

EHC plans **must** specify the special educational provision required to meet each of the child or young person's special educational needs. The provision should enable the outcomes to be achieved.

- 9.69 The EHC plan should also specify the arrangements for setting shorter term targets at the level of the school or other institution where the child or young person is placed. Professionals working with children and young people during the EHC needs assessment and EHC plan development process may agree shorter term targets that are not part of the EHC plan. These can be reviewed and, if necessary, amended regularly to ensure that the individual remains on track to achieve the outcomes specified in their EHC plan. Professionals should, wherever possible, append these shorter term plans and targets to the EHC plan so that regular progress monitoring is always considered in the light of the longer term outcomes and aspirations that the child or young person wants to achieve. In some exceptional cases, progress against these targets may well lead to an individual outcome within the EHC plan being amended at times other than following the annual review.

#### **What to include in each section of the EHC plan**

| <b>Section</b>   | <b>Information to include</b>   |
|--|---|
| <b>(A) The views, interests and aspirations of the child and their parents, or of the young person</b> | <ul style="list-style-type: none"> <li>• 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</li> <li>• Details about play, health, schooling, independence, friendships, further education and future plans including employment (where practical)</li> <li>• A summary of how to communicate with the child or young person and engage them in decision-making.</li> <li>• The child or young person's history</li> <li>• 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</li> </ul> |
| <b>(B) The child or young person's special educational needs (SEN)</b>                                 | <ul style="list-style-type: none"> <li>• All of the child or young person's identified special educational needs <b>must</b> be specified</li> <li>• SEN may include needs for health and social care provision that are treated as special educational provision</li> </ul>  |

| Section  | Information to include  |
|--|---|
|  | because they educate or train the child or young person (see paragraphs 9.73 onwards)   |
| <b>(C) The child or young person's health needs which relate to their SEN</b>      | <ul style="list-style-type: none"> <li>• The EHC plan <b>must</b> specify any health needs identified through the EHC needs assessment which relate to the child or young person's SEN. Some health care needs, such as routine dental health needs, are unlikely to be related</li> <li>• The Clinical Commissioning Group (CCG) may also choose to specify other health care needs which 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)</li> </ul>  |
| <b>(D) The child or young person's social care needs which relate to their SEN</b> | <ul style="list-style-type: none"> <li>• The EHC plan <b>must</b> specify any social care needs identified through the EHC needs assessment which relate to the child or young person's SEN or which require provision for a child or young person under 18 under section 2 of the Chronically Sick and Disabled Persons Act 1970</li> <li>• The local authority may also choose to specify other social care needs which 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 <b>must</b> only be with the consent of the child and their parents</li> </ul>               |
| <b>(E) The outcomes sought for the child or the young person</b>                   | <ul style="list-style-type: none"> <li>• A range of outcomes over varying timescales, covering education, health and care as appropriate but recognising that it is the education and training outcomes only that will help 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. See paragraph 9.64 onwards for more detail on outcomes</li> <li>• A clear distinction between outcomes and provision. The provision should help the child or young person achieve an outcome, it is not an outcome in itself</li> <li>• Steps towards meeting the outcomes</li> <li>• The arrangements for monitoring progress, including review and transition review arrangements and the arrangements for setting and monitoring shorter term</li> </ul> |

| Section   | Information to include   |
|---|--|
|   | <p>targets by the early years provider, school, college or other education or training provider</p> <ul style="list-style-type: none"> <li>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</li> <li>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</li> </ul>   |
| <p><b>(F) The special educational provision required by the child or the young person</b></p> | <ul style="list-style-type: none"> <li>Provision <b>must</b> 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</li> <li>Provision <b>must</b> be specified for each and every need specified in section B. It should be clear how the provision will support achievement of the outcomes</li> <li>Where health or social care provision educates or trains a child or young person, it <b>must</b> appear in this section (see paragraph 9.73)</li> <li>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</li> <li>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</li> <li>The plan should specify: <ul style="list-style-type: none"> <li>any appropriate facilities and equipment, staffing arrangements and curriculum</li> <li>any appropriate modifications to the application of the National Curriculum, where relevant</li> <li>any appropriate exclusions from the application of the National Curriculum or the course being studied in a post-16 setting, in detail, and the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum</li> <li>where residential accommodation is appropriate,</li> </ul> </li> </ul> |

| Section  | Information to include  |
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|  | <p>that fact</p> <ul style="list-style-type: none"> <li>○ 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, <b>must</b> be included in the plan and these should be set out in section J)</li> <li>● See paragraph 9.131 onwards for details of duties on the local authority to maintain the special educational provision in the EHC plan</li> </ul>  |
| <p><b>(G) Any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN</b></p> | <ul style="list-style-type: none"> <li>● 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</li> <li>● 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</li> <li>● Clarity as to how advice and information gathered has informed the provision specified</li> <li>● 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)</li> <li>● 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 other services in the plan</li> <li>● See paragraph 9.141 for details of duties on the health service to maintain the health care provision in the EHC plan</li> </ul> |
| <p><b>(H1) Any social care provision which must be made for a child or young person under 18 resulting from</b></p>  | <ul style="list-style-type: none"> <li>● 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)</li> <li>○ It should be clear how the provision will support achievement of the outcomes, including any provision</li> </ul>  |

| Section   | Information to include  |
|---|---|
| <b>section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA)</b>  | <p>secured through a Personal Budget, There should be clarity as to how advice and information gathered has informed the provision specified</p> <ul style="list-style-type: none"> <li>• Section H1 of the EHC plan <b>must</b> specify all services assessed as being needed for a disabled child or young person under 18, under section 2 of the CSDPA. These services include: <ul style="list-style-type: none"> <li>○ practical assistance in the home</li> <li>○ provision or assistance in obtaining recreational and educational facilities at home and outside the home</li> <li>○ assistance in travelling to facilities</li> <li>○ adaptations to the home</li> <li>○ facilitating the taking of holidays</li> <li>○ provision of meals at home or elsewhere</li> <li>○ provision or assistance in obtaining a telephone and any special equipment necessary</li> <li>○ 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)</li> </ul> </li> <li>• 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</li> <li>• See paragraph 9.137 onwards for details of duties on local authorities to maintain the social care provision in the EHC plan</li> </ul> |
| <b>(H2) Any other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN</b> | <ul style="list-style-type: none"> <li>• Social care provision reasonably required may include provision identified through early help and children in need assessments and safeguarding assessments for children. Section H2 <b>must</b> only include services which 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 include any provision secured through a social care direct payment. See chapter 10 for more information on children's social care assessments</li> <li>• Social care provision reasonably required will include any adult social care provision to meet eligible needs for</li> </ul>  |

