

Guidance

# SEND: 19- to 25-year-olds' entitlement to EHC plans

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## 1. Managing 19- to 25-year-olds' EHC plans

Young people with SEND are not automatically entitled to maintain their EHC (education, health and care) plans after they turn 19.

[Reforms to the SEND system](#) should mean that children and young people are better prepared for adulthood. Therefore we expect the majority of young people with EHC plans to complete further education with their peers by age 19. However we recognise that some young people with SEND need longer to complete and consolidate their education and training. The length of time will vary according to each young person.

It's important that young people start to think about their aspirations as early as possible. It's critical that, from year 9 at the latest, local authorities help young people, along with their parents and carers, start to plan for a successful transition to adulthood. This includes considering any further education or training that will enable young people to secure paid work, or other opportunities for a positive adult life.

Young people should be supported to exercise choice and control over their lives, including the 4 'preparing for adulthood' outcomes:

- moving into paid employment and higher education
- independent living
- having friends and relationships and being part of their communities
- being as healthy as possible

More information on the 4 'preparing for adulthood' outcomes can be found in chapter 8 of the [SEND Code of Practice](#).

## 1.1 Maintaining existing EHC plans

When a 19- to 25-year-old continues with an EHC plan, the local authority must review it at least annually. The plan must contain outcomes which should enable the young person to complete their education and training successfully and move on to the next stage of their lives. This will happen at different stages for individual young people and EHC plans extended beyond age 19 won't all need to remain in place until age 25.

For young people with more complex needs who are likely to continue to need specialist support in adult life, services will need to work together at a local level to plan and fund a smooth transition. These include:

- children's services
- adult social care
- housing and health

This strategic planning, aided by joint commissioning and integrated services, will support a young person to:

- transition successfully to adult life
- receive the right support from adult services where needed

## 1.2 Assessing new applicants

All young people aged 19 to 25 with a learning difficulty or disability have the right to request an EHC needs assessment (unless one has been carried out in the last 6 months).

Examples of when this might happen include:

- when a young person has a brain injury following illness or accident
- when they have been out of learning for an extended period
- those with degenerative conditions

Where the local authority judges that an assessment is not necessary, the young person has the right to appeal to the [First-tier Tribunal \(Special Educational Needs and Disability\)](#) about this decision. More information on resolving disagreements can be found in chapter 11 of the [SEND Code of Practice](#).

## 1.3 Issuing an EHC plan

After a young person has been assessed, the local authority has to decide whether an EHC plan is necessary by following:

- [section 37 of the Children and Families Act](#)
- the [SEND Code of Practice](#)

The local authority must also consider whether the young person requires more time, in comparison to others of the same age who don't have SEND, to complete his or her education or training.

The outcomes specified in an EHC plan for a 19- to 25-year-old should be focused on meeting their aspirations and preparing them for adulthood.

More information and examples of outcomes can be found in:

- pages 190 to 191 of the [SEND Code of Practice](#)
- [help resources from the Council for Disabled Children](#)

## 1.4 Ending an EHC plan

[Section 45 of the Children and Families Act](#) sets out the circumstances when a local authority may cease to maintain an EHC plan. This is when the local authority is no longer responsible for the young person, or they decide that it's no longer necessary to maintain the plan (for example if special educational provision is no longer necessary). The local authority must consider whether the educational or training outcomes specified in the plan have been achieved when the young person is aged over 18.

When a young person is close to finishing their education and training, the local authority should use the final annual review to agree the support needed to help them engage with services after they turn 19.

Where a young person aged 18 or over leaves education or training before the end of their course, the local authority must not end the EHC plan without a review. The review should determine whether the young person wishes to return to education or training, either at the educational institution specified in the EHC plan or somewhere else.

If the young person does wish to return to education or training and the local authority decides that it's appropriate, then they must amend the EHC plan as necessary and maintain the plan. The local authority should seek to re-engage the young person in education or training as soon as possible.

## 2. Education, training and benefits

It's crucial that local authority 'local offers' clearly set out what is normally available for 19- to 25-year-olds with special education needs and disability (SEND), to ensure educational and training needs are met, regardless of whether they have an EHC plan.

