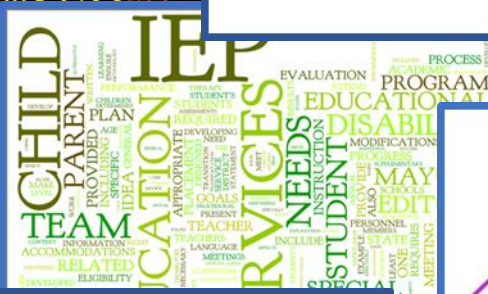
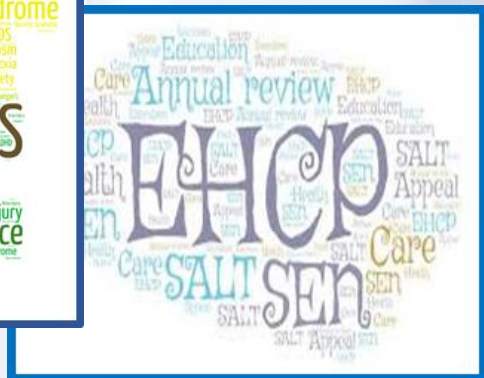
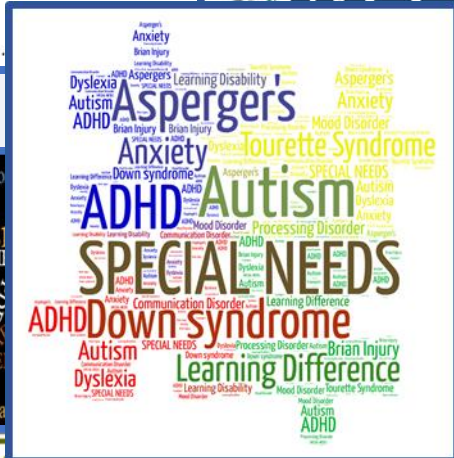
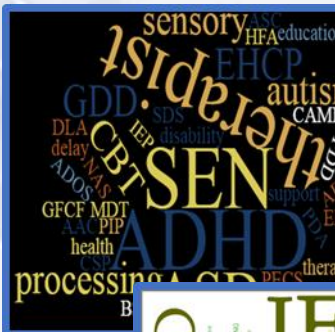


# Making sense of SEND

## What is an EHCP?





# Making sense of SEND

## What is an Education Health and Care Plan?



An Education, Health and Care plan (“EHC plan”) is a legal document which describes a child or young person's special educational needs, the support they need, and the outcomes they would like to achieve.

## Who is an EHCP For?

An EHCP is for any child or young person that has a significant and complex Special Educational Need or Disability. An EHCP is required when a child’s needs cannot be met by the usual support that is available to them in their school or setting.

Many children with SEND receive support in their school or setting without an EHCP, however their support would come from resources already available within school. This is called SEN Support.

Following intervention at the SEN Support level, some children or young people’s needs may be deemed significant and complex and therefore require an EHC assessment by the Local Authority.





# Making sense of SEND

## What is an Education Health and Care Plan?

### How do you get an assessment for an EHCP?

An EHCP is only necessary when SEN support and interventions have been in place for an agreed amount of time and your child is still not making the expected progress. School will have already put in place many strategies and involved outside agencies and professionals to help your child. Progress is reviewed at regular points and after discussion, it may be agreed between parents and teachers to apply to the local authority for a statutory needs assessment for an EHCP.

Parents or carers can also contact their Local Authority directly and ask for an EHC assessment for their child.





# Making sense of SEND

## What is an Education Health and Care Plan?

### What happens in an EHCP Needs Assessment?

If a local authority (“**LA**”) is requested to carry out an EHC needs assessment by a parent, young person, school or college, they must consider:

- whether the child or young person **has or may have** special educational needs (“**SEN**”); and
- whether they **may** need special educational provision to be made through an EHC plan.

If the answer to both of these questions is yes, they **must** carry out an EHC needs assessment.

This test is set out in the law (section 36(8) of the Children and Families Act 2014). This means **these are the only questions the LA should be asking** when considering whether or not to carry out an EHC needs assessment.





