



# #5 Reviewing and Amending an EHC Plan

## Frequently asked questions for parents and young people

These Frequently Asked Questions have been prepared to provide a summary of the key duties on local authorities following the introduction of the Children and Families Act 2014. They are not to be treated as providing legal advice and should be used as a guide only.

If legal advice is required contact SEN4You directly on 01908 082422 or [Advice@SEN4You.co.uk](mailto:Advice@SEN4You.co.uk)

### KEY PROVISIONS

- Section 44 of the Children and Families Act 2014
- The Education (Special Educational Needs and Disability 2014) Regulations
- SEN and Disability Code of Practice 2014

#### How often should an EHC Plan be reviewed?

EHC Plans must be reviewed by the local authority as a minimum **every 12 months**. The first review must be held **within 12 months of the date when the EHC Plan was issued**, and then within 12 months of any previous review.

Local authorities should consider reviewing an EHC Plan for a child under five at least every three to six months to ensure that the provision continues to be appropriate. Such reviews would complement the duty to carry out a review at least annually but may be streamlined and not necessarily require the attendance of the full range of professionals, depending on the needs of the child/young person. The child's parent and/or young person must be fully consulted on any proposed changes to the EHC Plan and made aware of their right to appeal to the Tribunal.

#### Is the local authority required to send the educational setting notice to hold an annual review?

Yes. The local authority should provide a list of children and young people who will require a review of their EHC Plan that term to all headteachers and principals of schools, colleges and other institutions attended by children or young people with EHC Plans, at least two weeks before the start of each term.

#### Does the local authority have to inform health or social care about the annual review?

Yes. The local authority should also provide a list of all children and young people with EHC Plan reviews in the forthcoming term to the CCG (or, where relevant, NHS England) and local authority officers responsible for social care for children and young people with SEN or disabilities.

#### Can the local authority make an educational setting hold the annual review?

Yes. The local authority can require the following types of school to convene and hold the meeting on the local authority's behalf:

- maintained schools;
- maintained nursery schools;
- academy schools;
- alternative provision academies;
- pupil referral units;
- non-maintained special schools;
- independent educational institutions approved under Section 41 of the Children and Families Act 2014.

#### What about annual reviews in the Early Years and FE Sector?

Local authorities can request (but not require) that the early years setting, further education college or other post-16 institution convene and hold the meeting on their behalf. There may be a requirement on the post-16 institution to do so as part of the contractual arrangements agreed when the local authority commissioned and funded the placement. The only requirements on these providers is that they must co-operate with the annual review process.

#### What should an Annual Review meeting cover?

The following requirements apply to reviews where a child or young person attends a school or other institution:

- The child's parents or young person, a representative of the school or other institution attended, a local authority SEN Officer, a health service representative and a local authority social care representative must be invited and given **at least two weeks' notice of the date of the meeting**. Other individuals relevant to the review should also be invited, including youth offending teams and job coaches where relevant.
- The school (or, for children and young people attending another institution, the local authority) must seek advice and information about the child or young person prior to the meeting from all parties invited, and **send any advice and information gathered to all those invited at least two weeks before the meeting**.
- The meeting must focus on the child or young person's progress towards achieving the outcomes specified in the EHC Plan, and on what changes might need to be made to the support that is provided to help them achieve those outcomes, or whether changes are needed to the outcomes themselves. Children, parents and young people should be supported to engage fully in the review meeting.
- **The school** (or, for children and young people attending another institution, the local authority) **must prepare and send a report of the meeting to everyone invited within two weeks of the meeting**. The report must set out recommendations on any amendments required to the EHC Plan, and should refer to any difference between the school or other institution's recommendations and those of others attending the meeting.
- **Within four weeks of the review meeting**, the local authority must decide whether it proposes to keep the EHC Plan as it is, amend the Plan, or cease to maintain the Plan, and notify the child's parent or the young person and the school or other institution attended.
- If the Plan needs to be amended, the local authority should start the process of amendment without delay. The local authority has eight weeks following the review meeting to issue a proposed amended EHC Plan and finalise it.
- If the local authority decides not to amend the Plan they must notify the child's parent 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.

