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SEND in Essex

Terms of Reference for SEND (special educational needs and disability) decision making Panels

**Version details**

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* Responsibility to review: Ralph Holloway, Head of SEND Strategy & Innovation

# Introduction

Arrangements for taking decisions about Education, Health & Care (EHC) Needs Assessments (EHCNAs), Plans (EHCPs) and annual reviews were reviewed in the 2020/21 academic year and it was agreed that a new set of decision-making arrangements will be put in place. Central to these new decision-making arrangements will be the operation of two sets of EHC Panels, both of which will operate in the four Essex Quadrants (North, Mid, South, West):

1. the **Quadrant Initiation Panel** – responsible for taking decisions about whether to carry out statutory assessments; and
2. the **Quadrant Resourcing Panel** – responsible for taking decisions about whether to issue new EHCPs, and the content and resourcing of both new and existing EHCPs.

There will also be a county-level panel, that will take decisions on potential high-cost placements. This will be the **Complex Case Forum**, and will be responsible for considering requests for high bands of top-up funding and requests for placements in independent or non-maintained special schools (INMSSs) and independent specialist post-16 institutions (SPIs).

These terms of reference set out, in parallel, the roles, membership, principles and processes of these three Panels in parallel.

A final panel, **Multi-agency Resource Forum (MARF),** is linked to the above panels but sits outside of this terms of reference document. The remit of this panel is unchanged by this work. It is a multi-agency panel which gives consideration to cases where there is more than one agency funding packages of continuing care, education and/or care needs including section 117 of the Mental Health Act and single agency continuing care. The MARF meets on a monthly basis.

# Part 1: The role of the Panels

## Upholding the strategic vision for SEND in Essex

Members of the Panels must at all times seek to uphold the vision for the SEND system in Essex, promoting effective and timely support and good outcomes for young people with SEND in Essex and their families, and upholding the duties of the local authority and health authorities, including ensuring robust decision-making and ensuring effective use of public funds.

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| **The vision for children and young people with SEND in Essex**  Our vision for children and young people with special educational needs and disabilities (SEND) and the whole SEND system is based on the fundamental rights of all children and young people as defined in the United Nations Convention on the Rights of the Child (UNCRC):   * Every child and young person is safe and feels safe. * Every child and young person’s views, feelings and wishes are always considered and taken seriously in all matters that affect them. Every child and young person has the best possible health and wellbeing. * Every child and young person’s education and training should develop their personality, talents and abilities to the full * Every child and young person is connected to, and plays an active part, in their local community * Every child and young person has the education, care and support they need to lead a full and purposeful life with dignity and independence   This vision is for all children and young people and will be applied with ambition. |

## The role of the Panels in decision making

The role of the Panels is to ensure that the local authority’s statutory responsibilities for making decisions in relation to the EHC system are fulfilled by providing advice to the officers who have delegated authority to take those decisions, under the Essex SEND scheme of delegation. The Panels also ensure that the statutory responsibilities of other partners, such as Clinical Commissioning Groups, can be discharged effectively.

All decisions that come before the Panels should be considered on their own merits. There are not “blanket policies” to be applied, and decisions should be considered in a person-centred manner, informed by the information and evidence about a young person and their needs. In contributing to the Panel’s deliberations, all officers making decisions about EHC needs assessments and plans in Essex must have regard to the following national guidance and legislation –

* Children and Families Act 2014 and its associated regulations;
* SEND Code of Practice 2014 (subsequent changes and amendments January 2015);
* Children's Act 1989;
* Chronically Sick and Disabled Persons Act 1970;
* *Working Together to Safeguard Children* and *Keeping Children Safe in Education*;
* School Admissions Code of Practice;
* Equality Act 2010;
* *Supporting pupils at school with medical conditions*;
* Mental Capacity Act 2005;
* Care Act 2014; and
* The School and Early Years Finance (England) Regulations.

