

Section 9: Education, Health and Care Needs Assessments and Plans

This section of the toolkit is about Education, Health and Care Needs Assessments and Plans (EHCP). EHCPs are replacing Statements of Special Educational Needs.

This is important because some young children may require an EHC needs assessment and Early Years SENCOs need to be aware of the legal framework. This is set out in Part 3 of the Children and Families Act 2014 and is explained in the *SEN and disability code of practice: 0-25 years*.

EHC Needs Assessments and Plans

The majority of children and young people with SEN or disabilities will have their needs met within local mainstream early years settings, schools or colleges [...]. Some children and young people may require an EHC needs assessment in order for the local authority to decide whether it is necessary for it to make provision in accordance with an EHC plan.

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

DfE and DH (2015) *SEN and disability code of practice: 0-25 years*, para 9.1

The local authority must identify, assess and make provision for children with SEN in accordance with an EHCP, where necessary. The Children and Families Act provides a set of principles that must inform any action taken by local authorities under the SEN duties in the Act. These principles:

- recognise the importance of the wishes, views and feelings of children, young people and their parents;
- promote their participation in decision-making;
- recognise the importance of information and support; and
- focus on the best possible outcomes for children and young people with SEND.

This means that parents and children, as far as possible, must be involved throughout the process and take part in decision-making. Their feelings, aspirations and wishes, as well as the outcomes they hope to achieve must be taken into account in planning their support.

There are clear requirements set out in the legislation on: who is involved in the assessment and planning process, when and how; how a child's needs are assessed; the content of an EHC plan and how it is finalised; timings for the overall process and for the different stages of the assessment and planning process, see below; which decisions of the local authority parents can appeal against; and how EHC plans are maintained and kept under review. This section of the toolkit provides a brief summary of the aspects of the assessment and planning process that are most relevant to early years settings. A full account is provided in chapter 9 of the *SEN and disability code of practice: 0-25 years*. The DfE provides a short

guide to the Code of Practice for early years providers. The Council for Disabled Children provides a short guide to EHC plans¹.

Information, Advice and Support for parents and children

The Local Authority **must** provide all parents, children and young people with impartial information, advice and support in relation to SEN to enable them to take part effectively in the assessment and planning process.

DfE and DH (2015) *SEN and disability code of practice: 0-25 years*, para 9.29

The principles in the Children and Families Act recognises that parents need information and support in order to be able to participate in decision-making in the assessment and planning process. Settings can put parents in touch with the local Information, Advice and Support Service (IASS). Information about the local service must be available in the local offer and is also available through the Information, Advice and Support Services Network website². For more information see *Section 7: Involving parents and carers*.

Requesting an EHC needs assessment

In the early years, the child's parent or someone acting on behalf of an early years setting, usually the SENCO or Manager, can request an EHC needs assessment. In addition, anyone else can bring a child who has (or may have) SEN to the attention of the local authority, particularly where they think an EHC needs assessment may be necessary.

The local authority has 6 weeks to decide whether or not to carry out an EHC needs assessment.

Gathering evidence to inform the decision about an EHC needs assessment

In considering whether and EHC needs assessment is necessary, the local authority should consider whether there is evidence that despite the early years provider....having taken relevant and purposeful action to identify, assess and meet the special educational needs of the child., the child has not made expected progress.

DfE and DH (2015) *SEN and disability code of practice: 0-25 years*, para 9.14

To inform their decision, the local authority will need to take into account a wide range of evidence, including evidence from the early years setting. The local authority will pay particular attention to:

- evidence of the child's developmental milestones and rate of progress;
- information about the nature, extent and context of the child's SEN;
- evidence of the action already being taken by the early years provider to meet the child's SEN;
- evidence that, where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided;
- evidence of the child's physical, emotional and social development and health needs, drawing on relevant evidence from clinicians and other health professionals and what has been done to meet these by other agencies.

¹ <http://www.councilfordisabledchildren.org.uk/resources>

² <http://www.iassnetwork.org.uk/find-your-iass/>

It will be important that the setting has kept records and can draw on these to provide evidence to the local authority, for example:

- tracking information showing progress over time
- EYFS outcomes and the child's level of development
- a description of the child's needs and how the parents' views have informed the setting's understanding of the child's needs
- evidence of how the assess, plan, do, review cycle was put into practice, including records of:
 - outcomes that were sought for the child
 - interventions and support put in place
 - expected impact on progress, development, or behaviour
 - how and when plans were reviewed
- how activities and routines were adapted and what reasonable adjustments were made
- any alternative methods of communication used
- any specialist expertise drawn on, any advice sought beyond the setting and how it was implemented in the setting
- strategies which have been successful or unsuccessful
- any small group work or 1:1 sessions provided

Deciding whether or not to carry out an EHC needs assessment

Local authorities may develop criteria and guidelines to help them decide whether or not to carry out an EHC needs assessment. However, the request for each child must be considered individually and on its merits and local authorities must not operate 'blanket' policies that exclude particular groups of children, particular age groups, or particular types of need.

