

## You can contact us

Wolverhampton Information, Advice & Support Service  
'for educational needs and disability'



Impartial information, advice and support on matters relating to a child and young person's special educational needs or disability from birth to 25 years.

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# Wolverhampton Information, Advice and Support Service

'for special educational needs and disability'



## Education, Health and Care Plans



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## Families at the heart of the system.

Children and young people (and their parents or carers) will be fully involved in decisions about their support and what they want to achieve. This is not just best practice it is a legal requirement.

With this in mind, this leaflet is written for both parents and carers and for young people. When you see the word "you" it is applicable for both.

For parents and carers reading this leaflet, references to involving you also extend to involving your child. For example, on page \*\*\* it says, "The Local Authority must tell you why it thinks that an EHC assessment is not necessary" this means this means that your views as parents or carers and those of your child should be taken into account.



Many children and young people will need extra help at some time during their education. In most cases schools and \*settings will be able to meet individual needs through **SEN support** from their own resources and expertise. Please read our leaflet "Support for Children and Young People in Education". However, some children and young people may need support that is over and above this and may benefit from an **Education, Health and Care plan (EHC plan)**.

*\*'settings' refers to early years establishments and post 16 provision*

# What is an Education, Health and Care plan?

An EHC plan (sometimes referred to as a **single plan**) is a legal document written by the local authority. It describes the special educational needs that a child or young person has and what is required to meet those needs (referred to as 'provision'). The EHC plan will detail any required provision from education, health and social care.

An EHC plan is for children and young people who need more support than their school or other setting can provide. An EHC plan can start from a child's birth and continue up to the age of 25 if the young person remains in education or training.

The SEND Code of Practice says:

The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood. (9.2)

Before an EHC plan can be produced, an **Education, Health and Care needs assessment** must take place. This assessment may also be referred to as **single assessment** or **statutory assessment**.

**Education, Health and Care Plans** replace **Statements of Special Educational Needs** and **Section 139a Learning Difficulty Assessments (LDA)**.

# What is an EHC needs assessment?

It is a detailed look at the special educational needs (SEN) of a child or young person and the support he or she may need in order to make progress in education or training.

Local authorities are responsible for carrying out EHC needs assessments under the Children and Families Act 2014.

## **The needs assessment brings together information about:**

- attainments and rates of progress
- special educational needs
- what has already been done
- the difference that support has made
- physical, emotional and social development and health needs

## **Information is gathered from:**

- you (parents and young people)
- the setting or school
- professionals working with you the child

# When is an EHC needs assessment necessary?

The school or setting can usually provide SEN support to meet the special educational needs of most children and young people. Sometimes other professionals will give advice or support.

Some children and young people need more help than the school or setting is able to provide from its own budget and resources. If a child or young person is still not making progress despite SEN support, an EHC needs assessment should be considered.

The law states that if a child or young person has or 'may' have special educational needs which 'may' require provision via an EHC plan, the Local Authority must conduct an EHC needs assessment. This means that proof is not required to show that an EHC plan is necessary in order for an assessment to take place, just that it 'may' be necessary.

## **The SEND Code of Practice says:**

A local authority must conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. (9.3)

If you think that more help is needed than the school/setting can provide, you can ask for an EHC needs assessment.

## **The SEND Code of Practice says:**

In considering whether an EHC needs assessment is necessary, local authorities should pay particular attention to the views, wishes and feelings of the child and his or her parent, or the young person. (9.12)

Some children and young people will have needs that clearly require support through an EHC plan. As soon as the Local Authority is aware that this is the case, it must start the process without delay.

## Who can ask for an EHC needs assessment?

- parents - by writing to the local authority
- a young person over the age of 16 but under the age of 25 (see note about decision making on inside cover)
- a person acting on behalf of a school or setting, but only after talking with you first. These requests are known as 'responsible body requests'

It is always a good idea to talk to the school or setting before asking for an EHC needs assessment.

# What happens when the Local Authority receives a request for an EHC needs assessment?

As soon as the Local Authority receives a request for an EHC needs assessment you must be notified. The decision whether to assess or not must be made within six weeks.

