

The role of Independent Reviewing Officers in Education, Health and Care Needs Assessments and Plans for looked after children and young people with special educational needs

A briefing from the Council for Disabled Children



About this briefing

This briefing is for Independent Reviewing Officers; social workers; staff in local authority special educational needs teams; other children's services staff and professionals in other agencies; foster carers; children and young people; parents and other relevant adults.

It is designed to help Independent Reviewing Officers in carrying out their role in respect of disabled children and young people and those with special educational needs. It focuses, in particular, on education, health and care (EHC) needs assessments and plans made under the Children and Families Act 2014. It complements the statutory advice and guidance listed in the further information section on page 14.

The briefing was developed following discussion with IROs, social workers and other local authority staff at a workshop at the London Independent Reviewing Officers conference in 2015. It highlights some of the most common issues raised by IROs about their role and practice.

It is one of a series of briefings which draws on the Council for Disabled Children's work with local authorities and their partners.

The role of the Independent Reviewing Officer (IRO)

The main task of the IRO is to ensure that the care plan for a child fully reflects the child's current needs and that the actions set out in the plan are consistent with the local authority's legal responsibilities towards the child. As corporate parents each local authority should act for the children they look after as a responsible and conscientious parent would.

IROs assure the quality of the care planning and review process for each child to ensure that his/her current wishes and feelings are given full consideration. IROs must be satisfied that a child's care plan identifies who is responsible for securing the objectives specified and that clear timescales are set.

IROs monitor and review a child's case and, where necessary, challenge poor practice. They are responsible for chairing care plan reviews at regular intervals. It is not the responsibility of the IRO to manage the case, supervise the social worker, or devise the care plan. But it is important for the IRO to develop a consistent relationship with the child. This should not undermine or replace the relationship between the social worker and the child.¹

¹ The Independent Reviewing Officer Handbook (Department for Education, 2010)



Supporting children and young people who are disabled or have special educational needs

Many looked after children and young people will be disabled and/or have special educational needs. It is important that IROs have an understanding of how the needs of these children and young people are identified, assessed and met, including the statutory processes for carrying out education, health and care needs assessments, developing EHC plans and reviewing such plans.

The IRO has a role in considering with social workers, schools, virtual heads and carers whether a child may need an EHC needs assessment and should be brought to the attention of the local authority. Where an EHC needs assessment is carried out, the IRO, like any parent, should be able to come to a judgement about whether the assessment and any subsequent plan, if there is one, meets the needs of the child. For children with SEN who have EHC plans, part of their care plan review should focus on how their EHC plan is meeting their health, education and care needs. So IROs need to have a copy of the EHC plan and the Personal Education Plan (part of the care plan).

IROs involved in discussions with the Council for Disabled Children have said they feel their role should be to:

- Check that relevant parties are establishing the child's views; whether the child's needs are being met; that they are getting what they are entitled to; and that there is good progress in putting plans into practice and that outcomes are being met.
- Recognise when the current level of support is not meeting the child's needs
- Liaise with virtual school head about the timing of EHC plans so that they can relate to and feed into care planning
- Support the social work team's planning and ensure that any concerns about education or health are directed through them
- Ensure that the EHC plan is informed by and informs other plans for children and young people, such as their Personal Education Plan and overall care plan, and that all of the plans reflect the needs and aspirations of the child
- Consider the long term plan for the child or young person - what is needed to support permanency and to support their transition to adulthood
- Ensure that planning is holistic and that the child's needs are met holistically.



Commonly identified practical issues

IROs, in discussion with the Council for Disabled Children, identified the following as key practical issues around their engagement.

Aligning an EHC review with a LAC review

Aligning the annual review of an EHC plan with a review of the child's care plan can be difficult because of the number of people involved, the timescales for the reviews and the nature of the care plan review meeting compared to the EHC annual review.

What the statutory guidance says:

- The first review (of the EHC Plan) must be held within 12 months of the date when the EHC plan was issued, and then within 12 months of any previous review. Reviews can be arranged more frequently where appropriate.
- For looked after children, the annual review of the EHC plan should, if possible and appropriate, coincide with one of the reviews of their Care Plan and in particular, the personal education plan (PEP) element of their care plan (*SEN and Disability Code of Practice 0-25 years (2015) paragraph 9.169*)
- Similarly, *Promoting the Education of LAC (2014)* and the *Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review (2015)* make it clear that the PEP review needs to be linked with any review of SEN, and that they both need to feed into the next statutory review of the wider Care Plan.

