

Reviewing an Education Health and Care (EHC) plan

As time goes on, things will change for your child. They will make progress and get older, and their situation and goals will change. So, their EHC plan will need to change too. For this to happen the plan will need to be reviewed regularly – usually once **every 12 months**.

The whole review process should take eight weeks to complete. So, the review process should start about 10 months after the plan was issued or the last review happened. For example, if your child's plan was last reviewed in June, the next review should start in April of the following year.

If your child is under five, then the local authority may do a review of their plan **every three to six months**. This is because their needs are likely to change more quickly than an older child's.

There are four main parts to the review process.

1. **Gathering views and information** - your child's views, your views and those of the professionals involved
2. **A review meeting** where those views are shared and discussed
3. **Writing a report and recommendations** based on the information and views that have been shared
4. **Deciding whether the plan should stay as it is, be changed or come to an end** - and then changing the plan if needed.

The main things you need to know

- If your child has an Education Health and Care Plan (EHCP) it must be discussed and reviewed at least once a year.

- The annual review is a review of the plan, rather than a general meeting to talk about your child's progress.
- The review looks at the progress your child has made, the support they get and the difference that has made to them (their outcomes).
- Hearing your views, and your child's, is an important part of the review. The main people involved in supporting your child in school, plus other relevant professionals, will be asked for their views too.
- Everyone involved will be asked to write and share their views ahead of a review meeting, including you and your child.
- After the meeting, a report about what was discussed, and the recommendations, is sent to the SEND Statutory Team (formerly SEN 0-25 team) at the local authority.
- The SEND Statutory Team will write and tell you what they propose to do with the plan. They could decide it will stay the same, be changed (amended) or come to an end (cease). They must tell you about any changes they want make to the plan and why.
- You have 15 calendar days to think about the local authority's decision and tell the SEND Statutory Team whether you agree with it. You can also make comments and ask for changes.
- If you disagree with the changes and can't come to an agreement with the SEND Statutory team, you have the right to appeal.

What should be reviewed?

A review of your child's plan focuses on the progress they're making towards achieving their goals (outcomes). The review doesn't just focus on the education part - if your child has health and social care needs, these should be reviewed too.

The review is a good way of helping to make sure that the support your child is getting is working. It's also a chance for you or your young person to suggest changes if things aren't going so well. Your views must be heard as part of any review of the EHC plan and it's important that you're involved, alongside your child or young person.

These are the main things that should be talked about as part of a review.

- Any new information that's been collected since the plan was issued, or since the last review. This might include information from any new assessments or reassessments.
- The educational, health or social care support that's being given and whether your child needs more or different support.
- Whether any changes need to be made to the outcomes or to the nursery, school or college named on the plan.
- Whether short-term targets need to be set or reviewed.
- Whether the EHC plan is still needed.
- Whether you or your young person would like to ask for a personal budget.

What do I need to do before the review meeting?

When you get your invitation to the review meeting, you'll have a few days to think about the progress your child has made over the last year. You can use this time to:

- look at the EHC plan
- think about what's worked well
- what the goals are for the next year and
- any changes you think are needed.

It's usually helpful to talk to your partner or your child's other parent about this, as well as getting the views of other family members and the people who support you.

You'll be asked to give your views in a report that will be shared with the other people invited, before the meeting. Your child or young person will be asked for their views, so you may need to help them share these too. As your young person gets older, their views and what they want to do become more important so getting them used to doing this is a good idea.

Other professionals should be asked for their comments so that it can be shared before the review meeting as well.

What happens at a review meeting?

As a parent, a large part of your involvement in reviewing the EHC plan happens when you write down your views and then share these at a meeting. The review meeting is when the people involved in supporting your child get together to talk about how things are going.

The local authority will contact your child's nursery, school or college to tell them when the review needs to happen. They will also get in touch with health and social care services. Before the review meeting everyone should get a copy of your child's plan, plus any reports. These should guide your discussions. The meeting is usually at your child's school or college, or it can also happen virtually.

