

EHCP TERMINOLOGY AND TIMESCALES

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EHC NEEDS ASSESSMENT – Local authority must reply within 6 weeks to let you know whether it agrees to carry out an EHC Needs Assessment (Reg 4 (1) of The Special Educational Needs and Disability Regulations 2014)

WHAT HAPPENS IN AN EHC NEEDS ASSESSMENT –

Your local authority (LA) will carry out the assessment. During the assessment, your LA must seek information and advice on:

- your child or young person's needs
- the provision required to meet those needs, and
- the outcomes expected to be achieved by your child or young person.

The list of people your LA must get advice and information from during an assessment is set out in Regulation 6(1) of The Special Educational Needs and Disability Regulations 2014 (The SEND Regulations 2014):

- a. you, as your child's parent or as a young person
- b. educational advice (usually from the head teacher or principal)
- c. medical advice and information from a health care professional
- d. psychological advice and information from an educational psychologist
- e. advice and information in relation to social care
- f. advice and information from any other person the local authority thinks appropriate
- g. where your child (or you as a young person) is in or beyond year 9, advice and information in relation to provision to assist your child/you in preparation for adulthood and independent living, and
- h. advice and information from any person you reasonably request that the local authority seek advice from.

Your LA should consider whether a full [social care](#) assessment or [health](#) assessment is also needed.

You can ask your LA to seek advice from anyone within education, health or social care, if it is a reasonable request, as set out in SEND Regulation 6(1)(h). This could include a speech and language therapist, occupational therapist, physiotherapist or someone from CAMHS (Child and Adolescent Mental Health Services).

A request would be considered reasonable where, for example, a child or young person has been identified as needing an assessment already and they are on a waiting list, or where the school, college or other professional has said this advice may be needed.

You can ask your LA to get advice from a particular type of professional (such as an occupational therapist with training in sensory processing difficulties), but it would not normally be reasonable to ask for advice from a named individual.

Equally, it's not likely to be reasonable for you to request that information under SEND Regulations 6(1)(a)-(g) is sought from a named individual (such as an independent educational psychologist) rather than from the one proposed by the LA.

Can I submit my own reports?

Yes. If you already have your own advice and reports, these can be submitted as part of your own advice (remember that SEND Regulation 6(1)(a) says the LA must ask for your advice) to ensure that they form part of the assessment process. This evidence must then be considered when the LA makes its decision.

We are aware that some LAs say they cannot consider private reports. This is not true. SEND Regulation 7(b) says that the LA must consider **all** information provided by or at the request of a child, parent or young person.

Your LA must send copies of your advice and information to all the other people from whom advice and information is being sought. This is set out in SEND Regulation 6(3).

How should your LA involve you and your child?

Your LA must:

- consult with you and your child. It must consider your views, wishes and feelings
- consider any information that you provide
- engage you and your child and ensure that you can participate in decisions, and,
- minimize disruption for you and your family.

This is set out in SEND Regulation 7.

How long will this take?

Any public body (such as a local NHS service) who is asked for information and advice must respond within six weeks. This is set out in SEND Regulation 8(1) and paragraph 9.52 of the Code. The only exceptions to this are if:

- during that six-week period, exceptional circumstances affect you or your child
- you or your child are away for a continuous period of not less than four weeks, or
- you fail to keep an appointment for an examination or a test.

This is a legal duty which **must** be complied with; it cannot be avoided because there is a long waiting list or because there are staffing shortages. If your LA is genuinely unable to get one of the necessary pieces of advice during the time frame in its usual way, it should consider alternative ways of getting the advice (for example, getting an independent report).

What will happen when my LA makes a decision?

If your LA decides not to issue an EHC plan, it must tell you within 16 weeks of the date when the request for an EHC needs assessment was made. This is set out in [SEND Regulation 10\(1\)](#). You can [appeal this decision to the SEND Tribunal](#). If your LA decides to issue an EHC plan, it will first send out a [draft plan](#) for you to review and comment on. It must then send the final EHC plan to you within 20 weeks from the date the EHC needs assessment was requested.

This is set out in [SEND Regulation 13\(2\)](#). There is no deadline for the LA to send the draft plan. However, to meet the deadline to send the final plan, it would need to send out the draft a maximum of 14 weeks from the date the assessment was requested.

What sections should an EHC plan have?

