Education in England

A Guide for Parents

CEREBRA

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Thank you.

Contents

Introduction 4

The Importance of Education 5

The Local Offer 6

Supporting children and young people with Special Educational Needs and Disabilities ('SEND') 7

Transition 16

Personal Budgets 19

The Equality Act 2010 ('the EA 2010') and Education 20

Complaints, appeals and claims 25

Glossary 28

Useful Organisations 30

Useful Guidance 32

Introduction

This guide has been prepared for parents of children and young people with special educational needs (SEN) and parents of disabled children and young people living in England who want to know how to get help in education for their child from birth to 25.

It's part of a series of guides published by Cerebra that aim to give parents of children with disabilities and/or special educational needs information on how to get the help and support they need.

If you live in Wales, please see our related guide Education in Wales: A Guide for Parents.

The Importance of Education

All children have the right to an education but some children and young people will need additional support to help them learn. This guide summarises the current SEND framework which was introduced in September 2014.

This guide covers the following areas:

- The Local Offer
- Supporting children and young people with SEND
- Transition
- Personal Budgets
- The Equality Act 2010 and education
- Complaints, appeals and claims

The guide provides information on these areas through a series of questions and answers. It also includes a Glossary (see pages 28-29) which provides an explanation of commonly used terms (these are highlighted in blue in the text).

Throughout this guide we refer to 'your child', regardless of their age. However, rights have been introduced for young people who are over compulsory school age and these are explained in question 21.

This guide does not address the following areas:

- admissions to and exclusions from school
- transport
- provisions relating to looked after children or detained children and young people
- children and young people with SEND who are educated at home or in alternative provision
- children of service personnel

This guide isn't a substitute for specialist advice. The Useful Organisations and Useful Guidance sections (see pages 30-32) provide information on where to find further help and assistance and give details of more guidance which you might find useful, including a summary guide for parents and carers published by the Department for Education in August 2014.

The Local Offer

Q.1. The Local Offer sets out in one place the up to date information about:

- all of a Local Authority's provision across education (from 0 to 25), health and social care which it expects to be available for children and young people in its area with or without EHC plans who have special educational needs or are disabled
- arrangements for identifying and assessing children and young people's SEND and how to obtain an EHC needs assessment
- provision outside the Local Authority's area which it expects will be used by its children and young people with SEND
- eligibility criteria for its services
- personal budgets
- leisure activities
- SEND appeals and arrangements for dispute resolution including mediation
- the Local Authority's accessibility strategy (see question 40)
- provision to assist children and young people in preparing for adulthood
- support in higher education
- childcare
- sources of information, advice and guidance about SEND and disabilities in the area
- travel to and from education institutions.

Q.2. How can I find out about my LA's Local Offer?

All Local Authorities must publish their Local Offer in accessible formats (both online and in other ways for those who cannot access the internet).

Local Authorities must keep their education and social care provision under review including ensuring that such provision is sufficient. They must publish comments on certain aspects of the Local Offer received from parents, children and young people and a summary of these at least annually. They must also publish details of the action they intend to take in relation to such comments.

Q.3. Is the Local Offer just a directory of services?

The Local Offer is meant to be more than a directory of services. Parents, children and young people must be involved with the development and review of their Local Offer. Young people must be engaged directly, perhaps through forums. All the key stakeholders (such as providers of early years education, schools, further education colleges and clinical commissioning groups) must cooperate with each other in its development and review.

Supporting children and young people with Special Educational Needs and Disabilities ('SEND')

Q.4. How will I know if my child has SEND?

You may be aware that your child has SEND from your own observations.

Your child's school (or maintained nursery school) must let you know when they are making special educational provision for your child; an early years setting such as a private nursery or child minder should do so too.

If your child is under compulsory school age, a health service (such as a paediatrician, your GP or health visitor) must inform you and make your Local Authority aware of your child if they consider that your child has, or probably has, SEND. They must also give you the opportunity to discuss their opinion and provide you with details of voluntary organisations who might be able to provide you with advice or assistance.

Please be aware that special educational needs are not just related to a lack of acadmic progress. The current SEND Code of Practice makes it clear that a child's special educational needs can fall under one or more of four broad areas:

- Communication and interaction
- Cognition and learning
- Social, emotional and mental health difficulties
- Sensory and/or physical needs

Q.5. If my child has SEN and / or a disability, where can I find local information?

Your Local Authority must arrange for you to access advice and information about matters that relate to your child's SEN and/or disability, including matters relating to health and social care and personal budgets (see question 28 for an explanation of personal budgets). It must ensure that its Local Offer provides details of how to access information, advice and support related to SEN and disabilities and how such support is provided.

In relation to SEND, each Local Authority has an 'Information Advice and Support Service' (which is impartial and provides information and support to parents). Details will be provided in the Local Offer; the Information Advice and Support Services Network can also provide you with more information (see the Useful Organisations section on page 31).

Q.6. What support will be put in place for my child and how is it put in place?

The type and level of support that your child receives will depend on their individual needs and their stage in education.

Early Years Providers and Schools

If your child's educational setting recognises that he or she may have SEN they will respond by placing him or her on 'SEN Support' which has four separate stages of action:

Assess – the early years practitioner, class or subject teacher will work with the Special Educational Needs Co-ordinator (SENCO) with input from you to carry out an analysis of your child's needs. This will be reviewed regularly to ensure that the correct support is in place. Support may be sought from external experts who may already be involved with your child; if they are not already working with staff at the setting / school, your consent must be obtained.

Plan – where it is decided to provide SEN support, the early years practitioner / school teacher and the SENCO should agree, in consultation with you and your child, what adjustments, interventions,

and support will be put in place, along with the expected impact on progress, development or behaviour and a clear review date.

Do – the early years practitioner / school teacher will remain responsible for working with your child on a daily basis and oversee the agreed SEN support, with advice and assistance from the SENCO.

Review – the effectiveness of the agreed support should be reviewed in line with the agreed date and the views of you and your child sought. You should be given clear information about how the support has affected progress, development or behaviour and be involved in planning the next steps.

Maintained nursery schools and mainstream schools must use their best endeavours to ensure a child with SEND gets the support they need.

It may be that your child's early education practitioner / school teacher or SENCO has raised concerns about your child's progress with you. Alternatively, if you have concerns that your child is not progressing appropriately, you should raise these concerns with them and discuss what extra support should be put in place.

Further Education

Further Education colleges, sixth form colleges and 16-19 academies must use their best endeavours to secure the special educational provision that a young person needs and must fulfil this duty for students with SEND whether or not they have an EHC plan, up to the age of 25 in further education. Support for all students with SEND should be kept under review.

In addition, there are important duties on all education providers under the Equality Act 2010 (see questions 33 to 43).

Q.7. What is an Education, Health and Care Plan (EHC plan)?

An EHC plan sets out a child/ young person's education, health and social care needs, the outcomes to be sought for them, the provision to meet these needs and their school / type of school / post 16 provision. Your Local Authority has a legal obligation to ensure that the special educational provision set out in Section F (see question 10) is provided.

