

# SEND PARTNERSHIP SERVICE

Special Educational Needs & Disability (SEND)  
Impartial Information, Advice and Support  
Service for Bath & North East Somerset



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## THE IMPACT OF THE SEND REFORMS ON CHILDREN AND YOUNG PEOPLE WITH STATEMENTS

This information is about how the reforms to the **SEND Code of Practice** affect children and young people who have **Statements of Special Educational Need (SEN)**, and young people in further education and training who have special educational provision through a **Section 139A Learning Difficulty Assessment (LDA)**.

### How has the law changed?

In September 2014 the Children and Families Act 2014 came into force. A new **SEND Code of Practice** covers children and young people with special educational needs and/or disabilities from birth to age 25. One big change is that **Education, Health and Care Plans (EHC plans)** will replace Statements of SEN and LDAs.

The **SEND Code of Practice** says:

*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.*  
(9.2)

Local authorities **must** transfer all children and young people who have a Statement to the new SEND system by 1 April 2018 unless the Statement is no longer necessary.

Every local authority should publish a **local transition plan**. This explains when and how Statements will be transferred to the new system, and gives information for young people in further education and training who receive support through an LDA.

## How does this affect those with Statements?

Until 1 April 2018, local authorities must continue to comply with Part IV of the **Education Act 1996** (the old law) if the child or young person has a Statement. The Statement continues and annual reviews will take place until one of the following happens:

- the local authority decides to cease the Statement;
- the Statement ceases because the young person leaves education;
- there is a **transfer review** and:
  - an EHC plan is agreed, or
  - the local authority decides an EHC plan is not required.

The SEND Code of Practice says:

*During the transition period local authorities will transfer children and young people with statements onto the new system.... No-one should lose their statement and not have it replaced with an EHC plan simply because the system is changing.*

(9.4)

Transition to EHC plans is staggered over the next four years. In each year local authorities **must** transfer some groups of children and young people with Statements, and should give priority to other groups.

### Between 1 September 2014 and 1 September 2015

Local authorities **must** transfer children and young people to EHC plans before they move from school (including school sixth forms) to post 16 education or an apprenticeship.

Local authorities **must** also transfer children and young people to EHC plans if they received an EHC plan but had no Statement before 1 September 2014 (some EHC plans were issued as part of the SEN Pathfinder project but they have no legal force as they were prepared before the new law came into effect).

Local authorities **must** also transfer young people on request to EHC plans if they have an LDA and will continue in education after August 2016.

Local authorities should give priority to children when they move from:

- an early years settings to school;
- infant to junior school
- primary to middle school
- primary to secondary school
- middle to secondary school
- mainstream to special school (or vice versa).

Local authorities should also give priority to those children and young people:

- children in Year 6 not included in the list above (including where the child stays at the same institution)
- in Year 9

- in Year 11
- leaving custody
- who had an EHC plan before 1 September 2014
- who move between one local authority and another
- who receive Direct Payments under the SEN Direct Payments Pilot Scheme.

#### Between September 2015 and April 2018

In each year, local authorities **must** transfer children and young people to the new system:

- in Year 9
- before they move between
  - an early years settings to school;
  - infant to junior school
  - primary to middle school
  - primary to secondary school
  - middle to secondary school
  - mainstream to special school (or vice versa).

In 2015/16 local authorities **must** consider a request for an EHC needs assessment from a YP with an LDA, and the LA **must** issue an EHC plan if one was needed following an assessment.

#### Between September 2016 and 31st March 2018

In each year, local authorities should give priority to transferring to the new system those children and young people:

- children in Year 6 not included in the list above (including where the child stays at the same institution)
- in Year 11
- leaving custody
- who have an EHC plan issued before 1 September 2014
- who move between one local authority and another.

You can find out more about the transition arrangements for particular groups in the Department for Education guidance [here](#) and in the local authority's Transition Plan [here](#) and click on SEND Reform Transfer Plan.