## The SEND Code of Practice says:

In considering whether an EHC needs assessment is necessary, the local authority should consider whether there is evidence that despite the early years provider, school or post-16 institution having taken relevant and purposeful action to identify, assess and meet the special educational needs of the child or young person, the child or young person has not made expected progress. (9.14)

## SAM Panel

Wolverhampton Local Authority has a SAM Panel (Statutory Assessment Moderation Panel). SAM Panel is an advisory board to ensure transparency about the decision making process based on each child or young person's individual needs. Professionals from a wide range of services across education, health and social care attend meetings every three weeks. The decision to assess is made by the Local Authority, the SAM panel simply advises.

The Local Authority will look at all the information and must tell you whether it has decided:

- to start the EHC needs assessment immediately
- OR
- that an EHC needs assessment is not necessary.

# What happens if the Local Authority decides that an EHC needs assessment is not necessary?

The Local Authority must tell you why it thinks that an EHC needs assessment is not needed. It must also tell you about:

- your right of appeal to the Special Educational Needs and Disability Tribunal and the time limit for appealing
- independent disagreement resolution and mediation
- how to get further information, advice or support

SEN support will continue. An assessment can be requested again in the future.

If you disagree with the decision, the Information, Advice and Support Service (IASS) can explain your options to you.

See page XXX

"Resolving disagreements"

## What if the Local Authority decides that an EHC needs assessment is necessary?

The Local Authority will write to you to tell you what will happen next and ask for your views. Your views are really important.

### The SEND Code of Practice says:

Local authorities must consult the child and the child's parent or the young person throughout the process of assessment and production of an EHC plan. They should also involve the child as far as possible in this process. The needs of the individual child and young person should sit at the heart of the assessment and planning process. (9.21)



IASS can give you information, advice and support to help you with this.

## Key principles of an assessment:

- Children, young people and families must be asked for their views
- There should be a 'tell us once' approach, with a system for sharing information so that families don't need to repeat information or go through lots of different assessments
- Information, advice and support must be available to families

The Local Authority will ask a number of other people for information and reports. This is called 'advice' and it should include information about:

- education, health and care needs
- desired outcomes
- the special educational, health and care provision required to meet identified needs and achieve the desired outcomes

## The Local Authority must ask for advice and information from:

- you (parents or young person)
- the school or setting
- an educational psychologist
- health professionals - this might include a paediatrician, speech and language therapist, physiotherapist or occupational therapist
- social care staff
- anyone else you ask them to contact who may be able to give relevant advice.

### The SEND Code of Practice says:

The evidence and advice submitted by those providing it should be clear, accessible and specific... (9.51)

For children and young people with a hearing or visual impairment the Local Authority must also seek information and advice from a suitably qualified teacher.

You will have the chance to discuss your views and be involved in the assessment, and you will receive a copy of all reports.

If you would like information, advice or support during the EHC needs assessment contact IASS. This can include having an **Independent Supporter** to help you.

An Independent Supporter is an individual who has completed accredited training by the Council for Disabled Children and whose specific role is to help parents, carers and young people through the EHC needs assessment and planning process.



Sometimes advice and information is already available because other professionals have been involved.

**The SEND Code of Practice says:**

The local authority must not seek further advice if such advice has already been provided (for any purpose) and the person providing the advice, the local authority and the child's parent or the young person are all satisfied that it is sufficient for the assessment process. In making this decision, the local authority and the person providing the advice should ensure the advice remains current. (9.47)

This means that unless you are satisfied with the advice given then it not sufficient.

# When does the EHC needs assessment end?

Once the Local Authority has all the information and advice it must decide whether an EHC plan is required or not. There are two possible outcomes:

## 1. The Local Authority decides not to make an EHC Plan.

Sometimes the Local Authority will decide that the special educational needs can be met through SEN support. If this is the case, the Local Authority must tell you its decision within 16 weeks of receiving a request for an EHC needs assessment. If the decision is not to make a plan, a Summary of Need will be produced.

### Summary of Need

This is a document that summarises a child or young person's individual needs and how they should be met through the resources ordinarily available.