The actual format and layout of an EHC plan is decided by your Local Authority but the minimum requirements are for a EHC plan to contain the following sections which must be separately labelled from each other using the letters below. However, the sections do not need to be in the following order as long as they are separately labelled. For the purpose of this guide, the sections referred to in the discussion that follows.

Section A

The views, interests and aspirations of the child and his or her parents or the young person.

Section B

The child or young person's special educational needs.

Section C

The child or young person's health needs which are related to their SEND.

Section D

The child or young person's social care needs which are related to their SEN or a disability.

Section E

The outcomes sought for the child or the young person over varying timescales. This should include outcomes for adult life. The EHC plan should also identify arrangements for the setting of shorter term targets by the early years provider, school, college or other education or training provider.

Section F

The special educational provision required by the child or the young person.

Section G

Any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEND. Where an Individual Health Care Plan is made for them, that plan should be included.

Section H1

Any social care provision which must be made for a child or young person under 18 resulting from section 2 of the Chronically Sick and Disabled Persons Act 1970.

Section H2

Any other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN. This will include any adult social care provision being provided to meet a young person's eligible needs (through a statutory care and support plan) under the Care Act 2014.

Section I

The name and type 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 / young person).

Section J

Where there is a Personal Budget, the details of how the personal budget will support particular outcomes, the provision it will be used for including any flexibility in its usage and the arrangements for any direct payments for education, health and social care. The special educational needs and outcomes that are to be met by any direct payment must be specified.

Section K

The advice and information gathered during the EHC needs assessment must be attached (in appendices). There should be a list of this advice and information.

These sections are set out in paragraph 9.62 SEND Code of Practice

In addition, for children / young people in or above Year 9, sections F, G, H1 or H2 (as appropriate) must include the provision they require to help them prepare for adulthood and independent living, such as support for finding employment or housing or to participate in society.

Q.8. How do I request an EHC plan for my child?

You, your child, or young person (if it is after the end of the academic year in which they turn 16 until they turn 25) or someone acting on behalf of a school or post-16 institution (ideally with you or your child's knowledge and agreement), can request the Local Authority carry out an EHC needs assessment. The Local Authority must then notify you (or your child as above) that is it considering whether an EHC needs assessment is necessary and must consult with you (or your child as above) as soon as is practicable. A child or young person must have SEN, it does not apply where there are only health or social care needs, or disabled without having SEN.

The Local Authority must carry out an assessment of your child's education, health and social care needs if your child has, or may have, SEN and it considers it is or may be necessary for special educational provision to be made for them in accordance with an EHC plan. Key stakeholders must be notified and a wide range of evidence considered. If the Local Authority has carried out an EHC needs assessment for your child within the previous six months, it does not need to consider whether another assessment is necessary, although it can still choose to do so.

Your Local Authority must let you (or your child as above) know whether or not it will carry out an EHC needs assessment within 6 weeks of receiving the request. If it decides an assessment is not necessary, it must inform you (or your child as above) of the reasons for this decision and your rights of appeal; (see Complaints, appeals and Claims section on pages 25-27 for what to do if your Local Authority decides not to carry out an assessment).

If your Local Authority confirms to you that it will carry out an EHC needs assessment, it must seek advice from relevant professionals. That advice must be provided within six weeks of the date of request.

The advice sought must cover your child's education, health and care needs, desired outcomes and the special educational, health and care provision to both meet these identified needs and achieve the desired outcomes. The aim is to avoid you having to provide the same information on multiple occasions; if there is existing advice that was perhaps sought for another purpose but is relevant and you (or your child as above), the Local Authority and the provider of the advice agree it is sufficient for the EHC needs assessment, the Local Authority must not ask for further advice. Wherever possible, social care assessments should be carried out with EHC needs assessments.

If the Local Authority decides not to issue an EHC plan following this assessment, it must inform you (or your child as above) within a maximum of 16 weeks from the request for assessment date and provide you with details of how to appeal. It should ensure you are familiar with the SEN support available in mainstream settings and with other support set out in its Local Offer.

If the decision is to issue an EHC plan, you (or your child as above) must be given at least 15 days to comment on the draft EHC plan and to ask for a particular school/ institution to be named in it. The Local Authority must then consult with the relevant institution which will then have 15 days to respond.

There are a number of exceptional circumstances set out in Regulations which can cause these time limits to be extended; these include exceptional personal circumstances affecting you or your child and where you are absent from the area for a period of at least 4 weeks. Subject to these exemptions, the period from when the EHC needs assessment is requested until the final EHC plan is issued should take no more than 20 weeks.

Q.9. What should I do when I receive a draft EHC plan?

This is your opportunity to check that you agree with your Local Authority's description of the agreed outcomes for your child, their SEN, separate

health and social care needs if any, and the provision it considers will meet these needs.

The outcomes underpin the whole EHC plan and should focus on education and training, health and care outcomes that will enable your child to progress and be well prepared for adulthood. Wider outcomes such as those relating to emotional resilience can also be included. An outcome in this context is not a long-term aspiration; instead it is a benefit or difference to your child as a result of an intervention.

At this stage Section I covering your child's placement will be blank and you (or your child if it is after the end of the academic year in which they turn 16 and they have the mental capacity to decide) have the right to request a particular educational setting from the list below to be named in their EHC plan:

- maintained nursery school
- maintained school and any type of academy or free school (mainstream or special)
- non-maintained special school - a change to the old system
- further education or sixth form college
- independent school or independent specialist colleges (where they have been approved for this purpose by the Secretary of State for education and published in a list available for you to see - https://www.gov.uk/government/publications/independent-special-schools-and-colleges).

The Local Authority has a conditional duty to agree to the request.

You can also make representations for a place at a non-maintained early-years setting, independent school, or independent specialist college or other post-16 provider not on the approved list but the Local Authority is not under the same conditional duty to name such a provider.

The detailed law and procedure relating to placement choices and admissions is beyond the scope of this guide; for further information see the Useful Organisations and Useful Guidance sections on pages 30-33.

Q.10. What should I look out for?

You should check that you are happy with all the details in each part of the Plan and that all relevant information has been included. It is important that the description of your child's SEN needs is clearly set out in Section B and that the provision to meet all of these needs is clearly specified in Section F. IPSEA produce an EHC plan checklist for this purpose: https://www.ipsea.org.uk/Handlers/Download.ashx?IDMF=afd8d11f-5f75-44e0-8f90-e2e7385e55f0

This is because your Local Authority has a legal duty to ensure that all the special educational provision specified in Section F is made (unless you have made suitable alternative arrangements at your cost). It's important to ensure that all therapy provision (such as physiotherapy) is included there rather than in section G which covers any health provision (as opposed to special educational provision) reasonably required by your child's learning difficulties / or disabilities which have caused them to have SEN.

