

# Needs-led Eligibility Framework – Learning Journey, December 2021

## Background

Through the Delivering Better Outcomes Together (DBOT) contract, funded by the Department for Education (DfE), the Council for Disabled Children (CDC) has been providing bespoke individual and collective support to local areas on a variety of topics related to SEND and Social Care. As part of this workstream, we have been running a series of accelerated working group (AWG) sessions to 13 local areas focused on Eligibility, Thresholds and Short Breaks. As part of these sessions, we are creating outputs to support local areas to embed consistent offers for disabled children and young people and their families. One of these outputs is the creation of a co-designed Needs-led Eligibility Framework which enables lawful, transparent and accessible pathways enabling families to access the right support at the right time.

## Context of the session

These workshops, and the themes they cover, were determined through a series of conversations with frontline practitioners including those happening in the 2020/21 regional Social Care and SEND learning and development networks and the National DSCO Community of Practice. The themes were also identified in direct response to the shared commonality of the WSoAs and inspection letters received by several LAs, as well as direct approaches to CDC from the LAs involved. The themes that we jointly decided upon were eligibility and thresholds, Early Help and the Local Offer and EHC needs assessments, plans and annual reviews.

For the first workshop, we focused specifically on eligibility and thresholds and there were several objectives we were seeking to achieve;

- Improve understanding of the legal framework
- Develop consistent approaches to needs-led eligibility and thresholds across local areas
- Explore proportionate assessment pathways and access to support and provision

## Aims and barriers

This series of AWG workshops came about due to a shared aim to develop proportionate pathways to support for disabled children and young people which are understood by families and professionals.

Specifically related to eligibility and thresholds, a consistent goal identified by the local areas involved was to create transparent, clear, and legally compliant needs-led thresholds and eligibility criteria. This has been an area of consideration for many LAs due to the definition of disabled children and young people as children in need under Section 17 of the Children Act 1989, meaning there is a duty for LAs to assess, however there is no set format for that assessment. This means there is great variation between local areas as to how they undertake assessments, with many children and young people being squeezed into broader CIN processes

often delivered through a deficit-based model. Nevertheless, whatever form the assessment takes, it will need to be holistic and gather enough information to establish whether it is necessary to provide support under the Chronically Sick and Disabled Peoples Act (CSDPA) 1970.

The local areas agreed that by developing a consistent Needs-led Eligibility Framework, it will be easier to communicate the collective obligations of all professionals working with disabled children and young people to follow the appropriate pathways to support.

The three core areas we wanted to focus on during the session were:

- Removing barriers to assessment for disabled children and families who need support
- Improving understanding of the appropriate use of Section 17 of the Children Act 1989 and Section 2 of the CSDPA 1970
- And unmet needs, waiting lists and proportionate pathways to support

