



## In summary

- **The EHC Plan is the key to most provision.**
- **Assessment is the key to getting a plan (or updating it).**
- **Schools have a duty to provide advice well in advance.**
- **Parents find themselves doing much of the research for suitable provision.**
- **Local Authorities are themselves under great financial strain.**
- **There is information and help from many reputable organisations.**
- **Preparation is the key.**

## 1. Assessment and EHC Plan

When considering the next steps in a young person's career after school we suggest it is important to re-visit any existing Education, Health and Care needs assessment and subsequent EHC Plan. The government website cited below explains how an initial assessment is initiated. An assessment must precede an EHC Plan.

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*"You can ask your local authority to carry out an assessment if you think your child needs an EHC Plan.*

*A young person can request an assessment themselves if they're aged 16 to 25.*

*A request can also be made by anyone else who thinks an assessment may be necessary, including doctors, health visitors, teachers, parents and family friends.*

*If they decide to carry out an assessment you may be asked for:*

- *any reports from your child's school, nursery or childminder*
- *doctors' assessments of your child*
- *a letter from you about your child's needs*

*The local authority will tell you within 16 weeks whether an EHC Plan is going to be made for your child".*

From the Statutory Instrument (The Special Educational Needs and Disability Regulations 2014):  
<https://www.legislation.gov.uk/ukSI/2014/1530/contents/made>

Also see good information at:

GOV.UK: <https://www.gov.uk/children-with-special-educational-needs/extra-SEN-help>

The Good Schools Guide: <https://www.goodschoolsguide.co.uk/special-educational-needs/legal/getting-an-ehcp>

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### **However this is not always as straight forward as it sounds.**

Sen Help offers some useful legal insights about what can go wrong and how to make a constructive complaint Their website (<https://www.sen-help.org.uk>) covers such topics as how to go forward with a local authority when there is:

**refusal to secure (undertake) an EHC assessment, or**  
**refusal to secure (issue) an EHC Plan for your child or**  
**the need to make appeals about the 'content' of an Education, Health and Care (EHC) Plan**

See <https://www.sen-help.org.uk/ages-and-stages-1/sixteen-to-twenty-five/common-problems-0-25/>

If you cannot resolve the problem with your local authority, you can appeal.

See GOV.UK on 'First-tier Tribunal (Special Educational Needs and Disability)':

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>

**Covid-19** Since the spring of 2020 Local Authorities may not be able to adhere to the time limits set out required actions for the EHC needs assessment must still take place and should be carried out as soon as 'reasonably practical' In most cases on-line assessments and discussions will be the norm.

The following websites are very helpful:

The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020:

<https://www.legislation.gov.uk/uksi/2020/471/contents/made>

COVID-19 SEN EHC Needs Assessments (Bucks CC):

<https://schoolsweb.buckscc.gov.uk/covid-19-corona-virus-latest-advice/covid-19-send/covid-19-sen-ehc-needs-assessments/>

**EHC Plan** Whatever time and trouble has been taken the EHC is an invaluable tool. It is legally binding. It stays in place until a child is 25, and can also ensure support or a specialist placement at further education colleges, but not universities.

## **Section 12 of the SEND regulations sets out what a plan must contain.**

### **(1) When preparing an EHC Plan a local authority must set out**

- (a) the views, interests and aspirations of the child and his parents or the young person;
  - (b) the child or young person's special educational needs;
  - (c) the child or young person's health care needs which relate to their special educational needs;
  - (d) the child or young person's social care needs which relate to their special educational needs or to a disability;
  - (e) the outcomes sought for him or her;
  - (f) the special educational provision required by the child or young person;
  - (g) any health care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having special educational needs;
  - (h) (i) any social care provision which must be made for the child or young person as a result of section 2 of the Chronically Sick and Disabled Persons Act 1970 (section H1);
    - (ii) any 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 H2);
  - (i) the name of the school, maintained nursery school, post-16 institution or other institution to be attended by the child or young person and the type of that institution or, where the name of a school or other institution is not specified in the EHC plan, the type of school or other institution to be attended by the child or young person, and
  - (j) where any special educational provision is to be secured by a direct payment, the special educational needs and outcomes to be met by the direct payment,
- and each section must be separately identified.