Students aged 19 to 25 with EHC plans who are continuing in education may have a range of options, including attending:

- further education
- training
- a supported internship
- an apprenticeship

For more information on study programmes, see:

- regulation 14 and paragraph 18 of schedule 2 in the [School and Early Years Finance \(England\) Regulations 2015](#)

- [guidance about 16 to 19 study programmes](#)

Local authorities should consider the need to provide young people with EHC plans with a full package of support across education, health and care 5 days a week, if appropriate. Packages could involve amounts of time at different providers and in different settings and may include periods outside education institutions with appropriate support.

The package can include non-educational activities, such as:

- volunteering or community participation
- work experience
- independent travel training
- skills for living in semi-supported or independent accommodation
- training to develop and maintain friendships
- access to local facilities
- physiotherapy

Local authorities will need to work with providers and young people to ensure there is a range of opportunities that can be tailored to individual needs, including the use of personal budgets.

A young person's progress whilst they have an EHC plan can be recognised in a variety of ways, including when they don't undertake formal qualifications. This includes [RARPA](#) ('Recognising and Recording Progress and Achievement') - a 5-stage process to measure the progress and achievement of learners on non-accredited learning programmes.

## **2.1 Special schools**

Young people aged 19 can't remain in a special school unless they're completing a secondary education course started before they were 18 years old. Special schools have the option of setting up a legally and financially separate entity to provide education for 19- to 25-year-olds, as advised in the '[High needs funding: operational guide 2016 to 2017](#)' ('Learners aged 19 to 25 with an EHC plan').

## **2.2 Supported internships**

As stated in the '[Post-16 skills plan](#)', we want all young people with an EHC plan to undertake a [supported internship](#) unless there is a good reason for them not to.

Supported internships are one of the most effective routes to employment for young people with EHC plans. They are a structured study programme, based primarily at an employer. They help young people get paid jobs by giving them the skills they need for work.

Supported internships are unpaid, and last for a minimum of 6 months. Where possible, young people will move into paid employment at the end of the programme. Alongside their time at the employer, young people complete a personalised study programme and are supported by an expert job coach where needed.

## **2.3 Providing education in a non-education setting**

Education for the majority of those aged over 16 should be through a study programme. Young people with EHC plans are expected to be on a study programme focused on their education and training.

However, there may be times when special educational provision can be provided outside an institution funded by the Education and Funding Agency (EFA), such as in a residential care home or other non-educational setting. In these cases, it would be appropriate for the education service to fund this. Decisions are made on an individual basis and currently, these cases are rare.

## **2.4 Studying in a higher education institution (HEI)**

The EFA funds some courses in higher education institutions (HEI) that are not prescribed higher education courses, meaning it's possible to have an EHC plan in these circumstances.

HEIs can use their EFA allocation to provide support for particular students, provided it meets the funding, study programme and eligibility criteria that EFA publish every year for 16 to 19 students (see '[16 to 19 education: funding guidance](#)'). Prospective students should be made aware that HEI providers are not legally bound by the Children and Families Act 2014. However, they are legally bound by the [Equality Act 2010](#).

## **2.5 Studying a level 4 (higher education level) qualification**

Studying at this level would be considered a positive outcome from an EHC plan, and a pathway to finding a good job. However, a young person studying at level 4 in an FE college would not be entitled to an EHC plan.

There are separate systems in place to support disabled young people in higher education (HE), including [Disabled Students' Allowances \(DSAs\)](#). These are non-repayable grants that assist with the additional costs incurred by disabled students. They apply to those studying HE in an FE environment. DSAs fund a range of support, including assistance with the cost of:

- specialist equipment
- travel
- non-medical helpers (for example sign language interpreters)

For more information see the [DSA finance guide](#).

## **2.6 Supporting young people who haven't found a job**

19- to 25-year-olds who make a benefit claim will be invited to meet a work coach at the Jobcentre. For those claiming Job Seekers' Allowance (JSA), this will be as soon as possible. For those claiming Employment Support Allowance (ESA) and presenting a fit note, this will be within 4 to 6 weeks of their claim. At the Jobcentre, the work coach will discuss the young person's needs and any barriers to work. They'll then agree a plan of action (a 'claimants' commitment') detailing their plans to find work.

The Department for Work and Pensions (DWP) offers specialist employment programmes to support people into work. These include the Work Programme, Work Choice and the

Specialist Employment Service. Work coaches will also signpost claimants to other local options. An [Access to Work](#) grant provides support to those with a disability or health condition who need help to work. Those with a longer term disability or health condition will have a Work Capability Assessment.