If your child isn't on roll at a school, a review must still happen. The local authority is responsible for making sure it does. This might be if you are educating your child at home, or if your child isn't able to be in school for health or other reasons.

At the review meeting, people will share their views and look at the progress your child has made over the last year. Everyone will talk about your child's needs and their support. By the end of the meeting recommendations will be made about whether the plan needs to change, and if so how.

For some children and young people, there will be a discussion about whether the plan is still needed. This doesn't happen for every child.

What happens after the review meeting?

Within two weeks of the review meeting, the school or college must send out a report to everyone who either went to the meeting or was invited to it. You'll get a copy of the report too. If your child isn't in school or is at another place of education, the local authority should write and send the report.

The report must set out recommendations about any changes needed to the EHC plan. It should also include any differences between what the school said and what others at the meeting recommended.

Sometimes the recommendations will suggest that the outcomes or support in an EHC plan should change. But often they stay the same if your child isn't moving to a new key stage. Even if the outcomes aren't changed, then the nursery, school or college will probably write new short-term targets for your child to work towards.

Staff from the SEND Statutory team at the local authority look at the recommendations and report and use them to decide what should happen to the EHC plan. There are three possible decisions they can make. If you disagree with any of the decisions, you can ask for a meeting with the SEND Statutory team. If a meeting doesn't resolve any disagreement, then when the plan is issued you have the right to ask for mediation. You also have the right to appeal the decision.

1. **To keep the EHC plan the same (maintain it)**
This is what usually happens, although your child's nursery, school or college may change their school plan for the next year.
2. **To make changes to the plan (amend it)**
If the local authority wants to change the EHC plan, they must tell you what they want to do and send you the evidence that supports the changes. This includes changing the school, college or other institution that your child goes to.
3. **To end (cease) the plan**
This can happen if your young person comes to the end of their education or moves out of Devon, for example.

The local authority must tell you in writing if the plan will stay the same, or if they want to change or end it, **within four weeks** of the review meeting.

Are there different reasons for a plan to be reviewed?

The review of an EHC plan is a standard thing and the process and paperwork is the same whatever kind of review your child is having.

However, the reasons for a review, the focus it has, and the timing of a review can be different. For example, if your child is moving from key stage 2 to key stage 3, the focus of their review will be on that, and it will need to be done by a specific time. This is because the move will need to be well planned.

These are reviews that could be done for your child or young person.

A standard review

The law says the first review of an EHC plan must be held within 12 months of the date when it was issued.

After that, it must be held within 12 months of any previous review. The whole review, and not just the review meeting, must be completed in this time.

You might hear the standard review of an EHC plan called an **annual review** or a **statutory review**.

An early review

A review can happen sooner than 12 months if it's needed. The plan may need to be reviewed before the regular review is due if your child is:

- permanently excluded or
- their needs change a lot or
- the support they are getting is no longer right

You might hear this called an **interim emergency review** or sometimes an **early statutory review**.

If your child's situation changes and you think the plan should be reviewed, contact your case coordinator at the SEND Statutory team to talk about it. You can ask for an early review to be done. If your child's school or college thinks an early review is needed, they can contact the local authority. If this happens you will need to ask for an early review too – the school can't ask for a review unless you ask for one too.

A review when your child is moving to a new key stage

When your child moves to a new key stage it's important to have enough time to plan the move well. The legal guidance says a review of an EHC plan, and

any changes to it, must happen to allow enough time for proper planning.

If your child is moving to a new school the review of their EHC plan, and any changes, should be finished at the latest **by 15 February in the year they move**. That means the February before they move in September.

The main key stage moves are:

- from nursery or pre-school to school
- from key stage 1 (infant school) to key stage 2 (junior school)
- from key stage 2 (primary school) to key stage 3 (secondary school)

A review when your young person is leaving school

When your young person leaves school, whatever they're moving on to, it's important to have enough time to plan. The legal guidance says a review of an EHC plan, and any changes to it, must happen to allow enough time for proper planning.

