

Joint working process between Bromley Youth Offending Service (YOS) and LBB Special Educational Needs (SEN) and Disabilities

1. Context

The provisions in the Children and Families Act setting out the new legal framework for children and young people with SEN in youth custody commenced from 1st April 2015.

The new legal framework applies to Children and Young People (CYP) aged 18 and under in Young Offender Institutions, Secure Training Centres and Secure Children's Homes. It applies to CYP who are on remand, have been sentenced or children who have been voluntarily detained in Secure Children's Homes.

Further, more detailed information, can be found in sections 10.60 to 10.150 of the SEND Code of Practice, using this link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf

Additionally, the Council for Disabled Children have published a helpful set of guidance around this area as follows:

[Young offenders with special educational needs: a new legal framework](#)

[Detained children and young people with SEN; briefing note](#)

[Young offenders with special educational needs: a new legal framework](#)

[Children and young people with SEN in youth custody: implementation support materials](#)

2. Purpose

This document outlines the process specifically relating to young people in the Youth Justice System with Special Educational Needs (SEN) and Disabilities in Bromley and what needs to happen in order for the statutory duties to be met.

This document is aligned to the 'Joint Protocol between Bromley Youth Offending Service and London Borough of Bromley' (published May 2016) and should be read in conjunction accordingly.

3. Pre-court process

When a CYP has been given either a youth caution (YC) or a youth conditional caution (YCC), the Youth Offending Service (YOS) Officer will contact the designated contact in the Special Educational Needs (SEN) department to seek information about the CYP's SEN.

Where a CYP has SEN, the designated contact in SEN will confirm the level of SEN and **within five working days, share relevant documentation** with the YOS, which can include:

- Statement of SEN or Education Health and Care (EHC) Plan
- Annual review from school or college
- Professional reports that are relevant to the provision of SEN

The case will then be allocated to an SEN Case Worker or Preparing for Adulthood Coordinator (whichever the more appropriate), who will provide the link between SEN and YOS for the duration of contact with the CYP.

4. Status of SEN documentation

As we move through the implementation of the new SEND reforms, CYP with SEND may have a Statement of SEN, a Learning Difficulty Assessment or an Education Health and Care (EHC) Plan. It is important to note that Learning Difficulty Assessments (LDA) will no longer be valid from September 2016.

Full implementation will be complete by April 2018, in line with legislation at which point all children and young people will have a transfer review and an Education Health and Care Plan will be issued where required.

Entering custody with a Statement of SEN or LDA

For CYP entering custody (remand or sentenced) with a Statement of SEN or LDA, the following transitional arrangements apply:

- The special educational provision detailed in the Statement of SEN should be treated as if it were an EHC Plan and the home LA has a duty to work with the education provider at the YO establishment to ensure the provision is put in place
- CYP have a right to request a transfer review (EHC Needs Assessment) while in custody
- Young people with an LDA have the right to request a transfer review (EHC Needs Assessment) while in custody
- LAs may carry out a transfer review while in custody which should take no more than 20 weeks from the date of request – if the home LA has started the EHC Needs Assessment and the CYP is released, it should continue the process until completion
- If a CYP has a Statement of SEN on release, the home LA must conduct a transfer review (EHC Needs Assessment) as soon as possible on their release
- If a CYP has an LDA on release, the home LA must take all reasonable steps to inform them of their right to request an EHC Needs Assessment

Entering custody with an EHC Plan

For CYP entering custody (remand or sentenced) with an EHC Plan, the following process applies:

- The home LA must share the EHC Plan with the relevant establishment (as per section 3)
- Whilst the CYP is in custody, the home LA must keep their EHC Plan and arrange appropriate provision as set out in sections F and G of the plan (NHS England will arrange health provision, section G)
- The home LA should monitor the CYP's progress against the outcomes and aspirations set out in the EHC Plan, which should take place at least every 12 months
- On release, the home LA must continue to maintain the EHC Plans and must review the plan as soon as possible upon release

5. Court process

YOS Officer to liaise with SEN Officer to share information that supports the pre-sentence report, which can include information outlined in section 3. YOS Officer to share PSR with SEN Officer to ensure all relevant information has been captured, pertaining to the CYP's SEN.

YOS Officer to keep SEN Officer informed about the progress of the court case and outcome accordingly.

6. Post-court process

Where a CYP has been given a custodial sentence, the SEN Officer must be notified by the YOS Officer and then transfer the SEN documentation to the relevant establishment and the health commissioner (where relevant) **within five working days**. Establishments can include:

- Young offender institution
- Secure training centre
- Secure children's home

7. Detention

Once a CYP enters custody, the following process should apply:

- SEN Officer to be informed of sentence/remand meetings and attend where possible and appropriate - sentence plan review meetings should be held at least every 3 months
- The pre-release meeting will take place one month prior to release and should be attended by the SEN Officer where possible. Where SEN are unable to attend, a written contribution to the meeting should be provided to the YOS Officer at **least three days prior to the meeting**

8. Release

Following the pre-release meeting, in order to plan effectively for the CYP's release, the following process would apply:

- The final release preparation meeting must take place at least two weeks before the end of the custodial period – the SEN Officer should be informed of the outcome of the meeting, but attendance is not mandatory and should be decided upon on an individual basis
- The EHC Plan will have been developed and ready for release with an appropriate educational establishment named on the plan
- Post-release review must be held within the first month following release from custody and a representative from SEN should attend where possible.
- The Intervention plan will be produced by the YOS Officer and shared with SEN Officer accordingly
- SEN will continue to review the provision and outcomes in the EHC Plan at least annually

9. Request for an EHC Needs Assessment

If the detained young person has SEN, the appropriate person, or the person in charge of the relevant youth accommodation, has a right to ask the local authority to arrange an assessment of the detained person's post-detention education, health and care needs.

In addition, anyone can bring a detained young person to the attention of the local authority if they are concerned that they have or may have SEN and the local authority must determine whether an assessment of their post-detention needs is necessary. The Youth Offending Service should consider bringing a detained young person to the attention of the local authority if the approved YJB assessment tool raises concerns about a detained young person who may have SEN. This should be done with the knowledge and, where possible, the agreement of the young person.

The purpose of assessing a detained person's post-detention education, health and care needs is to consider whether they may need support from an EHC plan on their release from custody. EHC needs assessments can take up to 20 weeks to complete, so enabling the assessment to begin in custody will help ensure that appropriate support is in place as soon as possible after the detained person has been released, in addition to ensuring support is in place in custody if the EHC plan is finalised while they are detained.

It is also important to note that a young person does not have to be in custody for a referral to be made. It is also possible for a young person themselves to make a self-referral or a professional working with them to make a referral to the local authority on their behalf.

A request for an EHC Needs Assessment can be sent to the Bromley SEN mailbox for consideration and response:

EHCP@bromley.gov.uk

10. Information sharing

The Court and Allocations meeting at the YOS is held on a weekly basis and discusses all new cases. The allocated Education Welfare Officer is a standing member of this group and is responsible for cascading the list of new cases and in particular those at risk of custody to the SEN contact.

Please refer to section 4 of this document for detailed information about the legislative duties that the Council MUST meet for young people entering custody with identified SEN.

The YOS will also provide an updated list on a monthly basis of all young people known to the service to the SEN contact in order that each service maintains a watching brief over the cohort, providing intelligence and intervention where appropriate.