| Section   | Information to include  |
|---|---|
|   | <p>young people over 18 (set out in an adult care and support plan) under the Care Act 2014. See Chapter 8 for further detail on adult care and EHC plans</p> <ul style="list-style-type: none"> <li>• 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 in the EHC plan social care provision such as 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</li> <li>• See paragraph 9.137 onwards for details of duties on local authorities to maintain the social care provision in the EHC plan</li> </ul> |
| <b>(I) Placement</b>  | <ul style="list-style-type: none"> <li>• The name <i>and</i> 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 by the child or young person)</li> <li>• These details <b>must</b> be included only in the final EHC plan, <i>not</i> the draft EHC plan sent to the child's parent or to the young person</li> <li>• See paragraph 9.78 onwards for more details</li> </ul>  |
| <b>(J) Personal Budget (including arrangements for direct payments)</b> | <ul style="list-style-type: none"> <li>• This section should provide detailed information on any Personal Budget that will be used to secure provision in the EHC plan</li> <li>• It should set out the arrangements in relation to direct payments as required by education, health and social care regulations</li> <li>• The special educational needs and outcomes that are to be met by any direct payment <b>must</b> be specified</li> </ul>   |
| <b>(K) Advice and information</b>                                       | <ul style="list-style-type: none"> <li>• The advice and information gathered during the EHC needs assessment <b>must</b> be set out in appendices to the EHC plan. There should be a list of this advice and information</li> </ul>   |



## **Hertfordshire's New Funding**

Hertfordshire County Council (HCC) have reviewed the way in which they currently meet complex needs in schools through ENF. Both nationally and locally, there is a rising need for support for pupils with complex needs in mainstream schools and educational settings. [The review](#) is part of their commitment to make sure that funding is sustainable for schools and educational settings in the future so that they can fully meet children and young people's needs.

The outcome from the review means that HCC will be replacing Exceptional Needs Funding (ENF) with a more effective system for identifying needs and resources. The new system will be called Top Up (High Needs) Funding (HNF) for mainstream schools and settings.

### ***Overview of the funding***

- There are going to be 5 bands within Hertfordshire's new funding model - 3 of these bands will come with monetary resources which will be allocated to the school to deliver the provision identified within the plan
- Parent, professionals and the LA will be involved in identifying the level of funding
- Due to COVID-19 this will be in place from September 2020, and no CYP will be left without funding if there ENF is due to expire

For further information regarding the new funding ban within Hertfordshire please visit [Hertfordshire's Local Offer](#) page.





**IPSEA**  
Independent Parental Special  
Education Advice

# Annual review checklist

The annual review should follow the steps below, in the order they appear, in order to comply with the statutory requirements. The legal requirements are set out in the Special Educational Needs and Disability Regulations 2014, and there is also statutory guidance for local authorities (“**LAs**”), schools and colleges in the [SEN and Disability Code of Practice](#) (the “**Code**”). If the process is not followed, then the parent or young person can complain. You will see from the checklist who is responsible for what. Ultimately, it is the LA which is responsible for the annual review.

| What  | When                                  | Regulations                            | Code                     | IPSEA notes  |
|---|---------------------------------------|--|--------------------------|--|
| Invitation to attend the annual review meeting sent <sup>1</sup> to:<br><br>- parent or young person;<br>- early years provider, headteacher or principal;<br>- LA officer (education);<br>- health care professional;<br>- LA officer (social care).<br><br>Other individuals relevant to the review should also be invited (e.g. youth offending teams, job coaches). | At least two weeks before the meeting | Reg 20(2) and (3) or Reg 21(2) and (3) | Para 9.176               | Although these people must be invited to attend, attendance is not compulsory. However, where the child or young person attends a school/other institution, the Code considers that reviews are most effective where the educational establishment leads the review.<br><br>If you have received less than two weeks’ notice of the meeting date, you should consider asking to postpone the meeting so the procedure can be carried out properly. |
| Obtain information and advice from all invitees and circulate to all invitees. <sup>2</sup>   | At least two weeks before the meeting | Reg 20(4) or Reg 21(4)                 | Para 9.167, 9.176, 9.177 | Again, if you have not received the required reports within two weeks of the meeting date, you should consider postponing the meeting.   |

<sup>1</sup> Where the child or young person attends a school or other institution this is sent by the head teacher/principal. In all other circumstances, the LA is responsible for the invitation.

<sup>2</sup> Where the child or young person attends a school or other institution this is done by the head teacher/principal. In all other circumstances, the LA is responsible for obtaining and circulating this information.



|   |   |                                 |                                 |   |
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|   |   |                                 |                                 | <p>The information and advice should provide details about the child or young person's progress and their access to teaching and learning, and consider whether the special educational provision currently being made is effective. Parents, young people or professionals can make suggestions about changes that should be made to the EHC plan. Having this information and advice gathered before the meeting is crucial where amendments to the EHC plan are sought, and is one of the stages most often omitted or not properly complied with.</p> |
| Hold a meeting.   | Once the invitations have been made and information shared as above | Reg 20(1) or Reg 21(2)          | Para 9.176 and 9.177            | <p>Prepare your own notes for the review meeting and set out what you think needs to change, so you can be sure everything you want to discuss is covered.</p> <p>It is important that a record of what was discussed and/or agreed at this meeting is kept. Parents or young people can take someone with them to support them. IASS can attend meetings with parents/young people.</p>  |
| Consider the child or young person's progress towards outcomes and whether the outcomes remain appropriate for the child or young person. | At the meeting  | Reg 19(b), Reg 20(5), Reg 21(5) | Para 9.166, 9.167, 9.168, 9.176 | <p>The outcomes may require changing. If they have been achieved, or if they need to be changed, the LA should amend the EHC plan with new outcomes.</p>  |

|  |   |  |                          |   |
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| Consider what provision is required to assist the child or young person in preparation for adulthood and independent living.   | At the meeting where the child or young person is in or beyond Y9 | Reg 20(6) or Reg 21(6)                     | Para 9.176, 9.184, 9.185 | Chapters 8 and 9 of the Code have useful detail on the kinds of planning for adulthood that schools, FE institutions and LAs must undertake   |
| Prepare and circulate <sup>3</sup> to all invitees a written report setting out:<br>- the recommendations on any amendments to be made to the EHC plan;<br>- any difference between those recommendations and recommendations of others attending the meeting;<br>- all the information and advice obtained about the child or young person. | Within two weeks of the annual review meeting                     | Reg 20(7)(8) and (9) or Reg 21 (7) and (8) | Para 9.176               | The parents or young person must be sent a copy of this. Remember, if you think something is incorrect or is missing from this report, you can contact your LA to notify them.  |
| LA decides whether to:<br>- maintain the EHC Plan in its current form;<br>- amend it;<br>- cease to maintain it.   | Within four weeks of the review meeting                           | Reg 20(10) or Reg 21(9)                    |                          | LAs have a deadline by which they <b>must</b> make a decision. It's very important to make a note of this deadline.<br><br>If the LA fails to keep to this deadline, they are in breach of the law and you can make a complaint – see <a href="#">IPSEA's website</a> for more details and model letters. |