# Making sense of SEND

## What is an Education Health and Care Plan?

### What happens in an EHCP Needs Assessment?

The local authority (“**LA**”) must carry out the EHCP needs assessment. They must seek information and advice on a child or young person’s needs, the provision required to meet those needs, and the outcomes expected to be achieved by the child or young person. This advice must come from a range of different people.

The LA has the legal duty to carry out the assessment process. They cannot ask a school or college to carry out the assessment for them, and they cannot require the school or college to pay for any part of the assessment (such as the educational psychologist’s report).

The following chart from ‘Special Needs Jungle’ provides a helpful visual guide to requesting an EHCP Needs Assessment





## 2. REQUESTING AN EHCP NEEDS ASSESSMENT

An EHCP can be requested by parent, young person, teacher or anyone else concerned about the child's SEN

WHERE, DESPITE THE SCHOOL HAVING TAKEN RELEVANT AND PURPOSEFUL ACTION TO IDENTIFY, ASSESS AND MEET THE SEN OF THE CHILD OR YOUNG PERSON, THE CHILD OR YOUNG PERSON HAS NOT MADE EXPECTED PROGRESS, THE SCHOOL OR PARENTS SHOULD CONSIDER REQUESTING AN EDUCATION, HEALTH AND CARE NEEDS ASSESSMENT.

A full diagram of the process can be found in the SEND Code of Practice

Contact your local authority's SEND department and ask to start the Statutory Assessment process. They must reply within six weeks of your initial enquiry (make a note of the date)

When your initial request has been received, think about what help you might need with your application. The government funds impartial advice from trained advisors called SENDIASS who can help you through the process. They are available in every area and offer free information, advice and support to children, young people and parents on a range of SEND issues. This includes EHCP applications.

There is then a six-week period during which the LA should gather evidence of your child's SEND e.g. school reports, Assess/Plan/Do/Review documents, speech & language/Ed Psych/ Occupational Therapy or other reports.  
\*If possible, parents themselves may want to gather together relevant reports and information as well, to ensure everything is considered by the LA. This will also assist as a timeline reminder when you are writing your child's story as part of the application.\*

You will need to explain why your child needs an EHCP assessment. It can be useful to write your child's story from birth, including any relevant information from any previous reports, assessments or diagnoses. Include how your child's difficulties impact upon your whole family and what support your child already has that really helps.  
Remember to think about their strengths as well! Make sure you number the reports and include them in your application (only ever send copies). Any medical and social care needs should be included.

THE LOCAL AUTHORITY DECIDES WHETHER OR NOT TO CONDUCT AN ASSESSMENT OF SEND.

If an assessment is agreed, move to part 3 "Conducting an assessment"

If your assessment request is refused, the LA should advise you of other options short of statutory assessment that can support your child. You can find services listed on on your area's Local Offer website that your school may be able to access to support the Assess, Plan, Do, Review process. Your LA should never just say 'No' without looking at what else can be done to better help your child.

If you are not satisfied with this decision or any other help sourced from the Local Offer help you can seek mediation and/or appeal to the First Tier SEND Tribunal

Move to part 4, Disagreements\*



# Making sense of SEND

## What is an Education Health and Care Plan?

### Who should be asked for advice?

The LA must seek advice from a range of people. The list is set out in Regulation 6(1) of the Special Educational Needs and Disability Regulations 2014 (the “SEN Regs”):

- 1.the child’s parent or the young person;
- 2.educational advice (usually from the head teacher or principal);
- 3.medical advice and information from a health care professional;
- 4.psychological advice and information from an educational psychologist;
- 5.advice and information in relation to social care;
- 6.advice and information from any other person the local authority thinks appropriate;
- 7.where the child or young person 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;
- and
- 8.advice and information from any person the child’s parent or young person reasonably requests that the local authority seek advice from.

The LA is legally required to seek **all** of this information as a minimum.





