

Education, Health and Care (EHC) Plan

Public Law and Human Rights

You may have an EHC Plan in place for your child if they need additional help and support to achieve their goals, both now and the longer term.

This factsheet is aimed to provide an overview of Education, Health and Care (EHC) plans and in particular covers:

- Deciding whether to issue an EHC plan
- The contents of an EHC plan
- Writing an EHC plan
- Requests for a particular school or college
- Finalising and maintaining the EHC plan
- Deciding whether to issue an EHC plan.

Deciding whether to issue an EHC Plan

Section 37 of the Children and Families Act states that a local authority must issue an EHC plan where, in the light of an EHC needs assessment, it's necessary for special educational provision to be made for a child or young person.

Paragraph 9.54 and 9.55 of the Code of Practice sets out the factors which local authorities should consider when deciding whether to issue a plan. These include:

- The child or young person's special educational needs (SEN) and the special educational provision made for the child or young person and whether:
  - The information from the EHC needs assessment confirms the information available on the nature and extent of the child or young person's SEN prior to the EHC needs assessment
  - The special educational provision made prior to the EHC needs assessment was well matched to the SEN of the child or young person
- Where, despite appropriate assessment and provision, the child or young person is not progressing, or not progressing sufficiently, the local authority should consider what further provision may be needed. The local authority should take into account:
  - Whether the special educational provision required to meet the child or young person's needs can reasonably be provided from within the resources normally available to mainstream early years providers, schools and post-16 institutions
  - Whether it may be necessary for the local authority to make special educational provision in accordance with an EHC plan.

Where a local authority decides it's necessary to issue an EHC plan, it must notify the child's parent or the young person and give the reasons for its decision. The local authority should ensure it allows enough time to prepare the draft plan and complete the remaining steps in the process within the 20 week overall time limit in which it must issue the finalised EHC plan.

Key requirements when writing an EHC Plan

Paragraph 9.61 sets out the key requirements and principles which apply to local authorities and those contributing to the preparation of an EHC plan. These include:

- EHC plans should be clear, concise, and accessible and written so they can be understood by professionals in any local authority
- EHC plans should be forward looking – for example, anticipating, planning and commissioning for important transition points in a child or young person's life, including planning and preparing for their transition to adult life.

The contents of an EHC plan

As a statutory minimum, EHC plans must include the following sections, which must be separately labelled from each other using the letters outlined. The sections do not have to be in this order and local authorities may use an action plan in tabular format to include different sections and demonstrate how provision will be integrated.

Label	Section	Information to include
A	The views, interests and aspirations of the child and his or her parents or the young person	Details about the child or young person's aspirations and goals for the future (but not details of outcomes to be achieved – see section above on outcomes for guidance). When agreeing the aspirations, consideration should be given to the child or young person's aspirations for paid employment, independent living and community participation. Details about play, health, schooling, independence, friendships, further education and future plans including employment (where practical). A summary of how to communicate with the child or young person and engage them in decision-making. The child or young person's history. If written in the first person, the plan should make clear whether the child or young person is being quoted directly, or if the views of parents or professionals are being represented.
B	The child or young person's special educational needs	All of the child or young person's identified special educational needs must be specified. SEN may include needs for health and social care provision that are treated as special educational provision because they educate or train the child or young person.
C	The child or young person's health needs that are related to their SEN	The EHC plan must specify any health needs identified through the EHC needs assessment thatrelate to the child or young person's SEN. Some health care needs, such as routine dental health needs, are unlikely to be related to SEN. The Clinical Commissioning Group (CCG) may also choose to specify other health care needs that are not related to the child or young person's SEN (for example, a long-term condition, which might need management in a special educational setting).
D	The child or young person's social care needs that are related to their SEN or to a disability	The EHC plan must specify any social care needs identified through the EHC needs assessment that relate to the child or young person's SEN or that require provision for a child or young person under 18 under section 2 of the Chronically Sick and Disabled Persons Act 1970. The local authority may also choose to specify other social care needs that are not linked to the child or young person's SEN or to a disability. This could include reference to any child in need or child protection plan, which a child may have relating to other family issues such as neglect. Such an approach could help the child and their parents manage the different plans and bring greater co-ordination of services. Inclusion of information in relation to child protection plans must only be with the consent of the child and their parents.