<sup>3</sup> Again, where the child or young person attends a school/institution the head teacher/principal is responsible. In all other circumstances, the LA must do this

| Where the LA decides to keep the EHC plan the same or cease to maintain it  |                                   |                       |                          |  |
|---|-----------------------------------|-----------------------|--------------------------|--|
| <p>If the decision is to keep the EHC plan the same or to cease to maintain it, the LA must also provide the parent with:</p> <ul style="list-style-type: none"> <li>- notice of their right to appeal to the First-tier Tribunal (Special Educational Needs and Disability) (the “<b>SEND Tribunal</b>”) and the time limits for doing so;</li> <li>- information about mediation;</li> <li>- information about the availability of disagreement resolution services and information and advice about matters relating to the SEN of children and young people.</li> </ul> | With the notice of their decision | Reg 20(11) and 21(10) | Para 9.199-9.210         | Usually LAs will give reasons for their decision but, if this is not provided, you can ask for their reasons.  |
| Where the LA decides to amend the EHC plan  |                                   |                       |                          |  |
| <p>If the decision is to amend the EHC plan, the LA must send a copy of the EHC plan to the parents or young person with notice of proposed amendments and include any evidence supporting the amendments. They must also inform the parent/young person of their rights to make representations about the content of the EHC plan and to request a particular school/institution.</p>  | This isn't expressly provided for | Reg 22(1) and (2)     | Para 9.193, 9.194, 9.176 | Although the SEN Regs don't expressly state when the proposed amendments must be sent out, the Code says at para 9.176, “ <i>If the plan needs to be amended, the local authority should start the process of amendment without delay</i> ”. |

|   |  |                   |                   |   |
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| Parents/young person can make representations about the content of the EHC plan and/or the proposed amendments, request that a particular school/institution is named, and request a meeting with an LA officer.  | Must be given at least 15 days in which to do this   | Reg 22(2)(c)      | Para 9.195        | See the section of IPSEA's website on choosing a school or college for more information.  |
| LA issues final EHC plan or decides not to amend EHC plan after all.  | As soon as practicable and within 8 weeks of the date the LA sent the EHC plan and proposed amendments to parents/young person | Reg 22(3) and (4) | Para 9.196, 9.197 | <p>The Code requires the LA to be clear on the face of the new EHC plan that it is an amended EHC plan, the date it was amended and also the date of the original plan. The minutes of the review and other information and advice obtained should be appended to the amended plan.</p> <p>If the LA fails to keep to this deadline, they are in breach of the law and you can make a complaint – see <a href="#">IPSEA's website</a> for more details and model letters.</p> |
| <p>The LA must also provide the parent with:</p> <ul style="list-style-type: none"> <li>- notice of their right to appeal to the SEND Tribunal and the time limits for doing so;</li> <li>- information about mediation;</li> <li>- information about the availability of disagreement resolution services and of information and advice about matters relating to the SEN of children and young people.</li> </ul> | With the final EHC plan / decision not to amend the plan   | Reg 22(5)         | Para 9.198        |   |

**If the child/young person is approaching a phase transfer (e.g. primary to secondary):**

When the child or young person is going to transfer between phases of education, then there are statutory deadlines by which the review processes (including amending the EHC plan as necessary) *must* be concluded.

Reg 18(1) states:

*“[...] where a child or young person is within 12 months of a transfer between phases of education, the local authority must review and amend, where necessary, the child or young person’s EHC plan before—*

*(a) **31 March** in the calendar year of the child or young person’s transfer from secondary school to a post-16 institution; and*

*(b) **15 February** in the calendar year of the child’s transfer in any other case, and where necessary amend the EHC plan so that it names the school, post-16 or other institution, or type of school or institution, which the child or young person will attend following that transfer.”*

Reg 18(2) states:

*“Where it is proposed that a young person transfers from one post-16 institution to another post-16 institution at any other time, the local authority must review and amend, where necessary, the young person’s EHC plan **at least five months before that transfer takes place** so that it names the post-16 institution that the young person will attend following the transfer.”*

These deadlines cannot be extended because the LA hasn’t started the annual review in sufficient time to comply with the timeline. If you believe that your LA isn’t going to start the annual review process in time to comply with these long-stop deadlines, then you can make a complaint. [IPSEA’s website](#) has further details on how to complain, and details on how to contact IPSEA for further advice.



## **Annual Review processes**

This factsheet aims to provide an overview of the key duties which apply to Local Authorities, schools and education providers as set out in the Children & Families Act 2014 (C&FA 2014); Section 44, SEND Regs 2014; 2, 18, 19, 20 and 21 and the SEN Code of Practice2 (CoP) 9.166-9.185.

**This factsheet should be read in conjunction with the CoP.**

There is a requirement for all Education, Health and Care Plans (EHCP) to be reviewed by the LA at least annually. This is usually referred to as the Annual Review. In Early Years EHCPs should be reviewed every 3 to 6 months **(CoP 9.178)**.

The Annual Review is more than just a review meeting, it is a process that **must** be completed on or before the anniversary of when the EHCP was first issued or the anniversary of the last review. It is laid down in law and in the CoP. **See 'Annual Review guidance' sheet which explains the 5 steps involved.**

Although the overall Review process is the LA's responsibility, it is usual practice for Steps 1 to 4 to be delegated by the LA to the school/setting/or other education provider, **(CoP 9.173-9.175)** referred to for the purpose of this document as the host.

### **Step 1**

The host will write to all the professionals involved with the child or young person, which may also include specific professionals employed by the school. They must also write to the parent/YP inviting them to contribute their views wishes and feelings. This should include their view of the current arrangements and provide an opportunity to discuss changes which the parent/UP may want to be made to the EHCP. These reports should be sent to the host within 2 weeks of the request being made.