It will help the setting to plan, with families, a programme of support through the assess, plan, do, review cycle of SEN Support and sets out monitoring and review arrangements. See our leaflet SEN Support for children and young people in education for further details.

The Local Authority must also tell you about your right of appeal. If you disagree with the Local Authority's decision IASS can explain your options to you.

## 2. The Local Authority decides an EHC plan is necessary.

If this is the case, the Local Authority must write a draft plan. It will send you the draft EHC plan and copies of the reports so that you can read it all.

# What does an EHC plan include? Template plan in background

The plan will be based on the 'advice' and information collated during the assessment. The Local Authority must give good reason if recommendations gathered during the assessment are not included in the plan.

Every plan must include the following (each local authority can decide how to set these out):

- A: The views, interests and aspirations of the parent and child or the young person.
- B: The child's or young person's special educational needs.
- C: Health needs related to their SEN.
- D: Social care needs related to their SEN.
- E: Planned outcomes.
- F: Special educational provision (provision which 'educates or trains' is special educational provision not health or social care provision).

## Guidance on specificity

Provision must be specified for each and every need shown in section B. It should be clear how the provision will support achievement of the outcomes. Provision must be detailed and specific and should normally be quantified e.g. in terms of the type, hours and frequency of support and level of expertise. Words such as 'access to', 'opportunities for', 'up to x hours' or 'input' are meaningless as they do not specify!

- G: Any health provision required that is related to their SEN.
- H1: Any social care provision that must be made for the child or young person under 18.
- H2: Any other social care provision required that is related to their SEN.
- I: The name and type of the school, maintained nursery school, post-16 institution or other institution to be attended. This will be blank in the draft plan for you to express a preference. The name of the school or setting will only appear in the final plan.
- J: Details of how any personal budget will support particular outcomes and the provision it will be used for.
- K: The advice and information gathered during the EHC needs assessment

In year 9 and beyond, the EHC plan must also include the provision required to help prepare for adulthood and independent living.

# Finalising the EHC plan

Once you have been sent the draft plan you will be given 15 days to:

- Approve the EHC plan
- Request a personal budget
- Request a particular school or setting

You will have the opportunity to meet with the Local Authority to discuss the draft plan.

## Approving the EHC plan

You should check that everything you think is important has been included and that you agree with the outcomes and the proposed provision. If you do not agree with the draft plan please see page xxxx Resolving disagreements. Remember that the IASS can help and an Independent Supporter can support you through every step of this process.

## Requesting a personal budget

You have the right to request a personal budget when you have received the draft EHC plan.

### **The SEND Code of Practice states that**

A Personal Budget is an amount of money identified by the local authority to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision. (9.95)

You may wish to request a personal budget to secure all or part of that provision yourself.

There are four ways in which a personal budget can be delivered:

- Direct payment - where you receive cash to contract, purchase and manage the provision specified in the plan
- An arrangement - where by the Local Authority, school or college holds the funds and commissions the provision specified in the plan
- Third Party Arrangements - where a direct payment is paid to and managed by an individual or organisation on your behalf
- or a combination of the above

## Requesting a particular school or setting

Before the Local Authority can finalise the plan you will be asked which school or setting you prefer to be named in the EHC plan. Don't worry, this may not necessarily mean that the school or setting has to be different from the current one. Remember in the draft EHC plan this section will be blank. The Local Authority will formally consult with the school or setting of your preference.

The law says that parents or the young person have the right to request that a particular school, college or other institution is named in the EHC plan. The Local Authority must agree to this request unless:

- it would be unsuitable for the age, ability, aptitude or SEN of the child or young person, or
- the attendance of the child or young person there would be incompatible with the efficient education of others, or the efficient use of resources

*Note that if you do not reply within 15 days, the Local Authority may assume that you agree with the draft plan, and will name the school or setting for you.*

The draft EHC plan will be taken to the EHC Funding Panel. This panel operates in Wolverhampton as a way to ensure quality provision is agreed by education, health and social care. The Local Authority will sign off the plan and send the final copy to you.

The Local Authority is responsible for ensuring that all the needs set out in the EHC plan are met and that provision is made. Funding for EHC plans usually comes from a number of sources.