## Methodology

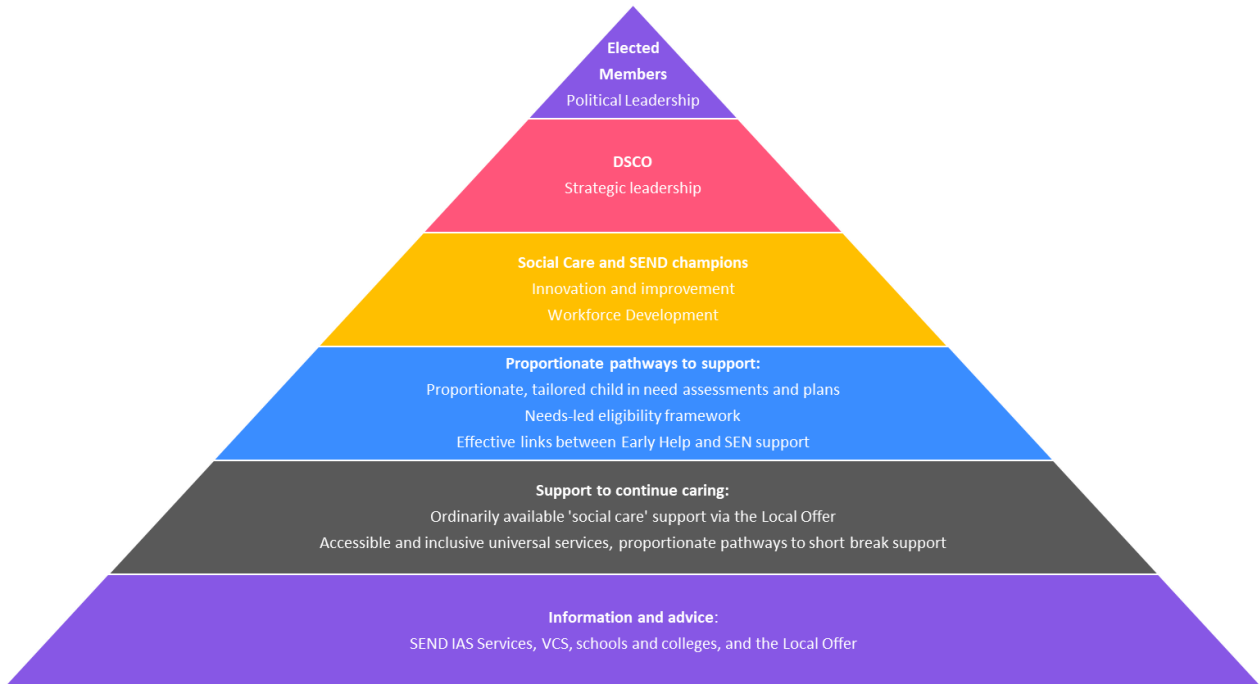
To deliver the objectives set out above, we decided to run the session in the form of a legal workshop with expert legal input provided by Steve Broach, 39 Essex Chambers, to meet the aim of improving knowledge of the legal framework. This decision was made in recognition of the fact that many local areas have raised their challenges at implementing the various elements of the legal framework and supplementary statutory guidance in relation to children and young people with disabilities. This structure was well received by the local areas with participants feeding back that they benefited from going over the legal obligations and some of the corresponding case law to get clarity on some of the nuances and contradictions of the current obligations related to assessing disabled children and young people.

This legal workshop formed one session of a broader AWG model which all local areas are engaging in. This model broadly involves a group of people coming together to investigate a particular problem, in this case how to develop legally compliant thresholds and eligibility criteria and suggesting ways of tackling large-scale questions that often feel insurmountable on an individual level. The model was chosen for its capacity to generate meaningful change at an operational and structural level in a relatively short timeframe. The benefit of using this model is that it encourages a 'design by doing' model based on active reflective practice on the part of individual local areas and collectively. It also helps to facilitate peer-to-peer working and problem-solving through support and challenge exercises where LAs can share a particular challenge they are facing individually in relation to the wider problem, and others can respond with feedback and thought on how they may overcome it.

## The framework

Following on from the legal workshop, and the conversations that were facilitated as part of it, we have co-designed a Needs-led Eligibility Framework with the local areas involved to map clear pathways to support for disabled children and young people.

This framework has been built to fit within a broader model of what we know works in SEND and Social Care. The graphic below illustrates the hierarchy of different tiers of support and infrastructure for disabled children, young people and their families that should exist within local areas. At the base is a supportive tier of inclusive universal services that should meet low level needs, all the way up to strategic and political leadership provided by the DSCO and elected members.



## Proportionate pathways to support

Within the context of this session, we were really focusing on the proportionate pathways to support tier and thinking about how we improve the assessment process for young people who will need any level of support from the local authority, including those with low levels of need that will only need advice and information.

When we are focusing on enabling families to access the right support at the right time, there are several things that need to be considered which are explored in the graphic below. Each of these factors need to come together as part of the needs-led eligibility framework to create universally equitable experiences for children, young people and their families.



A key consideration when identifying appropriate support pathways for families are the legal obligations that local authorities must comply with. We know that all disabled children are 'in need' under the Children Act 1989, meaning there is a duty to carry out some form of assessment. However, there is no legally mandated structure for this assessment. We also know that this assessment should be completed with a maximum of 45 working days, with a contingency for immediate responses in urgent cases.