**(2) The health care provision specified in the EHC Plan in accordance with paragraph (1)(g) must be agreed by the responsible commissioning body.**

**(3) Where the child or young person is in or beyond year 9, the EHC Plan must include within the special educational provision, health care provision and social care provision specified, provision to assist the child or young person in preparation for adulthood and independent living.**

**(4) The advice and information obtained in accordance with regulation 6(1) must be set out in appendices to the EHC Plan (section K).**

See <https://www.legislation.gov.uk/ukxi/2014/1530/regulation/12>

And <https://www.goodschoolsguide.co.uk/special-educational-needs/legal/getting-an-ehcp>

**Contact (<https://contact.org.uk>) is a very useful resource and underlines the importance of an up to date EHC Plan when considering next steps.**

They say: ***“Preparation should start early - long before your child becomes an adult”.***

*“Schools have a legal duty to provide impartial careers advice to all young people from at least Year 8 (13-14 years of age). This must be tailored to the needs of pupils with SEND. Schools should work with employers, housing agencies, disability organisations and arts and sports groups to help children understand what their options are as they get older.*

*If your child has an Education, Health and Care (EHC) Plan, the Year 9 annual review of their plan, and every review after that, must include a focus on preparing for adulthood. This means there should be targets in the EHC Plan that will help your child to achieve steps towards the four preparing for adulthood outcomes above. They should be updated as your child progresses.”*

See <https://contact.org.uk/advice-and-support/education-learning/education-beyond-16/>

## 2. Duties on Schools and other educational facilities

**Schools and other institutions have a legal duty to use their best effort to secure that the special educational provision required by a pupil/student’s special educational needs is made** Support should continue as the student moves through the different phases of their education and training. In addition institutions are required to provide information about how these duties are carried out.

### Section 66. Using best endeavours to secure special educational provision

(1) This section imposes duties on the appropriate authorities for the following schools and other institutions in England—

- (a) mainstream schools;
- (b) maintained nursery schools;
- (c) 16 to 19 Academies;
- (d) alternative provision Academies;
- (e) institutions within the further education sector;
- (f) pupil referral units.

(2) If a registered pupil or a student at a school or other institution has special educational needs, the appropriate authority must, in exercising its functions in relation to the school or other institution, use its best endeavours to secure that the special educational provision called for by the pupil's or student's special educational needs is made.

(3) The “appropriate authority” for a school or other institution is—

- (a) in the case of a maintained school, maintained nursery school or institution within the further education sector, the governing body;
- (b) in the case of an Academy, the proprietor;
- (c) in the case of a pupil referral unit, the management committee.

See <https://www.legislation.gov.uk/ukpga/2014/6/section/66>

## Section 69. SEN information report

(1) This section imposes a duty on -

- (a) the governing bodies of maintained schools and maintained nursery schools in England, and
- (b) the proprietors of Academy schools.

(2) A governing body or proprietor must prepare a report containing SEN information.

(3) “SEN information” is -

- (a) such information as may be prescribed about the implementation of the governing body's or proprietor's policy for pupils at the school with special educational needs;
- (b) information as to—
  - (i) the arrangements for the admission of disabled persons as pupils at the school;
  - (ii) the steps taken to prevent disabled pupils from being treated less favourably than other pupils;
  - (iii) the facilities provided to assist access to the school by disabled pupils;
  - (iv) the plan prepared by the governing body or proprietor under paragraph 3 of Schedule 10 to the Equality Act 2010 (accessibility plan).

See <https://www.legislation.gov.uk/ukpga/2014/6/section/69>

**NASEN** (National Association for Special Educational Needs) has good quality advice for teachers. This is a charitable membership organisation that supports all education practitioners by providing relevant Continuing Professional Development and Learning (CPDL), resources, advice, information and much more to enable staff to meet the needs of all pupils including pupils with learning differences. See [www.nasen.org.uk](http://www.nasen.org.uk)

## 3. Funding

In England, the Education and Skills Funding Agency (ESFA) funds sixth-form colleges, further education (FE) colleges, sixth-forms in schools, sixth-forms in academies, special schools, special academies, independent learning providers (ILPs), local authorities (LAs), special post-16 institutions (SPIs) and some higher education institutions (HEIs). We fund these institutions to provide study programmes for young people.

It funds:

- students aged 16 to 19 and
- **students up to the age of 25 when they have an education, health and care (EHC) Plan**
- 14 to 16 year-olds who are directly enrolled into eligible FE institutions
- home educated students of compulsory school age at any FE college

The summary points out: “*We use a national funding formula to calculate an allocation of funding to each institution, each academic year. **We fund special schools and special academies using place numbers only. We do not use the national funding form**”*

See <https://www.gov.uk/guidance/16-to-19-funding-how-it-works>

Colleges and training providers **are not allowed to turn students away due to the cost of their support**, nor are they allowed to charge students for their support. Under the Equality Act 2010, they must make reasonable adjustments to avoid disabled students being placed at a ‘substantial disadvantage’. They receive money from the ESFA to meet the costs of reasonable adjustments (from Fact Sheet 26)

See <https://www.disabilityrightsuk.org/funding-further-education-disabled-students>

## 4. Placements

**Under the current system, a child becomes a young person on the last Friday in June after they turn 16.**

All children and young people have the right to have their views taken into consideration about decisions that affect them. A young person has rights separate from their parents. The young person can legally leave school at the end of the school year in which they turn 16 (normally the end of year 11). However, all young people must be in some kind of education or training until the age of 18.