Label	Section	Information to include
E	The outcomes sought for the child or the young person	A range of outcomes over varying timescales, covering education, health and care as appropriate but recognising that it's the education and training outcomes only that will determine when a plan is ceased for young people aged over 18. Therefore, for young people aged over 17, the EHC plan should identify clearly which outcomes are education and training outcomes. A clear distinction between outcomes and provision. The provision should help the child or young person achieve an outcome, it's not an outcome in itself. The arrangements for monitoring progress, including review and transition review arrangements and the arrangements for setting and monitoring shorter term targets by the early years provider, school, college or other education or training provider. Forward plans for key changes in a child or young person's life, such as changing schools, moving from children's to adult care and/or from paediatric services to adult health, or moving on from further education to adulthood. For children and young people preparing for the transition to adulthood, the outcomes that will prepare them well for adulthood and are clearly linked to the achievement of the aspirations in section A.
F	The special educational provision required by the child or the young person	Provision must be detailed and specific and should normally be quantified, for example, in terms of the type, hours and frequency of support and level of expertise, including where this support is secured through a Personal Budget. Provision must be specified for each and every need specified in section B. It should be clear how the provision will support achievement of the outcomes. Where health or social care provision educates or trains a child or young person, it must appear in this section. There should be clarity as to how advice and information gathered has informed the provision specified. Where the local authority has departed from that advice, they should say so and give reasons for it. In some cases, flexibility will be required to meet the changing needs of the child or young person including flexibility in the use of a Personal Budget. The plan should specify: • Any appropriate facilities and equipment, staffing arrangements and curriculum • Any appropriate modifications to the application of the national curriculum • Appropriate details of exclusions from the application of the national curriculum or the course being studied in a post-16 setting, and the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced curriculum • Where residential accommodation is appropriate, that fact • Where there is a personal budget, the outcomes to which it is intended to contribute (detail of the arrangements for a personal budget, including any direct payment, must be included in the plan and these should be set out in section J).

Label	Section	Information to include
G	Any health provision reasonably required by the learning difficulties or disabilities that result in the child or young person having SEN	Where an Individual Health Care Plan is made for them, that plan should be included. Provision should be detailed and specific and should normally be quantified, for example, in terms of the type of support and who will provide it. It should be clear how the provision will support achievement of the outcomes, including the health needs to be met and the outcomes to be achieved through provision secured through a personal (health) budget. Clarity as to how advice and information gathered has informed the provision specified. Health care provision reasonably required may include specialist support and therapies, such as medical treatments and delivery of medications, occupational therapy and physiotherapy, a range of nursing support, specialist equipment, wheelchairs and continence supplies. It could include highly specialist services needed by only a small number of children which are commissioned centrally by NHS England (for example therapeutic provision for young offenders in the secure estate). The local authority and CCG may also choose to specify other health care provision reasonably required by the child or young person, which is not linked to their learning difficulties or disabilities, but which should sensibly be co-ordinated with the other services.
H1	Any social care provision that must be made for a child or young person under 18 resulting from section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA)	Provision should be detailed and specific and should normally be quantified, for example, in terms of the type of support and who will provide it (including where this is to be secured through a social care direct payment). It should be clear how the provision will support achievement of the outcomes, including any provision secured through a Personal Budget. There should be clarity as to how advice and information gathered has informed the provision specified. Section H1 of the EHC plan must specify all services assessed as being necessary to meet the needs of a disabled child or young person under 18, under section 2 of the CSDPA, including: • Practical assistance in the home • Provision or assistance in obtaining recreational and educational facilities at home and outside the home • Assistance in traveling to facilities • Adaptations to the home • Facilitating the taking of holidays • Provision of meals at home or elsewhere • Provision or assistance in obtaining a telephone and any special equipment necessary • Non-residential short breaks (included in Section H1 on the basis that the child as well as his or her parent will benefit from the short break) This may include services to be provided for parent carers of disabled children, including following an assessment of their needs under sections 17ZD-17ZF of the Children Act 1989.

