

## Education Health and Care Needs Assessments: A Guide for Parents, Carers and Young People

If your child has special educational needs (SEN) and you feel that their educational needs are not being met, you have the legal right to request an Education, Health and Care Needs Assessment with a view to being issued an Education, Health and Care Plan (EHCP) for you or your child. The Education, Health and Care Needs Assessment must be carried out by the Local Authority (LA).

### What you'll find in this document:

- A complete timeline of the 20-week process, establishing the steps you should expect an Education, Health and Care Needs Assessment to follow
- Expectations, requirements and areas of contention at each stage of the process
- Questions you may wish to raise at each stage and important steps you should take

**IMPORTANT:** the entire process, from making the initial Education, Health and Care Needs Assessment request to finally receiving an EHCP should take up to 20 weeks by law. Lawful reasons for extending the timeline beyond the 20 week deadline is limited.

### Weeks 0-6: Decision to Assess

#### What do you need to do?

Send a letter to the LA asking for an Education, Health and Care Needs Assessment stating why you think you or your child has or may have special educational needs and how it may be necessary for special educational provision to be made through an EHC plan for you or your child. Be sure to supply all relevant information, advice, documents and reports you have.

**IMPORTANT:** you will need to consent to your and/or your child's information being shared with other parties involved in the Education, Health and Care Needs Assessment process.

#### What does the LA need to do?

Once they have received your request, the LA must respond within six weeks, letting you know whether it will undertake a EHC needs assessment or not. If they do not grant the assessment, the letter should explain why.

Whilst LAs may have their own policies, it is only the law that should be applied when the LA is deciding if an EHC needs assessment should take place. If you disagree with the LA's decision, you can request a meeting with the LA to discuss it, mediate and/or appeal to the Special Educational Needs and Disability Tribunal (SENDIST).

**IMPORTANT:** If you choose to appeal, you must do so within two months starting from the date of the LA's decision letter or one month from the date on a mediation certificate, whichever is later.

#### Questions to ask before moving to the next stage

Have you sent your EHC needs assessment request to the LA? *If not, click here for our free EHC needs assessment request template letter and accompanying guide.*

If you would prefer that a specialist SEN solicitor prepare your EHC needs assessment request and submit it to the LA, *click here.*

If you have sent your EHC needs assessment request, has the LA responded within six weeks? *If not, click here to get help and support.*

Has the LA declined to grant an EHC needs assessment? *Click here to get help with mediating and/or appealing the decision.*

Have they granted an assessment? **Move to the next stage.**

### Weeks 6-16: Assessment and evidence gathering & potentially a draft EHCP

#### What does the LA need to do?

Once the LA has agreed to carry out an EHC needs assessment, the LA will seek advice and information from a range of parties. These include an educational psychologist, you as parents, carers or the young person and educational advice (from, for example, a Headteacher) among others). All persons contacted are legally obligated to respond within six weeks. This is a legal deadline with limited exceptions to it.

Once the LA has all the requested advice and information, it will decide on whether or not an EHCP is needed by week 16. If the LA does feel an EHCP is needed, it will prepare a draft EHCP and should send it to parents, the school and all parties that contributed to the EHC needs assessment by week 14. The parent, carer or young person then has a minimum of 15 days after receipt of the plan to make representations about it, ask for a meeting with the LA to discuss the plan and tell the LA the type or actual school or college they would like.

At week 16 the LA must consult with the school or college the parent, carer or young person has requested. The school or college should respond within 15 days.

**IMPORTANT:** The LA can refuse to name the school or other educational institution specified by you or a parent or carer, but can only do so based on limited reasons stated in law. Be sure to question their reasoning if they do refuse. If the LA does not believe an EHCP is needed, it must inform you by week 16.

#### What do you need to do?

You and your child will be contacted as two of the relevant parties in the EHC needs assessment process. You must respond to the LA's request for information within six weeks. This is a legal requirement.

#### Questions to ask before moving to the next stage

Has the LA decided against drafting the EHCP? *Click here to get help on appealing.*

Have they decided to draft the EHCP? Ensure it is legally compliant and includes everything it needs by getting an EHCP health check. You can submit the health check report as part of your response to the LA's draft EHCP - *Click here.*

**Move to the next stage** if you have already provided your comments on the draft EHCP and nominated an education setting.

### Week 20: Final plan

#### What does the LA need to do?

The LA should issue the final EHCP by week 20. Copies will be sent to you and the school or the other educational institution your child will attend. The letter accompanying the final EHCP will outline your right to appeal if you are unhappy with the contents of the EHCP, as well as information on mediation.

The entire process has a 20-week legal deadline, with the process starting from receipt by the LA of the request for an EHC needs assessment. Any extension beyond 20 weeks is only permitted by law in specific circumstances.

**IMPORTANT:** Staff shortages, lack of resources and being on a waiting list are not lawful reasons to extend the 20-week deadline. Be sure to question the LA's reasoning should they try to extend the process longer than 20 weeks.

#### Questions to ask before moving to the next stage

Have you received the final EHCP by week 20? *If not, click here to get help and support.*

If you have received the final EHCP but are not happy with its contents, including if you are not happy with the school or other educational institution named in the EHCP, you can mediate and/or appeal. *Click here to get help and support with mediating and/or appealing.*

Are you happy with your or your child's EHCP? **See below.**

### Happy with your EHCP? Regularly review it!

Now that you've received the EHCP for your child, it should be reviewed yearly and you will have the opportunity to suggest changes to the plan at those reviews. You can use our EHCP health check service to ensure the plan is legally compliant and includes everything it needs to. You can submit the health check report as part of the annual review process - *click here.* For children under the age of five, the reviews will take place every six months. If an issue arises before the scheduled review, you can request an early or emergency review from the LA.

If you request changes to an EHCP at any review, the LA must decide if it is going to make some or all of those changes, or keep the EHCP the same. If you are not happy with the outcome, you can mediate and/or appeal to the SEND Tribunal. *Click here to get help and support with mediating and/or appealing or Click here if you have not received a decision from the LA within 4 weeks of the review meeting.*

We hope this timeline helps make the process easier for you. If you have any questions or need legal support, please contact our team today.