

EDUCATION, HEALTH AND CARE PLANS (EHCPs)

Guidance on the various sections of an Education, Health and Care Plan ('EHCP') and what they mean.

Background

The purpose of this information is to provide general guidance on EHCPs, the Children and Families Act 2014 ('CFA') and the SEND Code of Practice 2015 (the 'Code') which together creates the framework for EHCPs and statutory duties of the Local Authority ("LA").

This note does not provide guidance on conflict which may emerge around EHCP dispute resolution. It does not provide other guidance around EHCPs including indicative timeframes, or about the lifecycle of the EHCP. This advice note does not contain information on situations where a child or young person lacks capacity. For more specific advice on these, or other areas, we would be happy to assist.

1 GENERAL INTRODUCTION

An EHCP is a document which specifies a child¹ or young person's² identified special care, health and educational needs. Whether or not a child or young person is capable of obtaining qualifications is not a relevant consideration when deciding whether they should have an EHCP. The only question is whether an EHCP is necessary in order for them to obtain the special educational provision they require.

An EHCP identifies the provisions which need to be put in place for the child or young person so that the LA can meet those needs. The EHCP requires connectivity between the LA's activities for the individual as well as health providers and social care bodies as well as other related parties such as the individual, their parents and schools. The benefit of this is that the parent and child or young person will have a single document outlining all provisions in place for them which encourages greater participation of all interested parties.

An EHCP is drawn up by the LA after an EHC assessment has taken place which identified the need for an EHCP. There is a requirement on the LA to keep education and care provision under review and these plans can remain in place until the individual reaches the age of 25. Whilst this document refers to children and young persons it is necessary to keep this in mind.

1. A 'child' is one aged up to 16 years.
2. A 'young person' is aged 16 or over and under 25.

Section 12 of the Special Educational Needs and Disability Regulations 2014 set out the form of the EHCP. It is a requirement that these sections are kept separate in order that it is clear what needs and provisions are in place.

Some LAs choose to complete Sections A – E in the first person. However the plan should make clear what is being written/ quoted directly from the child or young person, the parents or professional representing them.

2 SECTION A – ALL ABOUT ‘X’ / ME

The EHCP is person centred and Section A is to be completed by the child and their parent or young person, as far as that is possible. This should set out their views, interests and aspirations. This is an appropriate section to set out the views of parents as well as the child or young person.

Aspirations for the future may include goals for living arrangements, personal social relationships or community engagement, or employment.

Details about play, health, schooling, independence, friendships, further education and future plans including employment (where practical).

A summary of how to communicate with the child or young person and engage them in decision-making.

It may also set out a social, medical or educational history. For example details on hobbies, employment or education. This is **not** the appropriate section to set out outcomes to be achieved.

3 SECTION B – ‘X’ / MY SPECIAL EDUCATIONAL NEEDS³

This section should specify **all** of the child/ young person’s identified special education needs (**‘SEN’**). Included in this section will be any health and social care provision which is treated as SEN provision because it educates or trains the child or young person (e.g. SALT therapy, if such input is essential to education).

In cases where health care provision or social care provision is to be treated as special educational provision, ultimate responsibility for ensuring that the provision is made rests with the LA (unless the child’s parent has made suitable arrangements) (please see below – Section F).

3. SEN is a learning difficulty or disability which requires special educational provision. Special educational provision is educational or training provision that is additional to, or different from, that made generally for others of the same age in ordinary schools or other settings, or any educational provision for a child under two.

This is an opportunity to point out what elements or practices are working well and supporting educational needs/ development, for example tailored lesson planning, or one-to-one support in class. It can also set out what is not working well, for example large class sizes and overstimulating class environments.

4 SECTION C – ‘X’ / MY HEALTH CARE NEEDS

Section C should be used to set out the child or young person’s health care needs which relate to their special educational needs. This should set out all health care needs relating to SEN. The Code says Section C need not list unrelated and routine health needs such a dental care. However some children and young people may require SEND trained dentists or other practitioners, in which case this should be listed.

The responsible commissioner /Integrated Care Board (“ICB”) may wish to use this section to outline any health care needs which do not relate to the child or young person’s SEN, such as any long-term conditions requiring management in a special educational environment.

