



# Understanding EHC Plans

Sandwell SENDIASS

The Barnardo's logo is presented in a dark green, jagged, rock-like shape. The word 'BARNARDOS' is written in a bright green, bold, sans-serif font, with a small heart symbol above the letter 'O'.

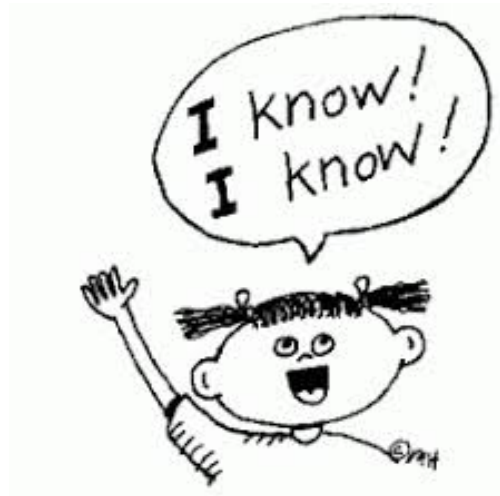
**Changing childhoods.  
Changing lives.**

# Aims:

- Understand what an EHCP is and what it means
- Have knowledge of where the provision descriptors come from
- Understand how plans should be implemented
- Provision and Outcomes
- Annual Reviews
- Post 16: implications and choices

# What do you know?

Tell us what you know about EHCP's



# What is an EHC plan?

- ▶ EHC is short for Education, Health and Care plan.
- ▶ The SEND Code of Practice 2015 states:
- ▶ “The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood.”
- ▶ The introduction of EHC plans arose from the new legal framework for SEN Law from the Children and Families Act 2014.

# What does this mean for my child?

Once a child is transferred to a plan or given a plan they become subject to the “new law”, the Children and Families Act 2014. This Act is far more child and family centred, is more forward thinking, with a positive outlook focussing on outcomes for the child/young person.

Section 19 of the Act is very positive in its principles:

- ▶ “the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and **to help him or her achieve the best possible educational and other outcomes**”
- ▶ The scope is wider under this Act, encompassing young people up to the age of 25.

# DfE Departmental Advice for LA's

- 4<sup>th</sup> Edition was issued in October 2016
- It states that by 1<sup>st</sup> April 2018 , local authorities **must** have transferred all children and young people with statements of SEN to the new SEN and disability system who meet the criteria for an EHC plan.
- They go on to say that they expect all those who have a statement of SEN and would have had one under the current system will be transferred to an EHC plan. That is, no-one should lose their statement or fail to get a plan, just because the system is changing.
- The publication's title changed to "Special educational needs and disability: managing the September 2014 changes to the system" with the 4<sup>th</sup> edition and should remain in place until April 2018
  - ▶ Previously titled "Transition to the new 0 to 25 special educational needs and disability system"
  - ▶ Departmental advice for local authorities and their partners"

## The legal requirements relating to the format and content of EHC Plans are contained in the Special Educational Needs and Disability Regulations 2014. Regulation 12 states:

- ▶ 12. Form of EHC plan
- ▶ (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);

# Cont.

- ▶ (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 (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.
- ▶ IPSEA have a useful document that outlines what should be in an EHCP that you can use to check your own child/YP's plan



# Section F: Provision

- ▶ Section F outlines the provision required by the child or young person in order for them to meet the outcomes in Section E.
- ▶ Provision must be detailed and specific and should normally be quantified, for example, in terms of the type, hours and frequency of support and level of expertise. This is a legal requirement
- ▶ So, where does the description of “Provision” come from?
- ▶ Provision will be detailed in the reports provided by the professionals such as an Educational and Child Psychologist, Speech and Language therapy, Occupational therapy.
- ▶ If the child is in or beyond Year 9 this section must also set out the provision required to assist in the preparation for adulthood and independent living, for example, support for finding employment, housing or for participation in society.
- ▶ Therapies which educate or train a child/young person must be specified in this section and may also appear in the health care provision or social care provision sections.

- ▶ There are certain words and phrases - such as '**regular**' and '**as necessary**', '**would benefit from**' - which might be used in an EHC plan that isn't properly written, as a way of avoiding specifying and quantifying provision. The EHC plan should make it clear who will do what, how often they will do it and for how long they will do it.
  
- ▶ Let's take Speech and Language as an example:
  - Who will carry out the sessions of therapy? (Speech and language therapist or a trained LSA?)
  - How long they will last for?
  - How frequently will the sessions take place?
  - Will the sessions take place on a one-to-one basis or with other children in a group? (and if so, what might the size of such a group be?)
  - If the sessions are being delivered by someone other than a qualified speech therapist, how often will the programme be reviewed by such a therapist?
  