For a clear discussion in this area, Contact is helpful: <https://contact.org.uk/advice-and-support/education-learning/education-beyond-16/>

**An excellent resource is the Independent Provider of Special Education Advice (known as IPSEA). It is a registered charity (number 327691) operating in England. IPSEA offers free and independent legally based information, advice and support to help get the right education for children and young people with all kinds of special educational needs and disabilities (SEND). It also provides training on the SEND legal framework to parents and carers, professionals and other organisations.**

<https://www.ipsea.org.uk/news/planning-the-move-to-a-new-school-for-child-with-send>

**Parents or the young person do have a choice but it can be limited.**

“Requests for a particular school, college or other institution”, if a child’s parent or a young person makes a request for a particular nursery/school/post-16 institution, the local authority (LA) must comply with that preference and name the school/college in the EHC Plan unless:

- it would be unsuitable for the age, ability, aptitude or SEN of the child/young person, or
- the attendance of the child/young person there would be incompatible with the efficient education of others or the efficient use of resources.

(From article in SEN Magazine): <https://senmagazine.co.uk/content/education/7911/the-right-to-choose-a-school-for-your-child-with-sen/>

## 5. Support at college

Colleges have to make 'reasonable adjustments' so that people with disabilities or a learning difficulty don't suffer a great disadvantage.

The colleges fulfil this obligation by making funding available to support students with a learning difficulty and/or a disability (SLDD) through the Additional Support Fund (ASF).

The fund allows colleges to provide students with technical and personal support to allow them to gain maximum benefit from their courses by removing barriers to study.

Examples of technical support include: specialised enabling equipment, such as brailers, specialist software and hearing loops. Personal support includes specialist tutors/advisers, such as hearing or visual impairment tutors, interpreters, classroom assistants and note takers.

The level of support provided depends on both the nature of the disability and the course of study.

See: <https://www.disabilityrightsuk.org/funding-further-education-disabled-students>

<https://contact.org.uk/advice-and-support/education-learning/education-beyond-16/>

## 6. Other organisations who can help

- **IPSEA (Independent Parental Special Education Advice)**  
<https://www.ipsea.org.uk/news/planning-the-move-to-a-new-school-for-child-with-send>
- **Post-16 Special Educational Needs and Disabilities in England**  
[researchbriefings.files.parliament.uk › CBP-8561](https://researchbriefings.files.parliament.uk › CBP-8561)
- **Advice on preparation for the way forward**  
<https://youngminds.org.uk/resources/school-resources/transition-tips-for-pupils-with-send/>
- **Council for Disabled Children**  
<https://councilfordisabledchildren.org.uk/transition-information-network/information-and-support/education-and-employment>
- **Mencap**  
<https://www.mencap.org.uk/advice-and-support/children-and-young-people/transition-adult-services>
- **Special Needs Jungle**  
<https://www.specialneedsjungle.com/category/send/post16/>

## 7. Web resources cited (plus some others)

### Contact:

<https://contact.org.uk/advice-and-support/education-learning/education-beyond-16/>

### Disability Rights:

<https://www.disabilityrightsuk.org/funding-further-education-disabled-students>

### Good Schools Guide:

<https://www.goodschoolsguide.co.uk/special-educational-needs/legal/getting-an-ehcp>

### GOV.UK:

<https://www.gov.uk/children-with-special-educational-needs/extra-SEN-help>

<https://www.legislation.gov.uk/ukxi/2020/471/contents/made>

<https://www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability>

<https://www.legislation.gov.uk/ukpga/2014/6/section/66>

[https://www.legislation.gov.uk/ukxi/2014/1530/pdfs/ukxi\\_20141530\\_en.pdf](https://www.legislation.gov.uk/ukxi/2014/1530/pdfs/ukxi_20141530_en.pdf)

### IPSEA:

<https://www.ipsea.org.uk/news/planning-the-move-to-a-new-school-for-child-with-send>

### nasen (National Association for Special Educational Needs):

[www.nasen.org.uk](http://www.nasen.org.uk)

### Bucks CC Schoolsweb

<https://schoolsweb.buckscc.gov.uk/covid-19-corona-virus-latest-advice/covid-19-send/covid-19-sen-ehc-needs-assessments/>

### sen help:

<https://www.sen-help.org.uk/ages-and-stages-1/sixteen-to-twenty-five/common-problems-0-25/>

### SEND Gateway:

<https://www.sendgateway.org.uk/resources.supporting-transition-from-school-to-college-partnership-with-outside-agencies.html>

### Young Minds:

<https://youngminds.org.uk/resources/school-resources/transition-tips-for-pupils-with-send/>

### Northern Ireland (NIDirect.GOV)

<https://www.nidirect.gov.uk/articles/disability-support-college>

### Scotland (SCOT.GOV)

<https://www.gov.scot/policies/schools/additional-support-for-learning/>

### Wales (GOV.WALES)

<https://gov.wales/special-educational-needs>