### **What is a transfer review?**

A **transfer review** replaces the **annual review** in the academic year that the child or young person transfers to the new SEND system. The review must be completed within 12 months of the date the Statement was issued or of the previous annual review.

A transfer review requires an **EHC needs assessment** to decide what needs, outcomes and provision should be included in the EHC plan. This should include education, health and social care needs. In many cases the assessment information in existing Statements will be used. In fact the local authority **must not** ask for further advice if the advice it has already is sufficient, but you can disagree if you do not think it is and then the authority has to get new

advice. Before existing advice is used, the person who provided the advice, the local authority, the child's parents or the young person must all be satisfied that the advice is "sufficient for the purposes of an EHC needs assessment".

You, your child or the young person **must** be invited to a meeting as part of the transfer review, and be given two weeks' notice of that meeting.

A transfer review ends when the local authority sends you (or the young person) a copy of the final EHC plan, or when it informs you (or the young person) that an EHC plan will not be issued. The local authority **must** finalise the EHC plan, where one is needed, within **14 weeks** of you being told that they are carrying out the transfer review or an EHC needs assessment.

For moves between school stages there are particular deadlines for the issue of EHC plans. These are:

- 31 May 2015 if the child or young person will transfer from secondary school to a post 16 institutions on 1 September 2015. In subsequent years the deadline will be 31 March in the calendar year that the child or young person transfers from secondary school to post 16 institution
- 15 February in the calendar year of the child's transfer in any other case.

Once the transfer process starts, your rights to appeal to the Special Educational Needs and Disability Tribunal under the Children and Families Act 2014 replace those you had under the Education Act 1996.

### What does an EHC plan look like?

Every local authority can decide how to set out the EHC plan, but it must include 12 specific sections. You can find out more [here](#)

Key differences compared to Statements should include:

- a greater focus on outcomes
- more emphasis on the involvement of parents, children and young people
- improved integration of health and social care provision
- continuation, where appropriate, to age 25
- more rights for young people.

### How does this affect those with Learning Difficulties Assessments?

Local authorities must continue to have regard to the statutory Learning Difficulty Assessment guidance until 1 September 2016. If a young person with an LDA requests it, the local authority must transfer them to an EHC plan by 1 September 2016 if they are staying in further education or training after that date.

You can find more information about EHC needs assessments [here](#)

## What if I do not agree with the local authority?

The first step is to contact the local authority to discuss your concerns.

The SEND Partnership Service offers impartial advice and support and can explain your options, including your rights to request reassessment and to appeal. You can also find out more in the Fact Sheet 'What if I do not agree with decisions about SEN provision?'

## Where can I get more information, advice or support?

You will find the Department for Education guidance on the transition arrangements [here](#)

Every authority has a **transition plan** that sets out the local arrangements. You can see it [here](#)

The SEND Partnership Service can also give you:

- information about the local transition arrangements, and advice on how they might affect you or your child
- information and advice about transfer reviews
- advice and support during the transition process and in transfer reviews
- details of other organisations, support groups and information services that could help
- information, advice and support about your rights to make a complaint, seek independent **disagreement resolution** or **mediation** and appeal to the **SEND Tribunal**.

## Useful Webpages

### SEND Code of Practice

[www.gov.uk/government/publications/send-code-of-practice-0-to-25](http://www.gov.uk/government/publications/send-code-of-practice-0-to-25)

### SEND Partnership Service

[www.bathnes.gov.uk/sps](http://www.bathnes.gov.uk/sps)

## Glossary

### Annual Review

Under the Education Act 1996 local authorities had to carry out a review of every Statement of Special Educational Need at least once every 12 months.

Under the Children and Families Act 2014 local authorities must carry out a review of every EHC plan at least once every 12 months.

### Disagreement Resolution

Local authorities must provide independent disagreement resolution to help parents and young people resolve disputes with local authorities, schools and other settings about SEND duties and provision.