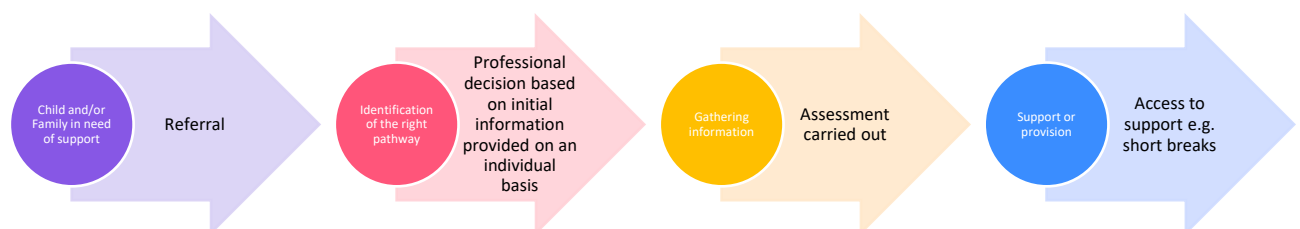
Additionally, the CSDPA 1970 creates a duty for local authorities to provide (from a list of services) where necessary to meet need.

In order to comply with the legal duty set out in the CSDPA 1970 to provide services, local areas must

identify levels of need via an appropriate form of assessment. Then they should use the needs-led eligibility and decision-making framework to underpin a decision on whether statutory support is desirable or necessary. If it is decided that support is necessary, then a judgement should be made as to whether the provision required to meet need is in the list of services in Section 2 of the CSDPA 1970.

### Developing an accessible pathway

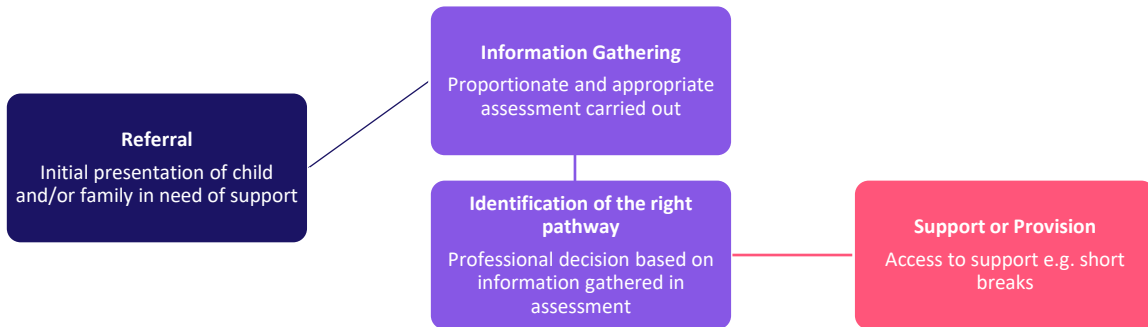
Before we begin to pull out the final Needs-Led Eligibility Framework, it is important for us to start to visualise the links between different parts of the system and map language onto process within an accessible pathway to support. The pathway was designed to pull out the key stages of the process that would be followed to provide appropriate support to children, young people, and their families. The four areas identified were referral, gathering information, identification of the right pathway and subsequent access to support or provision.



Initially we had mapped the pathway to start with a referral and lead into the identification of the right pathway based on the information provided as part of the referral (as seen in the graphic above). However, based on the feedback of some professionals, who emphasised that the identification of the right pathway could only happen after an assessment, we reframed the structure to ensure that gathering holistic

information informed the choice of pathway. This change was also made to reflect the cyclical nature of the pathway and the fact that some actions may be happening in parallel rather than in a static, linear process.

As part of the AWG, we had some fruitful discussions about some of the specifics of the different sections of the pathway. For example, we identified that the referral might come through in a variety of ways including



self-referral, an education setting, the voluntary and community sector, or health partners. There was also an acknowledgement that the EHC needs assessment might act as a trigger in its own right if it identified a child or young person who is not already known to social care.

When we were thinking about the assessments, we worked to unpick the fact that within Section 17 of the Children Act we have three different definitions of ‘in need’. Therefore, to provide a proportionate assessment we might need to have an assessment that is badged as covering Section 17 10-A and 10-B as well as a Section 17 10-C assessment. Additionally, depending on the family’s level of need, an Early Help assessment or Section 47 enquiry might be necessary instead. There were varying ideas on the practice related to assessments with some local authorities supporting the concept of having several different assessments which could be adopted based on the need identified in the family. Conversely, others emphasised the need for a singular disabled children’s assessment which could be tailored to suit all children and young people to avoid distinguishing people at the point of entry. However, it was still noted that the process for a singular disabled children’s assessment would need to be streamlined according to a family’s need in order to provide appropriate and proportionate support.

