

A Parent's Guide to Education, Health and Care (EHC) Needs Assessments and Plans (England)

We use the term 'deaf' to refer to all types of hearing loss from mild to profound. This includes deafness in one ear or temporary hearing loss such as glue ear. We use the term 'parent' to refer to all parents and carers of children.

Who is this factsheet for?

You might be interested in this factsheet if:

- your child already has an Education, Health and Care (EHC) plan
- the local authority is carrying out an EHC needs assessment of your child
- your child doesn't have an EHC plan, but you believe that the local authority needs to carry out a needs assessment. This may be because your child is not getting enough support and the education setting believes that it's already doing everything it can from within its own resources
- you have a very young child who hasn't yet started nursery or school but who has such significant needs that you believe that they're going to need much more support than other children their age to achieve the best possible educational and other outcomes.

Your rights at a glance

Children and young people without an Education, Health and Care (EHC) plan

- Schools and other education providers are required to make provision to meet your child's needs. This is known as special educational needs (SEN) support. For more information, see our factsheet Special Educational Needs (SEN) Support available at www.ndcs.org.uk/sen.
- Deaf children are likely to meet the definition of disability and are therefore also covered by the Equality Act 2010, which requires education providers to make reasonable adjustments to meet the needs of disabled children and young people, regardless of whether or not they have an EHC plan. For more information, visit www.ndcs.org.uk/educationrights.

EHC needs assessments

- If you feel that the support your child receives is not enough (or if you believe your very young child needs specialist help from an early age), you have the right to ask the local authority to carry out an EHC needs assessment for a child or young person aged 0–25.
- The local authority must give you a written decision about your request within six weeks of receiving it.
- The local authority must consult you and your child throughout the process of assessment and producing an EHC plan.

- The local authority **must** consult a qualified Teacher of the Deaf as part of the assessment for any deaf child or young person.
- If the local authority decides not to issue an EHC plan, it **must** inform you of the decision within 16 weeks of receiving the request for an assessment.

EHC plans

- If the local authority decides that your child needs an EHC plan, it must issue the final plan within 20 weeks of receiving the request for an assessment.
- EHC plans must specify the outcomes sought for your child.
- They must include separately labelled Sections A–K (full details later in this factsheet).
- The local authority must send you a draft EHC plan and give you at least 15 days to give your views. The draft plan must not name a school in Section I.
- The local authority must tell you that during this period you can ask for a particular school or other type of institution to be named in the plan.
- In the final plan, the local authority must name the school of your choice unless it's significantly more expensive than the one proposed by the local authority or your child's attendance at the school would prevent the "efficient education of other children" (see page 15 for more information on what this means).

If you disagree with the local authority's decision

- Whenever the local authority informs you of a statutory (legal) decision about your child's special educational needs, it must give you information about the steps that can be taken to try and reach agreement (known as disagreement resolution and mediation arrangements), your right to appeal to a specialist Tribunal and the deadline for doing so.

Note: there is a difference between disagreement resolution and mediation. Both are aimed at resolving differences by communicating through a third party without having to resort to legal action. However, mediation is specifically linked to decisions about EHC needs assessments and plans, and parents **must** contact the mediation service before registering an appeal. Disagreement resolution services can be used at any time but there's no requirement to do so.

- You can appeal to the Tribunal against the following:
 - > refusal to carry out an assessment
 - > refusal to issue an EHC plan
 - > the contents of a plan
 - > refusal to make changes to a plan following an annual review
 - > decision to end ('cease to maintain') an EHC plan.

Contents

Introduction	4
Section one: Education, Health and Care (EHC) needs assessments	5
What is an EHC needs assessment?	6
Why might an EHC needs assessment be necessary?	6
Who can ask for an EHC needs assessment?	6
Do I need the school's permission to request an EHC needs assessment?	6
What if my child hasn't started at school or nursery yet?	7
What if my child is 16 or over?	7
How do I request an EHC needs assessment?	7
What happens after an EHC needs assessment is requested?	8
What if the local authority refuses to carry out an EHC needs assessment?	8
What the decision letter from the local authority must include	9
What does an EHC needs assessment involve?	9
How are parents, children and young people involved in the process	10
What happens at the end of the assessment?	11
What if the local authority decides not to issue an EHC plan?	11
What happens next, if the local authority decides that an EHC plan is needed?	11
Section two: Education, Health and Care (EHC) plans	12
What is an EHC plan?	12
Important points to note about the EHC assessment and planning process	12
What does an EHC plan look like and what does it contain?	13
Will I be able to choose the school my child attends?	16
The final EHC plan	17
Who is responsible for making the provision described in the EHC plan?	17
What if I disagree with the final EHC plan?	17
Section three: Further information, advice and support	18
Appendix A: Template letter: Asking for an EHC needs assessment if your child has been identified as having special educational needs by their nursery/school/college	20
Appendix B: Template letter: Asking for an EHC needs assessment if your child has not been identified as having special educational needs by their nursery/school/college	21
Appendix C: Template letter for responding to a draft EHC plan	22

Introduction

This factsheet explains about the EHC needs assessment process and EHC plans.