Similarly, all officers making decisions about EHC needs assessments and plans in Essex should also have regard to the following local guidance, which sets out the practices and processes that must be consistent across the SEND system in Essex:

* Essex SEND Scheme Of Delegation
* Essex SEND Strategy
* Essex Ordinarily Available Framework
* EHC Needs Assessment Guidance
* Essex Banding Framework
* Essex EHCP Quality-Assurance Framework
* Essex EHCP Annual Review Guidance

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| **Panel** | **Role and decisions** |
| **Quadrant Initiation Panel** | To consider all new requests for EHC needs assessment, and to decide whether or not to carry out an EHCNA, informed by the Code of Practice and the Essex EHCNA guidance document.  To consider requests for re-assessment.  If the decision is taken not to carry out an EHCNA, the Panel shall give consideration to what further advice or support may be given, or what additional referrals may be made. |
| **Quadrant Resourcing Panel** | To consider –   * whether to issue a new EHCP; * the content and resourcing of proposed new EHCPs; * significant changes following annual reviews (defined at changes of 2 or more bands, or a change of placement type); and * the content of EHCPs adopted from local areas if there is not a straightforward equivalent within Essex to the provision in the EHCP.   The Panel will also consider access to top-up funding for young people without EHCPs for medical needs or for the purposes of supporting transition.  Exceptions: Any new or existing EHCPs where –   * a placement in an INMSS or SPI is sought; * where funding for a young person with an EHCP in a mainstream school is sought at band 5 or above; or * where funding for a young person with an EHCP in a special school is sought at band 8 or above;   should be referred the Complex Case Forum (see below). |
| **Complex Case Forum** | To consider the content of new and existing EHCPs where requests are made for –   * a placement in an INMSS or SPI is sought; * where funding for a young person with an EHCP in a mainstream school is sought at band 5 or above; or * where funding for a young person with an EHCP in a special school is sought at band 8 or above. |

# Part 2: The membership of the Panel

## The role of the chairperson

In each Quadrant, responsibility for chairing the Panels will be as follows.

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| **Panel** | **Chairperson** |
| **Quadrant Initiation Panel** | The SEND Operations Lead/ Deputy |
| **Quadrant Resourcing Panel** | The SEND Operations Lead |
| **Complex Case Forum** | SEND Strategy Lead: Compliance |

If for any reason the nominated chairperson is not available and the meeting must go ahead, the role of the chairperson will be delegated to a SEND Operations Partner or SEND Quadrant Manager (Initiation Panel), or the Quadrant Manager (Resourcing Panel or Complex Case Forum).

The role of the Panel chairperson is to ensure that –

* all cases brought to the Panel are considered appropriately, fairly, and on their own merits;
* decisions are taken in line with the Code of Practice and SEND legislation, informed by the available evidence, and in a manner consistent with the Panel’s own past decisions and with the Essex guidance on Education, Health and Care Needs Assessments and Plans; and
* decisions and the reasons for them are recorded fully and accurately.

The chairperson is responsible for the conduct of Panel meetings and will endeavour to reach consensus on the decisions that come to the Panel. In instance where agreement cannot be reached, however, the final responsibility for making decisions rests with the Panel chairperson, in line with the delegated authority that they hold under the Essex SEND scheme of delegation. The chairperson must ensure that decisions are taken in the best interests of children and young people, while upholding the effective use of public resources.

## Membership

The membership of each Panel will be as follows.

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| **Panel** | **Members** |
| **Quadrant Initiation Panel** | **SEND Operations Lead\*** (Chair)  **Deputy SEND Operations Lead**  **Quadrant Senior Educational Psychologist (QSEP)\*** (To consider evidence, allocate advice if the decision is to assess / agree next steps if the decision is not to assess).  **An Inclusion Partner\*** (to provide an understanding of school / setting context, systems and practices).  **A selection of school and setting SENCOs** (school / setting context, to build understanding of the EHC process amongst school / setting staff).  **Designated Lead from Social Care** (to check involvement of social care, provide consultancy and guidance regarding referral to /involvement of early help).  **Designated Health Representative\*\*** (to check involvement of health services, signpost, provide consultancy and guidance for children/young people who are “not known”, regarding referrals for health and/or medical needs).  **Representative from School Effectiveness** (to ensure identification of issues relating to whole-school improvement and opportunities for support).  Representative from the HI/VI/PNI team where appropriate. |
| **Quadrant Resourcing Panel** | **SEND Operations Lead\*** (Chair)  **Deputy SEND Operations Lead**  **Quadrant Senior Educational Psychologist (QSEP)\***  **An Inclusion Partner\*** (understands context of schools and settings and systems/ practices)  **A selection of SENCOs or headteachers** (school / setting context, to provide a perspective on resourcing in a school / setting context, and to build understanding of the EHC decision-making process across schools and settings)  **Designated Lead from Social Care** (to confirm and sign off the social care content of EHCP)  **Designated Health Representative\*\*** (to review the quality and completeness of the health-related content of EHCPs). Any provision over the core commissioned offer must be escalated to the CCG DCO or commissioner on identification of the needs by the designated health professional.  **Representative from the HI/VI/PNI team** where appropriate. |
| **Complex Case Forum** | **SEND Strategy Lead: Compliance** (Chair)\*  Head of SEND Strategy & Innovation  SEND Provision Lead – Finance  SEND Provision Lead – Commissioning  SEND Operations Leads x4  Quadrant Manager representative  Commissioning Lead Education Services, External Placements  SEND Careers Advisor  SEND Strategy Leads (Autism, SEMH, SLCN, PFA, C&L)  Administration |