# Making sense of SEND

## What is an Education Health and Care Plan?

### How long does the assessment take?

Anyone who is asked for information and advice should respond within 6 weeks (SEN Reg 8(1) and paragraph 9.52 of the SEN and Disability Code of Practice).

This is a legal duty which must be complied with; it **cannot be avoided because there is a long waiting list or because there are staffing shortages**. If an LA is genuinely unable to obtain one of the necessary pieces of advice during the time frame, they would be expected to obtain an independent report in its place.

The LA must notify the parent or young person of their decision whether or not they will issue a plan within a maximum of 16 weeks from the request for assessment.

The following chart from 'Special Needs Jungle' provides a visual view of the Assessment process.







# 3. CONDUCTING AN EHCP NEEDS ASSESSMENT

THE LOCAL AUTHORITY HAS DECIDED THAT A STATUTORY ASSESSMENT OF YOUR CHILD'S SEND IS REQUIRED.

Meet the LA representative to decide if any further external assessments are needed, e.g. OT, SLT and Ed. psych. You may want to take a friend, partner or advocate to meetings.

Any organisation asked to carry out an assessment or offer advice must comply within 6 weeks.

Draw up a profile, that can be used to show practitioners so they can understand who your child is as an individual. Your school may help you with this. This helps to tailor the support specifically for your child. Include what they like about themselves, what is important to them and how they would like to be supported as an individual.

Ensure that your final submission includes all the evidence and reports (copies only). Number them and list them all on a separate sheet. Update your parental statement to reflect any other assessments or changes. Don't forget to include all the interventions that have been tried by both school staff and from the local offer.

The local authority makes a decision whether to issue an EHCP or whether it thinks your child can be helped sufficiently from the Local Offer.

If the LA decides not to draw up an EHC plan, it must inform the parent within 16 weeks of the original request for an EHC plan. There is a right of appeal.

If an EHCP is to be drawn up, meet with the plan coordinator from the local authority and any representatives from education, health and social care to discuss the provision that will be required for your child from each sector.

Remember that at any point, if you can't agree on any aspect of the plan, you can ask for disagreement resolution.

The local authority will prepare a draft EHCP and send it to you to be reviewed. The Plan writer/coordinator should be expected to work with you during the drafting to co-produce the plan. Make sure all the sections are filled out to your satisfaction and are accurate. Think about if & how a personal budget might be used to support your child's needs. The legal duty to ensure your EHCP complies with the law lies with the LA

The LA send the draft plan & should also invite you to apply for a personal budget for your child.

Once you receive the draft plan, you have 15 days to check through to ensure all needs are included and are met with specified and quantified provision. You can request alterations if not. During this time you should name your preferred school and agree how any personal budget will be allocated.

For the provision sections F to H2, ensure all the provision you agreed on earlier with the education, health and social care representatives and during your meetings with the plan writer, as well as realistic outcomes.

The LA has to discuss the placement with the proposed school to ensure that it is suitable before naming it in the EHCP. The institution should respond within 15 calendar days.

AFTER FURTHER CONSULTATIONS BETWEEN THE LA & THE FAMILY, THE FINAL PLAN IS ISSUED. IT MUST BE REVIEWED AT REGULAR INTERVALS TO ASSESS PROGRESS

The whole process must be completed within 20 weeks.

The plan is implemented. If you're unhappy with the final plan, you can appeal after contacting the mediator. (See sheet 4)

If you want to appeal, go to sheet 4



# Making sense of SEND

## What is an Education Health and Care Plan?

**Following an EHC needs assessment, when does the LA have to issue an EHC plan?**

The LA must decide whether it will issue an EHC plan for the child or young person based on the evidence it has gathered as part of the EHC needs assessment.

The legal test which the LA must apply is found in section 37(1) of the Children and Families Act 2014 which says:

*“(1) Where, in the light of an EHC needs assessment, it is necessary for special educational provision to be made for a child or young person in accordance with an EHC plan -*

- (a) the local authority must secure that an EHC plan is prepared for the child or young person, and*
- (b) once an EHC plan has been prepared, it must maintain the plan.”*

Therefore the LA must decide, on the basis of the evidence from the EHC needs assessment, whether it is **necessary** for the child or young person to have an EHC plan.





