Children and Young People in Custody

Supporting young people with Special Educational Needs and / or Disabilities (SEND)

Final programme report and recommendations for good practice

March 2016
Foreword

Gail Gibbons, Chief Executive Officer at Sheffield Futures

I am proud to introduce our guide to supporting young people with Special Educational Needs and / or Disabilities (SEND) in custody.

At Sheffield Futures, we believe that all young people deserve the best start to their adult life, whatever their background. Our work focuses on making positive change in the lives of the young people we support and our core belief is that everyone has the potential to transform their lives.

Young people can find it difficult to make positive life choices for a number of reasons. A low sense of self-esteem or an unstable home can make a young person vulnerable to risk-taking behaviour. But with the right kind of support, young people can be empowered to make better choices and become confident, productive citizens. We have a long and proud history of supporting young people with SEND. This guide aims to share best practice and learning both from our training with practitioners, and from young people with SEND in custody.

At our youth charity, young people are at the heart of all we do. We believe it is vital to include a youth voice in any work that supports young people. The youth involvement element of this project has highlighted issues such as that many young people with SEND had never heard of Education, Health and Care Plans (EHCP).

Our recommendations promote a holistic approach through partnership working and information sharing, providing support for young people and a focus on release and resettlement.

“This training has had a direct and positive impact on the awareness and understanding the learning support staff have of EHCP … our recent Ofsted inspection focussed heavily on the learning support we offer and we were praised for the clear processes we have in place, the confidence staff have around SEND and the support we offer those with SEND.”

Head of Inclusion, Wetherby Young Offenders’ Institution (YOI)
“Our aim is to provide professionals with up to date information on the need for Special Educational Needs and/or Disability (SEND) reform and the Education, Health and Care Plan (EHCP) process so that they can effectively support young people.”

Information, Advice and Guidance (IAG) worker, SEND Custody Project
Introduction

Since the introduction of the Children and Families Act 2014, the Education Health and Care (EHC) Plans began replacing Statements of Special Educational Needs and Learning Difficulty Assessments. In April 2015, Sheffield Futures began work on a Department for Education funded National Prospectus Grant - SEND Custody Project, endorsed by the South and West Yorkshire Resettlement Consortium. The focus of the project was three fold:

- Training covering the SEND reforms for professionals working with young people with SEND in custody in the South and West Yorkshire region.
- Involvement work with young people with SEND in custody, focussing on their experiences.
- The production of a guide to working with young people with SEND in custody.

In March 2011 the government published a consultation document, ‘Support and Aspiration: A New Approach to Special Educational Need and Disability.’ The document described how poor the outcomes are for children and young people in the SEND group compared to those without SEND.

For example, children and young people in the SEND group are 20 times more likely to be permanently excluded from school and 7 times more likely to receive a fixed period exclusion. They are twice as likely to be eligible for free school meals and twice as likely not to be in education, employment and training (NEET). They are 4 times less likely to go to university and 5 times more likely to enter the criminal justice system. In numerous ways many children and young people with SEND are disadvantaged and struggle to make a smooth transition to adulthood.

The consultation document laid the foundation for the SEND reforms introduced in September 2014 by the Children and Families Act. The Act was swiftly followed by the Special Educational Needs and Disabilities Code of Practice 0 - 25 Years (Department for Education and Department of Health, January 2015).

The EHCP is far more holistic than the old Statement, taking into account health and care needs in addition to educational needs. The Act also gave new rights to young people and assigned new responsibilities to a variety of agencies. This included the youth justice system where professionals have a legal obligation to implement the SEND Code of Practice*.

Against this backdrop Sheffield Futures was commissioned by the DfE in April 2015 to design and deliver training covering the SEND Code of Practice across the secure estate and Youth Offending Teams within South and West Yorkshire. The specialist team was made up of youth workers, a careers guidance officer and a secondee from Sheffield Youth Justice Service. In this project guide we hope to disseminate what we have learned and offer further recommendations for good practice. The training was offered to the 9 Youth Offending Teams (YOTs) and 3 custodial institutions in the South and West Yorkshire Resettlement Consortium region. Feedback from the training forms are an important part of this report.

Throughout the training, the voices of SEND young people in custody can be heard. Staff went into custodial institutions [mainly Wetherby Young Offenders Institution] to consult with young people with SEND about their experiences, and their findings are contained within this guide. Materials developed with support from young people in custody are also available from Sheffield Futures.

There is a Glossary of terms on page 29.

* Special Educational Needs and Disabilities Code of Practice 0 - 25 Years (Department for Education and Department of Health, January 2015)
1. Successful implementation of EHCPs relies on strong partnerships between different services and organisations. This will only happen if clear information sharing policies and service level agreements are put in place. Most organisations who participated in the project use a corporate information sharing policy and most YOTs make use of service level agreements. However, there was not a lot of evidence to show that there are information sharing agreements with local authority SEND departments. The development of these by the custodial institutions presents an entirely different scale of issue as their young people come from all over the country.

2. Access to speech and language therapy is a priority need in view of the high number of young people in custody with speech and communication difficulties. Problems with communication are some of the most prevalent SEND issues amongst the population in custody. Access to professional speech and language services is reported as low across the region.

3. Clear lines of responsibility are essential. The assignment of responsibilities in relation to meeting organisational obligations within the EHCP process varies from agency to agency. One of the outcomes of the SEND custody training was an acknowledgement that this issue needs to be addressed.

4. There is a major issue around young people entering custody with unrecognised / unacknowledged Special Educational Needs and Disabilities. This is one of the major themes that came out of the involvement element of the project. This theme is examined more in Section 7 (page 22) of this guide.

5. Successful transition on release relies on established procedures, planning, communication, access to good and timely advice and guidance and good partnership working. If communication between agencies is sporadic then this presents a major barrier to successful resettlement.