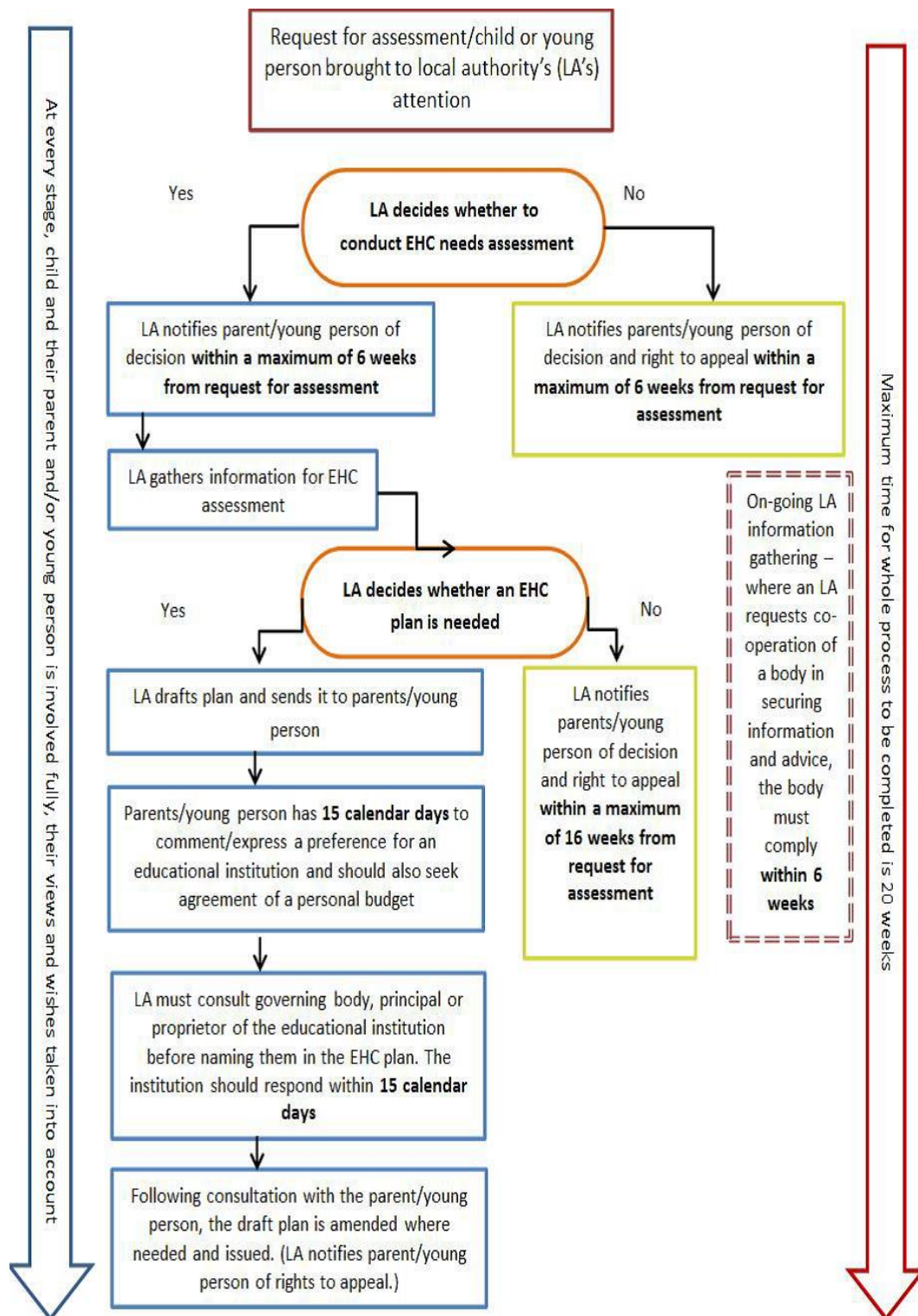
The information is based on the *Special Educational Needs and Disability Code of Practice: 0 to 25 years*, which you can download from www.gov.uk/government/publications/send-code-of-practice-0-to-25. This is guidance which sets out the government's expectations on what local authorities, schools and other bodies must or should do to support children and young people with SEN or disabilities. We refer to this guidance throughout this factsheet, highlighting key paragraph numbers from the guidance that you can refer to for further information.

There's also a guide for parents which you can download from www.gov.uk/government/publications/send-guide-for-parents-and-carers.

