

The impact of the SEND reforms on children and young people with statements

This information is about how the reforms to the SEND Code of Practice¹ affect children and young people who have Statements of Special Educational Need (SEN), and young people in further education and training who have special educational provision through a Section 139A Learning Difficulty Assessment (LDA).

How has the law changed?

In September 2014 the Children and Families Act 2014 came into force. A new SEND Code of Practice¹ covers children and young people with special educational needs and/or disabilities from birth to age 25. One big change is that Education, Health and Care (EHC) plans will replace Statements of SEN and LDAs.

The SEND Code of Practice says:

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. ^(9.2)

Local authorities **must** transfer all children and young people who have a Statement to the new SEND system by 1 April 2018 unless the Statement is no longer necessary.

Every local authority should publish a **local transition plan**. This explains when and how statements will be transferred to the new system, and gives information for young people in further education and training who receive support through an LDA.

How does this affect those with statements?

Until 1 April 2018 local authorities must continue to comply with Part IV of the **Education Act 1996** (the old law) if the child or young person has a statement.

The statement continues and annual reviews will take

place until one of the following happens:

- the local authority decides to cease the statement;
- the statement ceases because the young person leaves education;
- there is a transfer review and:
 - an EHC plan is agreed, or
 - the local authority decides an EHC plan is not required.

The SEND Code of Practice says:

During the transition period local authorities will transfer children and young people with statements onto the new system... No-one should lose their statement and not have it replaced with an EHC plan simply because the system is changing. ^(9.4)

Transition to EHC plans is staggered over the next four years. In each year local authorities **must** transfer some groups of children and young people with statements, and should give priority to other groups.

Between 1 September 2014 and 1 September 2015

Local authorities **must** transfer children and young people to EHC plans before they move from school (including school sixth forms) to post 16 education or an apprenticeship.

Local authorities **must** also transfer children and young people to EHC plans if they received an EHC plan but had no Statement before 1 September 2014 (some EHC plans were issued as part of the **SEN Pathfinder** project but they have no legal force as they were prepared before the new law came into effect).

Local authorities **must** also transfer young people on request to EHC plans if they have an LDA and will continue in education after August 2016.

¹ www.gov.uk/government/publications/send-code-of-practice-0-to-25

Local authorities should **give priority** to children when they move from:

- an early years settings to school;
- infant to junior school;
- primary to middle school;
- primary to secondary school;
- middle to secondary school;
- mainstream to special school (or vice versa).

Local authorities should also give priority to those children and young people:

- children in Year 6 not included in the list above (including where the child stays at the same institution);
- in Year 9;
- in Year 11;
- leaving custody;
- who had an EHC plan before 1 September 2014 (some EHC plans were issued as part of the SEN Pathfinder project);
- who move between one local authority and another;
- who receive direct payments under the SEN direct payments pilot scheme.

Between September 2015 and April 2018

In each year, local authorities **must** transfer children and young people to the new system:

- in Year 9;
- before they move between:
 - an early years settings to school,
 - infant to junior school,
 - primary to middle school,
 - primary to secondary school,
 - middle to secondary school,
 - mainstream to special school (or vice versa).

In 2015/16, local authorities **must** consider a request for an EHC needs assessment from a young person with an LDA, and the Local Authority must issue an EHC plan if one was needed following an assessment.

Between September 2016 and 31st March 2018

In each year, local authorities should **give priority** to transferring to the new system those children and young people:

- children in Year 6 not included in the list above (including where the child stays at the same institution);
- in Year 11;
- leaving custody;
- who have an EHC plan issued before 1 September 2014 (some EHC plans were issued as part of the **SEN Pathfinder** project);
- who move between one local authority and another.

You can find out more about the transition arrangements

for particular groups in the Department for Education guidance Transitional and Savings provisions (www.legislation.gov.uk), and in the local authority's transition plan²

What is a transfer review?

A **transfer review** replaces the **annual review** in the academic year that the child or young person transfers to the new SEND system. The review must be completed within 12 months of the date the statement was issued or of the previous annual review.

A transfer review requires an **EHC needs assessment** to decide what needs, outcomes and provision should be included in the EHC plan. This should include education, health and social care needs. In many cases the assessment information in existing statements will be used. In fact the local authority must not ask for further advice if the advice it has already is sufficient, but you can disagree if you do not think it is and then the authority has to get new advice. Before existing advice is used, the person who provided the advice, the local authority, the child's parents, or the young person must all be satisfied that the advice is 'sufficient for the purposes of an EHC needs assessment'.

You, your child or the young person **must** be invited to a meeting as part of the transfer review, and be given two weeks' notice of that meeting.

A transfer review ends when the local authority sends you (or the young person) a copy of the final EHC plan, or when it informs you (or the young person) that an EHC plan will not be issued. The local authority **must** finalise the EHC plan, where one is needed, **within 20 weeks**, this includes a two-week notice period where the local authority informs you of their intention to start the transfer review.

For moves between school stages there are particular deadlines for the issue of EHC plans. These are:

- 31 May 2015 if the child or young person will transfer from secondary school to a post 16 institutions on 1 September 2015. In subsequent years the deadline will be 31 March in the calendar year that the child or young person transfers from secondary school to post-16 institution.
- 15 February in the calendar year of the child's transfer in any other case.

Once the transfer process starts, your rights to appeal to the Special Educational Needs and Disability Tribunal under the Children and Families Act 2014 replace those you had under the Education Act 1996.

² www.iwight.com/Residents/Care-and-Support/SEND-Reforms/SEND-Reform-Work-on-the-Isle-of-Wight/Education-Health-and-Care-Plans1

What does an EHC plan look like?

Every local authority can decide how to set out the EHC plan, but it must include 12 specific sections. You can find out more on our information sheet '**1E – EHC needs assessment for children in early years settings or at school**'.

Key differences compared to statements should include:

- a greater focus on outcomes;
- more emphasis on the involvement of parents, children and young people;
- improved integration of health and social care provision;
- continuation, where appropriate, to age 25;
- more rights for young people.

How does this affect those with learning difficulties assessments?

Local authorities must continue to have regard to the statutory learning difficulty assessment guidance until 1 September 2016. If a young person with an LDA requests it, the local authority must transfer them to an EHC plan by 1 September 2016 if they are staying in further education or training after that date.

You can find more information about EHC needs assessments on our information sheet '**1E – EHC needs assessment for children in early years settings or at school**'.

What if I do not agree with the local authority?

The first step is to contact the local authority to discuss your concerns.

The SEND Information Advice and Support Services offers impartial advice and support and can explain your options, including your rights to request reassessment and to appeal. You can also find out more on our

information sheet '**1G What if I do not agree with decisions about SEN**'.

Where can I get more information, advice or support?

You can read about education, health and care needs assessments in the SEND Code of Practice³ chapter 9.

The Local Offer (www.iwight.com/Local-Offer) includes more information on;

- advice and support during the process of assessment;
- details of the local arrangements for independent support;
- details of other organisations, support groups and services that may be of help;
- information, advice and support about your rights to make a complaint, seek independent disagreement resolution or mediation.

³ www.gov.uk/government/publications/send-code-of-practice-0-to-25

Disclaimer: SEND IASS 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 SENDIASS cannot accept any responsibility for any loss or damage suffered as a consequence of any reliance placed upon it.

If you need further information, please contact

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