6. The secure estate and YOTs readily acknowledged the necessity for support in the area of the SEND reforms. There was recognition that there had been some significant changes to the world of SEND but their understanding of how this should inform their practice was hazy. This was evidenced by how training participants described their starting point in the training evaluation. There was also evidence to show that variations in practice between organisations in the region were in part due to how the Code of Practice* had been interpreted.

7. Participation in the involvement element of this project was voluntary but high despite there being no material incentive on offer. The young people who participated had clearly reflected upon their experience in custody and were able to offer honest and extremely insightful perspectives.

8. Many young people with SEND acknowledge that certain aspects of life in custody can be beneficial, particularly structure, routine, stability and consistency. This is in stark contrast with some young people's experience of chaos, threat and strain at home.

9. Some young people with SEND experience high levels of anxiety about their release as they anticipate barriers to accessing money, accommodation and employment. They were also concerned about fixing broken relationships and fitting in with their communities. Some young people commented that nobody was listening to their concerns.

* Special Educational Needs and Disabilities Code of Practice 0 - 25 Years (Department for Education and Department of Health, January 2015)
The Children and Families Act (2014) set about replacing Statements of Educational Needs and Learning Difficulty Assessments with Education, Health and Care Plans (EHCPs). These differ from the old Statements in several ways:

- The EHCP covers health and social care needs as well as education.
- The EHCP can stay with a young person up to age 25 if they are in education, training or an apprenticeship.
- From 16, EHCP rights apply to the young person rather than the parents.
- Emphasis is on the young person’s goals and aspirations.
- The voice of parents / carers is better represented.
- Families applying for an EHCP can access independent support.
- Families can request a personal budget to support their child.
- An EHCP for older children centres around preparation for adulthood with a focus on employment, independent living, health, relationships and community participation.

The Act also made it a requirement for local authorities to display information about their SEND support services on their websites via The Local Offer.

The holistic nature of the EHCP means that legal duties extend well beyond schools, academies and colleges. LA departments, the National Health Service Commissioning Board, clinical commissioning groups (CCGs), NHS Trusts / Foundation Trusts, Local Health Boards, Youth Offending Teams, youth custodial establishments and First-tier SEND Tribunals must comply with the new legislation.

For young people in the youth secure estate there are significant new rights and duties:

- When a young person with an EHC Plan enters custody, the responsible local authority (LA) must follow the plan and arrange appropriate provision.
- If there is no EHC Plan, the detained young person if under 19 and in the youth secure estate, their parent/carer, or the person in charge of the custodial institution has the right to request an EHC needs assessment from the responsible LA. Anyone can bring the child or young person’s special educational needs to the attention of the responsible LA, including the YOT or education provider.

The diagrams on pages 7 and 8 illustrate the 2 processes as defined by the Code of Practice.
Statutory Education, Health and Care (EHC) Plan

In accordance with the Children and Families Act 2014, the following statutory Education, Health and Care (EHC) Plan is made by Brokenshire County Council (‘the education authority’) and the Brokenshire County Commissioning Group (‘the health authority’)

{Name} ‘s Personal Details

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<td>Last Name</td>
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The YOT must notify the responsible LA that the young person has entered custody.

The LA must share the EHC plan with the YOT, the custodial establishment and NHS England within 5 working days. The young person’s SEND may need to be reflected in a pre-sentence report. The court may ask for sight of the detained person’s EHC plan.

**Whilst in custody, the responsible LA must keep the EHC plan.**

The responsible LA should monitor the young person’s progress against the EHC plan with monitoring meetings at least every 12 months.

Upon release the LA must review and maintain the EHC plan. If the young person’s needs have changed, more appropriate provision must be arranged.

The custodial education provider should make appropriate provision; either what is in the EHC plan or as close to it as possible.

The health services commissioner for the custodial establishment must arrange appropriate health care.

If a young person transfers to the adult secure estate, details relating to SEND should be forwarded by the custodial establishment.

If a young person is released from the adult secure estate under age 25 and plans to stay in education, the LA must maintain the EHC plan.
Following assessment, has it been identified the young person has SEND?

- Yes
- No

Request an EHC needs assessment from the young person’s responsible local authority. Anyone can bring the child or young person’s special educational needs to the attention of the responsible LA, including the YOT or education provider.

The LA must consider whether an EHCP assessment is necessary.

- Yes
- No. The LA must explain right to appeal.

The responsible LA must carry out an EHCP assessment.

The responsible LA draws up the EHC plan and sends to the parent/carer and/or young person for 15 days consideration.

The EHC plan is finalised.

Copies must be sent to the young person, parent/carer, YOT, the secure accommodation and the governing body, proprietor or principle of any education institution named in the plan, the home clinical commissioning group (CCG) and NHS England.
2. Voices of young people

The training was extremely well received by all attendees, in particular, the input from our involvement workers. Two had spent time talking to young people with SEND about their experiences of the custodial system and the third worker, an Information, Advice and Guidance (IAG) specialist, had focused on their future aspirations.

85% of young people who were approached to take part in the project chose to do so.

Most of the young people taking part were serving custodial sentences at Wetherby YOI and Aldine House Local Authority Secure Children’s Home. All were age 15-18 and male, reflecting the general custodial population in the region. Initial identification was through the SEND register held by the education staff at Wetherby YOI. There were 140 young people on this register and the most common types of SEND were:

1. Social, emotional and behavioural difficulties.
2. ADHD
3. Cognitive and learning difficulties
4. Dyslexia
5. ASD or other social and communication problems

The project sought to involve young people on different length sentences or on remand. However, as it proved more difficult to engage with young people who were due for release, many of those who took part were serving long term sentences. 60 young people – which is 85% of those who were approached - chose to join the project.

5% of young people we spoke to did not understand why they were in a Young Offender Institution.