**CoP 9.166** – ‘Reviews **must** focus on the child or young person’s progress towards achieving the outcomes specified in the EHC plan. The review **must** also consider whether these outcomes and supporting targets remain appropriate.’

## **Step 2**

The host will then send out invitations to all those required to attend (CoP 9.176), at least 2 weeks before the date of the Annual Review meeting. The host is also required to circulate copies of all the reports they have received with the invitations. This will usually be the same people they contacted in Step 1 but may include others if it is thought their assistance or contribution may be able required.

## **Step 3**

The Annual Review meeting should be held in the style of a Person Centred Planning Meeting (see separate handout) but in whatever format the meeting takes it must enable full involvement of the parent, child or young person and consider their views wishes and feelings especially when making decisions. (CoP 9.166 to 9.168 and Section 19 Principles). Ensure that points 1-7 below are covered and that school don’t simply focus on how things have gone in the past year in school.

### ***The meeting:***

1. must focus on progress made towards achieving outcomes
2. must establish whether the current outcomes remain appropriate and if required agree new ones
3. must review the short-term targets and set new ones
4. must review the special educational provision and the arrangements for delivering it to ensure it is still appropriate and enabling good progress
5. review any health and social care provision and check its effectiveness towards achieving the outcomes





6. check if the aspirations have changed (consider them in the context of paid employment, independent living and community participation (CoP 9.69)

7. must check if the parent/YP would like to request a Personal Budget.

**9.168** – *'Reviews must be undertaken in partnership with the child and their parent or the young person, and must take account of their views, wishes and feelings, including their right to request a Personal Budget.'*

#### **Step 4**

After the meeting the host must prepare a report that includes any recommendations for amendments to be made to the EHCP. This should include where there are differences of opinions and not just the general consensus. This must be sent to everyone who had been invited and the LA within 2 weeks of the meeting taking place.

#### **Step 5**

Upon receiving the report the LA has to decide which one of the 3 following options applies. Whether the EHCP:

1. should remain unchanged
2. needs to be amended
3. should be ceased (**9.199-9.210**)

The LA **must** inform the parent/YP of this decision within 4 weeks from the Annual Review meeting and this date should be no later than the anniversary of either when the EHCP was first issued or the last review meeting.







### **What happens next?**

If the LA decides on option 1 or 3 (**CoP 9.176**) they **must** inform the parent/YP of the following:

- their right of appeal to the tribunal and the time limits for this to take place
- the requirement for them to consider mediation if they decide to appeal
- their right to receive information, advice and support

The EHCP **must** be maintained until the 2-month period for the appeal to be lodged at the Tribunal has passed. If an appeal is made to the Tribunal the EHCP **must** be maintained until the hearing has taken place and they have given their decision.

If the LA decides on **option 2** they should make the amendments as soon as possible. (**CoP 9.193 -9.198**).

The LA **must**:

- send to the parent/YP a copy of the unchanged version of the EHCP along with a notice outlining the proposed amendments.
- include the supporting evidence for the proposed changes. This may include additional reports and notes from the meeting.
- give the parent/YP at least 15 calendar days to respond with their views. This could include naming a school. (**CoP 9.78 & 9.94**). They should also be informed of their right to meet with the LA to discuss the proposed changes.

Once the LA has received its response from the parent/YP, within 8 weeks of when they informed the parent/YP of the proposed changes, the LA **must** either issue an amended EHCP or inform parents/YP they will not be amending it and give their reasons why and inform parents/YP of:

- their right of appeal to the tribunal and the time limits for this to take place
- the requirement for them to consider mediation if they decide to appeal
- their right to receive information, advice and support

If the amended EHCP is issued it should clearly state it is an amended version and be dated. It should be clear which parts have been amended.





It should have attached to it the additional reports and the minutes from the review meeting that have informed the decision. It should still clearly state the date the original EHCP was issued as this will still be the date that determines when the next Annual Review is to be completed by.

The LA **must** also inform the parent or young person of:

- their right of appeal to the tribunal and the time limits for this to take place
- the requirement for them to consider mediation if they decide to appeal
- their right to receive information, advice and support.

This is particularly important if the parent or young person is unhappy or not satisfied with the changes that have been made to the EHCP.

### **Additional information to be aware of regarding Annual Reviews**

EHCPs are not expected to require frequent changes and updates (CoP 9.193). When they do need amending, rather than requiring a full re-assessment, there should be supporting evidence to inform any changes. However, a LA can refuse a request for a re-assessment if less than 6 months have passed since the last EHC needs assessment was conducted, or it thinks that a further EHC needs assessment is not necessary for example because it considers that the child or young person's needs have not changed significantly.

Although the annual review process is laid out in the C&F act, and the Code of Practice the actual format of the meeting will differ from setting to setting but should cover the principles of a person centred review. This factsheet is a guide to the basic process for Annual Reviews but there are some variations relating to particular age groups or specific situations to be aware of.

These relate to:

- children moving from one phase of education to another requiring their EHCP to be amended by the 15th February
- Children and young people moving to Post 16 provision requiring their EHCP to be amended by the 31st March





- Children in Year 9 (and following years) whose Annual Reviews are to be treated as Preparing for Adulthood (PFA) and must include consideration for employment, independent living and their inclusion in their community and society
- Young people moving between Post 16 institutions must be reviewed and amended 5 months before the transfer is due to happen
- when a child and young person doesn't attend a school or other type of education provision
- when a child or young person has been released from custody

**For more information on the above please check the relevant sections in the CoP 9.166-9.210**

The Annual Review is required to check all sections of the EHCP not just the educational targets and provision. It can provide an opportunity for parents and young people to request changes and updates. It may also be that what they expected to happen, based on their understanding or interpretation of various elements of the EHCP, may not have been delivered exactly as they had anticipated.

**Section A** - Aspirations should be checked to see if they remain the same. There may be additional aspirations to be included perhaps due to new experiences, interests or circumstances.

**Section B** - New needs may have emerged or existing needs changed and/or are having an impact on other areas of their life (in or out of school). Or the parent or Children and young people may not feel their needs are described accurately or be a true representation of who they are. An example may be where a need has been described in the EHCP as a behaviour issue when the underlying reason behind the behaviour has now been identified as being due to a communication disorder or learning difficulty.

**Section C** - There may be a new diagnosis or on-going investigations. Health conditions included may have stabilised or improved. Alternatively, what had previously been reported as a relatively stable health condition may now be less so.





**Section D** - Change of circumstances may have occurred or a more up to date assessment has now been completed that should be included. Parent/YP may request an assessment of their Social Care needs.