The SEND Code of Practice makes clear that health or social care provision that educates or trains your child should be treated as special educational provision. It stresses that as the ability to communicate is so essential in education, speech and language therapy should normally be treated as special educational provision rather than health provision and therefore included in Section F. Even though some therapies such as speech and language therapy or physiotherapy may actually be provided by the Health Service for example, rather than the Local Authority, it is the Local Authority that is under a duty to arrange for the provision in Section F to be made.

The provision in Section F must be detailed, specific and normally quantified in terms of the

type, time allocation and frequency of support and who is delivering it, for each and every need identified in Section B[1]. This is the case whether or not it is being provided through a Personal Budget, so there is no room for argument about what has been agreed. For example, it would generally be inappropriate for a plan to say that a child should receive 'Regular Speech and Language Therapy input', as that is too vague. More appropriate wording would be something like: "30 minutes per week of one to one direct Speech and Language therapy, delivered by a qualified Speech and Language therapist".

Once the Local Authority has sent you (or your young person if it is after the end of the academic year in which they turn 16) a draft EHC plan, the only changes it can make are as a result of representations made by you and decisions about the placement to be included in Section I. If it wants to make other changes it has to reissue a draft EHC plan giving you the opportunity to comment again.

If the Local Authority agrees with your comments and placement request, it must issue a final plan as soon as possible; if it does not agree it can still issue a final EHC plan and in either case it must notify you or your child (as above) of your appeal rights and the procedures concerning these (see the Complaints, appeals and claims section on pages 25-27).

This is a summary of the statutory assessment and EHC plan procedure. Further information can be obtained from the organisations and guidance listed in the Useful Organisations and Useful Guidance sections on pages 30-33.

Q.11. What is the health duty?

There is a duty on Integrated Care Boards (ICBs) (or where relevant NHS England) to ensure that the health care provision specified in Section G of your child's EHC plan (as opposed to special educational provision) is made available to them, unless you have made suitable alternative arrangements; (for details of how to complain if this is not made available see Complaints, appeals and claims section on pages 25-27).[2]

There should be a Designated Medical Officer ('DMO') to help a ICB meet its statutory responsibilities for children and young people with SEN and disabilities. For more information on their role see the SEND Code of Practice 2015 in the Useful Guidance section on page 32.

Q.12. My child isn't 2 yet but I think they have SEN. What should I do?

You can ask your Local Authority to carry out an EHC needs assessment of your child's SEN and as with children of other ages, the authority must carry out an assessment when it considers it may need to make special educational provision for your child in accordance with an EHC plan.

The Code of Practice recognises that children under 2 are likely to need an EHC plan where their education, health and care needs are particularly complex and are likely to require a high level of special educational provision which would not normally be available in mainstream settings.

Q.13. How often will my child's EHC plan be reviewed?

The EHC plan must be reviewed by the Local Authority at least every 12 months. The first review must be held within 12 months of the date the EHC plan was issued.

If your child is under 5 it is recommended that their EHC plan is reviewed at least every three to

1 This is why it's important that all of your child's special educational needs are set out in Section B because if any are missing the corresponding provision to meet those needs can't be specified in Section F and the Local Authority won't have a legal obligation to arrange it.

2 The SEND Tribunal has powers to hear appeals and make non-binding recommendations about health and social care aspects of Education, Health and Care (EHC) plans, provided those appeals also include education elements. These are known as extended appeals.

six months; these reviews would complement the annual review and may not require the attendance of the full range of professionals involved with your child.

If your child is in a school transfer year the review and any amendments must be completed by 15th February in the calendar year of transfer.

If your child is moving from secondary school to a post-16 provision or apprenticeship, the review and any amendments must be completed by 31 March in the calendar year of transfer. If your child changes their post-16 institution the review process should normally be completed by 31 March but where transfers take place at different times of year, the annual review process must completed at least 5 months before the transfer takes place. If young people change their mind after 31 March or the 5-month deadline or haven't met the entry criteria, the review process should be completed as soon as possible.

Q.14. What is the review process?

The review must focus on your child's progress towards achieving the outcomes set out in their EHC plan and consider whether these and their supporting targets remain appropriate; for young people over 18 the Local Authority must have regard to whether the specified educational or training outcomes have been achieved.

The process must be a collaborative one involving you and your child and must take into account your views, wishes and feelings. The emphasis is on joint working; education, health and care professionals have a duty to co-operate with local authorities during reviews.

If your child attends an educational institution, the Local Authority and the institution must co-operate to ensure a review meeting takes place. You (or your child if it is after the end of the academic year in which they turn 16), a representative from the educational institution, a Local Authority SEN officer, a health service representative and a Local Authority social care representative must be invited and given at least 2 weeks' notice of the meeting; other relevant individuals should be invited such as job coaches. Advice sought from all the parties invited should be distributed amongst them at least 2 weeks before the meeting. Within two weeks of the meeting, the school (or Local Authority if the child attends another institution) must send out a report containing their recommendations for any amendments to the Plan. The Local Authority must then decide whether or not to amend the Plan or whether to cease the Plan within four weeks of the review meeting and notify you (or your child if over 16 as above) and their educational institution of the decision. The process is similar if your child does not attend an educational institution.

For further information about the Annual Review procedure, including the timescales governing amending an EHC plan, see the SEN Code of Practice 2015 in the Useful Guidance section on page 32.

Q.15. I have heard that the Year 9 Annual Review is very important. Why?

The SEN Code of Practice advises that from Year 9 at the latest all reviews must include a focus on preparing for adulthood, although this can be useful earlier. For annual reviews from Year 9 onwards the Local Authority must seek advice and information related to provision to help your child prepare for adulthood and independent living. Areas to focus on include employment, independent living and participation in society and the move from children's to adult care and health services where relevant.

Year 9 reviews should address options and choices for the next education phase and the EHC plan must reflect this transition planning; section E is an obvious place for this to be set out. Your child's views, wishes and feelings should be asked for and recorded. Schools and colleges must co-operate with the Local Authority with these

reviews. Representatives from post-16 setting should be invited to review meetings, especially if your child has an expressed a wish to attend a particular setting. It's important that the setting cooperates so it can contribute to the EHC plan's outcomes and start drawing up a post-16 study programme to meet the needs.

Q.16. Can I ask for a reassessment of my child's needs before an Annual Review is due?

Yes, you can. As can your child's educational provider or your CCG. Your Local Authority can also initiate a reassessment if it thinks one is necessary. Your Local Authority can refuse a request if your child's last EHC needs assessment took place within the last six months, or if it thinks one is unnecessary.

If your child is aged 19 and over, a Local Authority must have regard to whether the educational or training outcomes specified in their EHC plan have been achieved. The Local Authority must let you know its decision within 15 calendar days of receiving your request. There is a right of appeal to the Tribunal if the request is refused. If the Local Authority decides to carry out a reassessment, the procedures, timescales and rights of appeal are the same as for the first EHC needs assessment.

Q.17. What happens to my child's EHC plan if we move to another Local Authority?