Some young people did not find it easy to communicate with professionals, particularly around personal issues or anything relating to social care. A relaxed approach with visual, engaging and ‘fun’ materials worked best. Some young people worked with us to develop resources and these are available from Sheffield Futures.

The quality of contribution was high. Some of the young people who engaged were facing overwhelming personal barriers. Nevertheless they offered extremely insightful perspectives into the justice system. Information was also shared with the YOT worker in order to aid the young people’s resettlement.
Put in a request to live in Bedford when I’m released and they’ve put me in Essex. I’ve got no family, no clothes or anything there.
Case study: Sam

Sam was 8 months into a 12-month Detention and Training Order and his early release date was within the next 2 months. When the worker first spoke with him, Sam was dubious about the meeting yet inquisitive. The worker explained that they hoped to gain some insight into his experience of custody and that involvement was voluntary.

The worker printed off their resources on green paper as they had learnt from the SEND register that Sam found documents more accessible this way. Sam appreciated the efforts and this led to an in-depth conversation about his SEND needs. Sam knew he had Dyslexia and had previously been told he had Attention Deficit Hyperactivity Disorder (ADHD.)

Sam told the worker that he used to refuse medication at school, preferring to self-medicate with cannabis and ‘spice’, a psychoactive substance (or legal high). Whilst in custody, with input from Child and Adolescent Mental Health Services (CAMHS) he had been taking slow-release medication, which had helped his concentration.

Sam had experienced a turbulent couple of months on first entering custody. He was withdrawing from ‘spice’ and had descended down the reward scheme, lost privileges and been sanctioned. CAMHS had intervened when his mental health began to suffer due to being in segregation with no stimulation. Sam said he was remorseful about his behaviour but believed it was a natural reaction to a situation.

After 7 months, Sam’s mental health had improved significantly. He had more structure to his daily routine and had ascended through the reward scheme – the top level was only a couple of weeks away. He told the worker that he was determined to succeed.

There are many variables that can affect early release so the worker and Sam spoke about these with help from visual resources. They discussed Release on Temporary License (ROTL) and Sam felt he would benefit from going out with family for the day to adjust to the community and also to rebuild fragile relationships.

On a later visit, he had been told that his application for ROTL had been denied because of behaviour throughout his time in custody. Sam passionately acknowledged his initial behaviour and highlighted some interesting points about the transition both into and out of custody. The worker decided to create resources to address some of these issues and, a few weeks later, revisited him with a draft.

Sam was enthused and took an active part in creating this resource. He knew that his involvement would not affect his own future but that it might benefit other young people. Through his engagement, Sam showed remarkable powers of reflection and empathy and stated that he felt empowered by the process.

Towards the end of the project, the worker contacted his caseworker to make sure that their positive comments about Sam’s commitment to this project were noted on his record.
3. SEND training and its impact

In designing a training package, our aim was to ensure that YOT workers and workers in the secure estate understood both the need for SEND reforms and the EHCP process. By doing so, it was hoped that they would be better able to support young people through their transition back into the community. Crucially, as young people are at the centre of the process, the aim was to find a way of representing their voices.

Following initial consultations with consortium members, we devised a programme comprising:

- The need for Special Educational Need and Disability reform.
- The Education, Health and Care Plan process.
- Professional roles and legal responsibilities within the process.
- Systems and methods for recording client information and interactions (including AssetPlus*).
- The appeals procedure and what can be done if things go wrong.
- Voices of young people with SEND in the youth justice system.
- Pathways to successful resettlement.

*AssetPlus is the new holistic assessment and planning intervention framework which has been developed by the Youth Justice Board and which has clear parallels with the EHCP process. A Case Manager from Sheffield Youth Justice Service who was trained in AssetPlus was seconded to the project.

“...best training I’ve ever been to.”
- Training attendee
The training ran from November 2015 to March 2016 with over 450 staff attending a total of 29 half day sessions.

Delegates came from across the South and West Yorkshire Resettlement Consortium: 9 YOTs, 2 Local Authority Secure Children’s Homes and 1 YOI. Most were case managers but a number of operational managers, health professionals, social care professionals, education staff and police also attended. A small number worked for LA SEND departments; this slightly skewed some of the evaluation scores but their participation was immensely helpful as was their willingness to share their knowledge and experience.

“The training was] really great, it’s not an easy topic to get across. Paced well, content excellent, exercises/group work appropriate and lots of time for discussion.”

- Training attendee

“Excellent message regarding the young person. Listen to the voice of the child.”

- Training attendee
Evaluation and feedback
We asked each delegate to grade their level of knowledge and confidence on a scale of 1-10 both before and after training. This enabled us to measure distance travelled.

Most delegates described their initial knowledge as low with around 90% rating themselves as 3 or lower out of 10 at the beginning of the session, particularly in regards to knowledge of the 2014 SEND reforms.

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<th>The responses</th>
<th>Average score out of 10 before training</th>
<th>Average score out of 10 after training</th>
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<tbody>
<tr>
<td>Knowledge of the most recent reforms with regard to SEND</td>
<td>2.8</td>
<td>7.2</td>
</tr>
<tr>
<td>Knowledge of the EHCP process and how to implement it</td>
<td>2.8</td>
<td>7.5</td>
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<tr>
<td>Knowledge of the range of organisations involved with young people in the secure estate</td>
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<td>Knowledge of the different roles and responsibilities of all involved</td>
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<tr>
<td>Knowledge of the systems and methods used for recording client information and interactions</td>
<td>3.5</td>
<td>7.2</td>
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“It has raised a number of questions in my mind about our in-house procedures.”
- Training attendee

Key concerns
Much of the feedback centred on the following themes:
• The importance of clear procedures and lines of responsibility.
• Apprehension about Ofsted SEND inspections commencing May 2016.
• A need for partnership working and information sharing policies.
• Concerns about undiagnosed SEND.
• Concerns about access to key professionals, particularly educational psychologists and speech and language therapists.

