

Checking a draft EHC Plan

Once you get a copy of the Draft EHCP (education, health and care plan) for comments, you have 15 days to get back to the LA. You can apply for an extension by emailing your SEN Caseworker. This should be done in writing (email) stating why you require the extension.

Please note – The 15 days is from the date on the letter that was received with the Draft Plan and not when it was received in the post.

An EHCP must include the following sections¹

Section A: the views, interests and aspirations of the child and his parents or the young person.

Section B: the child or young person's SEND;

Section C: health care needs which relate to the child's SEND;

Section D: social care needs which relate to the child's SEND;

Section E: the outcomes sought for the child or young person;

Section F: the special educational provision required to meet the child's SEND;

Section G: any health care provision reasonably required by the child's SEND:

Section H: any social care provision required from social services under the Chronically Sick and Disabled Persons Act 1970.

Section I: the name of the school or other institution to be attended by the child or young person, and the type of that institution (or just the type if no specific institution is named);

Section J: details of any direct payment which will be made (this will be blank if no personal budget has been agreed to)

Section K: copies of all of the reports, advice and information obtained as part of the EHC needs assessment (appendices)

Going through the appendices (Section K)

Step One – Your child's identified needs

- Go through all the reports in the appendices and highlight each need that has been identified for your child. Check that these reports cover all your child's needs. You can record these needs on the attached grid if you would like to.

¹ 1 Special Educational Needs and Disability Regulations, 2014: Regulation 12

Step Two - Outcomes

- Repeat the above with the outcomes. Remember an outcome is the benefit or difference made to an individual as a result of an intervention.
- Check they are personal to your child and not generic. The law says outcomes should be personal and not expressed from a service perspective.²
- Check that the outcomes are SMART (Specific, Measurable, Achievable, Realistic and Time Bound).³

Step three – provision to meet identified needs

- Go through the reports and, using a different colour, highlight all the provision for each area of need. EHC plans must specify the special educational provision to meet each of the child's special educational needs.⁴
- Check every need and outcome has a corresponding provision. Again you may find it helpful to use the grid attached to match them up.
- Check provision is detailed, specific and normally quantified, in terms of type, hours and frequency of support and level of expertise.⁵

How do I check provision?

To be clear about what your child's help will amount to on a typical day at school, ask yourself the following:

- What type of help my child will get? e.g. equipment, learning support, teaching programme, speech therapy
- Who will give the help? e.g. Do they need particular qualifications or experience?
- How much time will any interventions or therapies take?
- How often will these interventions happen?
- Will your child get help for self-care if needed? e.g. around eating or continence
- Will they be supported at break or lunch times if needed?
- What teaching strategies will staff use? e.g. visual timetables, coloured filters, TEACH.
- Will teaching be one to one or in small groups? If teaching is in groups, how big will they be?

Make a note of any gaps, anything that is unclear or anything you do not agree with.

The plan should avoid words such as:

- access to...
- regular help...

² SEND Code of Practice pg 163

³ SEND Code of Practice pg 163

⁴ SEND Code of Practice pg 164

⁵ SEND Code of Practice pg 166

- help as required...
- where necessary...
- periodic...
- opportunities for... -
- benefit from...

These words are too vague and leave it up to someone else to decide, so your child may not get the help they need. The EHCP should be used to ensure provision is specific; it must set out how much help your child will get and how often.

The Draft Plan

- Once you have a list with needs, outcomes and provision, check these have been included in the draft plan.
- Check that Section C includes any health needs and these needs have a provided for in Section G.
- Section H should have any social care provision the child is assessed as needing.

If you have any questions ask SEND Team at Achieving for Children for clarification.

If you are happy with the draft you can use the reply slip to indicate this.

If you are not happy send your requested amendments to SEND Team at Achieving for Children with the completed reply slip. You also have the right to request a meeting at this point to talk through any changes you would like with an SEN caseworker.

Naming a School

Your draft plan will not have a school or setting named on it. When you return the reply slip, you can ask the Local Authority to consult with the school or setting of your choice on whether they can meet your child's needs based on the plan.

You or your young person have a right to request any of the following types of school or college:

- A maintained school or nursery (mainstream or special)
- An Academy (mainstream or special)
- An institution in the Further Education sector
- A non-maintained special school
- A section 41 school.⁶

The only schools which are outside the scope are independent schools/institutions which are either non-maintained nor institutions approved by the Secretary of State under section 41. Where those schools/institutions are concerned the parent or young person has the right to make representations for such a placement⁷ and) the LA must have regard to "the views, wishes and

⁶ These are listed in the Children and Families Act (CAFA, 2014) section 38(3).

⁷ CAFA, 2014: section 19

feelings of the child and his or her parent, or the young person'. However, there is no right to make a formal request for one of these provisions⁸.

The only reason the local authority can refuse the parent or young person's **request** for a particular provision is if:

- The setting is unsuitable for the age, ability, aptitude or special educational needs ("SEN") of the child or young person; or
- The attendance of the child or young person would be incompatible with the provision of efficient education for others; or
- The attendance of the child or young person would be incompatible with the efficient use of resources.⁹

The LA has to prove that at least one of these conditions applies in order to refuse the parent or young person's preference.

If a school say they cannot meet your child's needs, but the LA does not agree with a school's reasons for refusing a place, they can direct the school to take your child and will name that placement on the final plan. This does not apply in the case of independent schools/institutions which are neither non-maintained nor institutions approved by the Secretary of State under section 41. In this case the LA must have the provision's permission to name them in Section I of an EHCP.

Next Steps – after the final EHCP is issued

If you cannot agree with the LA over the content of the EHCP, you will have the right to appeal to the Tribunal Service over Sections B, F and I only.

You must consider mediation before any appeals to Tribunal except when the appeal is about Section I (school place) only. Please consider carefully whether the contents of the Plan support your choice of provision before choosing to appeal Section I only. Details for the mediation service are given on the decision letter you receive with the final EHC Plan.

⁸ CAFA, 2014: section 38

⁹ CAFA, 2014: section 39(4)

Aspirations Section A	Needs Sections B,C and D	Outcomes	Provision Sections F,G and H

Disclaimer: Richmond and Kingston SENDIASS has made all reasonable efforts to ensure that the information contained in this leaflet is accurate and up to date at the time of publication. It does not constitute legal advice and Richmond and Kingston SENDIASS cannot accept any responsibility for any loss or damage suffered as a consequence of any reliance placed upon it.

August 2023