

## The EHC needs assessment

*The Education, Health and Care (EHC) needs assessment is the process for identifying the needs that your child / young person (CYP) has and the provision that is necessary to adequately cater for those needs. It is important that the local authority completes the process efficiently and effectively to avoid wrong decisions or poorly written Education, Health and Care Plans (EHCPs).*

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 which the Children and Families Act 2014 has introduced which means a person between 16 – 25 years of age, in education and with mental capacity.

## The process

If your CYP has special educational needs (SEN), they may need an EHC needs assessment. SEN has a particular definition, see our factsheet “What are SEN”. An EHC needs assessment will only be completed if the local authority considers that the following apply:

- The CYP has or may have SEN.
- It may be necessary for special educational provision to be made for the CYP in accordance with an EHCP.

The EHC needs assessment is the process for the local authority to establish your CYP’s needs and the provision they require.

Specific people can request an EHC assessment:

- Parents.
- A young person (or someone on their behalf if they lack capacity).
- A person on behalf of a school (ideally with your agreement).

If the local authority agrees to complete an EHC assessment, they must tell you or the young person and all relevant professionals linked with the CYP’s education, social care and health care. The local authority may also refuse to conduct an assessment which is explained in our factsheet, “My local authority has refused to carry out an EHC needs assessment”.

The aim of the assessment is to determine what education, health and care needs your CYP has and whether an EHCP is necessary to cater for those needs. To achieve this, local authorities use the information from the assessment to:

- Establish and record your views, interests and aspirations.
- Provide a full description of your CYP's educational needs, health needs and care needs.
- Establish outcomes for your CYP in education, health and care based on their needs and aspirations.
- Specify the provision required and how education, health and care services will coordinate to meet your CYP's needs and reach towards the outcomes identified.

Once the local authority has decided that it will complete an EHC needs assessment it will send requests for information to various professionals involved in education, health and social care. The experts will have six weeks to provide their advice.

The local authority must seek information and advice from the following:

- Parents or the young person.
- Educational advice (usually from head teacher or principal of post-16 institution).
- Medical advice and information from a health care professional.
- Psychological advice and information from an educational psychologist.
- Advice and information in relation to social care.
- Advice and information from any other person the local authority thinks is appropriate.
- Where the CYP is in or beyond year 9, advice and information in relation to provision to assist the child or young person in preparation for adulthood and independent living.
- Advice and information from any person the child's parent or young person reasonably requests that the local authority seek advice from.

If advice from any of the above already exists, the local authority need not seek further advice if you, the relevant expert, and the local authority are satisfied that the existing advice is sufficient for the purposes of an EHC needs assessment. It is recommended that parents seek specialist SEN legal advice on this point before deciding whether to agree to the exception applying.

If a CYP has a hearing and/or visual impairment, the person providing educational advice must be qualified in connection with that impairment.

You can ask that advice is sought from anyone within education, health or social care as long as it is a reasonable. A request will be reasonable if your CYP has been identified as needing an assessment already – such as where they are on a waiting list – or where the school / college or other professional has said it may be needed.

## The outcome

At the end of an EHC needs assessment, the local authority will either agree, or refuse, to make an Education Health and Care Plan (EHCP).

The decision is based on whether it is necessary for SEN provision to be made via an EHCP.

### Refusal to issue an EHCP

If the local authority decides that it will not issue an EHCP you will have a right of appeal to the Special Educational Needs and Disability Tribunal (SENDIST).

If the local authority does refuse, it will tell you in writing. In that letter it will also tell you which mediation service it has decided to use.

Before you are able to start an appeal with the Tribunal you will need to obtain a 'Mediation Certificate', unless your appeal is only against the school / college named in the EHCP, in which case you do not need a Mediation Certificate to appeal.

In order to obtain the Mediation Certificate you must, at least, speak with the mediation service. For more information, see our Factsheet "Mediation".

Once you have received the Mediation Certificate, you will have **one month** to send your appeal form to the Tribunal or **two months** from the LA's decision letter, whichever is the later date.

### Agreement to issue an EHCP

If the local authority decides that it is necessary to issue an EHCP it must issue a Proposed EHCP. You will be given **15 days** to make any comments about the document and to express a preference about educational placement.

Once the local authority receives your comments back, and details of which school you want, it has **15 days** to consult with that school / college and then to issue a Final EHCP.

If you are unhappy about the content of the EHCP itself, you will have a right of appeal to the Tribunal.

## Timescales

Once you make a request for an EHC needs assessment, the local authority has **six weeks** to confirm whether it will make the assessment.

If the local authority does agree to complete the assessment, a decision about whether or not to issue an EHCP will be issued within **16 weeks** of the original request. A final EHCP should be issued within **20 weeks** of the original request.

The EHC needs assessment process can be complicated. It is often very beneficial for parents to take advice before sending anything to the local authority and as soon as any decision is reached by the local authority. It is also advisable to ask an SEN legal specialist to advise on the content of a draft/proposed EHCP before sending a response to the local authority. Remember that the EHCP is a legally binding document and must be drafted accordingly.

**If you have any questions or require advice, please contact the Special Educational Needs team on 0118 467 6547 or email [senexpertsolicitors@bovesturner.com](mailto:senexpertsolicitors@bovesturner.com).**

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