The parents and all parties who contributed evidence at this stage, must be informed of the decision. Parents have a right of appeal against a local authority decision not to assess.

EHC Needs assessment

If the local authority decides to carry out an EHC needs assessment it must then gather *advice and information* from:

- the child's parent
- educational advice and information from the early years setting
- medical advice and information
- psychological advice and information from an educational psychologist
- social care advice and information
- advice and information from any other person the local authority thinks is appropriate
- advice and information from any person the child's parent or young person reasonably requests

If there is recent assessment advice, new assessments do not need to be gathered if everyone agrees that it is *sufficient for an EHC needs assessment*. The local authority, the parents and the original giver of the advice, all need to agree that the advice is *sufficient*, otherwise new assessment advice must be sought. Advice and information must be provided within 6 weeks of the request from the local authority and sooner wherever possible. It must include advice about outcomes relevant to the child's age and phase of education and strategies for achieving those outcomes.

Deciding whether or not to issue an EHC plan

Drawing on the assessment advice and information the local authority then decides whether or not to issue an EHC plan. The Code of practice provides guidance on how this decision should be made, paragraphs 9.54-9.56.

Where, in the light of an EHC needs assessment, it is necessary for special educational provision to be made in accordance with an EHC plan the local authority **must** prepare a plan.

DfE and DH (2015) *SEN and disability code of practice: 0-25 years*, para 9.53

If the local authority decides not to issue a plan parents have a right to appeal against that decision.

Preparing an EHC plan

Where the local authority decides to issue an EHC plan it then prepares a draft plan. This must include lettered sections covering:

- A. The views, interests and aspirations of the child and his or her parents
- B. The child's special educational needs
- C. The child's health needs which are related to their SEN
- D. The child's social care needs which are related to their SEN or to a disability
- E. The outcomes sought for the child including the arrangements for setting shorter term targets by the early years provider
- F. The special educational provision required by the child
- G. Any health provision reasonably required by the child
- H. Sections H1 and H2 cover different elements of social care provision
- I. The name and type of the school, maintained nursery school, or other institution to be attended by the child
- J. Where there is a Personal Budget, the details of the Personal Budget
- K. The advice and information gathered during the EHC needs assessment must be attached in appendices to the EHC plan.

In the draft plan that is sent to the parents, Section I is left blank so that the parents can request a placement, see below.

Naming the placement in an EHC plan

Parents of children under compulsory school age can ask for a particular maintained nursery school to be named in their child's plan. The local authority must name the school unless it would be unsuitable for the age, ability, aptitude or SEN of the child, or the attendance of the child there would be incompatible with the efficient education of others or the efficient use of resources.

Placement in a private, voluntary or independent setting works differently: the child's parents can *make representations* for their child to be placed in a private, voluntary or independent setting. If the local authority considers that placement appropriate, it can specify this in the plan and, if it does, it must fund the provision. However, the local authority cannot require an independent, private or voluntary setting to admit a child, unless the setting agrees. The local authority should ensure that parents have full information on the range of provision available locally and may wish to offer parents the opportunity to visit such provision.

Finalising the EHC plan

The parents have 15 days to consider and respond to the draft EHC plan and to request a particular placement. The local authority then has 15 days in which to consult the named setting and finalise the plan. The whole process must be completed in 20 weeks from when the request to assess was made to the issue of an agreed EHC Plan.

If parents disagree with the placement, the provision or the description of the child's needs set out in the plan they can appeal to the SEND Tribunal but are required to consider mediation before doing so.

Children under compulsory school age

For children under compulsory school age, there is a precautionary aspect to the definition of SEN: they have SEN if they are likely to have SEN when they reach school age, or would do so if special educational provision were not made for them.

Children aged under 2

For older children, special educational provision is provision that is additional to or different from that which is normally available in mainstream settings. For a child under the age of 2, special educational provision means provision of any kind.

The Code of Practice envisages that most children under the age of 2 will have their needs met from locally available services, but that:

Children aged under two are likely to need special educational provision in accordance with an EHC plan where they have particularly complex needs affecting learning, development and health and are likely to require a high level of special educational provision which would not normally be available in mainstream settings.

