

## Checking a draft EHC Plan

Once you get the Draft EHCP and you have been sent a copy for comments, you have fifteen days to get back to the LA, though if circumstances make that difficult, you can apply for an extension by emailing your Hampshire SEN Caseworker. This should be done in writing (an 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.

Under Regulation 12 of the Special Educational Needs and Disability Regulations 2014 (the “SEN Regs”), an EHC plan must have the following sections:

**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 special educational needs.

**Section C:** health care needs which relate to the child’s SEN;

**Section D:** social care needs which relate to the child’s SEN or to a disability

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

**Section F:** the special educational provision required to meet the child’s SEN;

**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 (will be blank if no personal budget has been agreed to)

**Section K:** copies of all of the 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.

### 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 (SEND Code of Practice (CoP) page 163)
- Check that the outcomes are SMART Specific, Measurable, Achievable, Realistic and Time Bound (CoP page 163)

### 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 (CoP page 164)
- Check every need and outcome has a corresponding provision. Again, you may find it helpful to use the grid attached to match them up.

Once you have identified all of the provision, then check that it is detailed, specific and normally quantified, in terms of type, hours and frequency of support and level of expertise. (CoP page 166)

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? - 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? Such as 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 or understand.

The plan should avoid words such as:

- access to...
- regular help...
- help as required...
- where necessary...
- periodic...
- opportunities for... -

These words are too vague and need to be replaced with wording that allows the provision to be more specific. It's very important that the EHC Plan says how much help your child will get and how often. Words like those above leave it up to someone else to decide, so your child may not get the help they need.

## The Draft Plan

Once you have table or list with needs, outcomes and provision check that all of these have been included in the draft plan. If you have any questions note these down to ask Hampshire SEN Service for clarification.

You should also check that in Section C any health needs are detailed and in Section G these needs have a provision listed to meet them. Section H should have any social care provision the child is assessed as needing due to their SEND.

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 Hampshire SEN Service 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 face to face 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.

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

The only schools which are outside the scope of section 38 (3) of the C & F Act 2014 list are independent schools/institutions which are neither 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 placement and, under section 19 of the C & F Act 2014, the LA must have regard to "the views, wishes and 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 provisions under section 38 of the C & F Act 2014.

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.

This is set out in section 39(4) CAFA 2014. 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, except 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 EHC Plan is issued**

If you cannot agree with the LA over the content of the EHC Plan, 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 company (Releasing Potential) will be given on the decision letter you will receive with the final EHC Plan.

We have separate guidance on how to appeal on our website.

| Aspirations<br>Section A | Needs<br>Sections B,C and D | Outcomes | Provision<br>Sections F,G and H |
|--------------------------|-----------------------------|----------|---------------------------------|
|                          |                             |          |                                 |