You can find more information on disagreement resolution in the SEND Code of Practice 11.6 to 11.10.

## Education Act 1996

Part IV of the Education Act 1996 was the legal framework for SEN. Part 3 of the Children and Families Act 2014 now replaces this legislation. However there is a transition period until 2018. This means, for example, that Statements of Special Educational Need that were in place before 1<sup>st</sup> September 2014 will continue to have legal force until the child or young person transfers to an EHC plan.

## EHC needs assessment

Local authorities must carry out an EHC needs assessment if a child or young person may need an EHC plan. The assessment is a detailed look at the special educational needs that the child or young person has and what help he or she may need in order to learn.

It is sometimes called a statutory assessment.

You can find out more in the SEND Code of Practice sections 9.45 – 9.52.

## Local Transition Plan

Every local authority must publish a plan that explains when and how Statements of Special Educational Need will be transferred to the new system, as well as information for young people in further education and training who receive support as a result of a Learning Difficulties Assessment.

## Mediation

Mediation is a type of disagreement resolution. Every local authority must provide independent mediation to help parents and young people resolve disputes with local authorities about:

- a decision not to carry out an EHC needs assessment
- a decision not to draw up an EHC plan
- the content of a final EHC plan or amended plan
- a decision not to amend an EHC plan
- a decision to cease to maintain an EHC plan.

Mediation must also be provided on the health and social care elements of an EHC plan.

You can find more information on mediation in the SEND Code of Practice 11.13 to 11.38.

## Must

The SEND Code of Practice says in Section i of the Introduction:

*...where the text uses the word '**must**' it refers to a statutory requirement under primary legislation, regulations or case law.*

This means that wherever the term 'must' is used all the organisations listed in Section iv of the Introduction to the Code have a legal duty to do what the Code says.

## SEND Code of Practice

This is the statutory guidance that supports Part 3 of the Children and Families Act 2014.

It tells local authorities, early years settings, schools, colleges, health and social care providers and others what they must and should do to identify, assess and provide for children and young people with SEN or disabilities.

You can download a full copy of the Code [here](#)

You can download a shorter version for parents [here](#)

## **SEND Tribunal**

The First-tier Tribunal (Special Educational Needs and Disability) is a legal body. The Tribunal hears appeals from parents of children with SEN, and young people with SEN, about EHC needs assessments and EHC plans.

You can find out more [here](#)

## **Section 139A Learning Difficulty Assessment (LDA)**

Learning Difficulty Assessments set out what additional learning support a young person needed when continuing their education into some form of post-16 education or training.

From 1 September 2014 Learning Difficulty Assessments will be replaced by EHC plans. Local authorities must transfer young people who already have provision as a result of an LDA to the new SEND system by 1 September 2016 if they are staying in further education or training after that date

## **Statements of Special Educational Need (SEN)**

Statements of Special Educational Need for children whose needs could not be met through the provision normally made by schools.

The Children and Families Act 2014 replaces Statements with EHC plans.

Children and young people who already have a Statement will gradually transfer to the new system. Each council publishes a local transition plan to explain how this will happen.

## **Transfer Review**

A transfer review replaces the annual review in the academic year that the child or young person transfers to the new SEND system.

A transfer review involves an EHC needs assessment to decide what outcomes and provision need to be included in the EHC plan. This should include education, health and social care needs.

You, your child or the young person must be invited to a meeting as part of the transfer review.

A transfer review ends when the local authority sends you (or the young person) a copy of the EHC plan, or when it informs you (or the young person) that an EHC plan will not be issued.

Each council publishes a local transition plan to explain how and when transfer reviews for children and young people with Statements of Special Educational Need will happen.

We have made all reasonable efforts to ensure that the information contained in this leaflet is accurate and up to date at the time of publication. It does not constitute legal advice and the SEND Partnership Service cannot accept any responsibility for any loss or damage suffered as a consequence of any reliance placed upon it.

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