Note: we have followed the Code of Practice and the guide's use of the words 'must' and 'should'. 'Must' means that the local authority is legally required to do something, whereas 'should' means that if it doesn't do something then it must have a good reason not to.

Section one: Education, Health and Care (EHC) needs assessments

The diagram below is reproduced from page 154 of the *Special Educational Needs and Disabilities Code of Practice: 0 to 25 years*. It summarises the process and timescales for considering requests for EHC needs assessments and drawing up EHC plans.



What is an EHC needs assessment?

An EHC needs assessment is an assessment of a child's or young person's education, health and care needs. It's carried out by the local authority in consultation with relevant professionals such as a Teacher of the Deaf, educational psychologist, speech and language therapist and audiologist.

Why might an EHC needs assessment be necessary?

Schools and other education providers are required to identify children's special educational needs (SEN) and to make every effort to ensure that children with SEN get the support they need. The support provided by schools or other education providers is called SEN support. This used to be known as School Action and School Action Plus. It's provided from the education provider's own resources with advice and support from other professionals such as the Teacher of the Deaf. The amount of SEN support a child gets will vary from one local authority to the next.

Provision should be informed by regular assessment and review. This is a cycle described in the Code of Practice as 'assess, plan, do and review.'

Education providers should keep a record of the support they give and review how effective it has been, using assessment information provided by the school's and other professionals' assessments (e.g. reading tests, numeracy tests, speech and language assessments) to measure progress. Education providers should talk to parents regularly to set clear outcomes and review progress towards them. They should meet parents at least three times a year. If it reaches a stage where a child isn't making the progress expected in spite of the support the school has provided or, if you (or your child) believe that the school is unable to provide the support they need, this is the time to consider requesting an EHC needs assessment.

Note: although the assessment process takes into account a child's needs across education, health and social care, it's only carried out if a child has special educational needs. In other words, if a child had significant health or social care needs but no SEN, an EHC needs assessment wouldn't be appropriate.

Who can ask for an EHC needs assessment?

Parents, schools, nurseries, further education colleges and other professionals involved with a child or young person can request an EHC needs assessment. Young people aged 16 or over can also request one for themselves. SEN legislation covers children and young people from 0–25.

Do I need the school's permission to request an EHC needs assessment?

No, but ideally the decision to request an assessment would be reached jointly between you and the school as part of an ongoing process of involving you in discussions about your child's progress and the support the school is giving. If the school doesn't suggest it, but you believe an assessment is needed, talk to the school and explain your concerns. Even if the school disagrees, they'll still be an important source of evidence about your child's progress and the help that has been given so far.

If the school agrees that an EHC needs assessment is needed, they might offer to put in the request for you. The local authority will treat the request in the same way, whoever asks for the assessment, because they have to base their decision on written evidence.

If you agree that the school should make the request, make sure that you see their submission (written request with evidence) and that you're happy that it says what it needs to.

What if my child hasn't started at school or nursery yet?

You can still apply for an EHC needs assessment, however young your child is, if you believe that they'll need significantly more support than other children of the same age in order to achieve the best possible educational and other outcomes.

If this is the case, it's likely that a health professional will already have identified the fact that your child may have special educational needs. The Code of Practice (5.15) says:

*"Where a health body is of the opinion that a young child under compulsory school age has, or probably has, SEN, they **must** inform the child's parents and bring the child to the attention of the appropriate local authority. The health body **must** also give the parents the opportunity to discuss their opinion and let them know about any voluntary organisations that are likely to be able to provide assistance. This includes the educational advice, guidance and any intervention to be put in place at an early point and before the child starts school."*

What if my child is 16 or over?

Young people aged 16 and over have the right to request an EHC needs assessment for themselves, or you can make the request for them. If you (or professionals) make the request on behalf of your child it should be with their knowledge and, where possible, agreement.

How do I request an EHC needs assessment?

Write to the person in charge of education at the local authority. Job titles vary from one authority to the next, but it's usually the head of children's services or the director of education. Information about how to request an assessment should be included in the local authority's Local Offer. Local authorities are required to publish their Local Offer online. For more information on Local Offers, download our factsheet *Local Offers and Special Educational Needs* (www.ndcs.org.uk/sen).

We have included a template letter at the end of this factsheet to help you (Appendix A, page 20).

What happens after an EHC assessment is requested?

The local authority will consider the request. In order to make a decision they will need to take into account a wide range of evidence from you, the school or other education provider (unless your child is not yet in an educational setting), the Teacher of the Deaf and any other education, health and social care professionals involved with your child. They should pay particular attention to:

- evidence of your child's academic attainment (or developmental milestones in younger children)
- information about the nature and extent of your child's SEN (make sure that they have information about your child's type and level of deafness and the impact that has on their learning: make it clear how deafness is preventing them from achieving their best)
- evidence of the actions taken by your child's education provider and how effective they have been: they will need to see that where progress has been made, it's only as a result of much additional intervention and support over and above what is usually provided
- evidence of your child's physical, emotional and social development and health needs.

