



## A Guide to Education, Health and Care (EHC) Plans

### What is an Education, Health and Care plan?

**Education, Health and Care plans (EHC plan)** came into force in September 2014 as part of the Children and Families Act 2014. EHC plans replaced Statements of Special Educational Need and Section 139 Learning Difficulty Assessments (LDA). It has joined education, health and social care services to plan services together by law.

EHC plans are for children and young people between the ages of 0 and 25 years, who need more support than their school or other setting can provide. The plans can start from a child's birth and continue into further education and training.

It is a legal document written by the **Local Authority (LA)** and is intended to ensure that children and young people with an EHC plan receive the special educational support they need.

An EHC Plan describes a child or young person's **special educational needs (SEN)** and the help they will get to meet them. An EHC plan also includes any health and care provision that is needed. Although the plan can include health or social care needs, a child or young person will not get an EHC plan if they only have health or social care needs that do not affect their education.

The legal requirements are set out in the [Special Educational Needs and Disability Regulations 2014](#) (the 'Regulations'), and there is also statutory guidance for LA's, schools and colleges in the [SEN and Disability Code of Practice](#) (the 'Code').

| Purpose of an EHC plan  | Code of Practice |
|---|------------------|
| The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood | Para 9.2         |

### Who needs an EHC plan?

Children and young people who are receiving support in school/college for their **Special Educational Needs (SEN)** but who don't have an Education, Health and Care (EHC) Plan, may be being supported through Quality First Teaching at **SEN Support** level.

SEN support is the support that is additional to or different from that generally given to other children and young people of the same age.

SEN Support is in place in all educational settings to ensure that children and young people who do not have a higher level of need required for an EHC plan, will still have the right to have their individual needs met.

SEN support helps children and young people identified as having special educational needs to make good progress and achieve the outcomes or learning objectives that have been set for them. This is part of a Graduated Approach using an Assess, Do, Plan, Review process.

For information about SEN Support and the graduated approach process, visit the [SEN Support](#) page of the Bexley IASS website.

## Who can apply for an EHC Plan and how is it done in Bexley?

Some children and young people may not make the progress expected of them at SEN Support level. At this stage an application to request an assessment for an EHC Plan may need to be considered. This is known as an **EHC Needs Assessment** application.

Before a request for an EHC Needs Assessment is made, it is essential to ensure that every reasonable adjustment, intervention and quality first teaching has already been put in place at SEN Support level. EHC Plan Needs Assessments can be rejected if not enough evidence has been provided that everything at SEN Support level is not working and your child/young person's needs are not being met.

| Considering an EHC Needs Assessment  | SEN Regulations           | Code of Practice |
|--|---------------------------|------------------|
| In considering whether an EHC needs assessment is necessary, the local authority should consider whether there is evidence that despite the early years provider, school or post-16 institution having taken relevant and purposeful action to identify, assess and meet the special educational needs of the child or young person, the child or young person has not made expected progress. | Reg part 2.3, 2.4 and 2.5 | Para 9.14        |

The following people can make a formal request for an EHC Needs Assessment:

- A child/young person's parent/carer (the person who has parental responsibility)
- The young person if over the age of 16 (or somebody on their behalf)
- A person acting on behalf of an early years setting, school or post 16 institutions (this should be with the knowledge and agreement of the parent/carer or young person)

As a parent, carer, or a young person aged 16+, you are able to apply for an EHC Needs Assessment without the support of the school/education setting. This also applies if you are home schooling your child or young person.

In Bexley, EHC Needs Assessments and EHC Plans are managed by **SEN Case Officers** as part of the [Bexley Statutory Assessment Service](#).

More information about applying for an [EHC Needs Assessment](#) can be found on the Bexley IASS website.

The [EHC Needs Assessment application, 20-week assessment process in Bexley and the application forms](#) can be downloaded from the [Bexley Local Offer](#).

After you have submitted your application, the LA will decide (normally within 6 weeks) if they will agree to do a full assessment or not.

**If they LA have rejected your application**, they will inform you in writing, with the reasons for the decision and include information about [your rights of appeal](#).