\*This designates the core membership who must be present or represented as a minimum in order for the Panel meeting to be quorate. It is, however, essential that there are contributions from education (including colleagues with direct experience in settings and school classrooms), health and care colleagues at each Panel meeting. If one of the other Panel members is unable to attend a meeting, they should nominate a representative who will attend on their behalf and with the delegated authority to provide advice and take decisions on behalf of their service and/or contribute their views virtually. The Local Area are working together to establish the most effective logistics of this, if attendance at panel is not always possible. This will remain under review.

\*\*There is commitment across the local area to explore and confirm what the specified health representation shall be for the panels, considering the resources and support required, and to ensure appropriate flexibility to adapt the health representation to the findings of the evaluation process.

## The role of members

To ensure effective, informed and timely decision-making through Panel discussions, it will be the responsibility of all Panel members to –

* read papers in advance of panel meetings
* take collective responsibility for helping to reach decisions and for the decisions taken through panel discussions
* offer advice on requests for assessments, assessments, provision and outcomes in line with their specific, specialist areas of expertise
* offer impartial advice on individual cases, without promoting the interests of any individual service
* offer advice about the SEND legislative framework to ensure decision-making is robust and compliant with the legislation and the Code of Practice
* declare any personal or professional knowledge of individual cases, including any potential conflicts of interest.

## The role of clerical support to the Panels

Effective clerical support is crucial to the smooth running of the Panels. The role of clerical support will include –

* confirming dates, times and venues / joining instructions for meetings at least a term in advance
* pro-actively confirming and managing attendance to ensure meetings are quorate and there is appropriate representation and contributions from the relevant services
* preparing and distributing the paperwork for Panel meetings at least three working days in advance of the meetings
* recording the decisions and reasons for decisions taken in the Panel meetings, and capturing any relevant data (for example, quality-assurance scores, data on repeat requests for assessments)
* ensuring these are logged and communicated to the appropriate colleagues

## SEND Operations Co-ordinators

SEND Operations Co-ordinators are responsible for liaising with families and compiling the evidence to be considered by the Panel. SEND Operations Co-ordinators are encouraged to attend Panel meetings for the parts of the meeting where their cases are being considered, so as to enable them to communicate the decisions of the Panel and the reasons for those decisions to parents / carers and settings. SEND Operations Co-ordinators are not Panel members, and will not be expected to make direct representations in support of an application to the Panel – it is essential, therefore, that the evidence is compiled, shared and read in advance of the Panel discussions. SEND Operations Co-ordinators may, however, provide additional information if requested by the Panel chairperson or if further information is available to inform the Panel’s deliberations that arrived too late to be included in paperwork.

SEND Operations Co-ordinators can request clarifications about decisions taken at Panel meetings if needed, so as to be able to convey the decisions accurately to parents / carers and settings.

## Panel observers

From time to time, there may be reason for other colleagues who are not members of the Panel to join for all or part of the Panel’s discussions. This may be to improve transparency, seek feedback, ensure consistency across Quadrant areas, ensure accurate feedback of Panel decisions to settings or families, or offer professional development. These colleagues will have the status of “Panel observers”. Panel observers must abide by Panel rules in relation to confidentiality and data protection. Panel observers may not take part in any elements of the Panel’s discussions of cases.

