

Education, Health and Care Plans

Education, Health and Care Plans (EHCPs) were introduced as a result of the Children and Families Act 2014. An EHCP is a legal document which arises from an assessment of a child or young person's (CYP's) special educational needs. EHCPs can start from birth and continue up to age 25. It identifies the education, health and social care provision required to meet the CYP's needs and sets out the outcomes that are expected as a result of the provision. Once special education provision is specified in an EHCP the issuing Local Authority has an absolute duty to provide it. Health commissioners have a similar duty in relation to specified health provision.

The Children and Families Act 2014 sets out the legal framework that governs EHCPs and the SEND Regulations 2014 provide further detailed rules around their production and maintenance. The SEND Code of Practice provides further guidance.

EHCPs are for those CYP whose special educational needs cannot be met from the resources normally available in mainstream schools. As in previous years, 2.9% of the school population in England had an EHCP in 2018. For many years the % of EHCPs (previously Statements of Special Educational Needs) in Hertfordshire has been below the national average. In 2018 it was 2.1%. There are also EHCPs issued for those above and below statutory school age.

Not all children with special educational needs require an EHCP. Nationally a further 11.7% (11.9% in Hertfordshire) of the school population had their needs met at the SEN Support level in 2018.

A key principle in the Children and Families Act 2014 (S19) is the importance of supporting and involving CYP and their families in decisions relating to EHCPs. This has been a new way of working for Local Authorities and it is taking time for the necessary cultural change to impact on families' experiences of the process. In Hertfordshire new applications now include a family conversation to provide the opportunity for CYP and families to express their views, wishes and feelings. EHCPs produced in the first few years after their introduction did not have this as part of the process.

EHCPs are only issued for CYP who have an educational need for special provision. CYP with only health and/or social care needs are not eligible for an EHCP. However, where a CYP does have an educational need it is important that their social care needs are also assessed. It will not discharge a Local Authority's duty to assess to state that the child is "not known to service". As EHCPs are driven by education it is sensible for parents or YP to directly request assessments from social care and health when making an application for an EHC needs assessment.

EHCPs are often long documents and what they should contain is prescribed by law. EHCPs should be written in a way that clearly describes the CYP's difficulties and equally clearly sets out what support and provision is needed to help them with these difficulties. Unfortunately, many EHCPs are written in terms that make it difficult to understand exactly what should be done, by whom and how often. Unless the provision is very clearly specified and quantified it is difficult for CYP and their families to enforce it.

- EHCPs are important documents for CYP with the highest levels of special educational needs. They provide for the proper assessment of CYP's needs by a wide range of professionals. HPCI believe that it is only through thorough assessment that needs can be fully identified and met. In particular assessments from therapists (speech and language, occupational therapy, physiotherapy) must be sought where CYP have communication, physical and / or sensory needs.
- The SEND Code of Practice (in particular Chapter 9) is a very helpful guide for families and CYP on how EHCPs should be produced and what they should contain. It has the legal status of statutory guidance and must be followed unless there is a good reason not to.
- It is important to recognise that the Children and Families Act 2014 and the SEND Regulations 2014 set the overarching legal rules, and these override the Code of Practice if there is any conflict. Decisions of the Upper Tribunal also create legal precedent on how the law should operate and often provide important legal clarity on difficult issues.
- HPCI expects the Local Authority to fully comply with the letter and spirit of the legislation relating to EHCPs.
- HPCI expects the Local Authority to carry out needs assessments for all CYP that have special educational needs that MAY require special educational provision to be made through an EHCP in line with their statutory duty. We expect that any barriers to assessment be removed and that requests should not be refused without proper consideration.
- HPCI expects the % of CYP with EHCPs in Hertfordshire to increase in the coming years as for a considerable period of time a below average number of children have been properly identified as needing an EHCP.
- The quality of EHCPs in Hertfordshire is variable. Parents should take the opportunity through annual reviews to ask for improvements in the specification and quantification of the provision and to seek additional assessments where CYP's needs are not fully identified.
- HPCI expects that the Local Authority will meet its absolute statutory duty to deliver the educational provision identified in the EHCP. This includes the delivery of therapies which are sub-contracted to NHS providers. It should support education providers to deliver this provision through adequate additional funding and other external support from relevant professionals.
- If parents and/or CYP feel their views, wishes and feelings are not being fully taken into account they should make a formal complaint to the Local Authority.

Parents and CYP should seek help and guidance from reliable, professional, well trained organisations. Reputable organisations include IPSEA, SOS!SEN, SENDIASS and national SEND charities such as the National Autistic Society, National Deaf Children's Society, RNIB, Mencap, Scope, Down's Syndrome Association, Contact etc can often help and have useful information and support tailored to the disabilities they cover.