5 SECTION D – ‘X’ / MY SOCIAL CARE NEEDS

Section D outlines the child or young person’s social care needs which relate to their SEN or to a disability which requires provision for a child or young person under Section 2 of the Chronically Sick and Disabled Persons Act 1970 (“CSDPA”).

This section can be used to list any non-related social care needs of the child or young person to SEN or a disability. For example reference to child in need or child protection plans. Inclusion of these can only happen with the permission of the child and their parent, or the young person. Inclusion of this could facilitate better cooperation and coordination of services.

6 SECTION E – OUTCOMES SOUGHT BY THE CHILD OR YOUNG PERSON

The outcomes sought for the child or young person should be set out in Section E. The outcomes should address personal aspirations, SEN, health needs, and social care needs identified in the previous Sections A – D (inclusive). There should be multiple outcomes over a range of timescales.

Section E should clearly identify which outcomes are education or training, as meeting these objectives will help to determine if/when an EHCP can be ceased. Short term targets and a stepped programme can be set up to help achieve these outcomes. Regular monitoring and reviews can be put in place.

A provision is not an outcome in itself, rather it is a means by which to achieve an outcome.

7 SECTION F – SPECIAL EDUCATION PROVISION

Section F should set out **all** special educational provisions required by the child or young person. If a need is set out in Section B then it is the LA's duty to ensure a corresponding provision to meet that need be set out in Section F. LAs have a statutory duty to comply with these provisions so it should be sure that any provisions listed can be commissioned. It cannot delegate this responsibility to someone else, such as a school (e.g. the EHCP should not say anything like "*Support to be determined by the setting*".)

If one area of need requires more than one provision then this should be appropriately split (e.g. physiotherapy may be split into fine or gross motor difficulties).

Issues can arise in distinguishing education from health and social care and delegating responsibility for provisions and funding. For the avoidance of doubt where health or social care provision can be seen as educating or training a child or young person, it **must** appear in this section and falls under the responsibility of the LA. Therefore if a health body ceases to provide a provision listed in Section F it will fall onto the LA to commission it. Delegation is permissible but the duty remains with the LA.

If there is a significant degree of overlap between what is educational and what is non-educational therapy it will be inappropriate to seek to impose a rigid demarcation between the two areas and these should be included in Section F. In many circumstances physiotherapy, occupational and speech therapy will be considered to be educational. Therapies which train a child or young person to manage anxiety (such as cognitive behavioural therapy or mindfulness) can be considered special educational provision, but general psychological support to address mental health problems is unlikely to be educational as it does not involve instruction or training. This is an evolving area of case law.

The provisions set out in sections F – H (inclusive) **must** be sufficiently detailed and specific and usually, capable of being quantified (e.g. by way of number of hours of support, frequency, level of expertise and type). There may be rare circumstances where this is not possible in order to maintain flexibility to meet changing needs of the child or young person (although it is a requirement that the LA reviews and maintains an up to date EHCP if needs change meaning a provision needs amending).

Where information and advice has been received as per Section K and the LA departs from recommendations contained therein, it should set that out with a clear rationale for doing so.

8 SECTION G - HEALTH CARE PROVISION

Any health care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having special educational needs should be listed in this section. Only provision "reasonably" required must be included in this section, and health bodies can refuse to have provision included depending on the circumstances and commissioned services. This should be approached on a case by case basis in a child centred manner and a careful consideration of health needs. This section is therefore open to provision not being included on legitimate grounds of cost or commissioning (unlike special educational provision in Section F). However, once specified, the provision **must** be secured.

Specific detail is required including the type of support, who will provide it and should be quantified (e.g. the number of hours support, duration and level of care).

It should be clear how advice and information gathered has informed the provisions specified here.

The LA and responsible commissioner/ ICB may also choose to specify other health care provisions reasonably required/ requested by the child and their parent or young person, which is not linked to their SEN or disabilities, but which should sensibly be co-ordinated between service providers in the plan.

9 SECTION H - SOCIAL CARE PROVISION

LAs **must** set out in section H (1) **all** social care provision which must be made for the child or young person as a result of Section 2 of the CSDPA and/or (2) **all** other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having special educational needs.