Practicalities:

- The Special educational needs and disability Code of Practice 0-25 years offers flexibility in how reviews relate to one another. The Code intends for professionals to share and coordinate information and decision making to ensure that all actions agreed in plans are aligned to the aspirations and outcomes for the child or young person. Whether or not review meetings are coordinated to happen at the same time will be decided on a case by case basis. The meetings do not have to happen at the same time.
- As the review of the EHC plan is every 12 months, not every PEP review will be linked to it. When the EHC plan is reviewed it should not be done in isolation. It would be helpful for the PEP to be considered. But that does not necessarily need to happen in the same meeting.
- SEN and social care professionals should not act in isolation when reviewing plans.
- Reviews need to reflect the needs of the whole child and not just the SEN or looked-after dimensions of a looked-after child's life.
- Sharing and coordinating information should ensure that the child's experience is positive and that decisions taken by one set of professionals (SEN or social care) are not made in a way that fails to take account of the child's circumstances 'in the round'.

How planning and reviews can be aligned and IROs can be involved:

- Meetings are held separately but professionals communicate in between to make sure that plans are complementary.
- Administrative teams send out reminders to all involved professionals requesting that all up to date information/plans/assessments are sent to IROs prior to all LAC reviews
- Reviews of plans take place at different meetings and are reasonably aligned and occasionally review meetings take place on the same day (particularly in residential schools that are quite a distance from the local authority)
- In complex cases, IRO gets invited to the annual EHC meeting so that the EHC plan informs the Care Plan.
- Social Worker should always be involved in the EHC meeting to ensure alignment with care planning.
- IROs ask when EHC reviews are due and plan LAC reviews to take account of this.

IROs/social workers challenging EHC plans

IROs and social workers are entitled to challenge EHC plans which they feel do not meet the needs of the child or young person.

IROs have identified a lack of awareness about the requirements and processes in respect of EHC needs assessments and plans and a lack of confidence to challenge as barriers to their involvement. Local authorities can support IROs in carrying out their role through information and training and IROs can be proactive in seeking out information, considering which questions to ask and working more closely with professionals involved.

Local arrangements for carrying out EHC needs assessments and drafting EHC plans involve seeking social care advice when the child is looked after. Social workers will have opportunities to make their views known as part of those processes and involve the child or young person's IRO.

If social workers and IROs feel local arrangements have not been successful in addressing their concerns they can pursue the following routes:

A complaint under the local authority complaints process, which should be brought by the family with the support of the IRO / social worker; or,

An appeal the First Tier Tribunal: Special Educational Needs and Disability against the contents of the EHC plan, which again would need to be brought by the family with support.

Where an EHC plan is in place which is not meeting a child's or young person's needs there should be an urgent review of the plan and potentially a request for a re-assessment of their needs where the child or young person's needs have changed.

The assessment and planning duties for social care run alongside those for EHC needs assessments and plans. If the EHC plan is not meeting a child or young person's social care needs and it is not practically possible to address this, children's or adult's social care services can complete a (re)assessment or care plan review and put in place a fresh plan to meet those needs. It is however essential that, as far as possible, children and young people's needs are addressed in a joined-up way.



Case Studies

The following personal case studies illustrate how IRO's are carrying out their role in practice:

Being involved with an Education, Health and Care Plan Meeting

Viv Parker, Independent Reviewing Officer

Rees* is 14 years old. He is of mixed heritage and has a diagnosis of regressive autism, attention deficit hyperactivity disorder, and oppositional defiance disorder. When Rees was 7 years old he was accommodated by the local authority at the request of his parents, as they were unable to manage his behaviours. Rees was placed in a specialist residential school more than 50 miles away from his home in a placement is jointly funded by Education, Health and Children's Services. Both parents deeply care about Rees and remain involved. The school is open throughout the year and Rees has regular home visits.

