Miranda uses her background as a SEN teacher and SEN parent to help parents to be the voice for their children. She believes that all children have the right to achieve and have a full and fulfilling education, which allows them to achieve their full potential. She hopes this post will help you on your journey.

Applying for an Educational Health Care Plan, EHCP (Part 1)
What you need to know.

Top Tips - Know your truths from the myths:

1. An Educational Psychologist, including those employed by the local authority, can diagnose dyscalculia.
2. All Educational Psychologists are regulated by the same governing body, so a private or NHS report have equal value. This is the same for many professionals i.e. Speech and Language Therapist, Occupational Therapist, Physiotherapist.
3. As a parent/carer you can apply for an Educational Health Care Plan for your child without backing from a school or college.
4. A child does not have to be 'behind' to apply for an Education Health Care Plan - just not reaching their full potential because of a learning difficulty or disability.
5. When you apply to your Local Authority for an Educational Health Care Plan you are applying for an assessment to find out the needs of the child not for the plan itself.

There are so many myths out there when it comes to Educational Health Care Plans (EHCP) that it is very hard to know where to start. When you apply to your local authority for an EHCP you are actually applying for an educational health care needs assessment (EHCNA) and not for a plan. A plan is what you are hoping to achieve at the end of the process. Schools often tell parents they won't get an EHCP for their child as the child isn't far enough behind, or their difficulties are not as bad as other children who don't have one. It is also sometimes thought that if a child or young person is meeting age-related expectations (ARE) then they cannot apply for an assessment. This is incorrect - you are applying for an assessment because a child or young person is not reaching their full potential. The best way to understand ARE is to talk in "old money" about grades; a child getting Cs is great, but not if they should be getting A*s with the correct support in meeting their difficulties. This includes social, emotional and health difficulties, so you might have a child that is achieving their ability academically but has a lot of difficulties with interaction, communications and friendships and needs additional support in this field. They have as much right to apply and receive an EHCP.

If a school says they won't apply, apply yourself. Remember it's the local authority who decides whether they will assess for an EHCP and not a school. The legal bar for a local authority to assess is lower than people realise. The Children and Family Act 2014, Section 36(8) says:

The local authority must secure an EHC needs assessment for the child or young person if, after having regard to any views expressed and evidence submitted ... [that if] the authority is of the opinion that the child or young person has or may have special educational needs [and] it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.

You don't need a diagnosis for your local authority to carry out an EHC assessment. Just evidence that you believe that your child has special educational needs and that they need provision that is additional or different from that made generally to others. The evidence can be in the form of reports from school, doctors' letters, evidence of your child's work, outside agencies working with your child together with a letter from you saying why you think the assessment is needed and a plan issued. Some local authorities want you to fill out their own form; normally long and complicated! You don't need to use this as it's a local policy and not law. There are many templates online to use that are much clearer; a quick Google search is all that is required.

When you are writing up the evidence it's good to remember to cover the aspects of the law:

Does your child have special educational needs?

If your child already has a diagnosis or multiple diagnoses then list these first and how they affect your child on a day to day basis, both in school and outside of school. A child may give the school the impression that they are coping and everything is fine but when they get home it is clear they are not and/or they may refuse to go to school.

If your child has no diagnosis yet but you think that your child has special educational needs then say what you think they are, for example, dyscalculia, autism, anxiety, and then write why; or you may use the following sub-headings: Communication and Interaction, Cognitive and Learning, Social Emotional and Mental Health difficulties, Sensory and/or Physical need. These sub-headings come from the Special educational needs and disability code of practice: 0 to 25 years (SEND code of practice). It is good to think of the code of practice as the user's guide to the laws related to special educational needs.

Why do you think your child might need an EHCP?

You need to explain what you are hoping to achieve by your child having an EHCP. Think about all the needs you have described and ask yourself; what help do I think my child needs with this difficulty? For example, for all maths lessons to be taught in small groups by a specialist teacher who is trained in dyscalculia or to have extra 1:1 weekly (or more) maths lessons with a specialist teacher who is trained in dyscalculia (this can be a teacher within school or a tutor if the school doesn't have a suitably qualified professional).

Local authorities have a habit of turning down parents especially at this early point, but please don't get disheartened. You can appeal. Some of the reasons local authorities give for not assessing are unlawful. You may be told - the school must spend notional budget (meaning school must spend approximately £6000 before they will assess); no educational psychologist report was provided (you don't need this to ask for an assessment); schools can provide provision via the local offer (just because a service is available it does not mean you can access to it due to demand and funding); instead of assessing we will give school 'X' amount of additional money and see how it goes. This last one does sound good but remember this funding may only be temporary and offered only once (the next year the school would have to demonstrate that they need the funding repeated). Also, without a full assessment to find out what the needs of a child how does the local authority know if they are providing everything needed to support the child? Bear in mind that you are asking for an assessment of need from a variety of professionals which will hopefully lead to an EHCP with detailed listing of your child's needs, the provisions they will make, and the finances awarded to support your child. Likewise, if your child needs input from a therapist the local authority does not have the power to make this happen if it is not written into an EHCP. It is important to know that schools are unable to appeal if their request for an assessment is turned down but you as the parent always have the right to appeal.

Appealing to a tribunal sounds daunting but it's not as bad as it sounds. You do have an option to go to mediation but at this stage there is nothing to really mediate over with the local authority, as they either will or won't assess and they have already decided that they won't. The form you need is SEND35a which can be found on the government website (just search the name of the form and it will come up). The tribunal does what's called a paper hearing, so no going to court.

The tribunal will look at all the evidence you have sent in (which is the same evidence you sent to the local authority) with any updates you have made. The form covers the areas that the tribunal will be looking at to see if your child meets the legal criteria. If they do, they will tell the local authority that they have to assess. Once you file at tribunal some local authorities will concede before a hearing, often at the final hour. Others will respond with a list of why they won't assess which contains pages of quotes from the Children and Family Bill and/or the Code of Practice but this is another local authority tactic to put you off. You have a right to respond to the local authorities' grounds for not assessing stating why you disagree with their argument.

This process is time consuming, frustrating, and emotionally draining but please keep going. 90% to 95% (data academic year 2019/20) of parents win at the tribunal and these are just the number of cases, which are actually heard.

For information on the next stage please see,
Applying for an Educational Health Care Plan. What you need to know. (Part 2)