**Section E** - Outcomes are expected to last for 2 to 3 years but they still need to be reviewed to check they are still relevant, SMARTened up or changed.

(Short-term targets will also be reviewed and new targets set)

**Section F** - There should be provision to match each need included in B. Perhaps some of the provision didn't occur or hasn't been as effective as expected or perhaps there's an alternative approach that could be tried.

**Section G** - Anything included here requires agreement by the LA from the Clinical Commissioning Group (CCG). Any health provision, such as Speech and Language Therapy, that educates or trains must be included in Section F.

**Sections H1 & 2** - Any provision included here will depend on what needs, if any have been included in Section D. It must be reviewed and may have already changed since it was originally included.

**Section I** - If relevant the suitability of the school (or placement) may also be discussed. The parent/YP may want to ask for a different school or type of school if they believe it will provide a better match to their needs.

**Section J** - Any Personal Budget (PB) already in place should be reviewed particularly where provision has been amended. This is also an opportunity to request a PB if the parent/YP would like one.





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## **The Education, Health and Care Plan Annual Review Process**

The first review must be held within twelve months of the date when the EHC plan was issued, and then within twelve months of any previous review (six months for children under 5).

The school/setting must give all parties invited at least two weeks' notice of the date of the review meeting. Any updated advice/information must be sent by the school/setting to all parties invited at least two weeks before the review meeting



| <b><u>Weeks</u></b> |                    | <b><u>Work to be completed</u></b>  |
|---------------------|--------------------|---|
| <b>1</b>            | <b>2<br/>Weeks</b> | <b><i>Annual Review Meeting of EHC Plan takes place</i></b><br>– the school/setting <b>MUST</b> send a report of the meeting to everyone invited within 2 weeks of the meeting      |
| <b>2</b>            |                    | <b><i>Receive Annual Review Report form from school/setting</i></b> – check that all reports have been included. Chase school/setting at this point if information is not received. |

|   |            |   |  |
|---|------------|---|--|
| 3 | 2<br>Weeks | Within 4 weeks of the meeting, the local authority must decide whether it proposes to keep the EHCP plan as it is, amend the plan or cease to maintain the plan. This decision <b>MUST</b> be shared with the parent/young person and the school/setting. Parents/Young People <b>MUST</b> be informed of the decision by week 4. |  |
| 4 |            | Parents/Young People <b>MUST</b> be informed of the decision by week 4.   |  |
|   |            | <i>Yes amends to the EHC Plan are required</i>  | <i>No changes to be made to EHC Plan or it will cease to be maintained</i>             |
|   |            | <i>Inform Parent/Young Person of decision to amend the EHC Plan</i>   | <i>Inform Parent/Young Person and school of decision and right to appeal by week 4</i> |



|           |                |  |
|-----------|----------------|--|
| <b>5</b>  |                |  |
| <b>6</b>  |                |  |
| <b>7</b>  |                |  |
| <b>8</b>  |                |  |
| <b>9</b>  |                |  |
| <b>10</b> | <b>6 Weeks</b> | <p>Draft EHC Plan to be issued without delay and within 6 weeks of decision – The Parent/Young Person must be given at least 15 calendar days to comment on the proposed changes.</p> <p>If the Parent/Young Person makes a request for a particular school/setting, the local authority must comply with that preference and consult as required.</p> |

|           |                |   |
|-----------|----------------|---|
| <b>11</b> | <b>8 Weeks</b> | <p>Any request for change of type of specialist placement must go to provision panel.</p>                                       |
| <b>12</b> |                |   |
| <b>13</b> |                |   |
| <b>14</b> |                |   |
| <b>15</b> |                |   |
| <b>16</b> |                |   |
| <b>17</b> |                |   |
| <b>18</b> |                | <p>Issue final amended EHC Plan within 8 weeks of the draft EHC Plan – inform Parent/Young Person of their right to appeal.</p> |



# Kaylie

## What people like and admire about me...

I am light hearted and don't often take offence to things

I don't like to quit - I will work as hard as possible to find a way

I am always up for a challenge

I always have time for others

I am good at crafting which is something I also enjoy

I am a good friend to others



## What makes me happy

- **My family** - I live with my husband and two little boys. Talk about being outnumbered!
- **Music** - I love music, it picks me up when I am feeling sad. I love live music and like to go to Gigs & Festivals.
- **Biscuits** - I am literally the office biscuit monster...if there are any in the tin, then I am eating them 😊.
- **My job** - Working for SENDIASS is one of the best jobs I have had! I love supporting others especially young people.

## How I want to be supported

- I am a visual person. I like to see things done before attempting them myself
- I struggle with writing long pieces of work, so I like to use a computer
- I often have ideas but find it hard to put them into words, so I like others to be patient with me when I am trying to explain things
- Reassurance from others when I am doing things well really motivates me and helps me to keep going





## INFORMATION SHEET

### EDUCATION HEALTH AND CARE PLANS

Education Health and Care Plans (EHCPs) are in effect the current version of what used to be a Statement, and were introduced by the Children and Families Act 2014 (CFA). They can remain in place up to the age of 25 provided the young person needs to be in education, although they are not available for university students.

Please see our separate factsheet about the process of negotiating an EHCP and, for children who already have a statement, our factsheet about the process of transferring to an EHCP. It is particularly important that EHCPs be based on a proper assessment process, which means that LA should have obtained up to date and detailed advice and information from a range of people including parents, an educational psychologist, social services (if relevant), and other relevant experts including, for example, speech and language therapists, occupational therapists, physiotherapists, CAMHS and others.

When a local authority (LA) agrees to issue an EHCP, they will initially send a draft for consultation, and it is vitally important that it is checked carefully. The CFA and the *0-25 Special Educational Needs Code of Practice 2015* (CoP) put considerable emphasis on the fact that the process of assessment and negotiating the EHCP is meant to be collaborative, with the parents and child, and/or young person (i.e. child over 16 and past school leaving age) ("CYP") at the heart of the process with their views taken fully into account.

The primary purpose of an EHCP is to draw together a summary of all CYP's difficulties and the provision required to meet them so that the teachers, teaching assistants, therapists and others working with him know precisely what his difficulties are and what it is that they are required to do to help him. It is important that it should be properly detailed and accurate but, bearing in mind that education staff are busy people, it should not be so long and complex that they cannot find what they need to know reasonably quickly. The CYP is entitled to receive the education and health provision as a matter of law, so this can be enforced through the courts if necessary.

The format of EHCPs is not prescribed, and therefore every LA will have a slightly different format. However, it is required to include twelve separate sections, as set out below. To complicate matters further, many LAs set out EHCPs in tabular format and, for example, run some of the sections together.