Your old Local Authority must transfer the EHC plan to the new authority on the day of your move, unless they have not been provided with 15 working days' notice of the move, in which case they must do so within 15 working days of being notified of the move.

The new authority then becomes responsible for maintaining the Plan and ensuring the special educational provision specified in it is provided. It can arrange for an early review of the EHC plan and conduct a new EHC needs assessment. It must let you know within 6 weeks of the date of transfer when it will undertake the review and whether or not it will undertake an EHC needs assessment. In any event, it must review the Plan within:

- 12 months of the plan being made or being previously reviewed by the old authority, or
- 3 months of the plan being transferred whichever is later.

If, because you have moved, it is no longer practicable for your child to attend the school named in their EHC plan, the new Local Authority must arrange for them to attend an appropriate placement until it is possible for them to amend the EHC plan.

If you move in the middle of an EHC needs assessment, special provisions apply.

Similar duties apply to CCGs if your move results in a new CCG becoming responsible for your child.

Q.18. My child is being educated out of our area. Which Local Authority is responsible for ensuring the special educational provision in their EHC plan is provided?

Your home Local Authority. However, local authorities can make reciprocal arrangements to carry out these duties on each other's behalf.

Q.19. What happens if my child is admitted to hospital?

Your child should have access to education that is on the same level as mainstream provision, and suitable support to ensure their SEN are met. If they have an EHC plan your Local Authority needs to be informed that they are now in hospital so that it can ensure that the provision in the Plan continues to be made. It may be necessary to review the Plan to ensure it remains appropriate and your child's needs met. When your child is ready to return to mainstream education, the Local Authority should work with you, your child and their education provider to produce a reintegration plan which should be linked to their EHC plan or individual healthcare plan where possible.

Transition

Q.20. When should the planning start for our child's transition to adulthood?

The SEN Code of Practice is keen to stress the importance of encouraging the ambitions of children from a very young age and supporting them to participate fully in nursery and school life and beyond. It recommends that schools seek partnerships with organisations in the wider community such as employment services, businesses and disability organisations so that pupils learn about the provision that is available to them as they get older. Local authorities must ensure that the relevant services they provide co-operate with each other to help children and young people prepare for adulthood.

Maintained schools, pupil referral units, academies and free schools must provide independent careers advice to pupils from Year 8 until Year 13. FE colleges have a similar duty for all students up to and including age 18 and for those students aged 19-25 who have EHC plans.

From Year 9 there is a real focus on preparing for adulthood for pupils with EHC plans (see question 15). The SEN Code of Practice 2014 suggests a staged approach to transition planning: it suggests that in Year 9, schools should help pupils explore their hopes and ambitions and how different post-16 options could help them to achieve these. In Year 10, there should be more emphasis on specific courses or places to study (through taster days or visits for example) so that pupils and their parents can make provisional plans. In Year 11, the family should be supported to firm up these plans (allowing for contingency planning) and familiarise themselves with their proposed new setting.

The transition to adult social care and support should be integrated with the annual reviews of a child's EHC plan.

Q.21. When are my child's views taken into account?

Once your child is over compulsory school age, (that is from the end of the academic year in which they turn 16) it is your child rather than you who has the right to make requests and decisions under the SEN Framework, namely the right to:

- request an assessment for an EHC plan (this is open to them until their 25th birthday)
- make representations about the content of their EHC plan
- request that a particular institution is named in their EHC plan
- request a Personal Budget for elements of an EHC plan
- make an appeal to the Tribunal in connection with their EHC plan

You can continue to support your child or make decisions on their behalf, provided they are happy for you to do so and it is expected that you will remain closely involved, particularly while your child is under 18. If your child needs support from an independent supporter to put forward their views, local authorities should ensure that they have access to such skilled support.

Once your child reaches the age of 16, education, health and social care professionals and other practitioners providing care and support to your child will work on the basis that your child is able to make decisions for him/herself, unless this is shown not to be the case. If there are concerns that your child lacks capacity to make certain decisions, an assessment of their capacity should be undertaken in accordance with the Mental Capacity Act 2005 and the Code of Practice that accompanies this Act. If your child is assessed as lacking the capacity to make certain decisions, then either their representative such as a Court of

Protection Deputy or you as their parent if they have no other representative will be able to make decisions instead.

Q.22. How long can the EHC plan stay in force?

Your child's EHC plan can stay in force until the end of the academic year in which they turn 25 (or the day their apprenticeship finishes or the day before their 26th birthday if later), provided they remain in further education or training and continue to have special educational needs which require special educational provision provided through an EHC plan.

If your child is 16 or over and leaves education to start paid employment (other than an apprenticeship) their EHC plan will cease.

If your child moves into higher education or leaves education when they are 18 or over and do not wish to study any further, their EHC plan will cease.

The SEN Code of Practice 2015 emphasises that your child's exit from an EHC plan should be planned carefully to ensure a smooth transition and that your child should know what will happen when their EHC plan ceases. If you disagree with a decision to cease an EHC plan then you can appeal to the Tribunal (see question 45). Even after it has made a decision to cease an EHC plan, the Local Authority must continue to maintain the Plan until the deadline for appealing has passed or, if an appeal has been made, until it is concluded.

Q.23. What non-traditional study routes may be open to my child?

There are several work-based learning options available, such as Apprenticeships, traineeships and structured internships and your child's school or college should help match your child to a suitable placement.

Q.24. What does the Apprenticeship route entail?

Apprenticeships are open to all people who are aged 16 or over and who are not in full time education. In England there are four different levels of apprenticeship:

- Intermediate
- Advanced
- Higher
- Degree

These combine a work based qualification such as an NVQ, key transferable skills and a Technical certificate. Learning providers focus on knowledge and key transferable skills while the employer offers practical on-site training.

Applications for apprenticeships are made through the National Apprenticeship Service which is part of the Skills Funding Agency. Your child may want to consider a traineeship prior to applying for an apprenticeship or employment, in order to gain necessary skills or experience. For more information, see the National Apprenticeship Service or GOV.UK websites (see Useful Organisations section on page 30-31).

Q.25. What is a supported internship?

It is a structured study programme for young people with an EHC plan. It takes place primarily at an employer, usually lasting for a year including extended unpaid work placements of a minimum of six months. Students follow a personalised study programme which gives them the opportunity of studying for relevant qualifications if suitable as well as English and Maths to an appropriate level. The aim is that if possible a young person will be supported into paid employment at the end of the programme.

Q.26. What happens if a course is only three days a week?

The Local Authority must specify the special educational provision which is required for the young person and not base provision on what a young person of a similar age normally receives in terms of study hours. Local authorities should consider the need for your child to have a package of support across education, health and care that covers five days a week; it may be that a course that is normally offered for 3 days needs to be spread over four or five days if that will lead to better outcomes for your child.

Five day a week packages could be delivered at several different providers, involving different amounts of time and include time and support for independent study, as well as health and care related activities.

Q.27. What additional learning support is available in a higher education setting?