If the request is for a young person aged 18 or over, the local authority must consider whether your child needs more time to complete their education or training, in comparison to a young person of the same age who doesn't have SEN.

Local authorities may develop their own criteria or guidelines to help them to decide whether it is necessary to carry out an EHC needs assessment but they must be prepared to look at individual circumstances. They **must not** apply a 'blanket' policy to particular groups of children or types of need. The criteria or guidelines should be published within the Local Offer.

The local authority must give you a decision in writing within six weeks of the date of your request.

What if the local authority refuses to carry out an EHC needs assessment?

It's usually better to speak to the local authority and try to resolve differences of opinion by working with them. You could ask for a meeting to provide further information about their decision. Sometimes, however, it isn't possible to reach agreement in this way.

You can appeal to the First Tier Tribunal so long as the authority has not carried out an EHC needs assessment of your child in the previous six months. The Tribunal is an independent legal body which makes decisions on appeals against the local authority in relation to EHC needs assessments and plans. It also hears claims of disability discrimination under the Equality Act 2010.

Before you can appeal, you must contact an independent mediation adviser and discuss whether mediation might be a suitable way of resolving the disagreement. Local authorities must make arrangements for parents and young people to receive information about mediation. When they send the decision letter they must tell you about your right to go to mediation and inform you of the requirement to contact a mediation adviser before you register an appeal. The letter must give the contact details of an independent mediation adviser. The

mediation information must be factual, unbiased and should not seek to pressure you into going to mediation.

If you decide you would like to try and resolve matters at mediation, this must be arranged within 30 days of the mediation adviser telling the local authority that is what you want to do. The local authority must take part in mediation if you've agreed to it. If you decide not to take part in mediation the adviser will issue a certificate confirming that they have provided information to you. You must appeal within two months of the local authority sending you their decision or within one month of a mediation certificate being issued.

For more information about appealing a refusal to assess, read our factsheet *How to Appeal to the Tribunal Against a Decision about Your Child's Special Educational Needs (England)* or visit the Tribunal website at www.justice.gov.uk/tribunals/send where you will find appeal forms and guidance. You can also contact our Freephone Helpline (0808 800 8880, helpline@ndcs.org.uk, www.ndcs.org.uk/livechat).

What the decision letter from the local authority must include

- The reasons for their decision.
- Your (or your child's, if 16 or over) right to appeal and the time limit for doing so (two months).
- The requirement for you to consider mediation if you want to appeal to the Tribunal.
- Information about the availability of information, advice and support and disagreement resolution services.

What does an EHC needs assessment involve?

The purpose of an EHC needs assessment is to gather information about a child or young person's needs, the provision to meet those needs and the outcomes to which the provision is expected to lead. The Code of Practice (paragraph 9.22) says that "the assessment and planning process should:

- focus on the child or young person as an individual
- enable children and young people and their parents to express views, wishes and feelings and be part of the decision-making process
- be easy for children, young people and their parents or carers to understand, and use clear ordinary language and images rather than professional jargon
- highlight the child or young person's strengths and capabilities
- enable the child or young person, and those that know them best to say what they have done, what they're interested in and what outcomes they're seeking in the future
- tailor support to the needs of the individual
- organise assessments to minimise demands on families
- bring together relevant professionals to discuss and agree together the overall approach and,
- deliver an outcomes-focused and co-ordinated plan for the child or young person and their parents."

The local authority **must** ask the following people or services for advice:

- the child's parents or the young person
- the school or other education provider for educational advice
- a health care professional for medical advice and information
- an educational psychologist
- social care
- any person whom parents or the young person reasonably request (for example, an occupational therapist, speech and language therapist or mental health professional)
- for deaf children and young people: advice from a Teacher of the Deaf.

The people giving the advice must provide it within a maximum of six weeks from the date of the local authority's request.

From Year 9 onwards the local authority must also ask for advice and information about provision to help prepare for adulthood and independent living.

Note: if advice from any of the above already exists, the local authority doesn't have a duty to ask for new advice (unless the existing advice is out of date or inaccurate).

How are parents, children and young people involved in the process?

Local authorities must consult young people and their parents throughout the assessment and planning process. They should also involve children under 16 as far as possible. The process should enable parents, children and young people to express their views, wishes and feelings. It should also enable them to be part of the decision-making process.

Local authorities **must** ensure that children, young people and parents are provided with information to support decision-making. Previously, this was provided by Parent Partnership Services but they're now called Information Advice and Support Services. There must be information, advice and support available to children and young people as well as parents. Information, advice and support services should be free, confidential and impartial.