The requirements for each section are set out in **paragraph 9.69** of the CoP and we strongly recommend that parents and young people check this carefully.

## **A: The views and wishes of the child/young person (CYP) and the child's parents**

This should be completed in consultation with both the CYP, where practicable, and the parents. It is often set out by reference to particular questions, for example the family and educational background, what the CYP likes, what he is good at, what he dislikes or finds difficult, what he wants to achieve from his education, what his aspirations are, what he feels he needs help with and the like.

This section has no statutory force, but it is important, not least because it is the first section the reader comes to. It is, in particular, the parents' opportunity to set out fully their views about their child's difficulties and what he finds helpful or unhelpful in meeting those difficulties, and what they outcomes they would like him to achieve. Parents' responses should therefore be reasonably full but should not over-long, and in general should focus mainly on what is happening currently and what is needed in the future, rather than what has happened in the past. The local authority is **not** entitled to amend the views expressed unless they are defamatory or unlawful for other reasons.

## **B: The CYP's educational needs**

Section B has sometimes been referred to as the section which sets out the diagnosis of the CYP's education problems, with Section F being in effect the prescription. It summarises **all** the CYP's learning difficulties, and it is important that it should do so completely and accurately, not least so that teachers and others know what to expect. It is usually convenient to set the problems out under specific headings - for example, cognition, communication, social, emotional and mental health problems, and physical and sensory. It is helpful if it starts with a summary of the child's needs.

The Code of Practice simply states that this section should identify the child's needs; therefore, there is no requirement (as some LAs appear to believe) for a separate list of strengths to appear here. If they are included, they need to be checked carefully to assess whether they really do describe strengths; for example, a statement that a 16 year old can count up to 10 may not be a strength, and a statement that a child can concentrate with 1:1 support is in reality a description of his difficulty in concentrating without such support.

The CoP specifies that for most children speech and language problems should be included in Section B, since language underpins the whole of the learning process. Problems with motor control and sensory difficulties such as sensitivity to noise and touch are also likely to be classed as learning difficulties. Other medical difficulties may well be educational needs if they affect the child's ability to learn - for example, epilepsy, diabetes, incontinence, cerebral palsy may well appropriately be included in this section.

Educational difficulties need not be limited simply to learning problems. An academically average or able child may still have special educational needs if, for example, he has behavioural difficulties which lead to him frequently being educated outside the classroom or being excluded; or if he has cerebral palsy which affects his ability to record what he learns or to access classrooms; or if he has continence problems which

mean that he is frequently uncomfortable in class and which affect his confidence and self-esteem.

### **C: The CYP's medical needs connected to their educational needs**

All health needs related to the child's SEN must be specified. This can include things like speech and language problems, but in general this type of difficulty should also appear in B. The Clinical Commissioning Group (CCG) can also include other health needs which are not related to SEN.

### **D: The CYP's social care needs connected to their educational needs;**

Any social care needs which relate to the child's SEN or which require provision for a child under 18 under s2 Chronically Sick and Disabled Persons Act 1970 must be specified. The latter is wide-ranging and includes such provision as practical assistance in the home, help in travelling to facilities, facilitating holidays, non-residential short breaks etc.

Many LAs tend to leave this section blank routinely, or will insert wording to the effect that the CYP has social care needs as set out in a separate Care Plan or other document produced by the Social Services Department or to be assessed by them. This is obviously unlawful as obviously it is the reverse of specific.

References to the fact that the child is or has been a child in need or the subject of a child protection plan can be included, but only if the child and parents agree.

Even if a young person over 16 has never previously had any social care needs, at this age this section should not be ignored because the EHCP should by the age of 16, where practicable, be helped towards adulthood and independence: therefore there may well be social care needs in terms of helping him to achieve independence, housing and employment, and possibly he may need something in the nature of supported housing or longer term more intensive care.

### **E: The outcomes which the EHCP is designed to help the CYP achieve**

Outcomes are defined as what it is hoped will be achieved for the CYP by the interventions set out in sections F, G and H. They should cover a range of timescales (i.e. short, medium and long term) and should be SMART (specific, measurable, achievable, realistic and time-limited). Unfortunately in our experience to date many EHCPs fail to achieve this. They should not be formulated until, at the very least, detailed reports on the child's difficulties and provision to meet them are available: too often LAs ask parents to formulate outcomes at the beginning of the assessment process, before such evidence is available. The process should be that difficulties should be identified, then provision to meet each and every one of those difficulties: outcomes should only be drafted at that point, when all concerned are able to identify what it is hoped that the provision will achieve for the child in question.

In formulating outcomes, the LA should take into account all the CYP's difficulties; there should be outcomes related to every area of those difficulties. Some LAs insist on limiting outcomes to a defined number, e.g. four; that is incorrect. In particular, outcomes should not be limited solely to what is to be achieved at the end of a particular Key Stage or at a particular age, e.g. 16 or 19.

Education outcomes are particularly important as the CYP gets older because they will determine whether the EHCP should continue beyond the age of 16: it will continue *only* if there is an educational need for it, and if the CYP has not achieved the outcomes set out in Section E. It is therefore important that outcomes should be reasonably ambitious and should focus on where the child should be in the longer term: if, for instance, outcomes are limited simply to achieving entry level NVQs or passes at GCSE and the young person duly does achieve that, the EHCP will come to an end even if the young person in fact wants to stay in education and needs support for that purpose.

## **F: Provision for the CYP's special educational needs**

This section should detail and specify all the special educational provision which the CYP requires in order to meet **all** the needs set out in Section B.

Paragraph 9.69 makes this requirement very clear, stating:

- 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.

Many LAs set out section 4 in two column tables with section E provisions on one side and section F on the other. Some extend this to include further columns for sections G and H. Whilst it is a requirement that support must help in achieving those outcomes and it should be clear how it is designed to do so, nevertheless the law and the Code of Practice make it very clear indeed that the primary requirement is that support should meet the **needs** set out in section B: if it does not, that is unlawful. We would therefore strongly suggest that LAs should be asked to set out provision in Section F using the same headings as are used in Section B (e.g.. Cognition, communication, social, emotional and mental health, sensory and physical) - this makes it very much easier to demonstrate and check that all needs have been properly taken into account and provided for. If LAs are determined to use tables, it could be suggested that the first column should be needs from section B with the corresponding provision in section F in the second column.

