

Blackburn with Darwen Borough Council

Supporting young people with Special Educational Needs
in Youth Detention Accommodation

Revised 6 August 2018

BACKGROUND

The enactment of the Children's and Families Act 2014 and the introduction of the Special Educational Needs and Disability (SEND) Code of Practice which became operational from September 2014 seeks to place children, young people and their families at the heart of decision making when making provision to meet their special educational needs.

The new SEND system and the introduction of Education, Health and Care Plans has been designed to ensure that children and young people are given the support needed to enjoy and achieve in school and further education and to access better life outcomes described as good health; employment; independent living and housing; friends relationships and being included in community activities.

From April 2015 a new legal framework under Sections 70-75 of the Children's and Families Act came into force to ensure detained children and young people with special educational needs continue to receive the special educational needs support they need whilst detained in Youth Detention Accommodation (YDA) and are supported to continue their education when returning to their communities.

SCOPE

This approach will be adopted for children and young people up to their 19th birthday, with special educational needs, who live in Blackburn with Darwen and have been remanded or sentenced by the Courts to a YDA as detailed below:-

- A Young Offender Institution
- Secure Training Centre
- Secure Children's Home(includes those who are voluntarily detained)
- Secure College

In the majority of cases, Blackburn with Darwen detained children and young people are remanded or sentenced to Wetherby Young Offenders Institution.

LEGAL DEFINITION OF SPECIAL EDUCATIONAL NEEDS

A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her.

A child of compulsory school age or a young person has a learning difficulty or disability if he or she:-

- Has a significantly greater difficulty in learning than the majority of others of the same age
OR
- Has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

A child or young person **does not** have a learning difficulty or disability solely because the language (or form of language) in which he or she is or will be taught is different from a language (or form of language) which is or has been spoken at home.

THE EDUCATION, HEALTH AND CARE PLAN

The purpose of the Education, Health and Care Plan is to make special educational provision to meet the special educational needs of the child or young person and to secure the best possible outcomes for them across education, health and social care. Education and Social Care needs will be met by Blackburn with Darwen Local Authority and if there are any identified health needs, NHS England must arrange the health provision in their plan.

WHAT WILL HAPPEN IF A CHILD/YOUNG PERSON HAS AN EXISTING EDUCATION, HEALTH AND CARE PLAN

If a child/young person enters YDA with an existing Education, Health and Care Plan, Blackburn with Darwen Statutory Assessment Team and Youth Justice Service Officers will arrange for the provision specified in the Education, Health and Care Plan to be put in place with the receiving YDA. Where the provision in the Education, Health and Care Plan cannot practicably be provided in the YDA, provision as close as possible to the EHC Plan must be arranged. It is important that what is provided clearly links to the child/young person's aspirations and outcomes.

The Plan **cannot** be formally amended to reflect any changes in provision until the child/young person is released from YDA, however, any decisions and changes should be recorded in individual education and health plans monitored by the education and health providers. Once the Statutory Assessment Team has been notified that the child/young person is to be released then the Plan would be reviewed as soon as possible. At this stage any amendments which may have been discussed and agreed whilst in YDA can now be reflected in the Plan.

If a child/young person has a statement of SEN and enters YDA from April 2015, then Blackburn with Darwen will treat this in the same way as an Education, Health and Care Plan.

RIGHT TO REQUEST AN EDUCATION, HEALTH AND CARE PLAN FOR A CHILD/YOUNG PERSON WHO DOES NOT HAVE ONE

If a child/young person enters YDA without an Education, Health and Care Plan and there are concerns that they have or may have special educational needs then the young person (if over compulsory school leaving age) themselves, the child's parent, Youth Justice Officer, or the YDA provider, has the right to request an Education, Health and Care needs assessment is undertaken by Blackburn with Darwen's Statutory Assessment Team. It is recognised that it may be necessary in some cases to depart from the criteria set out in Blackburn with Darwen's Panel Guidance if there is a lack of evidence because the child or young person has been out of school and in these cases an assessment should be undertaken.

The Statutory Assessment Team will notify the Youth Justice Service and the YDA provider if a request for assessment is received. Any information requested from the YDA including information on education and health must be provided within six weeks of the request.

The assessment and development of the Education, Health and Care Plan would take place whilst the child/young person is in YDA. Blackburn with Darwen must inform the person making the

request whether an assessment is to be undertaken within 6 weeks of the request. The statutory timeframe for this whole process is 20 weeks. Once the Plan is finalised, Blackburn with Darwen Borough Council and NHS England will arrange the provision.

The focus of the Education, Health and Care Plan should be on the child/young person's needs when returning to their home community.

The family of a child or a young person entering YDA with a statement or a Learning Difficulty Assessment has the right to request an Education, Health and Care Plan and the process outlined above would be followed.

The Youth Justice Service will remain the key contact point between the YDA and the Local Authority whilst the young person is detained and on transition when leaving YDA or transferring to another institution.

ASSESSMENTS

When a child or young person enters the Youth Justice Service or YDA, they will be assessed using two main tools:-

- AssetPlus is completed by the Youth Justice Service when a child or young person first comes into the Service and at any time after when a significant change occurs or when due for review. AssetPlus looks at the child or young person's offence and identifies factors or circumstances that may have contributed to their behaviour. The education element is developed in YDA by literacy and numeracy tests carried out by the education provider. Additional tools incorporated in to this assessment includes a Speech, Language and Communication Tool and a Physical and Mental Health tool.
- Comprehensive Health Assessment Tool (CHAT) which includes a screening for speech, language and communication needs. This information should be used to inform the Education, Health and Care Plan.