# Making sense of SEND

## What is an Education Health and Care Plan?

### What will happen when the LA makes a decision?

If the LA decides not to issue an EHC plan, it must tell the parent or young person within 16 weeks of the date the request for an assessment was made.

The parent or young person can appeal this decision to the SEND Tribunal.

If you disagree with this decision, the information on the following page from 'Special Needs Jungle' will help to inform what you can do next.





YOU DISAGREE WITH THE LOCAL AUTHORITY DECISION NOT TO ASSESS YOUR CHILD FOR AN EHCP OR TO ISSUE A PLAN, OR WITH THE FINAL EDUCATION, HEALTH AND CARE PLAN

Remember that at any point, if you can't agree on any aspect of the plan, you can ask to take part in disagreement resolution. This is in ADDITION to any mediation or appeal.  
\*If your appeal is only about placement you do not have to seek mediation first

For decisions where there is no right of appeal to the First Tier Tribunal, decisions can be challenged via Judicial Review. Families will need legal advice in relation to Judicial Review and legal aid may be available to pay for this in some circumstances.

If you are not satisfied with either a local authority's decision not to assess your child for an EHCP, OR not to provide an EHCP after a statutory assessment, you can appeal to the SEND Tribunal.

Appealing to the First Tier Tribunal can be done in the name of the parent or the child/ young person.

Additionally, if you are unhappy with any of the needs or provision or placement offered in your child's final EHCP, you can also appeal.

There is a trial underway currently (2018/19) to include health and social care as a single route of appeal. Please check the status of this at the time of your appeal. A large percentage of appeals are settled at 'case management' stage, via telephone hearings.

If you lose your FTT appeal, you can take legal advice in consideration of a further appeal to the Upper Tribunal, usually on a point of law.

Before appealing about

1. Refusal to assess,
2. Refusal to issue an EHCP, OR
3. The SEN part of an EHC plan

you must first contact a mediation advisor.

The LA must inform you about how to do this\*. The mediator will give you evidence that you have done so. You will be encouraged to participate in mediation, however, this is not compulsory if you feel that mediation will not work. If at all possible, keep the lines of communication open - you can still reach an agreement that works for your family at any time up to the date of Tribunal.

To appeal, you have two months after the local authority's decision. You can register an appeal when you have a certificate from the mediator. If you choose to go to mediation & it fails, you will have a minimum of a month after that to register an appeal.

Full details can be found in Chapter 11 of the SEND Code of Practice

If you do decide to head for the SEND Tribunal, there are free sources of legal advice to help such as:

IPSEA [www.IPSEA.ORG.UK](http://www.IPSEA.ORG.UK)

SOSSEN: [www.SOSSEN.ORG.UK](http://www.SOSSEN.ORG.UK)

Contact A Family SEN line [www.Contact.org.uk](http://www.Contact.org.uk)

IASS for young people: [cyp.iassnetwork.org.uk](http://cyp.iassnetwork.org.uk)

IASS: <https://councilfordisabledchildren.org.uk/information-advice-and-support-services-network>

(SNJ advice: It is not advisable to go to appeal without seeking specialist legal advice and/ or advocacy support such as above.)

SIGN UP TO SPECIAL NEEDS JUNGLE BLOG UPDATES  
[WWW.SPECIALNEEDSJUNGLE.COM](http://WWW.SPECIALNEEDSJUNGLE.COM)  
/SUBSCRIBE  
THANKS TO IASS NETWORK FOR ADDITIONAL INFORMATION



# Making sense of SEND

## What is an Education Health and Care Plan?

### What will happen when the LA makes a decision?

If the LA decides to issue an EHC plan, it will first send out a draft plan for the parent or young person to review and comment on.

Parents, teachers and SENCOs have just **15 working days** to put forward their comments. After this time, it is unlikely the LA will consider parents' views regarding any changes to the draft plan so it is vitally important to look out for the draft plan and make a note of the date you received it.

If there are elements of the plan you do not agree with, or you feel vital information is missing or not written specifically enough, you can request a meeting with the LA to discuss your points.