The requirement for specificity and detail is vital important. This is partly so that each and every teacher, assistant, etc., dealing with the CYP knows precisely what they should be doing to help him, and also because, if provision is not specified and detailed in Section F, it may be difficult to enforce the CYP's entitlement to it. The LA has a statutory duty to ensure the child receives all the special educational provision set out in this section; if they fail to do so, that duty can be enforced by an action through the High Court for judicial review which can be brought in the CYP's name and which may therefore be funded by legal aid if the CYP qualifies financially. However, if provision is not specific, it is very difficult to enforce it; for instance, if an EHCP provides that "X would benefit from access to therapy throughout the year", that is largely meaningless and would be completely impossible to enforce through the courts. By contrast, if the EHCP provides "X will receive one hour per week direct 1:1 speech and language therapy from a qualified therapist", it is very easy to check whether that is happening and to enforce it if it is not.

It is in relation to the issue of the detail and specificity that most disagreements arise. Some LAs have a tendency to set out support in very vague terms – look out for wording such as "will benefit from", "access to", "opportunities are", "regular", "up to", "as advised", "as required", "may be helpful", "contacts", and "adults." Such terms, if they appear in draft EHCPs, should always be challenged; there is simply no reason why the EHCP should not state that the child "will receive" the support in question, or specify precisely how often "regular" is, how long a "contact is", and who the "adults" should be (e.g. TA, teacher etc).

The following are further points which tend to arise:

- The CoP emphasises that speech and language provision should normally be in this section - it does not matter if it is also in section G. The same will normally apply to occupational therapy where the CYP has motor, co-ordination or sensory difficulties, and may include other therapies and medical provision where this affects education or the child's disabilities prevent their access to education (e.g provision for diabetes, epilepsy, mobility access, hydrotherapy, incontinence etc).
- If an EHCP provides for a child to receive programmes, the EHCP should specify who is to draw up, amend and monitor the programmes, who is to ensure their delivery (e.g. teachers, the SENCO, therapists), and what training and/or experience they should have. It may set out arrangements for someone like the TA to receive specific training, perhaps by attending individual therapy sessions with the child, and also for the programme to be amended from time to time.
- EHCPs often provide for children to be taught through whole class, small group and individual teaching. The EHCP should normally give guidance as to how much time is to be spent respectively in small group and individual teaching, the maximum size of groups, who is to be in charge of the groups, who is to provide 1:1 teaching, and again what training and monitoring they should have.
- Where EHCPs provide for outside support, for example from specialist teachers and



therapists, consideration should be given to writing in extra time for these individuals to prepare reports, contribute to IEPs, and attend meetings, particularly annual review meetings, unless that is already covered by an agreement between the authority and the provider in question.

- Occasionally, EHCPs provide or allow for support to be amended in future – e.g. “6 1:1 occupational therapy sessions per term for two terms, after which it is to be reviewed by the occupational therapist and may be increased, reduced or ceased.” That is unlawful: support should only be changed after going through the formal process of amendment allowing parents to challenge it if they disagree.
- EHCPs sometimes provide for support by reference to the authority’s banding system, i.e. a statement that the child will receive support at Band X under the local SEN policy. That is unlawful, because it means the authority can amend support simply by changing their banding arrangements without formally amending the EHCP. Support should **not** be set out solely in terms of the funds to be allocated but in terms of the actual support that this translates into, because the child is entitled to that support irrespective of cost.
- For similar reasons, if the EHCP says that some or all support will be provided by the school, responsibility for providing support still lies with the LA even if it has delegated funds to the school for SEN support, and funding arrangements are irrelevant for this purpose. If, therefore, an LA subsequently claims that it is not their fault but the school’s that support has not been put in place, that is simply incorrect. Ideally where an EHCP is phrased in these terms the LA should make it clear that overall responsibility remains with them.
- EHCPs should match provision to need, not vice versa. Some NHS therapy departments tend to recommend their standard model provision for all children irrespective of what their difficulties are. LAs should not accept this and should instruct the relevant experts to recommend what the child actually needs – if the NHS cannot provide it then they will have to make arrangements with independent therapists.
- Some LAs tailor section F to provide only for provision available in the school they propose to name. That is unlawful. Section F must contain the support the child actually needs and, if the school the LA wants cannot provide it, then either they should arrange to fund the relevant support there or name a different school.
- Arrangements for transport should only be in the EHCP in exceptional cases where the child has particular transport needs. Rights to transport for all children are set out in s308 Education Act 1996 and include the right for children who live close to the school named in the EHCP but who cannot be expected to walk because of their SEN or disability, so they do not need to be included in the EHCP.

Paragraph 9.69 of the Code of Practice includes a statement that “in some cases, flexibility will be required to meet the changing needs of the child or young person.” It

should be noted that that, where there is provision for flexibility in section F, that should only be because it is in the interests of the CYP, **not** because it suits the convenience of the school or LA. The fact that it is only appropriate “in **some** cases” should also be noted: it is emphatically not appropriate in every case. In general, this relates to established case law that there is rather less need to specify and detail support for children placed in specialist schools: the courts have recognised that such schools can be expected to have the necessary expertise to ensure that children's needs are met, and also need to be able to react quickly and flexibly as children develop. However, even for specialist school placements it is recognized that this is a factor to be taken into account in appropriate cases, and this principle should never be used as an excuse for failing to specify when detail can reasonably be provided.

It is therefore strongly arguable that this exception cannot apply in relation to some of the more generic types of special schools (e.g. those described as catering for unspecified “Moderate learning difficulties”) because it is unlikely that the staff in such schools will be experts in all aspects of all the types of learning difficulty for which they cater. It may also be that special schools themselves will in future want Section F provision to be more specific as a result of recent changes in funding arrangements which mean that it may be easier to attract extra funding if it is clear from the EHCP that the child needs a large amount of specialist support.

In general it tends to be in the interests of a child in a special school to have provision reasonably detailed, particularly the type of help that that school specialises in, simply to avoid any arguments in the event of the child moving schools for any reason.

### **G: Provision for the CYP’s medical needs**

This must again be detailed and specific and should normally be quantified, and it should be clear how it will support achievement of the outcomes. It may include specialist support and therapies, such as medical treatments and delivery of medication, mobility equipment and the like.

It is again particularly important that this section be detailed and specific for the reasons set out above - staff need to know what medical help the CYP needs and, if it is not forthcoming, the CYP’s entitlement to it can be enforced against the Clinical Commissioning Group by way of an application for Judicial Review.

