One of the fundamental elements of the reforms in the Children and Families Act 2014 is local partners working effectively together to improve outcomes for children and young people with special education needs (SEN) and disability.

The Act gives local partners the flexibility to decide how they are going to make the system work in their area and what structure is most effective for them. However, there are some key elements that must be in place to make sure that the system works.

Who: In every local authority area there must be Joint Commissioning Arrangements between the Local Authority (LA) and the relevant Clinical Commissioning Groups (CCGs). There must be also be arrangements with NHS England for disabled children and young people and those with SEN who require specialist services commissioned directly by NHS England at a regional or national level.

Integration: These joint commissioning arrangements must work to integrate educational and training provision with health and social care provision where they think that this would promote the wellbeing of children and young people with SEN or disabilities or improve the quality of special educational provision. This reinforces the existing duties on Local Authorities and health commissioners to promote the integration of services and to pool budgets if this would enhance wellbeing.

What: In addition to promoting integration of services the Act specifies that these Joint Commissioning Arrangements must clearly set out the following:

- The education, health and social care provision reasonably required by local children and young people with SEN and disability; how this provision will be secured and by whom.
- What advice and information is to be provided about education, health and care provision and who is responsible for providing this advice. How health services will support the identification of children and young people with SEN and disability.
- The process by which local health services (including primary and secondary care) are able to inform the local authority of children, including those under compulsory school age who they think may have SEN and/or disability.
• How complaints about education, health and social care provision can be made and how these are dealt with

• Procedures for ensuring that disputes between local authorities and CCGs are resolved as quickly as possible.

• How partners will respond to children and young people who need to access services swiftly.

• The joint commissioning must also include arrangements and responsibilities for securing outcomes and personalised services, specifically:

  • Securing Education, Health and Care assessments;

  • Securing the education, health and care provision specified in EHC plans; and

• Agreeing personal budgets

### Which health services are available to children and young people with SEN and disability?

The Act specifies that Joint Commissioning Arrangements must cover education, health and social care provision that is reasonably required by local children and young people with SEN and disability. This includes all universal services as well as targeted and specialist health services. Joint commissioning arrangements must be clear about how this provision is commissioned and who is responsible for its delivery.

All health services have a role to play and the joint commissioning arrangements will set out how commissioners will make sure that they make their contribution in each local area.

### How are disabled children and young people and those with SEN and/or disability identified?

Health services play an important role in identifying children and young people who have, or may go on to have, a special education need and/or disability.

The role of health services in identifying SEN in the early years is particularly important when health professionals, such as those delivering the Healthy Child Programme, are the best placed to make a contribution to identification.
Early identification of SEND and the sharing of this information between services can be crucially important in ensuring that appropriate support, such as portage, is put in place and an effective transition to school can be planned.

To support early identification the Children and Families Act has placed a duty on Clinical Commissioning Groups, NHS trusts and NHS foundation trusts to inform a child’s parents and the Local Authority of any child that a health professional believes has, or may have, special educational needs and/or disability.

The joint commissioning arrangements must set out how the health service will fulfill this duty and the process by which the information will be passed to the appropriate officers within the Local Authority to allow the Local Authority to make appropriate arrangements in partnership with other agencies.

**What advice and information is to be provided about education, health and care provision and who is responsible for providing this advice?**

Children and young people with special education needs and disability and their families require information and advice about the different services that are available to support them. They also need to know how this support can be accessed and what their rights are when using these services.

When considering and agreeing on this advice and information, Clinical Commissioning Groups should consider what information is provided by Health Watch and Patient Advice and Liaison Service (PALS) and how they will work with the statutory Independent SEN Advice and Support service that is commissioned by each Local Authority to ensure that advice and information on health services are available and accessible to disabled children, young people and their families.
Dispute resolution and Complaints

Parents feeling like they have to “fight the system” or children and young people being left without the services they require due to disagreements between local partners is not acceptable.

To ensure that any disagreement does not negatively impact a child, young person or their family, the joint commissioning arrangements must set out procedures for resolving disagreements between the Local Authority and a CCG or NHS England that operate quickly and effectively.

The dispute resolution procedure requires engagement with the relevant senior officials in the Local Authority, CCG and NHS England who have the authority to make key decisions.

These procedures must be reflected in the Local Offer.

Disagreement Resolution Service

For disagreements that relate to any element of the Education Health and Care plan process the Local Authority has a duty to put in place an independent Disagreement Resolution Service.

The Disagreement Resolution Service is secured by the Local Authority but it must be independent of it. It is voluntary and is used with the agreement of all parties.

It can hear disagreements between the Local Authority and the relevant CCG or NHS England about any aspect of the EHC Plan or commissioning responsibilities.

It can also hear disagreements between parents or young people and the relevant CCG or NHS England and make voluntary recommendations for the relevant bodies.

The Disagreement Resolution Service will make voluntary recommendations that the relevant bodies voluntarily follow.

Mediation

If parents or young people disagree with elements of an EHC Plan that has been finalised then they have the option of going through the mediation service introduced by the Children and Families Act.

If a young person or a parent wants to go to mediation about the health element of an EHC Plan
then they must inform the Local Authority. The Local Authority will then also inform the relevant health commissioning body who must arrange the mediation session within 30 days.

If the parent or young person wants to go to mediation about the health element in addition to the education or social care element of the plan then the Local Authority will arrange the mediation but the relevant Health Authority must attend.

Mediation is carried out by independent mediators.

Young people or their parents should not have to pay for mediation and the local authority and/or relevant CCG will pay reasonable travel expenses and other expenses to the parent or young person and witnesses taking part in mediation.

**Complaints**

If the Disagreement Resolution Service and Mediation do not successfully resolve the issue, then young people or parents can make a complaint through the NHS Complaints process.

CCGs and NHS England should consider how they will handle complaints relating to Education Health and Care plans and services that are covered by the Joint Commissioning Arrangements. This would include how complaints will be addressed and how the information received will be used to improve commissioning and delivery of services in the future.

**How will partners respond to children and young people who need access services swiftly?**

If a child or young person needs to access services swiftly, if for example, they need emergency mental health support or have a serious head injury, partners should work together to commission provision as needed.
Education Health and Care plans

The Joint Commissioning Arrangements must set out how Education Health and Care Plans will operate in each area. They must set out the process for carrying out Education, Health and Care plan assessments; how different services will contribute to this process and how information will be shared between services.

They should also set out how decisions relating to Education Health and Care plans will be taken and how the provision specified in Education Health and Care plans will be secured.

This includes how responsibilities for improving outcomes securing personalised services for individual children and young people are shared between different commissioners.

Agreeing personal budgets

The joint commissioning arrangements should also cover the process for agreeing personal budgets.

The joint commissioning arrangements should also take account of the full range of policies that affect the provision of education, health and social care services to children and young people with SEN and disability. This may include:

• The Common Assessment Framework.

• Criteria for NHS Continuing Health Care Funding and National Framework for Children and Young People’s Continuing Care.

• The implementation of the Supporting Pupils at School with Medical Conditions Guidance.

• Individual schools’ SEN information reports.

• The legal requirements to make reasonable adjustments under the Equality Act.