**If the LA have agreed to assess**, they will inform you in writing and you will be allocated a SEN Case Officer from the Statutory Assessment Service to help manage and support with the development of the plan. The assessment process must be completed within 20 weeks.

## Decision not to issue an EHC Plan following an EHC Needs Assessment

Where, following an EHC needs assessment, an LA decides that it is not necessary for special educational provision to be made for a child or young person in accordance with an EHC plan, the notification given in accordance with section 36(9) must be given as soon as practicable, and in any event within 16 weeks of the LA receiving a request for an EHC needs assessment.

| Timescales of an EHC Needs Assessment                                    | SEN Regulations |
|--|-----------------|
| Legislation regarding the 20-week assessment process and draft EHC Plans | Reg part 2.13   |

Bexley IASS can provide information, advice and support about EHC Needs Assessment applications that have been rejected, including helping you to understand your rights of appeal.

## How will I be involved?

Your views, and your child's views, are really important. The LA, school or college should help you take part and involve you in decision making. If you would like help to do this please contact **Bexley IASS** for impartial advice and support. We can also give you information on other sources of help, and on what to do if you do not feel that you have been heard or listened to.

| Consulting with parent/carers and young people  | SEN Regulations | Code of Practice |
|---|-----------------|------------------|
| LA's must consult the child and the child's parent/carer or the young person throughout the process of assessment and production of an EHC plan | Reg part 2.9    | Para 9.21        |

## What does an EHC plan include?

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.

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.

The SEND Code of Practice says that EHC plans should:

- be based on decisions made openly, and with parents, children and young people
- describe what the child or young person can do
- be clear, concise, understandable and accessible
- consider how best to achieve the outcomes for the child or young person.
- **must** consider the evidence from the EHC needs assessment
- specify clear outcomes
- consider alternative ways of providing support if a parent or young person wishes it. This could include having a [Personal Budget](#)
- show how education, health and care provision will be co-ordinated
- be forward looking – for example, anticipating, planning and commissioning for important transition points in a child or young person's life
- describe how informal support as well as formal support from statutory agencies can help in achieving agreed outcomes
- have a review date.

| Principles and Requirements of an EHC plan  | SEN Regulations | Code of Practice |
|---|-----------------|------------------|
| There is a full list of principles and requirements - refer to the relevant legislation | Reg part 2.12   | Para 9.61        |

An EHC plan does not have a fixed format – each LA can develop its own ‘style’ – but legally they must contain a number of separate sections. Every EHC plan **must** include at least 12 sections, but each LA can decide how to set these out.

The sections are:

- **A:** The views, interests and aspirations of you and your child or the young person.
- **B:** Your child’s or young person’s special educational needs.
- **C:** Health needs related to their SEN or to a disability.
- **D:** Social care needs related to their SEN or to a disability.
- **E:** Planned outcomes for your child or the young person.
- **F:** Special educational provision. Provision **must** be specified for each and every need shown in section B.
- **G:** Any health provision required that is related to their SEN or to a disability.
- **H1:** Any social care provision that **must** be made for your child or young person under 18.
- **H2:** Any other social care provision required that is related to their SEN or to a disability.
- **I:** The name and type of the school, maintained nursery school, post-16 institution or other institution to be attended.
- **J:** Details of how any personal budget will support particular outcomes and the provision it will be used for.
- **K:** The advice and information gathered during the EHC needs assessment

Where the child or young person is in or beyond year 9, the EHC plan must also include the provision required by your child or young person to help prepare for adulthood and independent living.

You can find a detailed checklist covering each of the [EHC plan sections](#) on the IPSEA website

| The sections and content of an EHC plan   | SEN Regulations | Code of Practice   |
|---|-----------------|--------------------|
| There is a full list of principles and requirements - refer to the relevant legislation | Reg 2.12        | Para 9.62 and 9.63 |

## Can I request a particular school?

The law says that parents or the young person has a right to request that a particular school, college or other institution is named in the EHC plan. The LA must agree to this request unless:

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

The LA is not responsible for choosing an educational setting for a child or young person. A parent/carer or young person must consider and research possibilities and discuss them with the SEN Case Officer who will manage the application process, known as a ‘consultation’.