You must request this meeting **within 15 working days of receiving the document.**

The LA are legally obliged to hold this meeting with you. The SENCO at school will support you through the process.





# Making sense of SEND

## What is an Education Health and Care Plan?

### What will happen when the LA makes a decision?

Once everyone is in agreement on the draft plan, the LA should then send the final EHC plan to the parent or young person **within 20 weeks from the date the assessment was requested**. In order to meet this deadline they would need to **send out the draft plan a maximum of 14 weeks from the date the assessment was requested**.

### What does an EHC plan contain?

Education, health and care (“**EHC**”) plans can be long and complicated. They are required by law to contain certain sections, and it is important to ensure your EHC plan matches the legal requirements. If it doesn’t, it could make it difficult to enforce.

The EHC plan should be written in a way that **makes it clear**, to parents, young people, schools, colleges and LAs, **who is required to do what, when** it has to happen and **how often** it should be reviewed.

An EHC plan does not have a fixed format – each local authority (“**LA**”) can develop its own ‘style’ – but legally they must contain a number of separate sections.





# Making sense of SEND

## What is an Education Health and Care Plan?

### What sections should an EHC plan have?

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** (“SEN”);
- **Section C:** **health care needs** which relate to their SEN;
- **Section D:** **social care needs** which relate to their 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 their SEN;
- **Section G:** any **health care provision** reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN;





# Making sense of SEND

## What is an Education Health and Care Plan?

### What sections should an EHC plan have?

- Section H:** any **social care provision** required from social services under the Chronically Sick and Disabled Persons Act 1970, and/or reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN;
- 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;
- Section K:** copies of all of the advice and information obtained as part of the EHC needs assessment.

### How long does an EHCP last?

An EHCP should provide support from birth up to the age of 25 in order to support with further education, training and support into the workplace.







# Making sense of SEND

## What is an Education Health and Care Plan?

### What are the key things to look for?

The key things to check are that:

- **All** of the child or young person's special educational needs ("SEN") are set out in Section B;
- **All** of the special educational provision (the extra help they need with learning) required by the child or young person is set out in Section F;
- The school or college to be attended by the child or young person is set out in Section I.

### This is because:

- If a need is included in Section B, then there must be provision for that need set out in Section F;
- If provision is included in Section F, then the LA **must ensure** that this provision is made; and
- If a school, college or other setting is named in Section I, then it **must** admit the child or young person for whom the EHC plan is maintained (this duty applies to almost all schools and other settings)





# Making sense of SEND

## What is an Education Health and Care Plan?

### Where can I go for help?

An EHCP is a legal document and it is the responsibility of the LA to follow the statutory process to write the best plan for your child. It is really important that parents and carers understand this statutory process to ensure that the LA is completing the process correctly and in a timely manner. There are strict statutory timelines associated with each stage of the EHCP process which must be adhered to.

The following organisations offer help and advice to parents of children with SEN in need of an EHCP.



IPSEA help children and young people with special educational needs and disabilities, and their families and carers, to get the appropriate education, training and support to which they are entitled under the law.

Search for IPSEA via Google. They also have a Facebook page, alternatively use this link:

<https://www.ipsea.org.uk/>





# Making sense of SEND

## What is an Education Health and Care Plan?

### Where can I go for help?



Contact is the largest charitable organisation for families with disabled children. Their website has advice and information about any concern a family might have about raising a child with additional needs.

They run a telephone helpline, live chat and a Listening Ear support service. They produce a range of email newsletters and printed parent guides available to download or order.

Search for 'contact disabled children' or find their Facebook page. Alternatively follow this link:

<https://contact.org.uk/>



Special Needs Jungle is a site full of parent-led information, resources and informed opinion about children and young people with SEN, disabilities, health conditions and rare diseases. Their site includes parents' experiences, legal advice and the most up to date changes to all

Issues surrounding SEND. Google 'Special Needs Jungle' or find their Facebook page.

Alternatively follow this link:

<https://www.specialneedsjungle.com/>