There is a wide range of financial support available to higher education students depending on their personal circumstances including student grants, student loans, bursaries, scholarships and awards and hardship funds.

In addition, there is a fund which disabled students may be able to obtain depending on their programme of study, to assist with the additional study costs they incur as a result of their disability. This fund is known as the Disabled Students' Allowance and is non-means tested.

The allowance can help with purchasing specialist equipment, paying for support workers and other disability- related study items such as extra books, photocopying and batteries; there is also a travel allowance.

Application forms are available from the GOV. UK website or Student Finance England.

For further information about HE funding, see the Useful Organisations and Useful Guidance sections (on pages 30-33).

Personal Budgets

Q.28. What is a personal budget?

A personal budget is an amount of money identified by your Local Authority to deliver provision set out in an EHC plan where you or your child are involved in obtaining that provision. The final budget allocation must be sufficient to secure the agreed provision specified in the EHC plan and must be set out as part of the provision in section J of the Plan. Personal budgets are already available for health and social care but under this new system are being extended to education.

There are four different ways a budget can be distributed:

- direct payments – where you receive money to contract, buy and manage services yourselves
- an arrangement / notional budget – where your Local Authority, school or college holds the funds and organises the support
- third party arrangements – direct payments are managed by an individual or organisation on behalf of you or your child
- a combination of all three

Regulations set out how personal budgets are monitored and reviewed.

Q.29. What kind of provision can personal budgets cover?

They can cover education, health and social care provision. Direct payments cannot be used to fund a place at a school or post-16 institution.

Q.30. Do we have to have a personal budget?

No, it is optional. Local authorities must provide you with information about organisations that might be able to help you make an informed decision.

Q.31. If we choose to have one, when do we apply for one?

When your Local Authority issues a draft EHC plan or during a review of your child's EHC plan.

Q.32. Can the Local Authority refuse to allow us to have a personal budget?

Yes, but it must set out its reasons for doing so. Different regulations govern the use of personal budgets in education, health and social care. If your Local Authority refuses a request for direct payments in relation to special educational provision on grounds set out in the relevant regulations, it must provide written reasons for its decision and explain how you can apply for a formal review of its decision. Each request is considered on its own individual merits.

Decisions relating to the health provision are the responsibility of your ICB and if they decline your request, they must also give written reasons and explain how you can apply for a formal review of their decision. Direct payments for health require a Care Plan agreed between you / your child and the ICB.

The Equality Act 2010 ('the EA 2010') and Education

Q.33. What protection does the EA 2010 offer my child?

The EA 2010 offers protection from discrimination and harassment to people based on a 'protected characteristic' in a variety of contexts. Victimisation is also unlawful.

There are nine protected characteristics, not all of which apply in every context. This guide focusses on the protected characteristic of disability.

The Equality and Human Rights Commission ('the EHRC') has issued a range of guidance on the EA 2010 (see the Useful Guidance section on page 32).

Q.34. Does this protection apply in any school, college or university?

All schools have duties under the education provisions of the Act regardless of whether they are in the state or private sector.

Further and higher education providers also have duties under the education provisions of the Act although their duties differ from those on schools.

Education providers have separate duties in relation to members of the public (including parents) under the services provisions of the Act and to their employees under the employment provisions.

In addition, there are separate provisions under the education provisions of the EA 2010 in relation to:

- Local Authority secured further or higher education and the provision of recreational and training facilities;
- the provision of further education courses by maintained schools; these are outside the scope of this guide;
- bodies which award academic school qualifications (such as the GCSE examination boards);
- some Local Authority functions.

Trade organisations and qualifications bodies (which grant professional or trade qualifications such as City & Guilds) have duties under the employment provisions of the EA 2010.

Q.35. Does this protection apply in early-years settings as well as schools?

Nursery schools maintained by a Local Authority and nursery education provided within a school are under the same duties as schools. Other early-years settings such as private nurseries count as service providers and are covered by the EA 2010's services provisions.

Q.36. My daughter is doing a work placement whilst training at the same time. Is she protected when on the work placement?

Your daughter will be protected from discrimination from the work placement provider under the employment provisions of the EA 2010; she will also have protection from her training provider under either the education or the services provisions of the EA 2010, depending on the type of training provider. Apprenticeship contracts and vocational guidance or training services are also covered by the work provisions of the EA 2010.

Q.37. Does this protection apply to all aspects of school/college/university life?

Effectively yes, including admissions, exclusions and all activities / facilities provided as well as the formal education provided. There are some exceptions such as the content of the curriculum.

The protection applies to applicants, current pupils / students and in certain situations to former pupils /students. If your disabled child is on a course at a further or higher education institution but their actual qualification is awarded by another institution, that other institution has duties towards them as well.

Q.38. What are the different forms of discrimination which apply to the protected characteristic of disability?

Direct discrimination

Treating a person less favourably than you treat or would treat others because of a protected characteristic.

For example (adapted from the EHRC's Further and Higher Education Technical Guidance): a college organises an open day for prospective students, some of whom arrive with young children. One of the prospective students has severe physical and communication disabilities. The open day organiser asks the prospective student to move to the back of the room away from the other prospective students and their children as they are concerned about the reaction of young children.

Direct discrimination is generally unlawful with a few exceptions. It is however always lawful to treat a disabled person more favourably than a non-disabled person because of their disability. Direct discrimination by association (see question 43) and by perception are also unlawful.

Indirect discrimination

Applying a provision, practice or criteria in the same way for all people but which has the effect of putting people who share a protected characteristic at a particular disadvantage compared with people who do not have that protected characteristic unless this can be shown that it is a' proportionate means of achieving legitimate aim'.

For example, (adapted from the EHRC's Technical Guidance for Schools in England): a school has a policy of limiting tours of its site for prospective parents and pupils to 30 minutes. The school realises that this policy puts disabled prospective pupils with mobility impairments at a particular disadvantage. It decides the policy cannot be justified and amends it so as to avoid indirectly discriminating against this group.

Discrimination arising from disability (for disabled people only)

Treating a disabled person unfavourably because of something arising in consequence of their disability unless it can be shown that the treatment is a proportionate means of achieving a legitimate aim. If the education provider has failed to make an appropriate reasonable adjustment (see question 39) it will be very difficult for them to prove the treatment was justified. If the education provider did not know and could not reasonably have been expected to know that the person was disabled, the treatment will not amount to discrimination arising from disability.

For example, a pupil with Tourette's Syndrome is not allowed to go on any school trips because the school is concerned that its reputation will be damaged by his swearing (which is an involuntary consequence of his disability). The school's decision would need to be justified to be lawful.

A failure to make reasonable adjustments (for disabled people only)

See question 39

Q.39. What is the reasonable adjustment duty?

The reasonable adjustment duty is anticipatory in both education and services contexts. This means that education and service providers are expected to plan ahead and take reasonable steps to address the barriers that may be faced by people with different kinds of disability such as people with mobility difficulties, hearing impairments, or learning disabilities. In a work context the reasonable adjustment duty applies to individual disabled people only.

