
STATUTORY INSTRUMENTS

2014 No. 1530

The Special Educational Needs and Disability Regulations 2014

PART 2

Children and young people with special educational needs

EHC Plans

Preparation of EHC plans

- 11.** When preparing a child or young person's EHC Plan a local authority must—
- (a) take into account the evidence received when securing the EHC needs assessment; and
 - (b) consider how best to achieve the outcomes to be sought for the child or young person.

Form of EHC plan

- 12.**—(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 (section A);
 - (b) the child or young person's special educational needs (section B);
 - (c) the child or young person's health care needs which relate to their special educational needs (section C);
 - (d) the child or young person's social care needs which relate to their special educational needs or to a disability (section D);
 - (e) the outcomes sought for him or her (section E);
 - (f) the special educational provision required by the child or young person (section F);
 - (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 (section G);
 - (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(1) (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 (section I); 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 (section J), 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).

Timescales for EHC plans

- 13.**—(1) When a local authority sends a draft plan to a child’s parent or young person it must—
- (a) give them at least 15 days, beginning with the day on which the draft plan was served, in which to—
- (i) make representations about the content of the draft plan, and to request that a particular school or other institution be named in the plan; and
- (ii) require the local authority to arrange a meeting between them and an officer of the local authority at which the draft plan can be discussed; and
- (b) advise them where they can find information about the schools and colleges that are available for the child or young person to attend.
- (2) A local authority must send the finalised EHC plan to—
- (a) the child’s parent or to the young person;
- (b) the governing body, proprietor or principal of any school, other institution or provider of relevant early years education named in the EHC plan; and
- (c) to the responsible commissioning body,

as soon as practicable, and in any event within 20 weeks of the local authority receiving a request for an EHC needs assessment in accordance with section 36(1) of the Act, or of the local authority becoming responsible for the child in accordance with section 24 of the Act.

- (3) The local authority need not comply with the time limit referred to in paragraph (2) if it is impractical for any of the reasons set out in regulation 10(4)(a) to (d)

Sending the finalised EHC plan

14.—(1) The finalised EHC plan must be in the form of the draft plan sent in accordance with regulation 13(1), or in a form modified in the light of the representations made in accordance with that regulation.

- (2) When sending a copy of the finalised EHC plan to the child’s parent or the young person in accordance with section 39(8)(a) or 40(5)(a) of the Act, the local authority must notify them of—
- (a) their right to appeal matters within the EHC plan in accordance with section 51(2)(c) of the Act;
- (b) the time limits for doing so;
- (c) the information concerning mediation, set out in regulation 32; and
- (d) the availability of—
- (i) disagreement resolution services; and

- (ii) advice and information about matters relating to the special educational needs of children and young people.

Transfer of EHC plans

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

(2) The old authority shall transfer the EHC plan to the new authority (“the transfer”) on the day of the move or, where it has not become aware of the move at least 15 working days prior to that move, within 15 working days beginning with the day on which it did become aware.

(3) From the date of the transfer—

- (a) the EHC plan is to be treated as if it had been made by the new authority on the date on which it was made by the old authority and must be maintained by the new authority; and
- (b) where the new authority makes an EHC needs assessment and the old authority has supplied the new authority with advice obtained in pursuance of the previous assessment the new authority must not seek further advice where the person providing that advice, the old authority and the child’s parent or the young person are satisfied that the advice obtained in pursuance of the previous assessment is sufficient for the purpose of the new authority arriving at a satisfactory assessment.

(4) The new authority must, within 6 weeks of the date of the transfer, inform the child’s parent or the young person of the following—

- (a) that the EHC plan has been transferred;
- (b) whether it proposes to make an EHC needs assessment; and
- (c) when it proposes to review the EHC plan in accordance with paragraph (5).

(5) The new authority must review the EHC plan in accordance with section 44 of the Act before the expiry of the later of—

- (a) the period of 12 months beginning with the date of making of the EHC plan, or as the case may be, with the previous review, or
- (b) the period of 3 months beginning with the date of the transfer.

(6) Where, by virtue of the transfer, the new authority comes under a duty to arrange the child or young person’s attendance at a school or other institution specified in the EHC plan but in the light of the child or young person’s move that attendance is no longer practicable, the new authority must arrange for the child or young person’s attendance at another school or other institution appropriate for him or her until such time as it is possible to amend the EHC plan.

(7) Where, by virtue of the child or young person’s move, another commissioning body becomes the responsible commissioning body for that child or young person, the original responsible commissioning body must notify the new responsible commissioning body of the move on the day of the move or where it has not become aware of the move at least 15 working days prior to that move, within 15 working days beginning on the day on which it did become aware.