Finally, when considering the support and provision that might be provided for children, young people, and their families, we mapped out 4 key domains that would cover the various offers in place locally. These domains range from low levels of support that could be provided through universal services, up to the highest levels of need which require more intervention. These domains were identified as advice and information, support to continue caring, support to manage risk, and support to prevent harm.

## Pathways to support – the legal framework

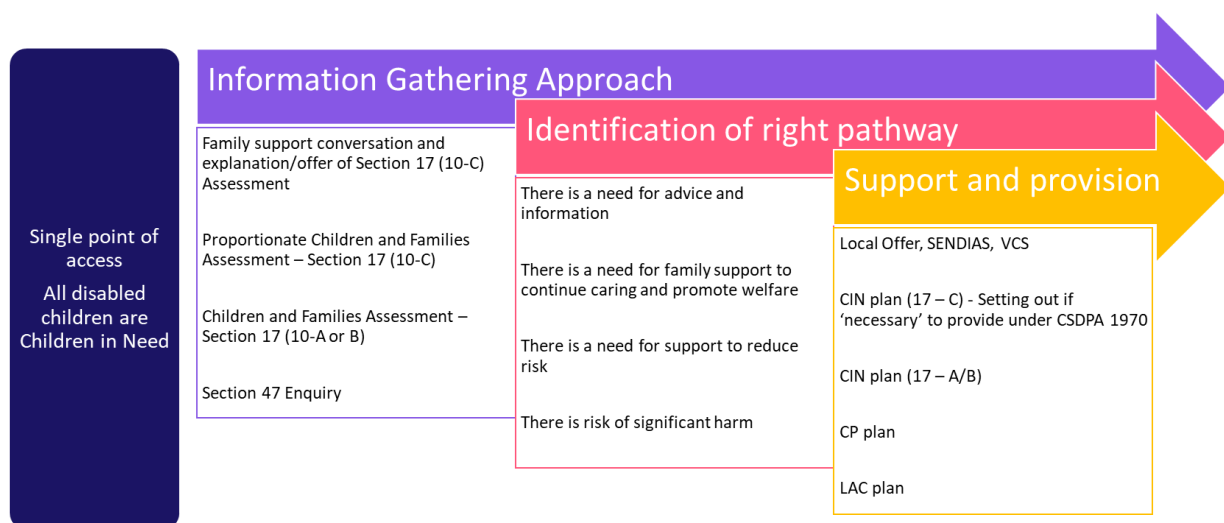
From a practitioner perspective, within this accessible pathway to support we developed above, we also need to understand where the legal framework sits and how that will inform practice. In terms of the beginning of the process, there is an acknowledgement that all disabled children are legally defined as ‘in need’, creating a single point of access for children, young people, and their families. However, this of course does not mean that all children and young people have the same level of need and therefore any pathway to support needs

to facilitate an individual approach which allows disabled children and young people to reach appropriate and proportionate offers of support at the end of the process.

Within this framework, information gathering needs to happen right from the outset and to continue as necessary to identify the right pathways, support, and provision. The means by which this information gathering takes place will be entirely dependent on the needs of the family however it should begin with an initial family support conversation, during which there should be an explanation or offer of a proportionate Children and Families Assessment, in line with Section 17 (10-C). This may then lead on to the completion of the proportionate Section 17 (10-C) or depending on the family’s circumstances it may necessitate a Children and Families Assessment under 10-A or 10-B, or a Section 47 Enquiry.

The next step is to identify the appropriate pathway for children, young people, and their families. To visualise this, it helps to differentiate the pathways by the four domains of support and provision we agreed upon when drawing up the accessible pathway above. By categorising into level of need, we can ensure greater proportionality of assessment and intervention.

Depending on which pathway was identified by the professional at the information gathering stage, the assessment will seek to map out the appropriate tier of support which might be universal provision through signposting to the Local Offer, SENDIAS or VCS, or it may involve the implementation of a proportionate plan.



## Guiding principles

This framework is underpinned by several guiding principles that the local areas agreed upon following the legal workshop.