The challenge

My key challenge was to work out how I, as Rees's Independent Reviewing Officer (IRO), would be involved with the process of transferring him from a statement of special educational needs to an Education Health and Care Plan. The LAC Review was due to take place the same month as the meeting to discuss transferring Rees's statement of special educational needs to an Education, Health and Care (EHC) Plan and I was invited to the EHC plan meeting. I decided to hold the LAC Review the same day as the EHC plan meeting, with the LAC Review following on after the EHC plan meeting. I was mindful of the fact that Rees lives in a residential school; there would be a large overlap between his EHC plan and his care plan and they needed to be joined-up and holistic. At that time there were two overlapping issues related to both plans: managing Rees' behaviour, and agreeing the level and funding for home visits.

Action

The EHC meeting was chaired by the Deputy Principal Head at the school, the class teacher, two staff from the residential house (one specifically to represent Rees' wishes), a behaviour support worker, speech therapist, social worker, Rees' mother and aunt (as her supporter). There were lots of reports available for both meetings: residential report; social work report; school annual review and end of year report; class report; speech & language therapy (SALT) report; behaviour summary report; occupational therapy annual report; and Rees' individual learning plan (IEP). Having copies of all these reports was very helpful, although I would have preferred them to be sent in advance of the meeting so that I had more time to digest all the information.

My role is to be independent and scrutinise any plans but at times, by attending the EHC plan meeting, it was difficult not to be involved in the decision making process. I saw my role as to listen and I obtained more details than usual about Rees' needs and possible options. I did ask a few questions to ensure the process would lead to a more comprehensive plan for Rees. People present said that they found this helpful and that I provided continuity for Rees, being familiar with his long term history and knowing how Rees had changed over the years.

As a consequence of attending the meeting, the subsequent LAC Review was much shorter. Holding the meetings on the same day meant neither was held in isolation and the EHC plan easily fed into the care plan. It was a more efficient use of professionals' time and there was improved dialogue between the professionals involved in both processes. Unfortunately, despite asking to see the draft EHC plan, it was not sent to me

Lessons learned

Flexibility is essential. No one process will be right for every looked after child with an EHC plan. Every child is an individual. The IRO must consider their particular circumstances and decide and plan a review process that allows for the EHC plan to feed into the care plan to secure the best outcome for that child. For Rees, holding the two meetings on the same day resulted in a good outcome.

In my view, for disabled children who are placed in residential schools there is often a lot of overlap between the EHC plan and care plan so holding the two meetings on the same day can have many advantages. However, this does not apply to children or young people where their education and living arrangements are separate. In these circumstances holding the meetings on different days is likely to be preferable. But it is important for the social worker to attend both and for there to be an efficient process which ensures the IRO sees the draft or revised EHC plan before the LAC Review.

*Name has been changed to protect the identity of the individual



Reviewing Overnight Short Breaks as part of an Education, Health and Care Planning,

John McShane, Independent Reviewing Officer

My post of Independent Reviewing Officer (IRO) with specific responsibility for young people using overnight short breaks is new. It was created primarily to ensure the Local Authority meets its statutory duties under Regulation 48 of Care Planning, Placement and Case Review (England) Regulations 2010 for reviewing short breaks and safeguarding disabled children.

Around 30 young people using overnight short breaks require a regulation 48 review by virtue of having more than 17 and less than 75 overnight stays. These young people represent some of the most vulnerable disabled children in the local authority and predominantly used the local authority's in-house specialist residential short breaks unit. Some have challenging behaviour as well as physical or sensory impairments and typically require support with communication and expressing their needs wishes and feelings.

The challenge

My challenge was to ensure that the Children and Families Act 2014 principles of co-production, personalisation and integrated planning to improve outcomes for disabled children and those with special educational needs (SEN) were applied to regulation 48 reviews of overnight short break provision.

It was important to ensure that, when reviewing short breaks for disabled children who are not Looked After (under sections 20 or 31 of the Children Act 1989) but are staying away from the family home for reasons other than a deficit in parenting capacity, parents as well as children and young people are closely and actively involved. The IRO's contribution and independent perspective can be particularly valued, especially in helping to resolve any difficulties with the placement.