Find out more about [education settings for children and young people with an EHC Plan](#).

| Requesting a school place   | SEN Regulations   | Code of Practice   |
|---|-------------------|--------------------|
| You can find out more about your rights to request a particular school or college | Reg part 2.12 (i) | Para 9.78 to 9.90. |

## Where does the funding come from?

The LA is responsible for ensuring that the special educational needs set out in the EHC plan are met and that the special educational provision is made, whatever their funding arrangements or agreements with other service providers.

Once a child or young person has an EHC plan, the LA must ensure the support set out in the plan is made for the child or young person.

Normally, the LA will do this by providing the necessary funding to the school or college attended by the child or young person, in order for them to deliver the educational support or services needed. However, it is also possible for the LA to consider making a payment to the parent, the young person or another nominated person, so that they can organise the provision themselves. This is called a direct payment.

In order for the parent or young person to request a direct payment, the LA must first identify a personal budget. All young people with an EHC plan and all parents of children with an EHC plan can ask for a [Personal Budget](#).

| Personal Budgets with an EHC Plan   | SEN Regulations   | Code of Practice   |
|---|-------------------|--------------------|
| A Personal Budget is an amount of money identified by the LA to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision. | Reg part 2.12 (j) | Para 9.95          |
| What can be included in a Personal Budget?  |                   | Para 9.110 - 9.118 |

**Bexley IASS** can give you more information on local funding arrangements and on Personal Budgets, including Direct Payments.

## What can I do if I am not happy about the EHC plan?

The first step is to contact the school, college or the SEN Case Offer to discuss your concerns.

**Bexley IASS** can give you impartial advice and support and explain your options. This may include independent disagreement resolution, mediation or going to appeal.

If the LA decides not to amend the plan or decides to cease to maintain it, they must notify the child's parent/carer or the young person of [their right to appeal that decision and the time limits for doing so](#), of the requirements for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services.

## Will there be a review of the EHC plan?

The EHC Plan Annual Review is a statutory process and a way of reviewing the needs, provision and outcomes specified in an EHC Plan, and deciding whether these need to change. The purpose is to ensure that the contents of the EHC Plan are still relevant and are helping your child/young person to make progress towards their aspirations and the outcomes in their plan.

The LA **must** review the EHC plan. For children under 5 years old this will happen every 6 months and for children aged over 5 years old the review will be held annually. This **must** be done in partnership with parent/carers and the child/young person and must take account of your views, wishes and feelings.

| Consulting with parent/carers and young people   | SEN Regulations | Code of Practice |
|--|-----------------|------------------|
| Reviews must be undertaken in partnership with the child and their parent/carer or the young person, and must take account of their views, wishes and feelings, including their right to request a Personal Budget | Reg part 2.19   | Para 9.168       |

The LA **must** decide whether to keep the plan as it is, make changes, or cease to maintain it within four weeks of the review meeting. You have a right of appeal if the LA proposes to cease the EHC plan.

Find out more about Annual Reviews on the [Bexley IASS website](#) and the [Bexley Local Offer](#). Bexley IASS can provide information, advice and support about EHC Plan Annual Reviews, including what happens in the process and helping you to understand your draft plan.

## Ceasing to maintain an EHC Plan

When an LA decides to take away, or end, an EHC plan, this is called ‘ceasing to maintain’ the EHC plan. This means that the EHC plan will come to an end and the LA will no longer have the legal duty to ensure that the educational provision specified in the EHC plan is received by the child or young person.

An LA may decide to cease to maintain an EHC plan at any time, but they can only do so on certain grounds. These are the only legal reasons for ceasing to maintain an EHC plan:

- If the LA is no longer responsible for the child or young person; or
- If it is no longer necessary to maintain it.

An LA would no longer be responsible if:

- the young person has taken up paid employment (excluding apprenticeships);
- the young person has started higher education (university);
- a young person aged 18 or over has left education and no longer wishes to engage in further learning;
- the young person has turned 25; or
- the child or young person has moved to a different LA.

For a young person over 18, the LA must have regard to whether the educational or training outcomes in the EHC plan have been achieved. If they have not, that is an indication that the special educational provision should continue.