“We are not doing what we need to be doing.”
- Training attendee
4. Good practice - a model

Most of the workers we met felt they were still learning about the SEND reforms so we can confidently say there is more distance to travel before we can confirm that knowledge or good practice is embedded. However we feel that any good practice should incorporate the following:

- Communication and inter-agency working
- Advocacy
- Information sharing
- Diversity in approach to individual needs
- The empowerment of young people
- Resettlement and transition planning

For the sake of young people in custody, services need to work together to devise solutions. YOTs, LA SEND departments and custodial institutions need to work closely together. The models on pages 17 and 18 have been devised by one of the consortium YOTs. Elements could be adapted to fit other relevant organisations.

“Views of young people... invaluable.”
- Training attendee

“Co-ordination is the key.”
- Training attendee
Model A

Young person in custody with EHCP or identified SEND

1. The local authority SEND team should be notified by the YOT of all young people sent to custody, remand or sentenced. The YOT case manager should remain the key point of contact between the secure estate and relevant agencies.

2. If SEND is known, the YOT should request a copy of the SEN history, including, if there is one, an EHC plan from the LA SEND department if there is no copy on file and one is not received within 5 working days of notification.

3. The YOT should send relevant education information to the secure estate via secure email.

4. The case manager should invite the LA SEND team to the 10 day remand / Detention and Training Order planning meeting and also inform them of all possible release dates. The sentence plan should be shared securely with LA SEND team to enable them to monitor progress if they are unable to attend at meetings.

5. The YOT and the secure estate should facilitate monitoring meetings; this can be part of planning meetings. They should invite the LA SEND team to all planning meetings, especially the resettlement and risk panel meetings.

6. Prior to release, the case manager / education officer / resettlement officer should identify a possible education destination and the young person’s work area of interest using resources from the SEND custody project.

7. On release, the LA SEND team should arrange the community reviews for appraisal of the EHCP and to ensure the plan is appropriate.
Model B

Young person in custody without EHCP or identified SEND

1. If SEND is identified, the YOT should hold a discussion with the young person and if appropriate, their parents to explain the EHCP. The YOT should bring the identified SEND to the attention of the LA SEND team.

2. The YOT can also refer to the local authority SEND Information, Advice and Support Service (SENDIASS) or independent supporter service to support the young person and family through the process. A video link or other communication technology may be a way to facilitate this.

3. The YOT should notify the secure estate of the request for EHCP and provide education information. The case manager should remain the key point of contact. Education officers should be copied into any emails relating to education and EHCP.

4. SEND needs and the EHCP process should be discussed and monitored in sentence and remand planning meetings. A copy of the sentence / remand plan should be held securely and shared with the SEND team and with education / resettlement staff.

5. The YOT should check with the SEND department / secure estate whether a draft copy of EHCP has been issued 20 weeks after the initial request.

6. The EHCP process does not cease if young person is released prior to completion of EHCP procedure.
5. Questions from the training

In this section we consider some of the questions that were raised most frequently in training. Where appropriate we have answered with a direct reference to the SEND Code of Practice. The Code is the most comprehensive and authoritative information source available on this issue and we recommend it to all those who are charged with implementing EHC Plans.

1. ‘Which local authority is responsible for maintaining an EHC plan for a young person in custody and / or for carrying out an EHC needs assessment?’

‘The responsible local authority’ is ‘usually the authority where the child or young person lives...’ (Code of Practice 6.99 and 7.32)

2. ‘Who has responsibility for setting up an EHCP monitoring meeting when a young person comes into / is due for release from custody?’

‘Where a detained young person is in custody within a year of the last review of their EHC plan, the local authority should conduct a monitoring meeting and continue to do so, as a minimum, every 12 months.’ (Code of Practice: 10.133)

When a young person is due for release, ‘the local authority and YOT should seek to review the detained person’s educational progress and their continuing SEN and health needs in preparation for their release.’ (Code of Practice: 10.134)

3. ‘How would you identify a young person in need of an EHCP upon entry who doesn’t have one?’

‘Each detained person entering custody will undergo an educational assessment including an assessment of literacy, numeracy and, where necessary, a screening to identify whether further assessments to identify SEN are required.’ (Code of Practice:10.76)

In addition, ‘All children and young people entering custody will be screened and assessed using the Comprehensive Health Assessment Tool (CHAT) which includes a screening for speech, language and communication needs.’ (Code of Practice: 10.80)

See also Section 7: Implications of undiagnosed / unsupported SEND (page 22).

4. ‘How does a custodial institution refer to the local authority?’

The institution should contact both the YOT team and the LA SEND team for the LA where the young person normally lives. Many local authorities will accept referrals by email, phone, fax, letter or via the local council website.

5. ‘Does an education / training provider have the right to refuse an application if they are named in an EHCP? What happens if the provider does not have enough places?’

The answer depends on the type of institution. The Code of Practice states that, ‘The child’s parent or the young person has the right to request a particular school, college or other institution of the following type to be named in the EHC.’

The institution types are: ‘Maintained nursery school, maintained school and any form of academy or free school [mainstream or special], non-maintained special school, further education or 6th form college, independent school or independent specialist college where they have been approved for this purpose by the Secretary of State.’ (Code of Practice: 9.78)

If any of these institutions ‘is named in an EHCP they must admit the child or young person.’ (Code of Practice: 9.83)

However any institution not identified as above is not subject to the same duty. In such a case, ‘the local authority must consider their request’ but ‘is not under the same conditional duty to name the provider’ but ‘must have regard to the general principle ……that children should be educated in accordance with their
parents’ wishes, so long as this is compatible with the provision of efficient instruction and does not mean unreasonable public expenditure.’ (Code of Practice: 9.84)

The code also states that, ‘The local authority should be satisfied that the institution would admit the child or young person before naming it in a plan.’ (Code of Practice: 9.84)

6. ‘What is happening with speech and language assessment considering it will be integral to AssetPlus?’