You may also receive help from an independent supporter. Independent supporters are intended to help families through the process of an EHC needs assessment. Independent support is provided by private, voluntary and community sector organisations, who are intended to be independent of the local authority. The nature of the support provided is likely to vary from family to family. Local authorities should work with such organisations to ensure that there are arrangements agreed locally to offer help from an independent support to as many families as possible who need it.

Local authorities should support and encourage the involvement of children, young people and their parents or carers by:

- providing them with access to the relevant information in accessible formats
- giving them time to prepare for discussions and meetings

- dedicating time in discussions and meetings to hear their views (paragraph 9.24 of the Code of Practice).

If you or your child need support from an advocate to ensure that your views and feelings are heard, local authorities should ensure that they have access to this support. The support could be provided by a family member or a professional.

Our factsheet *Contributing to an Education Health and Care (EHC) Needs Assessment and the Production of an EHC Plan* provides more information about how you can prepare for the assessment process, so that you're able to share your views and make sure that the EHC plan meets your child's needs.

What happens at the end of the assessment?

Once the local authority has looked at all the advice gathered two things can happen.

1. The local authority decides that an EHC plan is not needed, or
2. The local authority decides to draw up an EHC plan.

What if the local authority decides not to issue an EHC plan?

Sometimes, after considering all the advice gathered during the assessment, the local authority may decide that the child or young person doesn't need an EHC plan. In this case, they **must**:

- inform parents or the young person of their decision within a maximum of 16 weeks from the request for the EHC needs assessment
- inform the school/other education provider and the health service
- give reasons for their decision
- inform parents or the young person of their right to appeal that decision, the time limit for appealing, the requirement to consider mediation if they wish to appeal, the availability of information, advice and support and disagreement resolution services.

More information is available in our factsheet *How to Appeal to the Tribunal Against a Decision about Your Child's Special Educational Needs (England)*, which can be downloaded from our website at www.ndcs.org.uk/sen. You can also contact our Helpline.

The local authority **should**:

- ensure that the parents or young person are aware of the resources to meet SEN within mainstream provision and other support set out in the Local Offer (for more information on Local Offers, go to www.ndcs.org.uk/sen)
- provide written feedback which the parents or young person and education providers may find useful, including evidence and reports from professionals.

What happens next, if the local authority decides that an EHC plan is needed?

If the local authority decides that an EHC plan is needed, they must:

- notify parents or the young person of their decision and give reasons
- ensure that a plan is prepared
- give parents or the young person 15 calendar days to look at a draft plan, provide their views on it and ask for a particular school or other education provider to be named on it (a template letter for responding to a draft plan is included in Appendix C, page 22)

- issue a final plan within 20 weeks of the request for an EHC needs assessment.

Section two: Education, Health and Care (EHC) plans

What is an EHC plan?

An EHC plan is a legal document which brings together information about a child or young person's education, health and social care needs and the provision required to meet those needs. It's written using the information and advice gathered during the EHC needs assessment. At paragraph 6.1 the new Code of Practice states:

"All children and young people are entitled to an education that enables them to make progress so that they:

- *achieve their best*
- *become confident individuals leading fulfilling lives, and*
- *make a successful transition into adulthood, whether into employment, further or higher education or training."*

The purpose of an EHC plan is to ensure that support is put in place to enable this to happen.

Important points to note about the EHC assessment and planning process

- Children, young people and families should experience well-co-ordinated assessment and planning, leading to timely, well-informed decisions." (paragraph 9.20 of the Code of Practice)
- "Local authorities must consult the child and the child's parent or the young person throughout the process of assessment and production of an EHC plan." (9.21)
- "The needs of the individual child and young person should sit at the heart of the assessment and planning process. Planning should start with the individual and local authorities **must** have regard to the views, wishes and feelings of the child, child's parent or young person, their aspirations, the outcomes they wish to seek and the support they need to achieve them." (9.21)
- "EHC plans should describe positively what the child or young person can do and has achieved." (9.61)
- "EHC plans should be clear, concise, understandable and accessible to parents, children, young people, providers and practitioners." (9.61)

What does an EHC plan look like and what does it contain?

There are no rules about how an EHC plan should be set out: local authorities are free to develop their own format. This includes the order in which the information appears. However, there are rules about the content of EHC plans which local authorities must follow. In any order, the plan must contain the following sections, labelled as they appear below. There is more detailed information about what each section should contain on pages 164–169 of the *Special Educational Needs and Disability Code of practice: 0–25 years* (www.gov.uk/government/publications/send-code-of-practice-0-to-25).

A: The views, interests and aspirations of the child and their parents, or of the young person

This includes (among other things) aspirations and goals for the future with regard to paid employment, independent living and community participation.

B: A description of the child's or young person's special educational needs

All the child's or young person's identified special educational needs must be included.