DfE and DH (2015) *SEN and disability code of practice: 0-25 years*, para 9.145

Children aged 2-5 who are not attending a setting

For children in an early years setting, the local authority seeks advice and information as discussed, above. For children who are not attending a setting, the local authority should collect as much information as possible before deciding whether to assess. The local authority will then consider whether the child is likely to require special educational provision in accordance with an EHC plan, and:

...must decide this in consultation with the child's parent, taking account of the potential for special educational provision made early to prevent or reduce later need. (Code, para 9.147)

EHC assessments and plans during the transitional period from statements to plans

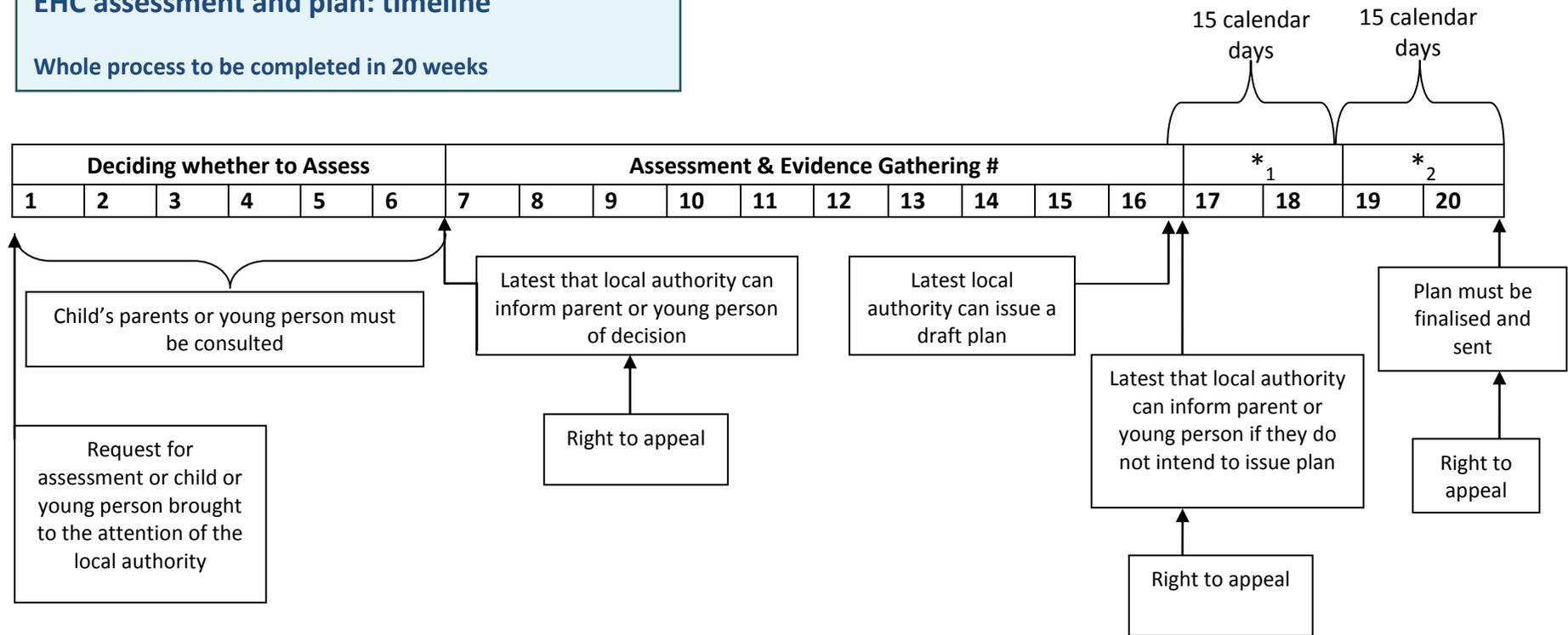
During the transitional period, from September 2014 to April 2018, statements are gradually being transferred to EHC plans through a *transfer review*. A *transfer review* is an EHC needs assessment and is subject to the same requirements as are set out above. However, as the child already has a statement and the threshold for an EHC plan is the same as for a statement, the process starts with a decision to assess (6 weeks into the process set out above) and the total time for a transfer review is therefore 14 weeks not 20.

Maintaining and reviewing the EHC plan

Where the local authority issues an EHC plan it must then maintain it and make the special educational provision set out in the plan. It must keep the plan under review and the first review must be carried out within 12 months of the date that the plan was issued.

EHC assessment and plan: timeline

Whole process to be completed in 20 weeks



No new advice if existing assessment information:

- Is sufficient for EHC needs assessment
- LA, advice giver and parent or young person agree it is sufficient

*1: Parent:

- Can comment
- Can request a particular school or setting to be named in plan

*2: Consultation with school or setting about being named in the plan

