

What is health care and social care provision?

Under the Education Act 1996 (Part 3), a statement of SEN, contains the special education provision required to meet a child's special educational needs. Statements also contain 'non-educational provision'.

Under the Children and Families Act 2014, which brings in the new document to replace statements, an Education, Health and Care plan ('EHC plan'), we are no longer just looking at the difference between educational and non-educational provision. In addition to special educational provision, the Children and Families Act 2014 refers to health care provision and social care provision.

Therefore it is important to understand these terms 'Health care provision' and 'Social care provision'.

Health care provision is defined as follows:

'Health care provision' means the provision of health care services as part of the comprehensive health service in England continued under section 1 (1) of the National Health Service Act 2006.

Section 21 (3) of the Children and Families Act 2014

Social care provision is defined as follows:

'Social care provision' means the provision made by a local authority in the exercise of its social services functions.

Section 21 (4) of the Children and Families Act 2014

There are different duties which arise depending on whether a particular element of provision in an EHC plan is health care provision, social care provision or special educational provision.

It is only special educational provision which is relevant in terms of determining whether or not a child has special educational needs. A child or young person will only be able to have support under an EHC plan if they have SEN which require special educational provision.

If they only need health care provision or social care provision – no matter how significant – they will not be eligible for an EHC Needs Assessment or to have an EHC Plan.

BUT these definitions need to be read in the light of an important section, – Section 21 (5) of the Children and Families Act 2014.

Health care provision or social care provision which educates or trains a child or young person is to be treated as special educational provision (instead of health care provision or social care provision).

This means that things which educate or train children and young people, such as therapies, are special educational provision. A good example of this is speech therapy. It looks like it should be health provision – because it is usually provided by the Health Service – but it must be treated as special educational provision. This is because speech and language therapy 'educates or trains' a child or young person.

The legal test for triggering an EHC needs assessment only relates to a child or young person's special educational needs. However once it is agreed by the LA that the assessment needs to be carried then the assessment will be of the child or young person's education, health and social care needs.