If you have a young person moving from secondary school to a post-16 institution or apprenticeship, their plan should be reviewed and changed **by the 31 March in the year they finish secondary school**. This includes listing the support they will get post-16 and where they will be studying or training. Because your young person is leaving school and moving into a new stage of education or training, their plan will always need to be changed.

Preparing for adulthood reviews

All reviews that happen from Year 9 must include a focus on preparing for adulthood. Ideally planning should start well before this though, helping your child to become as independent as they can.

Preparing for adulthood means thinking about how your young person will

- enter the world of work, or volunteering
- be as independent as possible
- become part of their local community

It's really important that your young person takes part as much as they are able, and their views are heard, understood and acted on. These reviews should be used

to plan if and how your young person will move from child to adult health and care services. If they're likely to need support from these services as an adult, someone from the Preparing for Adulthood team should be at the review.



How can I help the review go smoothly?

- You and your child will be asked for your views, so start collecting the information you want to share well before the meeting. Some parents keep notes on a phone or in a diary, as things happen. It's a good way of remembering what you want to discuss and collecting any evidence.
- Read everything carefully and make sure you know what to do and when. Put a note in your diary or on your phone about any deadlines.
- If you're not sure about something, ask for help or more information. You can find information about who to contact on the letter or email you received about the review. DiAS Officers can also advise and support you.
- Keep copies of all your letters and emails plus details of any phone calls, so you know who you talked to and what was discussed or sent when. This can help when working out the time by which things need to be done.
- Put all your paperwork in a folder or all in one place somewhere so you have everything to hand if you need it.
- The SEND Statutory team sometimes use an email service called Egress which keeps information confidential. The system automatically deletes emails after a while. So, print or download and save copies of any email correspondence using Egress.
- When you're asking questions or giving your views, try and be as concise as you can. Keep it brief and to the point and stick to the things that are the issue now. That should help you get a response that's relevant and useful.

What happens if the local authority decides to change (amend) the EHC plan?

EHC plans aren't expected to change very often. But sometimes a child's situation can change enough that a change to the plan is needed too. This could be something like a new health condition, a change in social care needs or problems going to school because of new difficulties.

If the local authority wants to change your child's plan after a review meeting, they must first tell you that within four weeks of the review meeting.

Then after that they must send you a copy of the existing plan and information about the changes they want to make. This is called an Amendment Notice. They should also send you the evidence to support the changes they're suggesting, such as a report or recommendations from a professional.

There is no deadline by when the local authority should send out the amendment notice. But the legal guidance for local authorities says it should be done "without delay". You can ask for a meeting with the local authority to talk about any changes.

Once you have the amendment notice you'll be given at least 15 calendar days to comment on the changes and suggest any of your own. This includes asking for a particular school, college or other institution to be named in the EHC plan.

When the local authority has heard from you, they may

- decide to make changes and issue a new final plan
- decide not to make changes – they must tell you why they have decided this

They must do either of these as quickly as they can, **within eight weeks** of sending you the amendment notice.

When an EHC plan is changed, the new plan should say that it is an amended version. It should include the date when it was changed, as well as the date of the original plan. The changed EHC plan should make clear which parts have been altered. In Devon they often write new details in italics or bold font.

If you're unhappy with the changes, or if you asked for a plan to be changed and it hasn't been, you can ask for mediation or you can appeal to the SEND tribunal. You'll need to do that once you've been given a final copy of the amended plan.

What happens if a plan is ending (ceasing)?

All EHC plans will eventually come to an end (cease). This happens when the local authority decides that an EHC plan is no longer needed, usually because your child's needs have changed. Or a plan may end when the local authority is no longer responsible for a child – this usually happens when

- a child moves to another local authority
- a young person becomes an adult, and they achieve the education or training outcomes in their plan
- a young person starts higher education (university), leaves education or starts a paid job

EHC plans can keep going until a young person reaches 25 – but it's not an automatic entitlement to have a plan until that age. Most EHC plans usually end when a young person reaches 16 or 19. This is usually when they start work, finish their education or have achieved everything set out in their plan.

