

[Your full name
Your address
Your postcode
Your email address
Your telephone number]

Date: [XX/XX/XXXX]

To: [Local Authority SEND Team / SEN Department]

[Local Authority address or email]

Re: Request for an Education, Health and Care Needs Assessment for [Child's full name, DOB date of birth]

Dear Sir/Madam,

I/ we write as the parent(s) of [child's full name, born DOB], to formally request that the local authority secures an Education, Health and Care (EHC) needs assessment pursuant to section 36 of the Children and Families Act 2014. I consider that the statutory threshold for assessment is met and that a refusal to assess would be contrary to the legal test.

Part one of the test is that the child or young person has or may have special educational needs. Evidence supporting this is below:

My child is currently attending [name of school/setting/not attending school]. My child has special educational needs in the following areas: [summary of needs]. These needs are persistent and are having a significant adverse effect on my child's [educational progress, social development, emotional regulation and ability to access the curriculum].

Part two of the test is that it may be necessary for special educational provision to be made for the child/young person through the issuing of an EHC plan. Evidence pertaining to this is outlined below:

Despite the support already being provided, my child continues to experience substantial difficulty. The provision currently in place through SEN Support has not been sufficient to meet their needs, and progress remains limited, inconsistent or dependent on significant additional intervention.

I understand that this is the only legal test the local authority must apply: **whether my child has or may have special educational needs** and **whether it may be necessary for special educational provision to be made for my child in accordance with an EHC plan**. I submit that both parts of that test are met in this case, as detailed above.

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In support of this request, I rely upon the following evidence: **[amend bullet points as relevant and include in the submitted documents]**

- **[Attainment and progress data showing that my child is working below expected levels and/or making limited progress.**
- **Information about the nature, extent and context of my child's needs, including learning, communication, social, emotional, behavioural, sensory and/or physical difficulties.**
- **Records of the action already being taken by the school/setting to identify, assess and meet need, including SEN Support plans, interventions and review notes.**
- **Evidence that progress, where seen, has only been achieved through much additional intervention and support over and above that which is ordinarily available.**
- **Reports or advice from professionals, where available, including educational psychology, speech and language therapy, occupational therapy, paediatrics, CAMHS or other relevant services.**
- **Attendance, behaviour and exclusion records, where relevant.**
- **Parent and teacher observations and any other supporting documents.]**

The enclosed evidence shows that my child's needs are not adequately being met through ordinary SEN Support and that an EHC needs assessment is necessary to determine the full extent of their needs and the provision required.

If the local authority is minded to refuse this request, I ask that it specifically addresses any reliance on the following points, as these are not legal requirements in themselves: whether my child has a diagnosis, whether a particular assessment report has already been obtained, whether the school has spent a specific amount of funding or implemented a certain number of hours support, or whether all possible interventions have already been exhausted. The legal test remains whether my child **may** have SEN and whether special educational provision **may** be necessary through an EHC plan. Furthermore, this legal test is different from that which must be applied in the decision about whether or not to issue an EHC plan. **I/we** have established that the local authority **must** carry out an EHC needs assessment to determine the full extent of **[child's name]** needs.

In respect of the decision to be made under section 36(8) of the Act, the following case is pertinent:

RB v Calderdale MBC (SEN) [2018] UKUT 390 (AAC)

The Reasons for Decision, point 3, stated by the Judge in the above case was:

*"This case highlights the importance of local authorities and tribunals applying the correct test for deciding whether an EHC needs assessment is required. Assuming that the child or young person in question has a disability or a learning difficulty, the correct question at this stage is whether it may be necessary for special educational provision to be made, not whether it is necessary for such provision to be made. The answer to the latter question can only be determined on the basis of the evidence generated by the EHC needs assessment itself. **At the prior stage where conducting an EHC needs assessment is being considered, one only needs a provisional rather than definitive answer to the issue of necessity.** I am allowing R's appeal for the following reasons."*

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You are required by law, in the duty pursuant to SEND regulation 4, to reply to this request within six weeks, and that if you refuse to assess **[child's name's]** needs, **[I/we]** as **[his/her]** parent(s) will be able to appeal to the First-tier Tribunal (Special Educational Needs and Disability).

Yours faithfully,

[Your full name]

[Relationship to child, if desired]

Template for guidance only; adapt to your child's circumstances.

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