Section H1

Services assessed as being needed for a disabled child or young person under the age of 18, in section 2 of the CSDPA include:

- a) practical assistance in the home
- b) provision or assistance in obtaining recreational and educational facilities at home and outside the home
- c) assistance in travelling to facilities
- d) adaptations to the home
- e) facilitating the taking of holidays
- f) provision of meals at home or elsewhere
- g) provision or assistance in obtaining a telephone and any special equipment necessary
- h) non-residential short breaks (included in Section H1 on the basis that the child as well as his or her parent will benefit from the short break)
- i) this can include services provided for parent carers of disabled children, including following an assessment of needs under section 17ZD-17ZF of the Children Act 1989.

Where social care or healthcare educates or trains, or is required to enable a child or young person to access education it should be included in Section F.

Section H2

Section H2 is for the purpose of listing services not included in Section H1. For children and young people under 18 this includes residential short breaks and services provided to children arising from their SEN but unrelated to a disability. This should include any provision secured through a social care direct payment.

Section H2 will include any adult social care provision to meet eligible needs for young people over 18 under the Care Act 2014.

An LA may use this section to outline other social care provisions reasonably required which are not linked to learning difficulties or disabilities.

10 SECTION I – THE EDUCATING INSTITUTION

Information on the school, college or specialist education body should be set out in this section and **must** be able to admit the child or young person as per the EHCP.

An LA should use Section I to set out the name(s) of the school, maintained nursery school, post-16 institution or other institution attended and/or to be attended by the child or young person. This should include the type of institution it is.

Alternatively, where the name of a school or other institution is not specified in the EHCP, the type of school or other institution attended and/or to be attended by the child or young person should be stated.

Section I must **not** be included in the draft EHCP sent to the child's parent or to the young person. This should **only** be inserted in the final EHCP. The reason for this is to stop the LA from pre-empting the preference for an institution which the parents or young person may state.

Once a school or institution is listed in this section, it **must** admit the child or young person. The only schools this does not apply to are wholly independent schools.

Parents electing to home educate their child under section 7 of the Education Act should put their details in Section I.

11 SECTION J – PERSONAL BUDGET AND DIRECT PAYMENTS

Where any special educational provision is to be secured by a direct payment, the LA must set out special educational needs and outcomes to be met by those direct payments. This would include any Personal Budget arrangements.

12 SECTION K – ADVICE AND INFORMATION

The LA **must** set out in Section K all advice and information obtained from an EHC needs assessment on the needs of the child or young person (and attach that advice to the EHCP as appendices). This advice or information should set out what provision may be required to meet such needs and the outcomes that are intended to be achieved. It should include details of the individuals and services contributing to the plan, and any relevant assessments or reports. This will include:

- a) Advice and information from the child's parent or the young person.
- b) Educational advice and information from the head teacher of the school of post-16 or other institution of the child or young person. If this person is not available, then from a person who the LA is satisfied has experience and/or knowledge of teaching children or young people with special educational needs.

If the child or young person is not currently attending a school or post-16 or other institution and advice cannot be obtained under sub-paragraph (b), then it can be obtained from a person responsible for educational provision for the child or young person.

- c) Medical advice and information from a health care professional identified by the responsible ICB.
 - d) Psychological advice and information from an educational psychologist.
 - e) Advice and information in relation to social care.
 - f) Advice and information from any other person or organisation as the LA considers appropriate.
 - g) Advice and information in relation to provision to assist the child or young person in preparation for adulthood and independent living if the child or young person is in year 9 or beyond.
 - h) Advice and information from any person or organisation which the child's parent or young person reasonably requests that the LA seek advice from.
- The LA need not seek the advice of those sub-sections listed above if that advice has previously been provided and the persons giving that advice, the LA and the child's parent or young person are satisfied that it is sufficient for the purpose of an EHC assessment.

13 ADDITIONAL – CHILD OR YOUNG PERSON IN/ BEYOND YEAR 9

Where the child or young person is in or beyond year 9, there must be EHCP provisions to assist the child or young person in preparation for adulthood and independent living. This must be included within the special educational provisions, health care provisions and social care provisions specified. This reinforces the fact that education, in the sense of EHCP, goes beyond academic qualifications and will include other forms or personal development goals specific to the individual.

Neither an LA nor health body can unilaterally change the EHCP. If it needs to make changes it must re-issue the draft EHCP to the child's parent or the young person. Health can trigger a review if there is a legitimate reason to do so.

The EHCP must be signed off by the responsible officer with authority to do so. This is usually the Designated Clinical Officer for health and the SEND lead at the LA.

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September 2025

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