If the local authority is thinking about ending your child's EHC plan, they must tell you or your young person and talk to you about it. They must also tell the school, college or other place of education that's named on the EHC plan.

If the local authority has decided to end the plan, they must tell:

- you
- your young person
- the school or college named in the plan
- the health Clinical Commissioning Group (CCG)

If an EHC plan is coming to an end, the support should finish at the end of the school year rather than part way through it. This should allow your child to finish their studies.

If you're unhappy with the decision to end the EHC plan, you can appeal. This means going to mediation or tribunal.

Ending an EHC plan when a young person reaches the end of school and beyond

When your young person is coming to the end of compulsory education (age 16 or end of year 11), the review should focus on planning for the next stage of life. That might include helping them to make a smooth move to whatever they will be doing next. For example, they may be moving on to work, independent living or further education.

When your young person reaches 16, the decision-making rights pass from you to them, if they're able to make decisions. Every child's views are important. But it's particularly important for them to have their voice heard when plans are being made for adult life.

If your young person is 19 or over, before the local authority considers ending their plan, they must look at whether they have achieved the education or training goals (outcomes). If they have, they must also look at whether new goals need to be set.

If your young person isn't in education their EHC plan should still be reviewed. This might be because they have been excluded or have left education or training voluntarily. The local authority can't end the plan without a review. If your child is under 18, the local authority should try and help them get back into learning in some way before considering ending the plan. They can only end the EHC plan if special educational support is no longer needed.

What happens if my child needs reassessment?

Having a review of your child's EHC plan every year is a good way to check your child's progress. But sometimes that won't be enough. If your child's health, educational needs or situation changes a lot, they may need to have a reassessment of their needs. This means having a new EHC needs assessment.

The local authority must do a reassessment if you or your child's school ask for one, if:

- it has been more than six months since the last EHC needs assessment was done
- they think a further EHC needs assessment is needed

When you ask the local authority for a reassessment, they must tell you whether they will reassess or not **within 15 calendar days**. If the local authority decides not to re-assess, you have the right to appeal that decision and to go to mediation or tribunal.

The process for a reassessment is the same as for an EHC needs assessment. The law says that a reassessment must take **no more than 14 weeks** from when the decision is made to re-assess, to when a final EHC plan is issued.

What do I do if I disagree with decisions made about my child's EHC plan?

If you disagree with any decision, the first thing to do is to talk to your case coordinator at the SEND Statutory team. You can ask them why they made their decision, talk about the main issues and tell them why you disagree. Many disagreements are sorted out this way.

Mediation

If you can't come to an agreement that way, then you may be able to ask for mediation. This is a way of discussing things with local authority staff which are led and supported by someone independent. Mediation is independent of the local authority, and it doesn't cost anything for you to use. You don't need to be represented by a lawyer.

Before you can register an appeal, you must contact a mediation advisor. This is to see whether mediation could help you to resolve your disagreement without going to appeal.

The Mediation Service in Devon is provided by Global Mediation, and you can contact them on 0800 064 4488 or email sen@globalmediation.co.uk. If you decide to use mediation, a meeting will be set up between you and the local authority. If you decide not to use mediation, you'll be given a certificate which allows you to start your appeal.

Appealing

If these options don't work, in many cases you can appeal the decision. You can appeal if the local authority

- changes the EHC Plan, but you disagree with any or all the special educational needs or support listed, or where your child will be going to nursery school or college
- decides not to change the EHC Plan after a review
- decides to end the EHC Plan

Appealing means going to a SEND tribunal which is part of the court system. At an appeal tribunal, a judge and an SEN specialist will listen to both sides of the argument before deciding. It doesn't cost anything for you to appeal. You don't need to be represented by a lawyer, though you can have one if you wish.

To register an appeal, you must fill out a 'Notice of Appeal' form. You can find this online at www.gov.uk/special-educational-needs-disability-tribunal.