The duty is also an ongoing duty. Reasonable adjustments should be kept under review; additional or alternative adjustments may need to be made as time goes on or adjustments that were once unreasonable may become reasonable ones to make in light of, for example, technological advances.

The duty requires education providers to:

- avoid substantial disadvantage where a practice, provision or criterion puts disabled people at a substantial disadvantage (Note: "substantial" means more than minor or trivial).

For example (adapted from the EHRC's Technical Guidance for Schools in England): a disabled pupil with chronic fatigue syndrome finds moving around a large three-floor secondary school very tiring. The school adjusts the timetable and location of classes to minimise the amount that she has to move around the school.

- provide an auxiliary aid (such as electronic or manual notetaking equipment) or service where a failure to do so would put a disabled person at a substantial disadvantage. Whether it is reasonable for an education provider to provide an auxiliary aid or service will depend on a number of factors including whether or not these have been provided through the SEND route. In addition to the Technical Guidance for schools and for further and higher education, the EHRC has issued Technical Guidance on Reasonable Adjustments for Disabled Pupils.

For example, (adapted from the EHRC's Technical Guidance for Schools in England): a pupil with ADHD attends an infants school and receives some individual teaching assistant support through the SEND framework. She is diagnosed with severe asthma and needs assistance with her nebuliser. Although this is not a special educational need, her asthma is likely to be a disability for the purpose of the EA 2010 and so a failure to provide a reasonable adjustment will place her at a substantial disadvantage. The school trains her teaching assistant who provides her with the assistance she needs. This would be a reasonable adjustment for the school to make.

If the provision, practice or criteria or the need for an auxiliary aid relates to the provision of information, the duty includes ensuring that the information is provided in an accessible format.

Further and higher education providers, private nurseries and employers are also required to take reasonable steps to:

- avoid substantial disadvantage to a disabled person caused by a physical feature; this includes removing the feature in question, altering it or providing a reasonable means of avoiding it and (in the case of private nurseries and other service providers) if the disadvantage cannot be avoided, providing an alternative means of providing the service.

For example (taken from the Further and Higher Education Technical Guidance – see Useful Guidance section on page 32): a college allows a student who is a wheelchair user to access the college building through the staff entrance which is fully accessible, rather than the main entrance which has steps.

In a further and higher education context, the reasonable adjustments duty does not apply to what are known as 'competence standards', that is academic, medical or other standards that are applied in order to decide whether or not a person has a particular level of competence or ability; it

does however apply to the process by which such standards are assessed.

Q.40. What about a school's duties in relation to physical access to school buildings?

Schools in England have a duty to prepare Accessibility plans setting out how they will:

- improve the physical environment
- increase the accessibility of the school curriculum for disabled pupils and
- improve the provision of information to them.

Schools must consider the need to allocate adequate resources to these plans.

Local authorities have to prepare an Accessibility strategy covering the same areas in relation to schools they are responsible for and this must be included in their Local Offer.

Both the Accessibility Plan and the Accessibility Strategies must be implemented after considering pupils' disabilities and the preferences of them and their parents. They must also be reviewed regularly. You can ask to see a copy of these documents.

Q.41. Can our child be charged for the cost of making a reasonable adjustment?

No – a disabled person cannot be charged for the cost of making a reasonable adjustment for them; the question to consider is whether the adjustment is a reasonable one to make.

Q.42. What is the Public Sector Equality Duty and is it relevant?

The public sector equality duty (which seeks to eliminate discrimination from within a public body) has two parts: a general duty and specific duties; Wales and Scotland have different specific duties. Not all public bodies are subject to both parts of the duty. Organisations which are not public bodies but which carry out a public function as part of their role will be covered by the general part of the duty in relation to the exercise of that function.

All Local Authority maintained primary and secondary schools, Academies, free schools and pupil referral units in England are subject to both parts of the public sector equality duty in relation to all the protected characteristics that apply to schools. The majority of further and higher education institutions in England are also subject to both parts of the duty in relation to all the protected characteristics that apply to this sector.

The general duty has three aims. In exercising its functions, a public body must have due regard to the need to:

a) eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the EA 2010;

b) advance equality of opportunity between persons who share a protected characteristic and those who do not share it;

c) foster good relations between persons who share a protected characteristic and those who do not share it.

The specific duties are designed to assist organisations in meeting the requirements of the general duty. In England, organisations are required to publish information about how they are complying with the duty at least once a year and to prepare and publish one or more equality objectives which must be both specific and measurable and to revise and publish these at least every four years.

Q.43. Am I protected from discrimination because of my relationship with my disabled child?

You are protected from direct discrimination and harassment if you are treated less favourably because of your association with your disabled child by, for example, your child's education provider, a service provider or your employer.

Complaints, appeals and claims

General

Q.44. What should I do if I am unhappy with aspects of my child's education provision?

You should consider seeking legal advice as a matter of urgency as there are tight time limits involved in all routes of redress.

Local authorities and education providers will have internal complaints procedures and you can continue to negotiate with them even after legal proceedings have been started or a complaint made.

Special Educational Needs

Q.45. Under what circumstances can I appeal to the SEND Tribunal?

In England appeals can be made to the First Tier Tribunal (Special Educational Needs and Disability) ('the Tribunal') in relation to certain aspects of the SEN support for a child. Providing there is an education element, social care and health issues can also be appealed in an extended appeal. Appeals must be made within 2 months of the date of the Local Authority's final decision letter or within one month of receiving the meditation certificate, which ever is the later. Appeals can be made concerning:

- decision not to carry out an EHC needs assessment or re-assessment
- decision that it is not necessary to issue an EHC plan after an assessment
- description of SEN, special educational provision, school or other institution or type of school / other institution specified in the EHC plan or that no school or other institution is specified.
- amendment to these elements of the EHC plan
- decision not to amend the EHC plan following a review or re-assessment
- decision to cease to maintain an EHC plan.

The Tribunal can make non-binding recommendations about health and social care elements of an EHC plan.

While the Tribunal will not hear appeals about personal budgets, it does hear appeals about special educational provision to which personal budgets can apply.

For details about the procedure, visit the Tribunal website (see Useful Guidance section on page 32).

Q.46. Who can appeal to the SEND Tribunal?

You can appeal to the Tribunal on behalf of your child until they have reached the age of 16 and after that your child has the right to appeal to the Tribunal until they reach the age of 25. If a young person over the age of 16 does not have capacity to bring an appeal then you can bring an appeal instead, unless they have another representative such as a Court of Protection Deputy.

Q.47. Is legal aid available?

Depending on your financial circumstances, legal aid may be available for legal advice up to a hearing, but not for the hearing itself. For more information, visit the GOV.UK website in the Useful Organisations section on page 30.

Q.48. Do we have to go to mediation first?