It was also important to recognise that transition to adulthood is stressful for families, many of whom have been reliant upon a regular and predictable short break service for a number of years but find that as their son or daughter reaches 18 years they are not able to use it.

Government guidance emphasises that: 'Everyone working with children and young people who have special educational needs or are disabled should support them to prepare for adult life and help them to go on and achieve the best possible outcomes in education, employment, independent living, health and community participation.' Regulation 48 reviews therefore need to include input from officers completing EHC plans or conducting transfer reviews to replace statements of SEN with EHC plans.

Action

In my local authority, regulation 48 reviews took on a new and more formal, person-centred format. Meetings were held with the local Parents Forum, Disabled Children's Social Work Team, Transitions Team, the Short Breaks Unit Management and staff. Letters were sent to parents and carers of the young people involved and information sent to schools, whose pupils were also informed. The letters included a One Page Profile (All about me) to help with person centred planning.

Some review meetings had already been scheduled at the Short Breaks Unit and these were chaired by the IRO with a new format and agenda. Social workers were also asked to inform the short breaks IRO when a Child and Family assessment had been completed or a Child in Need Review had been organised so that the regulation 48 review could be included.

Initially parents were anxious about the formality of the review meeting and there was some trepidation that the purpose of the review was to reduce care packages. These anxieties have been largely addressed in practice. Some parents brought the 'All about me' profiles they had completed for transfer reviews for EHC plans. These were an invaluable way of including the needs wishes and feelings of young people and an example of the significant work carried out by the Local Authority on personalisation and person centred planning from which regulation 48 Reviews were able to benefit.

Social workers needed some clarity about their roles, and discussions took place as to how the decisions made at the review could be integrated into the Child In Need Plan.

When a Transitions Officer was present parents' anxieties about transition were reduced and commitments were secured to partner parents and young people through the process and share information between agencies so that plans for support after 18 could be addressed.

Teachers and welfare officers from schools did not attend short break reviews. But following discussion with the head teacher of one of the local special schools it was agreed that Person Centred Reviews and regulation 48 Reviews could be combined and a meeting could take place at the school. This has proved to be a significant, positive development.

Lessons learned

Combined reviews have led to:

- Meetings being more child centred;
- live and up-to-date information about young people being available from class teachers;
- young people being present either in person or via different media (pictures, video, completed work); and,
- relevant professionals being present and able to share information and decision making with families.

The Local Authority is meeting its duties for reviewing overnight short breaks and following the Children and Families Act principles of co-production and integrated working. For young people there is a more detailed focus on their needs and wishes.

However the attendance of young people at reviews is variable. Some young people find the environment of a meeting uncomfortable and young people who have attended have been allowed to move in and out of the review in line with their level of attention and interest.

As the format has been new to the people working with disabled children in the local authority they have not always appreciated or considered the amount of preparation required to support a young person attending their review.

Some parents have explicitly asked that their son or daughter not attend since the presence of their parent would be confusing and could be read as an indicator they were going home. Some parents felt they would not be able to focus on the meeting if their son or daughter was there and making demands on their attention. Thus contact between IRO and the young person is significant. Time spent with the young person in placement or at school helps to deepen knowledge of the young person, add value and inform the review.

Your chance to share:

If you have questions or examples that you are happy to share showing around Social Care and EHC Assessments and Plans, please contact Amanda Harvey, Assistant Director Council for Disabled Children at: aharvey@ncb.org.uk

For further information please see:

Children Act 1989 guidance and regulations Volume 2: care planning, placement and case review:
<https://www.gov.uk/government/publications/children-act-1989-care-planning-placement-and-case-review>

The Independent Reviewing Officers Handbook (Department for Education, 2010):
<https://www.gov.uk/government/publications/independent-reviewing-officers-handbook>

Working together to safeguard children (HM Government, March 2015):
<https://www.gov.uk/government/publications/working-together-to-safeguard-children-2>

The Special educational needs and disability Code of Practice 0-25 years (Department for Education and Department of Health, 2015):
<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

The role of Social Care in implementing the Children and Families Act 2014 (Council for Disabled Children, 2015) at:
www.councilfordisabledchildren.org.uk/resources/the-role-of-social-care-in-implementing-the-children-and-families-act