Under Regulation 12 of the Special Educational Needs and Disability Regulations 2014 (the “**SEN Regs**”), an EHC plan must have the following sections:

- **Section A:** the **views, interests and aspirations** of the child and his parents or the young person.
- **Section B:** the child or young person’s **special educational needs (“SEN”)**;
- **Section C: health care needs** which relate to their SEN.
- **Section D: social care needs** which relate to their SEN or to a disability.
- **Section E:** the **outcomes sought** for the child or young person.
- **Section F:** the **special educational provision** required to meet their SEN.
- **Section G:** any **health care provision** reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN.
- **Section H:** any **social care provision** required from social services under the Chronically Sick and Disabled Persons Act 1970, and/or reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN.
- **Section I:** the **name of the school or other institution** to be attended by the child or young person, and the type of that institution (or just the type if no specific institution is named);
- **Section J:** details of any **direct payment** which will be made.
- **Section K:** copies of all the advice and information obtained as part of the EHC needs assessment.

What are the key things to look for?

The key things to check are that:

- **all** of the child or young person's SEN are set out in section B
- **all** of the special educational provision (the extra help they need with learning) required by the child or young person is set out in section F, and
- the school or college that they will attend in set out in section I (this applies to final EHC plans only because a draft EHC plan cannot name a setting).

This is because the law says:

- if a need is included in section B, then there must be provision for that need set out in section F
- if provision is included in Section F, then the LA **must ensure** that this provision is made, and
- if a school, college or other setting is named in Section I, then it **must** admit the child or young person for whom the EHC plan is maintained (this duty applies to almost all schools and other settings – for more information see our page on [choosing a school](#)).

Can the sections of the EHC plan be combined?

No – the law says the sections of the EHC plan must be kept separate, so that it is clear what needs and provision are in what section.

Local authorities (LAs) are only legally required to secure the special educational provision set out in section F. If provision is written in a way which is unclear, or put into the wrong section, then your EHC plan is likely to be very difficult to enforce, meaning your child or young person may not receive the special educational provision they need.

ANNUAL REVIEWS:

If your child has, or you as a [young person](#) have, an [EHC plan](#), your local authority (LA) must review it at least once a year. This is to make sure it stays up-to-date and continues to provide the support needed.

At the end of the review, there are only three decisions your LA can make:

1. To maintain the EHC plan as it is (not make any changes)
2. To change the EHC plan (and say what changes it is proposing), or
3. To [cease the EHC plan](#) if it thinks it is no longer necessary for it to be in place, [following consultation](#).

The following steps **must** take place in an annual review:

- Your LA must consult with you (and with the school or institution being attended if there is one) about the EHC plan, and take account of your views, wishes and feelings.
- An annual review meeting must take place to discuss the EHC plan.
- Information must be gathered from you as well as from professionals about the EHC plan, and then circulated two weeks before the meeting.
- After the meeting a report of what happened must be written and sent to everyone who went to the meeting or provided information to be discussed.
- After the meeting the LA reviews the EHC plan.
- The LA must notify you of its decision within four weeks of the meeting.

All these steps – not just the meeting – must be followed in order for an annual review to be completed.

From Year 9 onwards, your local authority (LA) must make sure that the annual review meeting considers what provision is required to help your child, or you as a young person, to prepare for adulthood and independent living. This is a legal duty found in regulation 20(6) and regulation 21(6) of The SEN and Disability Regulations 2014 (The SEND Regulations 2014).

Local authorities (LAs) have a legal duty to review and amend an [education, health and care \(EHC\) plan](#) when a child or young person transfers from one phase of education to another.

Phase transfer is the moving between stages of education:

- early years education to school
- infant to junior school
- primary to middle school
- primary to secondary school
- middle to secondary school
- secondary school to a post 16 institution

For those transferring from secondary school to a post-16 institution, the EHC plan must be reviewed and amended by 31 March in the year of transfer.

For all other phases of transfer, the deadline is 15 February in the year of transfer.

Where your LA is amending (or changing) the EHC plan, it must:

- Notify you as the parent or young person of its decision within four weeks of the meeting.
- Send to you [a draft of the proposed amendments together with the decision letter](#), so that you can make comments on the content of the EHC plan.
- Finalise the amended EHC plan within eight weeks of sending to you the proposed amendments.