If, at this stage you are still unhappy with the content of the EHC plan or cannot agree with the Local Authority on a school or setting, you have a right to go to mediation and/or to appeal.



## Will Statements change into EHC plans?

Children and young people who have a Statement will gradually transfer to the new system. Local Authorities will gradually transfer Statements of Special Educational Need to the new system. When this happens an **EHC transfer review** must take place.

### The SEND Code of Practice says:

...it is expected that all those who have a statement and who would have continued to have one under the current system, will be transferred to an EHC plan - no-one should lose their statement and not have it replaced with an EHC plan simply because the system is changing. Introduction, xi

Every local authority should publish a local transition plan, showing when and how statements will be transferred to the new system. It also includes information for young people in further education and training who receive support through a Section 139a Learning Difficulty Assessment (LDA).

Local authorities must complete this process for all children and young people with Statements by 1 April 2018, and by 1 September 2016 for those with LDAs.

You can see Wolverhampton Local Authority's transition plan at <http://www.wolverhampton.gov.uk/send/ehc-plan>

The transfer review means that the Local Authority must undertake an EHC needs assessment.

## What happens if I move to another local authority area?

If you plan to move to another local authority area you should contact the 'old' and the 'new' local authorities so the support specified in the EHC plan will be in place in consultation with you, the 'new' authority will amend the plan and name the new school or setting.

## Annual Reviews

An EHC plan must be reviewed at least once every 12 months. This process is known as the Annual Review and it will usually be organised by the head teacher or principal of the school or setting. The Annual Review must focus on the progress made towards achieving the outcomes specified in the EHC plan. The review must also consider whether these outcomes and supporting targets remain appropriate.

You must be invited to a review meeting and given at least two week's notice of the date. Relevant professionals must be invited to the meeting. Your views wishes and feelings must be taken into account and your right to request a personal budget will be explained.

Within four weeks of the meeting the Local Authority must decide whether to keep the EHC plan as it is, amend it or cease to maintain it. The Local Authority must inform you of your rights to appeal. Sometimes a re-assessment may be necessary.

For some young people an EHC plan will continue until they are 25. However the plan will stop if the young person:

- goes to university
- gets a job
- tells the Local Authority they no longer want their EHC plan, or
- no longer needs special help and the local authority decides that the EHC plan should cease.

## Resolving Disagreements

There may be things you disagree with during EHC needs assessment process and the creation of a plan. At any stage you can talk to the Local Authority to try to resolve the issue.



IASS can give you impartial information and advice about the options open to you, and support you through the process.

You have a right to an appeal to the First Tier Tribunal (SEN and Disability) on the following:

- the decision not to conduct an EHC needs assessment/reassessment
- the decision not to make an EHC plan
- Parts B, F or I of the final EHC plan - i.e. the parts relating to special educational needs and provision
- the decision not to amend an EHC plan or reassess after an annual review
- the decision to cease an EHC plan

An appeal to the Tribunal must be requested within 2 months from the date the decision was sent.

## Mediation

When a local authority makes a decision that can be appealed, the right to mediation will be triggered.

Mediation is an informal, confidential, non-legalistic process involving the parties in dispute and an impartial and independent mediator. The mediator's role is to understand the position of both parties, to facilitate a conversation with the aim of reaching a mutual agreement.

If you wish to appeal to the tribunal you may only do so once you have considered mediation. You will need to prove that you have considered it. You will need to contact an independent mediation adviser (the Local Authority will provide the contact details in its communication with you) obtain a 'certificate' and send it with your appeal request.

You do not have to consider mediation if you are only appealing the name or type of school in section I.

Accessing mediation does not affect your right to appeal.

If you disagree with any decisions regarding health or social care in the EHC plan you cannot appeal to the First Tier Tribunal. However, mediation may consider health and social care aspects. Mediation for issues relating to health must be arranged by the Clinical Commissioning Group (CCG).



Throughout the assessment process the IASS can help you to ensure you are aware of your rights and your entitlements. IASS will help you to be actively involved in any discussions and decisions and help you to express your views.

## Timescales for EHC needs assessment and EHC plan development