agreeing a Personal Budget.
- 9.71 The health care provision specified in section G of the EHC plan must be agreed by the CCG (or where relevant, NHS England) and any health care provision should be agreed in time to be included in the draft EHC plan sent to the child's parent or to the young person. As part of the joint commissioning arrangements, partners must have clear disagreement resolution procedures where there is disagreement on the services to be included in an EHC plan.
- 9.72 For children and young people in youth custody, the arrangements for carrying out the health part of EHC needs assessments and arranging for the health provision in EHC plans to be made will be slightly different and further guidance for CCGs and relevant health commissioners is set out in chapter 10.

### Regarding responsibility for provision:

- Relevant legislation: Section 21 of the Children and Families Act 2014
- Page 159: Responsibility for provision

- 9.73 Health or social care provision which educates or trains a child or young person must be treated as special educational provision and included in Section F of the EHC plan.
- 9.74 Decisions about **whether health care provision or social care provision should be treated as special educational provision must be made on an individual basis.** Speech and language therapy and other therapy provision can be regarded as either education or health care provision, or both. It could therefore be included in an EHC plan as either educational or health provision. **However, since communication is so fundamental in education, addressing speech and language impairment should normally be recorded as special educational provision unless there are exceptional reasons for not doing so.**
- 9.75 Agreement should be reached between the local authority and health and social care partners about where provision will be specified in an EHC plan

## Advice from the RCSLT

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Each EHC plan has to be based upon the needs of individual children. Given that many children have needs that require input from health, social care and education, the

The RCSLT is keen to support joint commissioning arrangements. However, as the Code requires clarity of responsibility, the RCSLT proposes the following with respect to sections C and B as outlined below.

### **Regarding section C**

*The child or young person's health needs which relate to their SEN. The EHC plan must specify any health needs identified through the EHC needs assessment which relate to the child or young person's SEN. Some health care needs, such as routine dental health needs, are unlikely to be related. The CCG may also choose to specify other health care needs which are not related to the child or young person's SEN (for example, a long-term condition which might need management in a special educational setting).*

### **RCSLT Proposal:**

“[Section B] Special educational needs may include needs for health and social care provision that are treated as special educational provision because they educate or train the child or young person (see paragraphs 9.73 onwards).”

So we cannot assume that section C will include all health needs, as some may be included in section B. Section C should list health needs that relate to the child or young person's SEN, not all the services delivered by an NHS provider. Health provision will be included in section G (unless it educates or trains the child or young person, in which case it must appear in section F).

There are some children where it is clear that there is an underlying medical condition/need which has been diagnosed e.g. hearing loss, cleft lip and palate, cerebral palsy, autism, Down syndrome. These can be described under Section C.

It can also be used to highlight interventions required by an SLT that are considered to be more 'health' related, such as feeding and swallowing problems.

However, there are many children who have a primary speech and language delay/disorder that cannot be accounted for by any other condition, e.g. children with specific language impairment (Law et al 2010). For these children, their needs are essentially educational and would best be reflected under section B.

### **Regarding section B**

The Code makes it clear that, *since communication is so fundamental in education, addressing speech and language impairment should normally be recorded as special educational provision unless there are **exceptional reasons for not doing so.***

### **RCSLT proposal:**

For children in an education placement, addressing speech and language impairment should normally be recorded in section B.

If there are additional 'health' related needs such as feeding and swallowing, then these can be added into section C. There are example EHC plans on the website that outline the outcomes for the child and list the activities delivered by different professionals to support delivery of the outcomes.

### **Implementing the 0 to 25 special needs system**

<https://www.gov.uk/government/publications/implementing-the-0-to-25-special-needs-system>

Read 'Special educational needs and disability code of practice: 0 to 25 years'

<http://tinyurl.com/kuwjqc7>

### **Reference**

Law J, Garrett Z, Nye C (2010). *Speech and language therapy interventions for children with primary speech and language delay or disorder*. Cochrane Database of Systematic Reviews. <http://onlinelibrary.wiley.com/doi/10.1002/14651858.CD004110/pdf>