- ▶ If the above are not clear, there is a risk that the plan is not specific enough and this could cause problems around the actual provision delivered to the child/YP

# Provision or Outcome?

- ▶ Section E covers Outcomes      Section F is Provision
- ▶ But what is the difference between Provision and an Outcome?
- ▶ Activity:
- ▶ Using the headings “Outcomes” and “Provision” place the statements in the right groups. Get thinking!

# Definitions

A clear distinction between outcomes and provision. The provision should help the child or young person achieve an outcome; it is not an outcome in itself.

Paragraph 9.66 of the Code says “An **outcome** can be defined as the benefit or difference made to an individual as a result of an intervention. It should be personal and not expressed from a service perspective; it should be something that those involved have control and influence over, and while it does not always have to be formal or accredited, it should be specific, measurable, achievable, realistic and time bound (SMART). “

- ▶ Section 21 (1) (CAFA 2014)
- ▶ “Special educational **provision**”, for a child aged two or more or a young person, means educational or training provision that is additional to, or different from, that made generally for others of the same age in—
  - ▶ (a) mainstream schools in England,
  - ▶ (b) maintained nursery schools in England,
  - ▶ (c) mainstream post-16 institutions in England, or
  - ▶ (d) places in England at which relevant early years education is provided.
- ▶

# How is a plan implemented?

Once specified in this section, the LA must “secure” the provision, i.e. they must ensure that it is made.

A Local Authority has the legal duty to ensure that the special educational provision (SEP) specified in section F of the EHC plan is delivered. They may well expect the school or college named in the EHC plan to do this for them but ultimately if the school/college does not have the resources to do this - either the finance, specialist equipment or expertise - the LA must provide it.

No one has responsibility to ensure that the outcomes contained in the EHC plan are achieved.

# Annual Reviews

- The C & F Act 2014 framework makes the main purpose of the annual 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 statements or 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

## ► **Early/Emergency 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.
- 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 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.

# When to call an Early Annual Review?

- ▶ Under what circumstances would you call an Early or Emergency Annual Review?

# Post 16 plans

- ▶ What are the implications of having an EHCP in the Post 16 sector?
- ▶ FE colleges, 6<sup>th</sup> Form colleges, 16-19 Academies and Independent colleges (under Section 41 of CAFA 2014) now have specific duties in relation to SEND.
  - The duty to co-operate with the local authority on arrangements for children and young people with SEN
  - The duty to admit a young person if the institution is named in an Education Health and Care (EHC) plan
  - The duty to have regard to the Code of Practice
  - The duty to use their best endeavours to secure the special educational provision that the young person needs (in FE, 6<sup>th</sup> form and 16-19 academies only)

Colleges need to be ambitious for young people with SEN and focus on supporting them to progress and reach positive destinations in life.



# Post 16 in the Code of Practice 2015

- ▶ The SEND CoP is clear about Post 16 education and training:
- ▶ *“Young people entering post-16 education and training should be accessing provision which supports them to build on their achievements at school and which helps them progress towards adulthood.”*
- ▶ And

*“For children and young people with EHC plans, discussions about post-16 options will be part of the preparing for adulthood focus of ECH plan reviews, which must be included as part of the review from Year 9 (age 13-14). The local authority must ensure these reviews take place, and schools and colleges must co-operate with the local authority in these reviews.”*

Plus

*“Under statutory guidance accompanying the Autism Strategy, SEN Co-ordinators (SENCOs) should inform young people with autism of their right to a community care assessment and their parents of the right to a carer’s assessment. This should be built into preparing for adulthood review meetings for those with EHC plans.”*

# High quality study for students with SEN

- ▶ “All students aged 16 to 19 (and, where they will have an EHC plan, up to the age of 25) should follow a coherent study programme which provides stretch and progression and enables them to achieve the *best possible outcomes* in adult life. Schools and colleges are expected to design study programmes which enable students to progress to a higher level of study than their prior attainment, take *rigorous, substantial qualifications*, study English and maths, *participate in meaningful work experience* and non-qualification activity. “
- ▶ “Local authorities **must** set out in their Local Offer the support and provision that 19- to 25-year-olds with SEN can access regardless of whether they have an EHC plan (see Chapter 4, The Local Offer). Further education colleges **must** continue to use their best endeavours to secure the special educational provision needed by all young people aged 19 to 25 with SEN attending their institution.”
- ▶ “In line with preparing young people for adulthood, a local authority **must** not cease an EHC plan simply because a young person is aged 19 or over. Young people with EHC plans may need longer in education or training in order to achieve their outcomes and make an effective transition into adulthood.”

# Any questions?

- Feel free to ask any questions



# Sources of information and support

- ▶ IPSEA: [ipsea.org.uk](http://ipsea.org.uk) Tribunal Helpline: **0845 602 9579**
- ▶ DfE publications:
- ▶ SEND Code of Practice: 0-25 years
- ▶ Special educational needs and disability: managing the September 2014 changes to the system 4<sup>th</sup> edition, October 2016
- ▶ Sandwell SEN Guide for Parents and Carers