

Getting the most out of Annual Reviews

Sandwell SENDIASS



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Changing lives.

Aims:

- Understand the Annual Review process
- Have knowledge of the timescales relating to Annual Reviews
- Be aware of the legal background
- Know what to expect
- Be prepared for meetings
- Know about your rights to appeal

What is an Annual Review?

- ▶ It is the duty of the LA to review EHC plans. Where a child is attending a school or other institution the LA will ask the head teacher or principal to conduct the meeting but ensuring that the overall process takes place, including completing the review by making a decision and notifying this to the parents or the young person is the LA's responsibility and duty.
- ▶ The annual review is in fact all the actions taken by the local authority ('LA') to formally review the EHC plan to make sure it is still appropriate, including its decision after receiving the report of the meeting to maintain the plan as it is, to change it, or to cease it.
- ▶ Many people think that it is just the meeting that is the Annual Review, but this is only a small part of the whole process.
- ▶ <https://www.youtube.com/watch?v=D9n5EzYlwKA>

Background

- The C & F Act 2014 framework makes the main purpose of the review the child or young person's progress towards achieving the outcomes specified in the EHC plan
- Where they are conducted properly, according to the regulations and guidance, annual reviews are useful to parents/young people wanting changes to EHC plans, especially when they can use them to seek evidence and agreement from all the professionals who must be involved. For instance, parents and young people can ask for annual reviews to be held early if there are problems, especially where a placement is breaking down

Process and Procedures

- ▶ Before the meeting, there are three distinct steps with their own timeframes:
- ▶ 1 LAs tell heads which pupils' EHC plans must be reviewed in the coming term.
- ▶ 2 The head or delegate requests advice from all concerned.
- ▶ 3 The head invites all concerned to the annual review meeting, circulating the advice obtained in step 2.
- ▶ At an unspecified time, but in enough time for the advice to be circulated with the notice for the meeting, **the head or their delegate must request/obtain written advice** from specified people.

Gathering advice

The person arranging the meeting **must obtain** written advice from:

- The child's parent or the young person;
- The head or the principal;
- The LA SEN officer;
- A health care professional identified by the responsible commissioning body; and
- An officer of LA from the part of the LA exercising the social services function.

(all of whom should be invited to attend the meeting)
(SEND Regs 2014 – regs. 20(2) and (4)).

There is no requirement as to content of advice but the general duty of the LA and its partners to co-operate in carrying out its functions (section 28 C & F Act 2014) which is referred to in paragraph 9.169 implies that the content is to be tailored to the general purpose of the annual review.

What next?

Head/delegate issues **invitation to the meeting** to all concerned. This must be sent ***at least two weeks before the meeting*** as must the advice obtained in step 2.

These regulations should minimise common problems often encountered with some meetings such as being called at short notice, a lack of up to date reports, parents being presented with reports on the day and not having time to read them.

Where these are problems for parents and young people, you can cite the appropriate law and guidance to insist that things are done properly, even if it means postponing or adjourning the meeting. A request for adjournment if faced with surprises at the meeting may be necessary and can be effective.

Preparing for the meeting

- ▶ SENDIASS recommend completing the parental views paperwork in good time, be honest and open but try not to dwell on the distant past, this is to review the past 12 months only.
- ▶ Parents can come to SENDIASS for support in completing the paperwork and for support at the meeting.
- ▶ It is always worth parents having a list of things they want to cover so they don't feel rushed or cheated out of their "turn to speak".
- ▶ Child/young persons voice:
- ▶ https://www.youtube.com/watch?v=RGc_0AWd6Y4

The Meeting

- ▶ Ideally the meeting should be properly chaired, and minutes taken so all discussions are recorded, and everyone has chance to speak. It is unfair of schools/colleges to put too short a time limit on reviews, it will take as long as it takes (within reason!).
- ▶ The review for EHCP's should focus on the desired outcomes for the child/young person, to measure success.
- ▶ The Code of Practice 2015 states:
- ▶ "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"
- ▶ If outcomes in the EHCP have been met now is a good time to look at what needs changing, with discussion and input from everyone at the meeting. These changes/amendments **must** be recorded and included in the Annual Review Report.
- ▶ <https://www.youtube.com/watch?v=H1WByGZQ9pM>

Annual Review Report

- ▶ Within two weeks of the meeting, the head (or the LA if the child/young person does not attend an institution) must prepare and send out a report recommending any changes to the plan, and referring to any difference between those recommendations and recommendations of others attending the meeting (SEND Regs 2014 – regs. 20(7), (8) and (9)).
- ▶ The report must include all the advice and information obtained under step 2.

What next?.

- ▶ The Code of Practice, section 9.176 states:
 - 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 (see paragraph 9.193 onwards)
- ▶ This means, in relation to timing, that the whole process, including the giving of the notice, has to be completed within twelve months of the previous review – and **so convening the meeting for a date a year after the previous review will be too late to comply with this timetable.**

Rights to Appeal

- ▶ The legal framework gives parents (and young people under C & F Act 2014) the right of appeal to the SEND Tribunal where LAs have decided not to amend the plan or to cease to maintain it.
- ▶ LAs must inform parents/young people of their rights of appeal in the notice of decision.
- ▶ This means that a right of appeal in respect of an EHC plan will arise annually as in respect of each of the three options an LA can take after annual review there will be a right of appeal. If the LA decides to cease the EHC plan, they will issue a cease to maintain notice and the parent/young person will be entitled to appeal.
- ▶ If the LA decides to do nothing – i.e. refuses to amend the EHC plan there is a specific right in both statutory regimes to appeal.
- ▶ If the LA decides to amend the EHC plan it must first issue a proposed amended plan and the right of appeal will arise when the amended plan is finalised.

Early/emergency/interim reviews

- ▶ Local authorities may use their discretion to bring forward an annual review and a school or parent/young person may ask for (but not require) an early review.
- ▶ There is no guidance for EHCP “early” reviews
- ▶ Informal reviews may not follow the timetable and procedure set down by the regulations for the annual review, and it may be necessary for parents to insist on, e.g., papers being circulated properly. If the review is not a review under the EA 1996 or the C & F Act 2014 then the rights following the review will not apply – if the parent or young person is trying to use the review to effect change then they may well want the parties to agree that this is to be a formal review under the relevant statutory provisions.

Sources of information and support

- ▶ IPSEA: ipsea.org.uk Tribunal Helpline: **0845 602 9579**
- ▶ Contact Helpline: **0808 808 3555**
- ▶ DfE publications:
- ▶ SEND Code of Practice: 0-25 years
- ▶ Special educational needs and disability: managing the September 2014 changes to the system 4th edition, October 2016
- ▶ Sandwell SEN Guide for Parents and Carers