C: The child or young person's health needs which relate to their SEN

This means that information about, for example, cochlear implants and conditions which cause deafness would be included, because they are the reason (or part of the reason) why the child needs the extra support with education which the plan describes. The plan can also include information about long-term health needs which are not related to SEN but which may need to be managed in an educational setting, for example diabetes, asthma or allergies.

D: The child or young person's social care needs which relate to their SEN

Not every child who needs an EHC plan will have social care needs, but where such needs have been identified through the EHC needs assessment or where an assessment by social services has shown that social care provision (relating to SEN or disability) needs to be made, they must be included here.

This section can also include social care needs which are not linked to SEN or disability, for example a child protection plan, but the local authority must get the consent of the child and parents to include this kind of information.

E: The outcomes sought for the child or young person

These should be outcomes which will enable the child or young person to progress in their learning and, as they get older, to be well prepared for adulthood. They could also include wider outcomes such as positive social relationships. All the outcomes should be leading towards the long-term aspirations set out in Section A.

They should be 'SMART':
Specific
Measurable
Achievable
Realistic
Time bound (within a set time).

They should be broken down into smaller steps. Here's an example of an outcome and the smaller steps towards achieving it.

Outcome: By the end of Year 8 Robert's speech, language and communication will reach a level that is, as a minimum, appropriate for or close to that expected for his chronological age and ability, and will be maintained at this level or improved upon in subsequent years in secondary school.

Steps towards achieving the outcome:

1. Robert's listening and attention skills will show measurable year-on-year improvement and be developed to the maximum level possible.
2. Robert's understanding of language and vocabulary and his spoken language and ability to make the correct sounds will show measurable improvement year-on-year and to a point that is age and ability appropriate.

For more examples of outcomes which might be relevant to a deaf child, see the model EHC plans in the Professionals section of our website: www.ndcs.org.uk/senprofessionals.

F: The special educational provision required by the child or young person

This section matches up with Section B. For all the needs described in B there must be provision in Section F. Provision must be detailed and specific (see page 166 of the Code of Practice) and should normally be quantified, for example in terms of the type, hours and frequency of the support and level of expertise. Here are examples of some of the provision which might be put in this section to meet the outcome in Section E above.

- An individually designed listening programme to meet Robert's identified needs. It will be designed by the Teacher of the Deaf and specialist speech and language therapist. It will be delivered four times per week in 10-minute sessions by a specialist teaching assistant (trained to at least BSL Level 3) who has been trained by the Teacher of the Deaf and/or speech and language therapist.
- Weekly direct speech and language therapy for a minimum of 45 minutes with a specialist speech and language therapist who is experienced in working with children with cochlear implants and who have very delayed language.
- Pre-teaching for at least 15 minutes per week to familiarise Robert with key vocabulary for the following week's lessons. It will be delivered by the specialist teaching assistant (see above, first bullet point). The SENCO (special educational needs co-ordinator) will co-ordinate the supply of vocabulary lists from subject teachers.

All provision which could be regarded as educational (as opposed to purely health or social care provision) must be included in this section. This is an important point, because the local authority has a duty to ensure that provision in this section is made and the provision is therefore guaranteed. Sometimes there may be doubt as to where to include certain therapies and other provision such as Deaf CAMHS (child and adolescent mental health services).

As a rough guide, speech and language therapy (if needed) should almost always be in Section F because language and communication are fundamental to teaching and learning. The case is not quite so clear cut for occupational therapy and physiotherapy, but there would have to be a very clear reason for not including them here. If in doubt, you should ask yourself whether your child would be able to access education to the best of their ability if this provision wasn't made. For example, if a child has sensory integration difficulties, occupational therapy may be needed to enable them to focus in a learning environment. Similarly, it's crucial to address mental health needs if a child or young person is to be able to benefit from education.

G: Any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN

This section matches up with Section C. It may include specialist support and therapies such as medical treatments, delivery of medications, physiotherapy, nursing support, wheelchairs or other specialist equipment. For a deaf child or young person, it is likely to include information about audiology.

Just as Section C can include health needs which are not related to SEN, so Section G can include provision to meet those non-SEN related needs. For example, if Section C mentioned asthma as a health need, Section G could refer to an action plan agreed with health professionals and the child's parents on how to respond to asthma attacks in school.

H1: Any social care provision which must be made for a child or young person under 18 resulting from Section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA)

This section is only for under 18s who receive social care provision under Section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA). It must specify all the services assessed as being needed. This could include practical assistance in the home, adaptations to the home (such as flashing fire alarms), non-residential short breaks, help with leisure and educational facilities at home and outside the home, assistance in travelling to facilities.

More information about the CSDPA and your social care rights can be found in our factsheet *Know Your Rights: Getting support from your local council*. This can be downloaded from our website or ordered from our Helpline.