Label	Section	Information to include
H2	Any other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN	Social care provision reasonably required may include provision identified through early help and children in need assessments and safeguarding assessments for children. Section H2 must only include services that are not provided under Section 2 of the CSDPA. For children and young people under 18, this includes residential short breaks and services provided to children arising from their SEN but unrelated to a disability. This should also include any provision secured through a social care direct payment. See chapter 10 for more information on children's social care assessments. Social care provision reasonably required will include any adult social care provision to meet eligible needs for young people over 18 (set out in an adult care and support plan) under the Care Act 2014. The local authority may also choose to specify in section H2 other social care provision reasonably required by the child or young person, which is not linked to their learning difficulties or disabilities. This will enable the local authority to include social care provision such as that governed by child in need or child protection plans, or provision meeting eligible needs set out in an adult care plan where it is unrelated to the SEN but appropriate to include in the EHC plan.
I	Placement	The name and type of the school, maintained nursery school, post-16 institution or other institution to be attended by the child or young person and the type of that institution (or, where the name of a school or other institution is not specified in the EHC plan, the type of school or other institution to be attended). These details must be included only in the final EHC plan, not the draft EHC plan sent to the child's parent or to the young person.
J	Personal Budget (including arrangements for direct payments)	This section should provide detailed information on any Personal Budget that will be used to secure provision in the EHC plan. It should set out the arrangements in relation to direct payments as required by education, health and social care regulations. The special educational needs and outcomes that are to be met by any direct payment must be specified.
K	The advice and information	The advice and information gathered during the EHC needs assessment must be set out in appendices to the EHC plan. There should be a list of this advice and information.

Note: Where the child or young person is in or beyond year 9, the EHC plan must also include (in sections F, G, H1 or H2 as appropriate) the provision required by the child or young person to assist in preparation for adulthood and independent living, for example, support for finding employment, housing or for participation in society.

Draft EHC Plan and requests for schools and colleges

Before issuing the final EHC plan, you must be sent plans in draft and given 15 days to make representations including on particular school named. When the local authority (LA) sends the draft EHC plan they:

- Must notify you that during this period they can request that a particular or type of school or other institution be named in the plan. It must not contain the name of the school, maintained nursery school, post-16 institution or other institution or the type of school to be attended by the child or young person (see below)
- Must advise where you can find information about schools and colleges that are available
- Should also seek agreement of any Personal Budget.

When a particular school is requested, LA must consult with the governing body and relevant local authority if out of area.

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 their EHC plan:

- Maintained nursery or school and any form of academy or free school (mainstream or special)
- Non-maintained special school
- Further education or sixth form college
- Independent school or specialist colleges (where they have been approved for this purpose by the Secretary of State and published in a list available to all parents and young people).

Section 39 of the Children and Families Act 2014 provides that the local authority must name the requested school or other institution in the EHC plan unless:

- The school is unsuitable for the age, ability, aptitude or SEN of the child or young person concerned, or
- The attendance of the child or young person at the requested school or other institution would be incompatible with the provision of efficient education for others or the efficient use of resources.

In determining whether attendance would be incompatible with the efficient use of resources, the LA must consider the cost to the public purse when comparing the costs of the parents' requested school with their own provision. The Court of Appeal has confirmed that this includes the cost of non-educational expenditure, for example social care provision and transport, in relation to both potential placements.

Where a parent or young person doesn't make a request for a particular nursery, school or college, or does so and their request is not met, the LA must specify mainstream provision in the EHC plan unless it would be:

- Against the wishes of the parent or young person
- Incompatible with the efficient education of others.

Mainstream education can't be refused by a local authority on the grounds that it's not suitable.

Where the LA considers a particular mainstream place to be incompatible with the efficient education of others it must demonstrate, in relation to maintained nursery schools, mainstream schools or mainstream post-16 institutions in its area taken as a whole, that there are no reasonable steps that it, or the school or college, could take to prevent that incompatibility.

Finalising and maintaining the EHC Plan

Section 14 of the Special Educational Needs and Disability Regulations 2014 provides that the finalised EHC plan must be in the form of the draft plan, or in a form modified in the light of the representations made by the child's parent or young person.

When sending a copy of the finalised EHC plan to the child's parent or the young person, the local authority must notify them of:

- Their right to appeal matters within the EHC plan
- The time limits for doing so
- The information concerning mediation
- The availability of disagreement resolution services; and
- Advice and information about matters relating to the special educational needs of children and young people.

Section 42 of the Children and Families Act provides that local authorities must secure the specified special educational provision in the EHC plan. If a local authority names an independent school or independent college in the plan as special educational provision it must also meet the costs of the fees, including any boarding and lodging where relevant.

Chapter 9 of the SEND Code of Practice provides further information on EHC Plans. If you have any questions about topics covered in this document, please don't hesitate to contact us.

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