(8) Where it is not practicable for that new commissioning body to arrange the health care provision specified in the EHC plan, it must, within 15 working days beginning with the date on which it became aware of the move, request that the new local authority makes an EHC needs assessment or reviews the EHC Plan, and where the new local authority receives such a request it must comply with that request.

Change of responsible commissioning body

16.—(1) This regulation applies where, in relation to a child or young person in respect of whom an EHC plan is maintained, another commissioning body becomes the responsible commissioning body for that child or young person, and the local authority which maintains the EHC plan remains the same.

(2) The original responsible commissioning body must notify the new responsible commissioning body of the change in responsible commissioning body within 15 working days beginning on the day on which it became aware of the change.

(3) Where it is not practicable for the new commissioning body to arrange the health care provision specified in the EHC plan, it must, within 15 working days beginning with the date on which it became aware that it is the new responsible commissioning body, request the local authority makes an EHC needs assessment or reviews the EHC Plan, and where the local authority receives such a request it must comply with that request.

Restriction on disclosure of EHC plans

17.—(1) Subject to the provisions of the Act and of these Regulations, an EHC plan in respect of a child or young person shall not be disclosed without the child or young person's consent except—

- (a) to persons to whom, in the opinion of the local authority concerned, it is necessary to disclose the whole or any part of the EHC plan in the interests of the child or young person;
- (b) for the purposes of any appeal under the Act;
- (c) for the purposes of educational research which, in the opinion of the local authority, may advance the education or training of children or young persons with special educational needs, if, but only if, the person engaged in that research undertakes not to publish anything contained in, or derived from, an EHC plan otherwise than in a form which does not identify any individual including, in particular, the child concerned and the child's parent or the young person;
- (d) on the order of any court or for the purposes of any criminal proceedings;
- (e) for the purposes of any investigation under Part 3 of the Local Government Act 1974⁽²⁾ (investigation of maladministration);
- (f) to the Secretary of State when he requests such disclosure for the purposes of deciding whether to—
 - (i) give directions, make determinations, or exercise any contractual rights under an Academy's funding agreement (for any purpose), or
 - (ii) make an order under section 496, 497 or 497A⁽³⁾ of the Education Act 1996⁽⁴⁾.
- (g) for the purposes of an assessment of the needs of the child or young person with respect to the provision of any statutory services for him or her being carried out by officers of an authority by virtue of arrangements made under section 5(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986⁽⁵⁾;
- (h) for the purposes of a local authority in the performance of its duties under sections 22(3)(a), 85(4)(a), 86(3)(a) and 87(3) of the Children Act 1989⁽⁶⁾;

(2) 1974 c.7

(3) Section 497A was inserted into the 1996 Act by section 8 of the 1998 Act, and amended by section 60 of and Schedule 22 to the Education Act 2002 (c.32) and by section 59 of and Schedule 2 to the Apprenticeships, Skills, Children and Learning Act 2009 (c.22)

(4) 1996 c.56

(5) 1986 c.33

(6) 1989 c.41

- (i) to Her Majesty's Chief Inspector of Education, Children's Services and Skills⁽⁷⁾, exercising the right to inspect and take copies of an EHC plan in accordance with section 10(1)(e) of the Education Act 2005⁽⁸⁾ and section 140(2)(a) of the Education and Inspections Act 2006;
 - (j) to the person in charge of any relevant youth accommodation for the purposes of the provision of education or training for a detained person⁽⁹⁾;
 - (k) to a youth offending team for the purposes of the provision of education or training for a detained person.
- (2) A child may consent to the disclosure of an EHC plan for the purposes of this regulation if his or her age and understanding are sufficient to allow him or her to understand the nature of that consent.
- (3) If a child does not have sufficient age or understanding to allow him or her to consent to such disclosure, the child's parent may consent on the child's behalf.
- (4) The arrangements for keeping a child or young person's EHC plan must be such that they ensure, so far as is reasonably practicable, that unauthorised persons do not have access to it.
- (5) In this regulation, any reference to an EHC plan includes a reference to any representations, evidence, advice or information obtained in relation to an EHC plan.

(7) Her Majesty's Chief Inspector of Education, Children's Services and Skills is appointed under the Chief Inspector of Education, Children's Services and Skills Order 2011 (S.I. 2011/2720) which is made under section 113(1) of the Education and Inspections Act 2006 (c.40)

(8) 2005 c.18

(9) 'Relevant youth accommodation' and 'detained person' have the same meaning as in section 72(5) of the 2014 Act.