Or you can contact HM Courts and Tribunal Service for a form at:

Special Educational Needs and Disability Tribunal, 1st Floor, Darlington Magistrates Court, Parkgate, Darlington DL1 1RU
Tel: 0300 303 5857
Email: send@justice.gov.uk

It usually takes around 12 weeks for paper hearings (where decisions are made based on the information given in the documents only) and up to 50 weeks for a face to face or virtual hearing. These timescales have increased over the last year because of the increase in demand. This gives you plenty of time to prepare, but it can also be a challenge if you need a quick decision.

Which parts of an EHC plan can I appeal?

You can go to appeal about the information that's contained in most parts of your child's EHC plan:

- Section B: Your child or young person's special educational needs (SEN)
- Section C: Your child or young person's health needs that relate to their SEN
- Section D: Your child or young person's social care needs that relate to their SEN
- Section F: Your child's educational support (SEN provision)

- Section G: Any health support in relation to your child's SEN
- Sections H1 and H2: Any social care support in relation to your child's SEN
- Section I: The name and/or type of educational placement (school, college etc)

You can't appeal these parts of an EHC plan:

- Section A: Your child's views or parent views
- Section E: Outcomes (targets)
- Section J: Personal Budget

Appealing the education parts of the EHC plan (sections B and/or F) and/or where your child goes to school (section I)

You can appeal the content of the parts of the plan that set out your child's special education needs and the support they will get. So, if you disagree with the needs that are listed in the plan, and / or the support your child will get to meet those needs, you can appeal to the SEND tribunal.

You, or your child if they are over 16, also have the right to ask for a particular school, college or other setting to be named in an EHC plan. If the local authority doesn't agree, and they name a different setting, you can appeal that decision at SEND Tribunal.

You can appeal just section I, the educational placement. But for most parent carers, it's also worth appealing sections B and/or F at the same time as well. They are the parts of the plan which set out your child's needs and their support. The school that's named in the plan should be the logical conclusion to what's been said in sections B and F. So, if the school that's named isn't the right one for your child, then the needs and support may not be right either.

You don't have to consider mediation if your appeal is only about which school or other institution your child should go to.

To appeal to the SEND Tribunal, you'll need to fill out appeal forms and send them in. You'll be asked to give information about you and your child and your local authority. You'll also be asked to say why you are appealing – so for example, why you think the local authority's decision is wrong, or why what's in the plan

needs to change. Try to put in everything you need to say and support it with the evidence you have, such as reports and assessments. Match the points you're making with the evidence you have whenever you can.

Don't worry if you don't have everything ready to send straight away; you can send more evidence after you've registered your appeal. The IPSEA website has lots more information about how to appeal.

Appealing the health and social care parts of the EHC plan (sections C, D, G, H1 and H2)

Before April 2018, if you disagreed with your local authority about the education parts of an EHC plan, you could go to tribunal and ask for this to be reviewed. But you couldn't appeal the health or social care part.

A project has been running since 2018 which has allowed parents and carers to appeal the health and/or social care parts of an EHC plan as well. That's worked well and it's been decided to carry on doing it in the future.

That means, you can appeal about the health part of the plan, or the social care part, or both together. But, to appeal the health or social care part of an EHC plan you must also appeal the education part of the plan.

The tribunal can make "non-binding" recommendations about the health and social care support set out in an EHC plan. This means that legally, health and social care organisations don't have to follow the judge's recommendations. But even though they're non-binding, the local authority and health care commissioners are expected to follow them.

Need more information?

SEND Code of Practice

Legal guidance around special educational needs
www.gov.uk/government/publications/send-code-of-practice-0-to-25

IPSEA (Independent Provider of Special Education Advice)

Information about annual review
www.ipsea.org.uk/annual-review

SEND Tribunal

Information about tribunal and court process.
www.gov.uk/courts-tribunals/first-tier-tribunal-special-educational-needs-and-disability

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