The first guiding principle is the commitment to **enable families to access the support they need through proportionate, tailored assessment approaches**. Proportionality is fundamental in any assessment or offer of support for children and young people and their families. Crucially, we need to strike a fair balance between our need for a level of oversight when providing support to a family and our obligation to not be overly intrusive for families, particularly in instances where an assessment might lead to relatively low levels of support.

The second principle follows on from this and centres on the need to **shift away from the ‘one size fits all’ criteria to professional judgement and decision making based on holistic information gathering**. The fact that disabled children and young people are automatically CIN under Section 17 presents a challenge to this, as the generic CIN model is not fit for purpose for many disabled children and young people with low level needs. This points to the need to reconsider bespoke, tailored CIN processes and assessments for disabled children and young people which is reflected in the pathways to support graphic above.

The third guiding principle is the focus on **impact of needs on the lives of individuals and in the family context**. This principle underpins the capacity of the framework to allow for individual decision making within a wider support model. Crucial to this is that you cannot assess for a specific service. Instead, you must take a holistic approach to assessing a child and family’s needs, allowing professionals to identify the right pathways and enabling them to reach the right outcomes for the family.

Linked to this, the final principle that underpins this framework is the need to **empower practitioners to make confident, consistent decisions on when it is ‘necessary’ to provide support**. By breaking down the legal framework into clear, easy to follow pathways, all practitioners should feel confident in their ability to assess a child’s need in a proportionate way which still considers the legal duties under the Children Act 1989 and the Chronically Sick and Disabled Person’s Act 1970.

## The Decision-Making Framework

Based on the conversations that took place in the workshop, we have pulled together a decision-making framework which is designed from a practitioner’s perspective. By providing this consistent base of key questions for practitioners to consider when assessing families, they will be empowered to make confident, consistent decisions on when it is ‘necessary’ to provide support as mentioned in the guiding principles above. This will ensure that all decisions made by professionals remain needs-led rather than dependent on formal diagnoses.

The list of key questions and the corresponding prompts outlined in the graphic below are designed to facilitate capacity to think about the impact of need on individual family contexts when undertaking an assessment and the level of support that might be required to promote welfare and prevent avoidable crisis. This will allow practitioners to pursue key lines of enquiry to receive holistic information about how the family is currently coping and what supports might be useful. This framework also uses elements of the language of relevant legislation, including the Care Act 2014, to help further embed policy into practice.

How significant is the impact of the child or young person's needs on their life?

- Consider the impact on their life compared to another child or young person of the same age without their additional needs
- Consider barriers to accessing the community and leisure activities; education; health services

How significant is the impact of the child's needs on their family's life?

- Consider the broader family context and the impact on relationships between parent carers and siblings
- Consider barriers for the family in accessing the community and leisure activities; education; employment; health services

How well are they coping?

- Consider support networks including wider family (e.g. grandparents); VCS
- Consider how well the child or young person is coping

Is the family able to continue caring?

- Consider whether other family members may have support needs (parent carers/young carers)
- Consider if some family members are coping better than others, who takes on primary responsibility for providing care

What would happen if no support is provided?

- Consider the possible consequences of not providing any level of support
- Is it 'necessary' to provide under the CSDPA 1970?

What support is needed to enable the family to continue caring, promote welfare and to prevent avoidable crisis?

- Consider support required to overcome barriers to accessing the community and leisure activities; education; employment; and health services, for both young people and their families
- Consider support required to achieve children and young people's outcomes and aspirations and to prepare them for adulthood
- Is it 'necessary' to provide, is the support required part of the list set out in the CSDPA 1970

## Next steps

As part of this piece of work CDC is committed to creating supplementary materials to aid implementation of the framework within the LAs who participated in the AWG and beyond. In discussion with members of the AWG, we have identified several key resources it would be useful for us to develop alongside this learning journey to enable professionals to confidently adopt the framework, including:

- Exploring available resources to facilitate workshops to co-produce templates of the forms and operational procedures that sit within the framework
- Best practice case studies of areas who have made progress in specific areas related to this work
- Pulling out transferable learning from previous programmes of work and creating new materials which are updated with the knowledge we've gained in this series of AWGs
- Materials on how to facilitate parent-carer information sessions which provide clarity on the new processes and create spaces for them to continually share their feedback



- Template of form for information gathering which enables professionals to see where the decision-making points are within the process
- Materials which suggests ideas about the key next steps which should be taken at a local area to aid implementation