AssetPlus guidance states that, ‘The speech, language, communication and neuro-disability sub-section of AssetPlus is based on Royal College of Speech and Language Therapists’ screening tool but has been expanded to include other elements of neuro-disability in line with the CHAT (Comprehensive Health Assessment Tool) neuro-disability section.

‘A ‘Yes’ or ‘Sometimes’ answer to any of the screening questions should result in a referral being made to a specialist health worker to complete CHAT, YOT or another comparable assessment. Further action such as a referral to a speech and language therapist may be required.’

7. ‘Who has access to AssetPlus?’

AssetPlus is being rolled out to YOTs and the secure estate during 2015-16. All relevant staff in YOTs and the secure estate will have access to AssetPlus following training.

8. ‘Who within the prison has the responsibility for requesting an EHC needs assessment if they don’t have one but a need is identified?’

The responsibility is for the person in charge of the relevant youth accommodation. The YOT or education provider can ask, but only the person in charge has a right to request.

9. ‘What sort of person is assigned the EHCP role?’

‘Local authorities are responsible for ensuring that there is effective co-ordination of the assessment and development process for an EHCP’ (Code of Practice: 9.30)

The process ‘should be supported by senior leadership teams’ and ‘Families should have confidence that those overseeing the assessment process will be impartial and act in their best interests.’ (Code of Practice: 9.31)

10. ‘How will the local authority monitor the plan whilst the young person is in custody?’

‘Where a detained young person is in custody within a year of the last review of their EHC plan, the local authority should conduct a monitoring meeting and continue to do so, as a minimum, every 12 months... The local authority can request that the person in charge of the relevant youth accommodation or YOT convenes the monitoring meeting.’ (Code of Practice: 10.133)
6. Issues for consideration

6.1 Young people entering the adult secure estate

Within the secure estate there was a level of astonishment that even though EHC plans can remain up to the age of 25, the same does not apply to young people moving from a YOI for 15-17 year olds to one for 18-21 year olds, or to persons within the adult estate (Code of Practice: 10.61). The Transforming Youth Custody agenda around providing 30 hours of education a week doesn’t apply to the YOI for older young people because education is not compulsory there.

6.2 Interpretation of the Code of Practice

It became clear during the course of training that there are various interpretations of the Code of Practice. Each LA, service and institution needs to review their own policies (especially around information sharing) in order to find their own path through the EHCP process. However the Code makes it clear ‘no-one should lose their statement and not have it replaced with an EHC plan simply because the system is changing…the expectation is that young people who are currently receiving support as a result of a Learning Difficulty Assessment and remain in further education or training during the transition period, who request and need an EHC plan, will be issued with one.’ (Code of Practice: Introduction xi)

6.3 Effective resettlement

In respect of resettlement, the Code gives the following advice. ‘Appropriate support after release will help the resettlement process. Therefore, if the detained person has SEN, the appropriate person, or the person in charge of the youth accommodation, has the right to ask the local authority to arrange an assessment of the detained person’s post-detention education, health and care needs.’ (Code of Practice: 10.81)

‘The YOT must notify the local authority that a detained person is due to be released from the relevant youth accommodation in order to inform the resettlement process and should ensure all external agencies are aware of their responsibilities under the proposed release plan, and condition of licence or Notice of Supervision. The local authority should inform any relevant community services that the detained person is due to be released.’ (Code of Practice: 10.135)

6.4 Safeguarding

In respect of safeguarding, the Code gives the following advice: ‘For all children who have social care plans the social worker should co-ordinate any outward facing plan with other professionals. Where there are specific child protection concerns resulting in action under section 47 of the Children Act, careful consideration should be given to how closely assessment processes across education, health and care can be integrated, in order to ensure that the needs of vulnerable children are put first.’ (Code of Practice: 10.19)

‘Where a safeguarding issue arises for someone over 18 with an EHC plan, the matter should be dealt with by the adult safeguarding team. They should involve the local authority’s child safeguarding colleagues where appropriate as well as any relevant partners [for example, the police or the NHS] or other persons relevant to the case. The same approach should apply to complaints or appeals.’ (Code of Practice: 8.73)
7. Implications of undiagnosed or unsupported SEND

The project found a significant amount of SEND undiagnosed until assessment was carried out in Wetherby YOI and a significant lack of Statements and EHCPs for this group of young people.

There is a high correlation between the absence of formal SEND support and the high levels of historical low or non-school attendance among young people in the secure estate. For example, Transforming Youth Custody published by the Ministry of Justice in 2014, indicated that 86% of young men in Young Offender Institutions have been excluded from school at some point.

One of the purposes of introducing the SEND reforms was to improve the transition to adulthood for young people with SEND, especially around health, employment, independent living and community participation. Research has shown that undiagnosed and significantly unsupported SEND needs will have a highly detrimental effect upon a successful transition to adulthood. Here are some examples of problems experienced by adults whose SEND needs are insufficiently addressed in childhood or adolescence:

**Attention deficit hyperactivity disorder (ADHD)**
Untreated ADHD can cause high and low mood swings, low self-esteem, poor concentration and poor organisational skills. It can also cause impulsive behaviour, short temper and a low boredom threshold.

**Autistic Spectrum Disorder (ASD)**
Adults with autistic spectrum disorder commonly struggle to form close personal relationships, to interpret non-verbal communication and to show empathy. They may display repetitive behaviour, an over reliance on routine plus anxiety.