NHS England is the commissioner of healthcare services in YDAs. Standards for the health care of detained persons in secure settings are available from the website of the Royal College of Paediatrics and Child Health

<http://www.rcpch.ac.uk/improving-child-health>

PROCESS

The following flow charts illustrate the approach Blackburn with Darwen Local Authority Statutory Assessment and Youth Justice Service will adopt for those:-

1. entering YDA with an Education, Health and Care Plan (EHCP)
2. those already in YDA where an EHCP assessment is requested

1. CHILD OR YOUNG PERSON DETAINED IN YOUTH DETENTION ACCOMMODATION WITH AN EDUCATION, HEALTH AND CARE PLAN

Youth Justice Service notifies the Statutory Assessment team that the child or young person is to go into YDA



Statutory Assessment Team checks whether the child/young person has an EHCP in place and collates the following information:-

1. Copy of the EHCP
2. Record of the most recent EHCP review
3. Individual Education Plan from school/Individual Learning Plan from college
4. Most recent progress report from school/college



Statutory Assessment Team sends the plan and all other relevant information within 5 working days to:
Youth Justice Service
Seconded Health Advisor
Youth Detention Accommodation Education Provider
NHS England



Youth Justice Service to convene a meeting within 10 working days to arrange provision to be delivered as set out in Sections F and G of the plan. Attendees should include:-

Parents/child/young person
Statutory Assessment Officer
Youth Justice Officer
Youth Detention Accommodation Education Provider
NHS England



Meeting convened after in line with review planning meetings in YDA to monitor and review the Education, Health and Care Plan (NB there is no fixed date as long as it is reviewed once every 12 months, however, for the benefit of our young people, progress should be monitored during their stay in YDA)



Youth Justice Service to notify Statutory Assessment Team as soon as a release date is known and convene a meeting 10 day working days prior to the release date with the appropriate professionals, child/young person and their parents to review the Education, Health and Care Plan. These should include:-

Statutory Assessment Officer
Youth Justice Officer
Youth Detention Accommodation Education Provider
NHS England
School/College

2. CHILD OR YOUNG PERSON DETAINED IN YOUTH DETENTION ACCOMMODATION WITHOUT AN EDUCATION, HEALTH AND CARE PLAN

The child's parents, young person or the YDA provider has the right to request an assessment where there are concerns that the child or young person may have Special Educational Needs



On receipt of a request for Statutory Assessment, Blackburn with Darwen will notify the Youth Justice Service and the YDA and consider whether an Education, Health and Care Needs assessment is necessary. Arrangements will be made to gather the following evidence: -

1. Individual Education Plan from school/Individual Learning Plan from college
2. Most recent school or college progress report
3. Views of the parents/child/young person
4. Educational Psychologist's report



Statutory Assessment Team must consider and communicate its decision to undertake an Education, Health and Care Plan assessment to the referrer, the Youth Justice Service and the YDA within 6 weeks of receipt of the request.



YES



NO

The parent or the young person has the right to appeal

Statutory Assessment Team draws up Draft Education, Health and Care Plan (16 week timescale) in consultation with:-

1. Parents/child/young person
2. Statutory Assessment Officer
3. Youth Justice Officer
4. Youth Detention Accommodation Education Provider
5. NHS England
6. Home CCG
7. Social Care



Statutory Assessment Team send the draft plan to the child's parents or the young person allowing 15 days for consideration.



Statutory Assessment Team issue the final plan and forward to Youth Justice Service and YDA for implementation.



The child's parent or the young person has the right to appeal the named/school college identified for when custodial sentence ends.

MOVING OUT OR TRANSFERRING TO ANOTHER INSTITUTION

If a child/young person is released part way through the Education, Health and Care needs assessment or planning process, the development and completion of the Education, Health and Care Plan will continue.

If a child/young person transfers to another custodial institution, Blackburn with Darwen will continue to develop the Education, Health and Care Plan with the receiving institution. If the Education, Health and Care Plan has been completed this will be forwarded to the new establishment within 5 working days of being informed of the move.

INFORMATION, ADVICE AND SUPPORT

Information and guidance for parents of children and young people themselves on matters relating to Special Educational Needs and Disabilities is provided by Blackburn with Darwen Local Authority through a range of services including, the Statutory Assessment Team, the Special Educational Needs and Disabilities Information and Advice Service, Parent Carer Forum, and Independent Supporters.

MEDIATION AND APPEALS

Young people and parents of children detained in youth custody can appeal to the SEND tribunal if they do not agree with Blackburn with Darwen's decision to:-

- refuse to undertake an Education, Health and Care needs assessment
 - not prepare an Education, Health and Care Plan following an assessment
- OR
- are not in agreement with the school or college specified in the Education, Health and Care Plan

Before registering an appeal, mediation must be considered and the YDA must support the process by enabling mediation sessions to take place on their premises.

Please refer to Blackburn with Darwen's local offer for full details of support services including mediation and appeals processes at the following link:-

www.bwd-localoffer.org.uk

KEY CONTACTS

If you require any further information in relation to this process please email:-

statutory.assessment@blackburn.gov.uk

glenda.astley@blackburn.gov.uk