H2: Any other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN

This section is for social care services which are not provided under the CSDPA.

I: Placement

When the draft plan is sent to you at the end of the assessment process, this section **must** be left blank. This is because the placement depends on your child's needs and the provision required to meet their needs, so it's logical to agree on those before naming a placement. Once you have agreed the description of your child's needs and the provision required you can then discuss the placement.

J: Personal Budget (including arrangements for direct payments)

A Personal Budget is an amount of money identified by the local authority to deliver provision set out in an EHC plan, where the parent or young person is involved in securing that provision. This section is optional: not all parents or young people will want a Personal Budget, but you have the option of asking for one. For more information see our factsheet *Personal Budgets and Special Educational Needs* which can be downloaded from our website: www.ndcs.org.uk/sen or ordered from our Freephone Helpline.

K: Advice and information

This section should list the advice and information gathered during the EHC needs assessment. The advice and information should be attached to the plan as appendices.

Will I be able to choose the school my child attends?

Local authorities should name the parents' choice of school wherever possible. The basic rules about making placement decisions are as follows.

1. The local authority must name a place which meets your child's needs.
2. They must make efficient use of public funds, which means that they have to name the cheaper provision if there is more than one which could meet your child's needs (unless there is little difference in the cost).
3. All children are entitled to mainstream education unless their attendance at the school would be "incompatible with the efficient education" of others.

The last point would be difficult for the local authority to demonstrate, but the kind of thing they would consider is whether your child's behaviour was so challenging that it would prevent the teacher from teaching the other children, or whether your child's learning needs were so significant that the teacher would have to plan an entirely different lesson to meet their needs (beyond usual differentiation of work to meet the range of abilities in a class).

If a local authority or mainstream school refuses a placement, they must show that they've considered all the reasonable adjustments that could be made to include your child. For more information on this, visit www.ndcs.org.uk/educationrights.

In other words, the local authority has to name the school you prefer, so long as it can meet your child's needs and is not significantly more expensive than the local authority's preferred school and so long as your child's presence would not prevent the efficient education of other

children. If the local authority does not name the school of your choice you can appeal to the First-Tier Tribunal. For information about how to appeal, please see below.

The final EHC plan

At the end of the assessment process, when you've reached agreement with the local authority about the contents of the draft plan and the place where your child should be educated, the local authority will issue the final version of the EHC plan, naming the place of education in Section I. It should be issued no more than 20 weeks from the date on which the EHC needs assessment was requested. The final version must include the appendices (reports which were used for the assessment).

Who is responsible for making the provision described in the EHC plan?

The local authority is responsible for ensuring that the provision set out in Section F is made, whether the provision is to be made by a school or another service provider such as a sensory/hearing impairment service or speech and language therapy service. However, if the provider is described in Section I as being named as parental preference or at parental expense, the local authority is not responsible for ensuring that provision is made. This is because where a school is named as parental preference or at parental expense it means that the parent has opted not to have the local authority's preferred school named and has ultimately taken on responsibility for ensuring that the school it has named can make the provision described in the EHC plan. In these circumstances, if the school failed to put in place any of the provision set out in Section F, you wouldn't be able to ask the local authority to intervene and put it in place. The local authority would, however, continue to have safeguarding duties towards the child and would still be required to ensure that the plan is reviewed at least annually.

The Clinical Commissioning Group (CCG) is responsible for the health care provision in Section G.

Social care provision is the responsibility of the local authority.

What if I disagree with the final EHC plan?

The final plan shouldn't come as any surprise if the local authority has been working with you as they should. Any disagreements should usually be dealt with when the plan is in draft form. However, sometimes it isn't possible to reach agreement. In such cases, once the final plan is issued, you (or your child if aged 16 or over) have the right to appeal to the SEND Tribunal. The letter which comes with the final plan should include details about disagreement resolution services and appealing to the Tribunal.

In the past, Tribunals would only consider appeals about the education parts of the EHC plan. However, from April 2018, there'll be a national pilot lasting two years that will allow the Tribunal to consider wider complaints about health and social care, as well as education.

Any decisions made by the Tribunal about education are binding. This means that local authorities must take any action that the Tribunal has said is necessary.

However, the Tribunal will only be able to make non-binding recommendations about health and/or social care. This means that health or social care services don't have to follow any recommendations made by the Tribunal. However, it's hoped and expected that they will take it seriously. Following the recommendation, the health or social care commissioner must write to

the family and the local authority within five weeks to tell them if they are going to follow the recommendations or not. If they decide not to follow the recommendation, they must set out what action they'll take instead.

Unless your appeal is about section I of the EHC plan (the placement), you will need to show that you have considered mediation before your appeal can be registered. For more information about appealing to the Tribunal, go to the Tribunal website:

www.justice.gov.uk/tribunals/send where you will find appeal forms and guidance. You can also download our factsheet *How to Appeal to the Tribunal Against a Decision about Your Child's Special Educational Needs (England)* or contact our Helpline.