LAs tend to make section G very brief, stating, for instance, that the child is under the care of X hospital in relation to his autism and sensory problems. Strictly this is unlawful, but whether it is worth making an issue of it really depends on how essential the health care provision is – it may be that educational provision is enough. It may however be worth pushing for, for example, adequate regular psychiatric help through CAMHS for child with severe anxiety, particularly bearing in mind how difficult it can be to access CAMHS via other routes, or for support like regular hearing checks, wheelchair checks etc.

The health authority has a right of veto in respect of provision in Section G and there is

no right to appeal against that. However, it is a right that can only be exercised in good faith - if a CCG vetoed provision solely because the CYP was seeking to enforce it and not because it genuinely believed he did not need it, that veto itself could be challenged through the Judicial Review process.

**H1: Any social care provision which must be made for the CYP under 18 resulting from s2 Chronically Sick and Disabled Persons Act 1970**

Again these must be specific and detailed, and normally should be quantified, and it should demonstrate how social care will support achievement of the outcomes. A list of the type of services that might be accessed through these means appears on page 168 CoP.

Since the CFA came into effect, in our experience LAs are frequently completing this section solely by reference to a care plan which the Social Services Department has formulated or which it hopes to formulate at some time. This is wholly unlawful, since obviously this is the reverse of detailed and specific provision.

It should however be noted that Section H, unlike F and G, cannot be enforced through the courts. That is largely because there is separate provision in other statutes (notably s17 Children Act 1989 for children under 18, and the Care Act 2014 for adults) relating to care entitlement which entitle CYP to properly detailed care plans, where appropriate, and those plans can themselves be enforced through the courts if necessary. Therefore if a CYP has social care needs it may well be sensible to ask for a care assessment under these Acts at an early stage.

It is worth bearing in mind that, when considering the respective costs of proposed education placements, the LA and tribunal must take into account all costs to public funds, including social care costs. This may be particularly relevant to residential school placements: it may be that, particularly for a child with extensive social care needs, a residential school may be no more expensive than a day placement once the costs involved in education, social care and other costs such as additional TAs, therapies and transport are taken into account.

**H2: Any social care provision reasonably required by the learning difficulties or disabilities which result in the CYP having SEN**

This can include provision identified through other assessments, e.g children in need, adult care or safeguarding assessments. This is particularly relevant to young people over 18.

**I: Placement**

The name *and* type of school, nursery, post 16 institution or other institution to be attended by the CYP; or, if the name is not specified, at least the type of placement.

Note that this section will be left blank in the draft, since the LA has to consult the parent or young person and take their preferences into account.



If the preference is for a mainstream school, that preference should be met unless it would be prejudicial to the efficient education of other children (and even then it should still be met unless there are no adjustments the school can make which would counteract such prejudice). If the parents prefer an independent school, the LA has no obligation to meet that preference unless it is unable to nominate another school or provision which will meet the child's needs appropriately and at lesser cost. The LA is however fully entitled to take cost into account, and if the child's needs can be met at a school other than the one preferred by the parent at lesser cost, they are entitled to nominate the cheaper school.

The LA must consult potential schools at which they envisage the child could be placed, normally supplying them with a copy of the EHCP and the reports annexed to it. If the school states that it is unable to take a child or meet the child's needs, the LA should not accept that blindly; if it disagrees, it may name the school in any event. If the school still disputes this, the issue can be referred to the Secretary of State for Children, Schools and Families for adjudication.

If a placement has not been identified, this section can simply set out the type of placement which the CYP needs, but the LA should aim to remedy this as soon as possible and should put in place interim arrangements such as home tuition. If the type of school is simply "a mainstream school", this should be strongly challenged: if the LA is stating that a mainstream school is suitable, that should mean any such school is available unless it is full, and it should be easy to find a place. The failure to do is a strong indicator that the reality is that schools approached do not agree that mainstream education is viable.

Occasionally this section will say something like "The LA considers that X's needs could be met in a mainstream school but his parents have made their own arrangements for him to be educated at Y School". This is lawful but means that it is solely the parents' responsibility to pay fees, where relevant, and to ensure that the CYP receives all the support he needs at the school they have chosen (including, for instance, buying in therapies that the school does not provide), and that they will have to provide transport. This is often the result of a deal negotiated with the LA, and parents should be aware that this commits to providing transport long term: if their financial or health circumstances change making this difficult, the LA is entitled to place the child in another cheaper school.

## **J: Personal Budget, including arrangements for direct payments**

Detailed information on any Personal Budget that will be used to secure provision in the EHCP, including arrangements for direct payments. Personal budgets are defined as an amount of money identified by the LA to deliver provision set out in an EHCP where the parent or young person is securing that provision. There is more detailed information about Personal Budgets from page 178 onwards in the CoP.

## **K: A list of evidence on which the EHCP is based and which should be annexed to the EHCP.**

This should include not only the reports obtained by the LA during the assessment process but also other relevant reports, e.g. paediatrician's reports, and reports commissioned by the parents.

**ELEANOR WRIGHT**

**SOS!SEN**

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### **Useful Contacts – Hertfordshire**

- **Hertfordshire SENDIASS:** [www.hertssendiass.org.uk](http://www.hertssendiass.org.uk)
- **Herts Parent Carer Involvement:** [www.hertsparentcarers.org.uk](http://www.hertsparentcarers.org.uk)
- **Hertfordshire Local Offer:** [www.Hertfordshire.gov.uk/localoffer](http://www.Hertfordshire.gov.uk/localoffer)

***Further support groups within Hertfordshire are listed here on the Hertfordshire Local Offer:***

<https://www.hertfordshire.gov.uk/microsites/local-offer/services-for-parents-carers-and-families/support-groups-and-networks.aspx>

### **Useful Contacts – National**

- **IPSEA:** [www.ipsea.org.uk](http://www.ipsea.org.uk)
- **Contact:** [www.contact.org.uk](http://www.contact.org.uk)
- **Council for Disabled Children:**  
[www.councilfordisabledchildren.org.uk](http://www.councilfordisabledchildren.org.uk)
- **Parents Guide to SEND Code of Practice:**  
[https://councilfordisabledchildren.org.uk/sites/default/files/field/attachemnt/Special\\_educational\\_needs\\_and\\_disabilites\\_guide\\_for\\_parents\\_and\\_carers\\_0.pdf](https://councilfordisabledchildren.org.uk/sites/default/files/field/attachemnt/Special_educational_needs_and_disabilites_guide_for_parents_and_carers_0.pdf)
- **Mott McDonald – SEND Delivery Support:**  
<https://www.sendpathfinder.co.uk/>



## Videos for Annual Review Webinar

[What is an annual review](#)

[Person centred planning](#)