

Education, Health & Care Plans

All existing Statements of Special Educational Needs (SEN) should have transitioned over to Education Health and Care Plans (EHCP) by 31 March 2018. The Department for Education has made clear that any Statements that remain to be transitioned after 31 March 2018 will remain in force until a transfer review has been completed. It is advisable to seek legal advice from a specialist SEN solicitor if your Statement has not transitioned to an EHCP.

The following is addressed to parents of children and young people but is intended as guidance for anyone involved, including the young person themselves. "Young people" is a phrase the Children and Families Act 2014 has introduced which means a person between 16 – 25 years of age, in education and with mental capacity.

Content of an EHCP

The EHCP is a legally binding document. The local authority has a duty to provide educational support set out in the Plan. Education support includes therapies that 'educate or trains' the child or young person (CYP).

The EHCP was brought in by the Children & Families Act 2014 and is intended to give a comprehensive explanation of the education, health and social care needs of the CYP and the services that are necessary to cater for those needs.

The 'gateway' for the EHCP is to have SEN, although the EHCP itself also covers health and social care needs and provision. Only educational provision is currently enforceable. Health and social care provision is subject to a two year pilot where the Special Educational Needs and Tribunal (SENDIST) can make 'recommendations' about provision which is not equal to a Tribunal Order in relation to education provision.

The current special educational needs and disabilities (SEND) Code of Practice gives guidance, but does not say exactly what the EHCP should look like.

This means that each local authority's document may look different, however, the statutory minimum is that the EHCP contains the following sections:

- A – Views, interests and aspirations of the CYP
- B – The special educational needs
- C – The health needs
- D – Social care needs
- E – Outcomes sought for the CYP
- F – SEN provision needed
- G – Health care provision
- H1 – Social care provision
- H2 – Social care provision
- I – School placement
- J – Personal Budget

• K – List of advice (old appendices)

Only the content of Sections B, F and I can be challenged by way of an appeal to SENDIST. The Tribunal can consider health and social care alongside an education appeal but only has the power to make a recommendation. This does not have the same level of enforceability.

Outcomes

Outcomes are 'new' to the system of SEN support. Whilst objectives existed within the Statements of SEN, outcomes are quite different.

An outcome is taken to be the "benefit or difference made to an individual as a result of an intervention". Outcomes can relate to education, health and/or social care.

It is important that outcomes are not confused with the CYP's aspirations. For example, an aspiration to travel abroad or to get married would not be an outcome which should feature in this section.

Outcomes should be SMART – specific, measurable, achievable, realistic and time-bound.

Outcomes are particularly important as when they are achieved, they trigger the EHCP coming to an end. As a result, outcomes should be discussed at every review meeting, updated if necessary and agreed.

It is important to note that outcomes cannot be challenged to the Special Educational Needs and Disability Tribunal.

It is also important to note that Outcomes should not dictate what support is provided. Any support set out in the Plan (Section F) should directly relate to the educational difficulties set out under Section B of the Plan.

If you have any questions or require advice, please contact the Special Educational Needs team on **0118 467 6547** or **senexpertsolicitors@boyesturner.com**.

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