Any requests to be a Panel observer must be made to the Panel’s chairperson. If someone is to join a meeting as a Panel observer, this must be notified to Panel members in advance of the meeting. The SEND Strategy Lead : Compliance (or members of the SEND Strategy & Innovation team acting in place of the chair) will have permanent status as an observer at the Quadrant Initiation Panels and the Quadrant Resourcing Panels, so that they can attend Panel meetings across the county as necessary for their work.

# Part 3: How the Panels will operate

## Preparation required for Panel meetings

Decisions taken at Panel meetings will be based on written evidence only – cases considered by Panels will not be informed by representations made by individual officers or other professionals. It is vital, therefore, that paperwork that is provided to inform the Panel’s deliberations is –

* of a consistently high-quality
* relevant to the decision being considered
* is compiled and distributed to Panel members in a timely manner in advance of Panel meetings
* is read by Panel members in advance of each meeting.

Panel meetings should not be used by members to read paperwork, but rather to reach decisions based on prior reading of the relevant paperwork. Papers to be considered by the Panel must be received at least three working days in advance of meetings in order to be sent out to Panel members. Papers received after this deadline will be deferred until future meetings, so that the paperwork can be sent out and read in advance. Similarly, cases with insufficient detail will be deferred to future meetings.

The table below sets out the key documentation that should be submitted for any cases to be considered by the Panels.

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| **Panel** | **Documents required** |
| **Quadrant Initiation Panel** | * Request for EHC assessment * Contributions from the young person and parents / carers * Other reports / assessments from professionals |
| **Quadrant Resourcing Panel** | **For proposed new EHCPs**   * Needs Assessment Report * Contributions from the young person and parents / carers. * Professional advice * Completed banding matrix * Quality-assurance score for each proposed new EHCP   **For existing EHCPs, including those following an annual review**   * Annual review report * Contributions from the young person and parents / carers * Professional reports and other contributions relevant to the recommendations being considered |
| **Complex Case Forum** | * EHCP * Completed banding matrix * Contributions from the young person and parents / carers * Professional reports and other contributions relevant to the recommendations being considered |

## Timing and frequency of Panel meetings

Panel meetings will take place weekly throughout the year – during term-time and during the school holidays.

Complex Case Forum will meet monthly.

## Recording of decisions

Decisions reached through Panel discussions and the reasons for those decisions will be recorded on the individual’s record on the Capita case management system and on the Panel log.

## Communicating Panel decisions

Panel decisions will be communicated to parents / carers and settings by the SEND Operations Co-ordinator. This will always be done in writing, but where possible it is recommended that the SEND Operations Co-ordinator speaks directly to the parents / carers and setting to explain the reasons for the decision and the next steps.

# Part 4: Confidentiality

## Confidentiality and data protection

Panel members and observers must treat all information relating to the cases that they are considering as confidential. They must ensure that regulations relating to data protection are upheld.

Panel members must declare an interest in cases in which they have a direct interest or where they may be a conflict of interest. In instances where a Panel member has a direct interest or where the chairperson considers that there is a conflict of interest, that Panel member may not offer advice or seek to influence decisions about a case being considered by the Panel.

# Part 5: Review

## Feedback and reflections

Members of the Panel, those attending Panel meetings as observers, and those receiving feedback about the decisions taken through the Panel discussions are welcome to provide feedback to the Panel chairperson or to the Head of SEND Strategy & Innovation at any time. Minor practical changes that could assist with the smooth running of the Panels, and would not alter materially the processes set out in these terms of reference or undermine compliance with the relevant legislation can be made with the agreement of the Panel chairperson and the Head of SEND Strategy & Innovation.

## Review of Panel Terms of Reference

The operation of the SEND Panels and these terms of reference will be reviewed and, if necessary, updated every two years. Feedback will be gathered from members of the Panels in each Quadrant, alongside feedback from other stakeholders across the SEND system in Essex – settings, schools and colleges, parents and carers – to inform that review. Responsibility for the review of the Panels and making recommendations regarding the future operation of the Panels and the terms of reference will sit with the Head of SEND Strategy & Innovation. Decisions about the future operation of the Panels and the terms of reference will sit with the Education Directorate Senior Leadership Team (for matters relating to the statutory duties of the local authority) and the SEND Partnership Board (for matters relating to the role of wider partners across education, health and care services).