### What is the annual review process if a child or young person is out of school?

The following requirements apply to review meetings where a child or young person does not attend a school or other institution:

- The child's parent or the young person, a local authority SEN officer, a health service representative and a local authority social care representative must be invited and given at least two weeks' notice of the date of the meeting. Other individuals relevant to the review should also be invited, including youth offending teams and job coaches where relevant, and any other person whose attendance the local authority considers appropriate.
- The local authority must seek advice and information about the child or young person prior to the meeting from all parties invited and send any advice and information gathered to all those invited at least two weeks before the meeting.
- The meeting must focus on the child or young person's progress towards achieving the outcomes specified in the EHC Plan, and on what changes might need to be made to the support provided to help them achieve those outcomes, or whether changes are needed to the outcomes themselves. Children, parents and young people should be supported to engage fully in the review meeting.
- The local authority must prepare and send a report of the meeting to everyone invited within two weeks of the meeting. The report must set out recommendations on any amendments required to the EHC Plan, and should refer to any difference between the local authority's recommendations, and those of others attending the meeting.
- Within four weeks of the review meeting, the local authority must decide whether it proposes to keep the Plan as it is, amend the Plan, or cease to maintain the Plan, and notify the child's parent or the young person.
- If the Plan needs to be amended, the local authority should start the process of amendment without delay (see paragraph 9.193 onwards).
- If the local authority decides not to amend the Plan they must notify the child's parent or young person of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support, and disagreement resolution services.

### How long after the review meeting should the local authority take to inform the parents/young person of the action to be taken?

The local authority must notify the parents/young person of the action to be taken following the annual review within four weeks of the review meeting.

### **At what stage should we be thinking about adulthood and independent living as part of the annual review process?**

All reviews taking place from Year 9 at the latest and onwards must include a focus on preparing for adulthood, including employment, independent living and participation in society. This transition planning must be built into the EHC Plan and where relevant should include effective planning for young people moving from children's to adult care and health services.

### **At what point should colleges/post 16 providers be invited to annual reviews?**

The review meeting organiser should invite representatives of post-16 institutions to the review meetings from Year 9 onwards, particularly where the child or young person has expressed a desire to attend a particular institution. Review meetings taking place in Year 9 should have a particular focus on considering options and choices for the next phase of education.

### **What happens if the local authority decides to amend the EHC Plan?**

Where the local authority proposes to amend an EHC Plan, it must send the child's parent or the young person a copy of the existing (non-amended) Plan and an accompanying notice providing details of the proposed amendments, including copies of any evidence to support the proposed changes. The child's parent or the young person should be informed that they may request a meeting with the local authority to discuss the proposed changes.

The parent or young person must be given at least 15 calendar days to comment and make representations on the proposed changes, including requesting a particular school or other institution be named in the EHC Plan.

Following representations from the child's parent or the young person, if the local authority decides to continue to make amendments, it must issue the amended EHC Plan as quickly as possible and within eight weeks of the original amendment notice.

### **What should the process be where the amendment is required to support phase transfer?**

The review and any amendments must be completed by 15 February in the calendar year of the transfer at the latest for transfers into or between schools. The key transfers are:

- early years provider to school;
- infant school to junior school;
- primary school to middle school;
- primary school to secondary school, and;
- middle school to secondary school.

### **What about young people moving from secondary school to a post 16 institution or apprenticeship?**

For young people moving from secondary school to a post-16 institution or apprenticeship, the review and any amendments to the EHC Plan – including specifying the post-16 provision and naming the institution – must be completed by the 31 March in the calendar year of the transfer.

For young people moving between post-16 institutions, the review process should normally be completed by 31 March where a young person is expected to transfer to a new institution in the new academic year.

However, transfers between post-16 institutions may take place at different times of the year and the review process should take account of this. In all cases, where it is proposed that a young person is to transfer between one post-16 institution and another within the following 12 months, the local authority must review and amend, where necessary, the young person's EHC Plan at least five months before the transfer takes place.

### **What is the process for naming schools where the placement is conditional on certain grades being obtained?**

In some cases, young people may not meet the entry requirements for their chosen course or change their minds about what they want to do after the 31 March or five-month deadline.

Where this is the case, local authorities should review the EHC Plan with the young person as soon as possible, to ensure that alternative options are agreed and new arrangements are in place as far in advance of the start date as practicable.

