

EHC Plan 2

An EHC plan is the document which replaces Statements of SEN and Learning Difficulties Assessments for children and young people with special educational needs.

The IPSEA EHC plan checklist attached sets out what legally must be included as a minimum in any Education, Health and Care Plan ("EHC plan") issued by a Local Authority.

An EHC plan can only be issued after a child or young person has gone through the process of EHC needs assessment. At the end of that process, the local authority has to make a decision, either to issue an EHC Plan or not.

If the LA refuses to issue an EHC plan, the parent/young person must be informed of the reasons and that they have the right to appeal to the Special Educational Needs and Disability Tribunal.

If the decision is to issue an EHC plan, the LA must first issue a draft EHC plan for the parents or young person to consider. Only at this stage will parents/young person be asked to name the type of school/college they want e.g. mainstream or special school and the individual school/college they want to have named in the EHC plan. The LA will then consult with that school/college about being named in the EHC plan.

As well as the special educational needs and special educational provision of the child/young person, the draft EHC plan should also detail:

- Health care provision that has been assessed as reasonably required;
- Social care provision which is being made for the child/young person under the Chronically Sick and Disabled Persons Act 1970 and any other social care provision that has been assessed as reasonably required.

The LA will then finalise the EHC plan.

The LA will then have the legal duty to "secure" the educational provision specified in the EHC plan, that is, to ensure that the provision is delivered.

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The local health care provider will have the legal duty to “arrange” the health care provision specified in the EHC plan, that is, to ensure that the provision is delivered.

If the EHC plan specifies social care provision provided under the Chronically Sick and Disabled Persons Act 1970, the LA will have a legal duty to make that social care provision under that Act (but not any other social care provision in the EHC Plan not resulting from that legislation).

The test which the LA must apply in coming to a decision about an EHC plan is set out in the Children and Families Act 2014 **section 37 (1)**:

Where, in the light of an EHC needs assessment, it is necessary for special educational provision to be made for a child or young person in accordance with an EHC plan -

- a the local authority **must** secure that an EHC plan is prepared for the child or young person, and
- b once an EHC plan has been prepared, it must maintain the plan.

This is the test which the LA must apply when the EHC needs assessment has been carried out based on the evidence gathered.

Where the LA is going to issue an EHC plan, the first step is for the LA to send the parent or young person a draft EHC plan. This will allow the parent or young person to consider the contents of the EHC plan. This will include the child/young person’s SEN, health and care needs, the provision to meet each of those needs and the outcomes that should be achieved. It will also record the parent and young person’s aspirations, views and feelings.

What the draft EHC plan **must not** include is the name of a particular school/college or educational placement or the type of placement i.e. special or mainstream school/ college. This is because the EHC plan **must** reflect the individual’s needs and the provision to meet those needs and not the resources that the LA has available or which can be offered in a particular placement or type of placement. Special Educational Needs law does not allow an LA to restrict what provision a child or young person receives based on resources – financial or services available. This means that the name of the school/college or the type of placement will appear only in the final plan, not the draft plan.

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Along with the draft EHC plan an LA must give notice to the parent or young person that they have 15 days in which to make comments – “representations” - about the EHC Plan, request a meeting with the LA to discuss the draft and their right to request that a particular school or other institution is named in the Plan.

An EHC plan does not have a fixed format – each LA can develop their own “style” - but legally they **must** contain a number of separate sections **IPSEA’s EHC plan checklist** outlines these in detail.

All special educational needs, outcomes and provision must be specified in an EHC plan. This means that it should be clear, to parents, young people, school/college and LAs, who has to do what, when and how often that should be reviewed. The use of woolly or weasel words should be avoided such as “regular”, “access to” or “opportunities for”.

For example this is not helpful or legally correct:
“regular speech and language therapy input as required”

Instead see this example of the correct legal approach:
“One hour direct individual speech and language therapy session per week with a speech and language therapist with knowledge and experience of the communication profile of children with Down’s syndrome”

Reviewed: December 2017

Next Review: December 2018