Section three: Further information, advice and support

Advice and support

National Deaf Children's Society www.ndcs.org.uk

Information Advice and Support Services Network www.iassnetwork.org.uk/documents/

IPSEA (Independent Parental Special Educational Advice) www.ipsea.org.uk/

National Deaf Children's Society information

Our resources can be downloaded from our website: www.ndcs.org.uk or ordered from the Helpline.

Special Educational Needs (SEN) Support

Contributing to an Education, Health and Care (EHC) Needs Assessment and the Production of an EHC plan

Annual Reviews of Education, Health and Care Plans

How to Appeal to the Tribunal Against a Decision about Your Child's Special Educational Needs (England)

Know Your Rights: Getting support from your local council

Local Offers and Special Educational Needs

Personal Budgets and Special Educational Needs

Special educational needs: www.ndcs.org.uk/sen

The Equality Act 2010: www.ndcs.org.uk/educationrights

Publications from the Department for Education

Special Educational Needs and Disability Code of Practice: 0–25 years

www.gov.uk/government/publications/send-code-of-practice-0-to-25

Special Educational Needs and Disabilities: A guide for parents and carers

www.gov.uk/government/publications/send-guide-for-parents-and-carers

Other useful publications

IPSEA EHC Plan Checklist: www.ipsea.org.uk/what-you-need-to-know/ehc-plans

Appealing to the Tribunal

Further information and appeal forms and guidance can be found at www.justice.gov.uk/tribunals/send.

Appendix A: Template letter: Asking for an EHC needs assessment if your child has been identified as having special educational needs by their nursery/school/college

Your address and contact details

Head/director of children's services [check the title for your area on the council's website]

Local authority's address

Date

Dear Sir or Madam,

Your child's name and date of birth

Request for an EHC needs assessment under Section 36(1) of the Children and Families Act 2014.

I am the parent of the child/young person named above. I am writing to request an assessment of his/her education, health and care needs.

He/she attends *[fill in name of nursery/school/college]*.....

[Child's name] has been identified by the nursery/school/college as having the following special educational needs:

[List the needs here]

I believe that the nursery/school/college is unable to make the provision required to meet my child's needs and that, in order for my child to achieve the best possible educational outcomes, it may be necessary for the local authority to make special educational provision for him/her through an EHC plan. I believe this because *[give your reasons here. For example: my child needs more individual support/support from a specialist teacher or teaching assistant with a qualification in.../more speech and language therapy]*

I look forward to receiving your reply within six weeks of this request.

Yours sincerely,

Your name

Appendix B: Template letter: Asking for an EHC needs assessment if your child has not been identified as having special educational needs by their nursery/school/college

Your address and contact details

Head/director of children's services [check the title for your area on the council's website]

Local authority's address

Date

Dear Sir or Madam,

Your child's name and date of birth

Request for an EHC needs assessment under Section 36(1) of the Children and Families Act 2014.

I am the parent of the child/young person named above. I am writing to request an assessment of his/her education, health and care needs.

He/she attends [fill in name of nursery/school/college].....

Or

He/she does not currently attend school.

I believe that my child has special educational needs. My reasons for believing this are: [List your reasons here. Include any evidence from school – such as reports, exclusion letters, assessment profiles – or other professionals involved with your child such as an audiologist.]

I also believe that in order for my child to achieve the best possible educational outcomes it may be necessary for the local authority to make special education provision for my child by issuing an EHC plan. I believe this because [give your reasons here. For example: my child needs more individual support/support from a specialist teacher or teaching assistant with a qualification in.../more speech and language therapy.]

I look forward to receiving your reply within six weeks of this request.

Yours sincerely,

Your name

Appendix C: Template letter for responding to a draft EHC plan

Your address and contact details

Head/Director of children's services [check the title for your area on the council's website]

Local authority's address

Date

Dear Sir or Madam,

Your child's name and date of birth

Response to the draft EHC plan issued on *[fill in date]*

I am the parent of the child/young person named above. Thank you for the draft EHC plan for my child which I received on *[fill in the date]*.

I would like the following changes to be made to the plan. *[List the changes you would like the authority to make, e.g. a more detailed description of my child's needs, reference to his/her difficulties in the following areas, delete the references to... If you are able to pinpoint specific information in a professional's report, quote from the report and give details, e.g. Please include the following comment, taken from page ... of the report provided by (insert name and occupation), dated (insert date): "He will struggle to hear when there is any background noise."]*

With regard to Section I of the final plan, I wish the following school/college to be named *[Insert name of school or college]*

I would like a meeting to discuss the EHC plan with a local authority officer.

Yours sincerely,

Your name