No, but you do have to contact an independent mediation adviser before you issue an appeal unless your appeal is only about:

- the name / type of the school, college or other institution named in the EHC plan
- the fact that no school or other institution is named in the EHC plan.

The Local Authority must supply you with contact details of an independent mediation adviser at the same time as informing you of their decision and explaining about your rights of appeal.

You will need to arrange a meeting with the mediation adviser who will explain all about mediation but you can decide whether or not you wish to enter into mediation. If you decide not to proceed with mediation, the mediation adviser will issue a mediation certificate within three working days of being told your decision.

If you do decide to proceed with mediation and do not reach an agreement, you will be issued with a mediation certificate and you will still be able to appeal to the Tribunal within one month of receiving the certificate or within two months from date of the original decision letter whichever is the later.

Social Care provision

Q.49. How do we challenge the social care elements in my child's EHC plan?

Any social care elements which are included in the special educational provision section of the EHC plan (see question 7) are challenged as special educational provision (see questions 44-48).

In relation to the social care elements in sections D, H1 and H2, these can be appealed to the SEND Tribunal providing there is an education element to the appeal. Alternatively, complaints can be made under the relevant Local Authority Complaints procedure (governing children or adult services), details of which will be found on your Local Authority's website. If you are dissatisfied with the outcome of this process, you can make a complaint to the Local Government and Social Care Ombudsman (See Useful Organisations section on page 31).

You can also enter into mediation about the social care elements of the EHC plan.

Health care provision

Q.50. How do we challenge the health elements in my child's EHC plan?

Any health elements which are included in the special educational provision section of the EHC plan (see question 7) are challenged as special educational provision (see questions 44-48).

In relation to the health elements in sections C and G these can be appealed to the SEND Tribunal providing there is an education element to the appeal. If you are concerned about the way a service is being provided, your complaint should be made to the service provider (such as a NHS Hospital Trust); if your concern is about the way in which a service is commissioned or provided (which could include concerns about the appropriateness of provision in an EHC plan), the complaint should be made to your ICB.

Your local Healthwatch must provide you with details of how to take forward a complaint or resolve an issue (see the Useful Organisations on page 30).

You can also make a complaint to the Parliamentary and Health Services Ombudsman (See the Useful Organisations section on page 31) although usually the NHS will need to have had the opportunity to resolve the matter locally first.

You can also enter into mediation about the health elements in section G of the EHC plan.

Disability Discrimination

Q.51. Are all disability discrimination claims against education providers in relation to pupils or students made to the SEND Tribunal?

No, it depends on the type of education provider as follows:

Schools

All claims concerning disability discrimination against pupils in schools are heard by the SEND Tribunal except claims relating to the admission of pupils to Local Authority or other state funded schools (Academies or free schools). These are heard under the appeal arrangements for admissions decisions, details of which will be provided by the school or Local Authority.

Unlike SEN appeals, there is no requirement to obtain a mediation certificate before making a disability discrimination claim.

For more information about the scope, time limits and procedure for disability discrimination Tribunal claims, see the guidance on the Tribunal's website; (see Useful Guidance section on page 32).

Further and Higher Education providers and private early years settings

Disability discrimination claims about further or higher education providers or private early years providers unless they form part of a school in relation to students or pupils must be made to the County Court. For more information about the procedure and time limits see the EHRC's website or contact the Equality Advisory and Support Service (see the Useful Organisations section on page 30). It is generally sensible to obtain legal advice before bringing County Court proceedings, because unlike in the Tribunal there will be Court fees involved and, if your claim does not succeed, the Court may require you to pay the other side's legal fees.

Employers

If an apprentice / student on a work placement wants to bring a disability discrimination claim against their work placement provider, this must be made to the Employment Tribunal. Information about the procedure and time limits is available from the EHRC's website or the Equality Advisory and Support Service or ACAS (see the Useful Organisations section on page 30).

Q.52. What about claims in relation to the public sector equality duty?

Claims in relation to the general public sector equality duty are brought by way of Judicial Review in the High Court. These can be brought by individuals or groups with an interest in the matter and / or the EHRC. The EHRC can take enforcement action in relation to the specific duties. Information about the procedure and tight time limit is available from the EHRC's website.

Additional Enforcement Options

There are additional enforcement options which may be applicable depending on the issue, including judicial review (which may be pursued, for example, if there is a failure to put in place the special educational provision specified in an EHC plan), complaints to the Secretary of State for Education, Ofsted or the Office of the Independent Adjudicator (for students in Higher Education).

Glossary

Compulsory school age:

From the start of term following a child's 5th birthday to the last Friday in June in the academic year in which they turn 16, provided that their 16th birthday falls before the start of the next academic year.

Disability:

A person is disabled under the Equality Act 2010 if they have a physical or mental impairment which has a substantial long term adverse effect on their ability to carry out normal day to day activities. A mental impairment does not have to be clinically 'well recognised' for it to be a disability under the Act.

Harassment under the Equality Act 2010:

The Act prohibits three different kinds of harassment:

a) harassment related to a 'relevant protected characteristic (being disability, race and sex in a schools context; the same in addition to age, gender reassignment, religion or belief and sexual orientation in a further and higher education and work context and the same in addition to age for people aged 18 or over and gender reassignment in a services context); harassment relating to pregnancy and maternity would amount to harassment related to sex, harassment related to civil partnership would amount to harassment related to sexual orientation, while harassment related to other characteristics not expressly covered here may amount to direct discrimination

b) sexual harassment, and

c) less favourable treatment because of a submission to or a rejection of sexual harassment or harassment related to sex (or gender reassignment in a further and higher education, work and services context).

Clearly in relation to sexual harassment of a pupil, there is other relevant legislation including that which covers criminal behaviour.

Integrated Care Board:

An integrated care board (or ICB) is a statutory NHS organisation which is responsible for developing a plan for meeting the health needs of the population, managing the NHS budget and arranging for the provision of health services in a geographical area." ICBs replaced Clinical Commissioning Groups in 2022.

Learning difficulty or disability (under the SEN framework):

A child of compulsory school age or a young person over compulsory school age has a learning difficulty or disability if they:

- have a significantly greater difficulty in learning than the majority of others of the same age; or
- have a disability, which prevents or hinders them from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

Protected characteristic under the Equality Act 2010:

- Age (does not apply in a schools context; in a services context it only applies to people aged 18 or over).
- Disability (see above in glossary)
- Gender reassignment
- Marriage and civil partnership (in a work context only)
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Special Educational Provision:

For children aged two or more, provision that is different from or additional to that normally available to pupils or students of the same age by mainstream schools, maintained nursery schools, mainstream post-16 institutions or by relevant early years providers. For children aged under two, it is educational provision of any kind.

Special Educational Needs:

A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her. A child under compulsory school age has SEN if they are likely to fall within the definition of having a learning difficulty or disability (see above) when they reach compulsory school age or would do so if special educational provision was not made for them.