### 3. Funding

What is funded from the local authority's high needs budget would depend on the outcomes and needs specified in the young person's EHC plan. The local authority is responsible for putting the plan together and working with the Clinical Commissioning Group (CCG) and other partners to secure appropriate provision.

The high needs budget is expected to fund any special education described in Section F of the EHC plan. A local authority can jointly fund some education with its partners and may decide to add health or care funding to the education funding (Dedicated Schools Grant), to provide a full package of support for an individual.

The EFA allocates place funding for students aged 19 to 25 with an EHC plan. The local authority's schools budget can't be used for 19- to 25-year-olds (with or without an EHC plan), unless they are completing a course started before they were 18 years old.

#### 3.1 Funding for those with no EHC plan

Eligibility to receive public funding through the Skills Funding Agency (SFA) is the [same for all eligible learners regardless of disability](#).

For students aged 19 and above who don't have an EHC plan, [learner support funding](#) may be available to help them meet:

- the additional needs of learners with learning difficulties and/or disabilities
- the costs of reasonable adjustments as set out in the Equality Act 2010

This support can cover a range of needs including:

- funding to pay for specialist equipment and helpers
- arranging note takers
- particular help in lectures and seminars
- special arrangements for exams

In all instances learners should contact their provider to confirm they're eligible for funding, and to check that the qualification they wish to study is funded by the SFA.

For students aged 19 to 25 without EHC plans, further education (FE) providers receive money from the SFA to meet the costs of reasonable adjustments. Under the Equality Act 2010, FE providers must make reasonable adjustments to avoid disabled students being placed at a 'substantial disadvantage'.

All aspects of studying are covered including:

- course admissions
- the provision of education
- access to any benefit, facility or service, for example flexible courses
- exclusions

Private education and training providers also have duties under [part 3 of the Children and Families Act](#) as service providers.

## 4. Considering health and social care needs

Decisions about whether a young person's EHC plan should be maintained after age 19 will depend on whether they'll need special educational provision to meet the outcomes set out in their EHC plan. If a young person has achieved the outcomes in their EHC plan by age 19, then no further special educational provision should be required after that age.

If a young person over the age of 18 continues to have an EHC plan, they may have social care and health needs. Each local authority's local offer must set out:

- the relationship between the Children and Families Act 2014 and the Care Act 2014
- how the requirements of both acts are being implemented locally

It's critically important that CCGs and health providers work closely with local authorities to provide a coordinated and coherent offer to young people with social care and health needs after the age of 19.

The Care Act 2014 places a duty on local authorities to conduct transition assessments for children or young people, their carers and young carers where there is a likely need for care and support after the young person turns 18.

### 4.1 Social care

Where young people aged 18 or over continue to have EHC plans, and are receiving care and support, this will be provided under the Care Act 2014.

The EHC plan should be the overarching plan that ensures young people receive the support they need to help them achieve agreed educational outcomes. The [statutory adult care and support plan](#) should form the 'care' element of the young person's EHC plan.

### 4.2 Health

CCGs should use the '[National framework for NHS continuing healthcare](#)' to determine what ongoing care services young people should receive.

It's important that representatives from adult NHS continuing healthcare:

- attend transition meetings
- support the development of a [statutory care and support plan](#)
- input into EHC plans if appropriate

Health and social care colleagues may also find it useful to look at the NICE guidelines on [transitioning from children's to adult's services for young people using health or social care services](#).

In addition to this, many young people with chronic health conditions will require ongoing care from their local GP surgeries.

## **5. Including young people in decision-making**

Local authorities should be aware that from the age of 16 a young person is responsible for making decisions. We shouldn't assume that parents will make decisions on behalf of young people over 19 with an EHC plan, even if there are questions over the young person's mental capacity.

The Children and Families Act 2014 states that local authorities must:

- understand the importance of young people participating 'as fully as possible' in decision-making
- provide information and support to assist their participation in decision-making

It also identifies specific decision-making rights about 19- to 25-year-olds' rights relating to EHC plans. For example, they have the right to:

- request an assessment (any time up to their 25th birthday)
- make comments about or request changes to the content of the plan
- request that a particular institution is named in their plan
- request a Personal Budget for elements of their plan
- appeal to the [First-tier Tribunal \(Special Educational Needs and Disability\)](#) about decisions

The Council for Disabled Children has developed a [toolkit to help young people make their own decisions](#). Find out more about the Mental Capacity Act in the [code of practice](#) and ['Preparing for Adulthood' factsheet](#).