**Dyslexia**
Unsupported dyslexia leads to confusion over words, numbers or verbal explanations. Sufferers may struggle to read, write and do tests and may suffer from poor self-worth due to their perceived failure in education.

**Dyspraxia**
Dyspraxia can cause difficulties with balance, spatial awareness and eye-hand co-ordination. Difficulties in organising work or following instructions can also be experienced, as can repetitive or uncontrolled speech, erratic behaviour and anxiety.

**Social, emotional and behavioural difficulties**
Adults with social, emotional and behavioural difficulties, may be prone to anti-social behaviour, ranging from temper loss to physical / emotional / sexual or child abuse. They may display a lack of remorse and sociopathic tendencies.

**Depression**
Untreated depression can lead to mood swings, anger, frustration, violence and feelings of hopelessness. A sufferer may experience disturbed sleep patterns, digestive disorders, weight gain or loss, poor concentration and substance abuse.

**Oppositional defiant disorder (ODD)**
Adults with ODD may appear short tempered, argumentative or vindictive. They may wilfully defy rules, be resentful and blame others for their misbehaviour.
Children and young people in custody: supporting young people with SEND
Seeking EHCP assessment

The outcome of a request for an EHCP assessment depends on a range of factors:

- The young person's academic attainment and rate of progress.
- The nature, extent and context of the young person's SEND.
- Any action already taken plus evidence of any resulting progress.
- Evidence of the young person's physical, emotional and social development.
- If over 18, whether staying in education or training would prepare for adult life.

(Code of Practice: 9.14)

Some local authorities use guidelines similar to those used by Sheffield City Council, originally based on a grid produced by Wakefield LA.

<table>
<thead>
<tr>
<th>SEND type</th>
<th>Would be assessed for an EHCP</th>
<th>May be assessed for an EHCP</th>
<th>Unlikely to be assessed for an EHCP</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Speech and language</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Severe and complex difficulties</td>
<td>Severe difficulties</td>
<td>Significant difficulties with receptive and / or expressive language</td>
</tr>
<tr>
<td><strong>Social interaction</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Profound difficulties</td>
<td>Severe and consistent difficulties</td>
<td>Significant and consistent difficulties</td>
</tr>
<tr>
<td><strong>Cognition and learning</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Profound and multiple difficulties</td>
<td>Severe difficulties in the acquisition and use of language, literacy and numeracy</td>
<td>Significant and persistent difficulties in the acquisition and use of language, literacy and numeracy</td>
</tr>
<tr>
<td><strong>Emotional regulation</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Difficulty managing emotional responses leading to extremely difficult or concerning behaviour affecting own/ others' safety</td>
<td>Difficulty managing emotional responses leading to difficult, demanding or concerning behaviour sometimes affecting own safety or that of others</td>
<td>Frequent, intense and lengthy episodes of difficult, demanding or concerning behaviour</td>
</tr>
<tr>
<td><strong>Mental health</strong></td>
<td>Displays symptoms of mental health difficulty that are likely to endanger self or others</td>
<td>Displays symptoms of mental health difficulty that prevent regular attendance at school</td>
<td>Frequently displays symptoms of mental health difficulties</td>
</tr>
<tr>
<td><strong>Visual impairment</strong></td>
<td>Vision loss is classified as profound</td>
<td>Vision loss is classified as severe</td>
<td>Vision loss is classified as significant</td>
</tr>
<tr>
<td><strong>Hearing impairment</strong></td>
<td>Hearing loss is classified as profound</td>
<td>Hearing loss is classified as severe</td>
<td>Hearing loss is classified as significant</td>
</tr>
<tr>
<td><strong>Physical impairment</strong></td>
<td>Multiple complex physical difficulties</td>
<td>Severe physical difficulties</td>
<td>Significant physical difficulties</td>
</tr>
<tr>
<td><strong>Medical condition</strong></td>
<td>A constant severe medical condition that has profound effects on day-to-day functioning</td>
<td>A constant severe medical condition that has effects on day-to-day functioning</td>
<td>A medical condition that is not yet fully controlled</td>
</tr>
</tbody>
</table>

The threshold for considering whether an EHC assessment is necessary is therefore high. Please refer to Paragraph 9.14 of the Code of Practice for the criteria the local authority should use to make their decision.
8. Recommendations and conclusion

Recommendations

Our recommendations can be grouped around three themes:

1. Partnership work and information sharing
2. Support for young people and families
3. Release and resettlement

8.1. Partnership work and information sharing

The holistic nature of the EHCP makes partnership working a must. It requires staff from a range of services (e.g. LA officers, YOT workers, educational psychologists, CAMHS practitioners, speech and language therapists) to work together. Organisations need clear information sharing protocols and service level agreements.

8.1.1 Every organisation should draw up clear lines of responsibility for EHCP and communicate them to all relevant staff

One suggestion was for every YOT (as the key point of contact) to appoint a worker to take a lead on ensuring that all staff are aware of their legal duties and are committed to the process.

8.1.2 All YOTS should maintain a database of all young people working with them on either a community or custodial order

The information should be shared with the LA SEND department whenever a young person with SEND receives an order. This would allow the LA to invite the appropriate agencies when a young person is due for a review.

8.1.3 The LA SEND department should share decisions with the YOT at key stages of the EHCP process

At 6 weeks, the LA should inform the YOT whether the request for EHCP has been accepted or rejected. At 16 weeks, the LA should inform the YOT when the draft plan is sent to the young person and family. The family may choose to share the content of the plan with the YOT should they wish.

8.1.4 The YOT should share early, normal and, where necessary, late release dates from custody with the LA SEND department

Currently the YOT informs the LA SEND department when a young person enters custody. Information about expected release dates should be shared in the same way. There can be tight time lines around these decisions but as a minimum, the YOT should inform the SEND department of the expected date of release.