Where an LA is considering ceasing to maintain a child or young person’s EHC plan it must—

- inform the child’s parent/carer or the young person that it is considering ceasing to maintain the child or young person’s EHC plan; and
- consult the child’s parent/carer or the young person;
- consult the head teacher or equivalent person at the educational setting that is named in the EHC plan.

Where, following that consultation the LA determines to cease to maintain the child or young person’s EHC plan, it must notify the child’s parent/carer or the young person, the educational setting named in the EHC plan and the responsible commissioning body of that decision.

When notifying the child’s parent/carer or the young person of its decision to cease to maintain the EHC plan, it must also notify them of—

- (a) their right to appeal that decision;
- (b) the time limits for doing so;
- (c) the information concerning mediation, set out in regulation 32; and
- (d) the availability of—
  - disagreement resolution services; and
  - advice and information about matters relating to the special educational needs of children and young people.

| <b>Ceasing to maintain an EHC Plan</b>   | <b>SEN Regulations</b> |
|--|------------------------|
| Procedure for determining whether to cease to maintain EHC plan  | Reg part 2.31          |
| Circumstances in which a local authority may not cease to maintain an EHC plan where the person is under the age of 18 | Reg part 2.29          |
| Circumstances in which a local authority may not cease to maintain an EHC plan where the person is aged 18 or over     | Re part 2.30           |

Further information can be found on the [IPSEA website/can they take the plan away](#). Including information about if the LA can cease to maintain the EHC plan because the child or young person is out of education and will the provision stop straight away.

## What happens if I move to another local authority area?

If you plan to move to another local authority area you should contact the 'old' and the 'new' local authorities so the support specified in the EHC plan will be in place. The 'old' LA must transfer the EHC plan on the day of the move, as long as it has had 15 working days notice. The 'new' LA will amend the plan and, if appropriate, arrange a review and name the new educational setting.

### Transferring an EHC Plan between local authorities

This regulation applies where a child or young person in respect of whom an EHC plan is maintained moves from the area of the LA which maintains the EHC plan ("the old authority") into the area of another LA ("the new authority").

### SEN Regulations

Reg part 15

## Where can I get more information, advice or support?

The legal requirements are set out in the [Special Educational Needs and Disability Regulations 2014](#) (the 'Regulations'), and there is also statutory guidance for LA's, schools and colleges in the [SEN and Disability Code of Practice](#) (the 'Code').

### Bexley SEND Information, Advice and Support Service (IASS)

London Borough of Bexley, Civic Offices, 2 Watling Street, Bexleyheath, DA6 7AT

Tel: 020 3045 5976

Email: [bexleyiass@bexley.gov.uk](mailto:bexleyiass@bexley.gov.uk)

Website: [www.bexleyiass.co.uk](http://www.bexleyiass.co.uk) or: [Bexley IASS – EHC Plan Section](#)

**Bexley IASS** offers information, advice and support about:

- SEN Support
- EHC Plan Needs Assessments
- EHC plans, EHC plan annual reviews, emergency and early reviews
- Funding and provision and Personal Budgets if your child has an Education, Health and Care Plan
- Other organisations, support groups and information services that may be of help
- Your rights to make a complaint, seek independent **disagreement resolution** or **mediation** and appeal to the **SEND Tribunal**.

### Bexley Local Offer

The SEND Local Offer provides information for families with children and young people aged 0- 25 with Special Educational Needs and Disabilities (SEND) in Bexley.

Telephone: 0203 045 5677

Email: [localoffer@bexley.gov.uk](mailto:localoffer@bexley.gov.uk)

Website: [www.bexleylocaloffer.uk](http://www.bexleylocaloffer.uk) or: [Bexley Local Offer - EHC Plan Section](#)

### IPSEA

IPSEA offers free and independent legally based information, advice and support to help get the right education for children and young people with special educational needs and disabilities (SEND).

Website: [www.ipsea.org.uk](http://www.ipsea.org.uk) or: [IPSEA – EHC Plan Sections](#)

### CONTACT

National charity for families with special needs and disabled children and young people aged 0-25, supporting families with the best possible guidance and information.

Website: [contact.org.uk](http://contact.org.uk) or : [CONTACT – EHC Plan Section](#)