Victimisation under the Equality Act 2010:

If an education provider, service provider or employer subjects a person to a detriment because they have carried out or if the provider / employer believes they have or may carry out a 'protected act', this amounts to victimisation of that person. It is also victimisation in a schools context for a school to subject a parent, or other member of the public to a detriment because they have carried out or may carry out a 'protected act'.

A 'protected act' is:

- bringing proceedings under the EA 2010
- giving evidence or information in connection with proceedings brought under the EA 2010
- doing anything else for the purposes of or in connection with the EA 2010
- making an express or implicit allegation that another person has done something in breach of the EA 2010 (whether or not the allegation is later dropped).

If a school subjects a pupil to a detriment because their parent or sibling has carried out a 'protected act' this will also amount to victimisation of the pupil.

Useful Organisations

ACAS:

Provides information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems: www.acas.org.uk

ACE Education:

Offers a comprehensive range of online advice and information on education issues, a term time advice line and training, (formerly the Advisory Centre for Education): http://www.ace-ed.org.uk/

Council for Disabled Children:

The umbrella body for the disabled children's sector in England and aims to make a difference to the lives of disabled children and children with special educational needs by influencing Government policy, working with local agencies to translate policy into practice and producing guidance on issues affecting the lives of disabled children: www.councilfordisabledchildren.org.uk

Disability Rights UK:

A national organisation led by people with a wide range of impairments or health conditions working to make rights real. Produces a wide range of information including further and higher education information leaflets available to download for free and a helpline / e-mail advice service for post-16 education or training queries from disabled students or professionals working with disabled students: www.disabilityrightsuk.org

Education Law Association:

An association for educationalists, lawyers and advice workers concerned with the law of education which seeks to support the advancement of education for the public benefit from pre-school through primary, secondary, further, higher and adult education. It provides training and advice and assistance in matters relating to education law and a referral service: www.educationlaw.org/

Equality Challenge Unit:

Works to further and support equality and diversity for staff and students in higher education institutions across the UK and in colleges in Scotland: www.ecu.ac.uk

Equality Advisory and Support Service:

A helpline which advises and assists individuals on issues relating to equality and human rights across England, Wales and Scotland. It can also accept referrals from organisations, which, due to capacity or funding issues, are unable to provide face to face advice to local users of their services: http://www.equalityadvisoryservice.com/

Equality and Human Rights Commission (EHRC):

Its role is to promote and monitor human rights; and to protect, enforce and promote equality across the nine 'protected characteristics' under the Equality Act 2010 – age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief: https://www.equalityhumanrights.com/en

GOV.UK:

The place to find information about government services: www.gov.uk

Healthwatch:

A national consumer champion for health and care with a local network and statutory powers to report on key issues affecting service users and to expect responses from those in charge of health and social care services: www.healthwatch.co.uk

IPSEA:

(Independent Parental Special Education Advice) a registered charity offering free and independent advice to parents of children with

special educational needs in England and Wales on : Local Authorities' legal duties to assess and provide for children with special educational needs; exclusions of children with special educational needs / disabilities; actions or inaction by Local Authorities and/or schools which discriminate against children with disabilities: www.ipsea.org.uk

Information, Advice and Support Services Network:

Provide training and support to local IAS Services across England: https://councilfordisabledchildren.org.uk/about-us-0/networks/information-advice-and-support-services-network

Local Government and Social Care Ombudsman:

Looks at complaints about Councils (Local Authorities) and some other authorities and organisations, including education admissions appeal panels and adult social care providers (such as care homes and home care providers). It is a free service: www.lgo.org.uk

National Apprenticeship Service:

Part of the Skills Funding Agency and supports, funds and co-ordinates the delivery of apprenticeships throughout England: www.apprenticeships.org.uk

National Network of Parent Carer Forums:

A network of local forums meeting in regional settings, working together to effect national service improvement through participation and co-production with parent carers: www.nnpcf.org.uk

Parliamentary and Health Services Ombudsman:

Considers complains that government departments, a range of other public bodies in the UK and the NHS in England have not acted properly or fairly or have provided a poor service. It is a free service: www.ombudsman.org.uk

SOS!SEN:

Is a national charity that aims to empower parents and carers of children and young people with SEND to successfully tackle the difficulties they face when trying to secure the right educational provision for their children.

www.sossen.org.uk

Useful Guidance

Special Educational Needs

SEN Code of Practice 2015:

https://www.gov.uk/government/publications/send-code-of-practice-0-to-25

Statutory guidance for local authorities on transition to the new system:

https://www.gov.uk/government/publications/send-managing-changes-to-legislation-from-september-2014--3

Disability Discrimination

EHRC Statutory guidance

Services, public functions and associations Statutory Code of Practice:

https://www.equalityhumanrights.com/equality/equality-act-2010/codes-practice/services-public-functions-and-associations-code-0

Employment Statutory Code of Practice:

https://www.equalityhumanrights.com/sites/default/files/employercode.pdf

EHRC Technical and non-statutory guidance

Technical Guidance for schools, further and higher education and the public sector equality duty: https://www.equalityhumanrights.com/equality/equality-act-2010/technical-guidance-further-and-higher-education

Reasonable adjustments for disabled pupils: https://www.equalityhumanrights.com/sites/default/files/reasonable_adjustments_for_disabled_pupils_scotland_0.pdf

Office for Disability Issues Guidance

Guidance on matters to be taken account of in determining questions relating to the definition of disability:

https://www.equalityhumanrights.com/equality/equality-act-2010/technical-guidance-schools-england

Personal Budgets

A factsheet from Contact:

https://contact.org.uk/wp-content/uploads/2021/03/Personal-budgets.pdf

Further and Higher Education

Disability Rights UK provides a range of factsheets:

https://www.disabilityrightsuk.org/news/2019/january/our-funding-he-factsheet-disabled-students-has-been-updated

Appeals and Claims

First-Tier Tribunal (Special Educational Needs and Disability) (England) – information on how to appeal SEN decision or make a disability discrimination claim:

http://www.justice.gov.uk/tribunals/send/appeals

Cerebra Disabled Children Parents' guides

https://cerebra.org.uk/get-advice-support/parent-guides/

Information About The Author

Jo Honigmann specialises in discrimination, disability and education law and policy. Having practised as a solicitor for several years, both in private practice and the not for profit sector, Jo has been working as a legal and policy consultant since 2008. Projects have included drafting Equality Act 2010 education guidance as part of a small consortium for the Equality and Human Rights Commission and training for the NHS. During her career, Jo has also been responsible for a university's policy and provision for its disabled students. She has written, trained and presented on education and discrimination law and policy to a wide range of specialist audiences. Jo is a former Chair of the Law Society's Mental Health and Disability Committee and was a member of the Committee from 2003 to 2013. She has an MSc in Disability Management in Work and Rehabilitation.

Information About The Reviewer

John Furlong works in the LEaP team supporting parents who have difficulties accessing social care for their disabled children. He previously worked in SEN law and has campaigned for the improvement of services for disabled children.

The findings of this report are those of the author, not necessarily those of Cerebra.

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