8.1.5 LA SEND team to be invited to risk panels

Risk panel / complex case review meetings are called by the YOT before a young person is released from custody. Inviting the LA SEND team to attend these meetings enables the LA to offer appropriate support measures. YOTs currently have different procedures. For example, one YOT runs a risk panel (or complex case review) 6-8 weeks before release date and invites the SEND department to these meetings.

8.1.6 EHCP training for magistrates

The Code of Practice (10.73) states that, ‘the court may ask for sight of the detained person’s plan’. Magistrates will be better able to understand the plans if they have undergone training in EHC processes.
8.2. Support for young people and families

Young people and their families should be central to the process.

8.2.1 More extensive use of SEND Information and Advice Support Services (SENDIASS) plus independent supporters

Some delegates were unaware that SENDIASS and independent supporters can visit young people in the secure estate and work with parents and families in their own communities. The independent supporters have been granted an extension until March 2017.

“The independent support service must be extended.”
- Training attendee

8.2.2 It may be beneficial for the EHCP co-ordinator to meet with the young person and their family before setting up the multi-agency meeting

As the goals and aspirations of the young person are at the core of good EHC planning, the EHCP co-ordinator should meet with the young person and their family before a multi-agency meeting takes place. This would enable the co-ordinator to represent their views and aspirations, particularly if the young person has communication needs which might disadvantage them in a formal setting. The YOT and secure estate would need to facilitate.

8.2.3 A young person in custody should be assigned a worker upon receipt of a draft final EHC Plan

This person should ensure that the young person fully understands the plan and any implications it might have for them. The worker should be the person who has the best relationship with that young person either in or out of custody.

8.2.4 Access to speech and language therapy (SALT)

At least 60% of young people in custody are reported to have communication needs* and the EHCP process creates an urgent need for improved access to speech and language therapists. Without it, a young person is less likely to understand the consequences of their behaviour and to engage in the system. 5% of the young people who took part in the involvement project did not know why they were in a Young Offender Institution.

“Given the incredibly high prevalence of speech, language and communication needs in the youth justice cohort, it is essential that SALT provision is given absolute priority.”
- The Communication Trust, 2014

8.2.5 Access to educational psychologist

In order to diagnose SEND, the educational psychologist from the home LA needs to be able to visit the young person in their custodial institution. For example, one YOT has successfully made use of video facilities, enabling workers to link up with young people in the secure estate without incurring the time and expense of travel.

8.3. Release and resettlement

Our involvement workers reported that young people with SEND can experience high levels of anxiety about their release. It is a point where they can be very vulnerable. Successful resettlement requires services to draw up well defined procedures and clear lines of communication.

8.3.1 EHCP review to take place 10-12 weeks before expected release

The Code of Practice (paragraph 10.136) states that the EHCP should be reviewed ‘as soon as possible on release’. We recommend that this be more specific. Beginning the review at least 10-12 weeks before release allows time for a full resettlement process including identification of an education or training place. This would minimise the risk of any gap between release and starting education or training.

8.3.2 Use of Release on Temporary Licence (ROTL) to support successful resettlement

Young people are currently eligible for release from the halfway point of their sentence. We identified some good practice of using the ROTL process to prepare for resettlement e.g. accompanied visits to education or training providers or to view accommodation. Where these activities are not practical, there can be visits to the nearest town, shopping for clothes or viewing photos of proposed accommodation. This is however a sensitive issue and the process demands full risk assessments and victim consultation.

8.3.3 Community review after release

The holding of a review in the community within 2-4 weeks of release means that agencies can check how the young person is progressing and respond if their needs have changed. All professionals and agencies involved in transition, including the education or training provider, should be invited.

“I feel that it would be really important to link in more with the resettlement teams in the community.”

- Training attendee
Conclusion

YOTs and the secure estate are living through a period of profound change. ‘Transforming Youth Custody’ was introduced in 2015 and a major review of youth justice was also announced by the Ministry of Justice, reporting in 2016. This followed on from the Transforming Rehabilitation agenda which outsourced large portions of the adult probation service in 2015. Additionally the Youth Justice Board has been phasing in the key AssetPlus assessment and intervention planning system. It is against this background of major change that the 2014 SEND reform is trying to establish itself in YOTs and the secure estate.

The project found some pockets of good practice but in general most YOTs and the secure estate are struggling to come to terms with their responsibilities under the 2015 Code of Practice. There was acknowledgement however that those responsibilities form an important part of workers’ practice with young people in the criminal justice system, such is the prevalence of communication difficulties and social, emotional and behavioural difficulties amongst young people entering that system.

Evidence from this project indicates that there is scope for more work to further embed Education, Health and Care plans into everyday practice within YOTs and the secure estate in other parts of the country.
9. Glossary

**AssetPlus:** The new holistic assessment and planning intervention framework which has been developed by the Youth Justice Board.

**Secure estate:** Secure children’s homes, secure training centres and young offender institutions.

**SEND Information and Advice Support Services / SENDIASS:** Please note that this is used as a generic term to denote the information and advice service for parents, however local authorities may use different terms.

**Youth Offending Team / YOT:** Please note that some local authorities have different names for this service, however ‘YOT’ is used as a generic term in this guide unless referring to a specific local authority.

10. About Sheffield Futures

Sheffield Futures is an independent charity helping individuals and communities, particularly the most vulnerable, to achieve their full potential in learning, employment and life. We support young people and adults with careers and educational guidance and personal development. Much of our work is with young people who are at risk of social exclusion, helping them to avoid anti-social and offending behaviour.

We have a long and proud history of supporting young people with SEND. Our SEND careers advisors work both within mainstream schools and specialised provision in and around Sheffield. We work with a range of professionals, including social workers, educational psychologists and speech / language therapists to help these young people make positive transitions.

Our multi-award winning involvement team has developed new structures to ensure young people’s voices are at the heart of everything we do. We believe that this experience enabled us to support the EHCP implementation in a unique way.

**Special thanks to Sheffield Youth Justice Service and:**

**South and West Yorkshire Resettlement Consortium**

Throughout this project, Sheffield Futures has worked in partnership with the South and West Yorkshire Resettlement Consortium which was set up as part of the Government’s Transforming Youth Custody programme. The region covers 9 YOTs, 2 Local Authority Secure Children’s Homes and 1 YOI:

- Barnsley YOT
- Bradford YOT
- Calderdale YOT
- Doncaster YOT
- Kirklees YOT
- Leeds YOS
- Rotherham YOS
- Sheffield YJS
- Wakefield YOT
- Adel Beck Secure Children’s Centre
- Aldine House Secure Children’s Centre
- Wetherby Young Offender Institution
### Appendix - Voices of young people

<table>
<thead>
<tr>
<th>SEND</th>
<th>Definitely Yes</th>
<th>Maybe/Sometimes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>I have heard of EHCP</td>
<td>18%</td>
<td>0%</td>
<td>82%</td>
</tr>
<tr>
<td>I have heard of SEND</td>
<td>69%</td>
<td>0%</td>
<td>31%</td>
</tr>
<tr>
<td>I think / feel that I may have SEND</td>
<td>47%</td>
<td>0%</td>
<td>53%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Why I’m here</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I understand why I’m here</td>
<td>95%</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td>The court’s decision to send me here was fair</td>
<td>63%</td>
<td>29%</td>
<td>8%</td>
</tr>
<tr>
<td>My prison sentence is fair</td>
<td>50%</td>
<td>29%</td>
<td>21%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>What it’s like here</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I feel the staff here listen to me</td>
<td>20%</td>
<td>66%</td>
<td>14%</td>
</tr>
<tr>
<td>I feel that staff here treat me with respect</td>
<td>24%</td>
<td>66%</td>
<td>10%</td>
</tr>
<tr>
<td>I feel that staff here are honest and fair</td>
<td>10%</td>
<td>68%</td>
<td>22%</td>
</tr>
<tr>
<td>I get on with other young people here</td>
<td>59%</td>
<td>36%</td>
<td>5%</td>
</tr>
<tr>
<td>I like to spend time with other young people</td>
<td>70%</td>
<td>22%</td>
<td>8%</td>
</tr>
<tr>
<td>I like to be on my own</td>
<td>22%</td>
<td>43%</td>
<td>35%</td>
</tr>
<tr>
<td>I get on with my caseworkan</td>
<td>72%</td>
<td>14%</td>
<td>14%</td>
</tr>
<tr>
<td>I trust my caseworkan</td>
<td>64%</td>
<td>27%</td>
<td>9%</td>
</tr>
<tr>
<td>I enjoy education</td>
<td>55%</td>
<td>32%</td>
<td>13%</td>
</tr>
<tr>
<td>I feel safe</td>
<td>86%</td>
<td>14%</td>
<td>0%</td>
</tr>
<tr>
<td>I have benefited from being here</td>
<td>29%</td>
<td>48%</td>
<td>23%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The future</th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I am looking forward to getting out</td>
<td>95%</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td>I want to have a fresh start</td>
<td>75%</td>
<td>25%</td>
<td>0%</td>
</tr>
<tr>
<td>I want to see my family</td>
<td>94%</td>
<td>6%</td>
<td>0%</td>
</tr>
<tr>
<td>I want to see my friends</td>
<td>81%</td>
<td>19%</td>
<td>0%</td>
</tr>
<tr>
<td>I want to make new friends</td>
<td>47%</td>
<td>35%</td>
<td>18%</td>
</tr>
<tr>
<td>I want to get a job</td>
<td>75%</td>
<td>12.5%</td>
<td>12.5%</td>
</tr>
<tr>
<td>I want to do some training or learning</td>
<td>59%</td>
<td>35%</td>
<td>6%</td>
</tr>
<tr>
<td>I want to go back to school or college</td>
<td>47%</td>
<td>35%</td>
<td>18%</td>
</tr>
<tr>
<td>I want to claim benefits</td>
<td>0%</td>
<td>14%</td>
<td>86%</td>
</tr>
<tr>
<td>I want to live on my own</td>
<td>56%</td>
<td>19%</td>
<td>25%</td>
</tr>
<tr>
<td>I want to live with my family</td>
<td>57%</td>
<td>19%</td>
<td>24%</td>
</tr>
<tr>
<td>I want to live in supported housing</td>
<td>13%</td>
<td>31%</td>
<td>56%</td>
</tr>
<tr>
<td>I want to drink alcohol</td>
<td>24%</td>
<td>41%</td>
<td>35%</td>
</tr>
<tr>
<td>I want to smoke cigarettes</td>
<td>25%</td>
<td>31%</td>
<td>44%</td>
</tr>
<tr>
<td>I want to take drugs</td>
<td>13%</td>
<td>27%</td>
<td>60%</td>
</tr>
<tr>
<td>I want to get support</td>
<td>33%</td>
<td>54%</td>
<td>13%</td>
</tr>
<tr>
<td>I want to get back into a hobby</td>
<td>56%</td>
<td>38%</td>
<td>6%</td>
</tr>
<tr>
<td>I want to find new hobbies</td>
<td>43%</td>
<td>43%</td>
<td>14%</td>
</tr>
<tr>
<td>I want to work with my YOT worker</td>
<td>60%</td>
<td>27%</td>
<td>13%</td>
</tr>
<tr>
<td>I want to go back to prison</td>
<td>0%</td>
<td>12%</td>
<td>88%</td>
</tr>
</tbody>
</table>
Children and Young People in Custody

Supporting young people with Special Educational Needs and / or Disabilities (SEND)

Final programme report and recommendations for good practice

March 2016

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