

What a draft EHCP includes, naming the school and finalising the plan

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If a local authority decides to issue a child or young person with an Education, Health and Care Plan (EHCP), they will carry out an EHC needs assessment. It is following this assessment that parents/ carers receive a draft EHC plan.

However, it is very important to remember that whilst parents/ carers are waiting for an evaluation from the school about their child's difficulties, the school's responsibilities do not cease: they maintain overall responsibility to provide an appropriate education for the child. Their duty is to provide for the need not the label. The Needs Assessment will merely confirm the identified need. The Needs Assessment is best done with the support of the school. As a part of the Needs Assessment, the Local Authority should ask itself whether the child's special educational needs can and will be met through provision from the resources normally available to a mainstream school. If the Local Authority respond by saying that the child's needs are being met, possibly with some additional funding, it is vital that parents/ carers consider how this will work long term, for example, will the funding always be there? What if there are funding cuts in the future? Can the school decide to redirect these funds in the future for a different purpose? This lacks the security of provision that an EHCP brings.

Once parents and carers receive the draft plan, they have 15 days from the date the draft was sent to ask for any changes to or make comments (officially called 'making representations') about the plan and to express a preference of a school to be named in section I of the plan. Parents/ carers are entitled to ask for an extension to the 15 days, usually for a further 15 days. As a result of parental feedback and comments, the Local Authority will either issue a final plan with all or some of the changes requested, reissue an unchanged final plan or make changes of their own and reissue the plan in a draft form. Even if parents/ carers "sign off" the draft plan, they will still have the right to appeal once the final version has been issued.

It is important that parents check the draft plan carefully. However, there is no national standard format for the EHC plan, and different local authorities have different templates. Every plan must have certain sections, which must be clearly labelled.

- A.** The views, interests and aspirations of the parent and the child/ young person.
- B.** Special educational needs (SEN).
- C.** Health needs related to SEN.
- D.** Social care needs related to SEN.
- E.** Outcomes - how the extra help will benefit the child/young person.
- F.** Special educational provision (support).
- G.** Health provision.
- H.** Social care provision.
- I.** Placement - type and name of school or other institution.
- J.** Personal budget arrangements.
- K.** Advice and information - a list of the information gathered during the EHC needs assessment.

Some local authorities set the EHC plan out in a table form; others in consecutive sections. However, the plan is laid out, it is crucial for parents to understand that there are three sections on needs (a child's difficulties) that are matched by three sections on corresponding provision (the help the child will get).

The draft plan needs to be supported by evidence that was used to inform the Needs Assessment. This evidence can be provided either by the parent or one which they or the school have commissioned for example, an Educational Psychologist's report. The clearer the evidence is, the more likely it is that a proper assessment will be made. This evidence can be in the form of a formal report from a range of professionals, for example, an Educational Psychologist, Speech and Language team (SALT), an Occupational Therapist, GP or Community Paediatrician etc) or can be oral evidence, most probably from the teacher, teaching assistant or SENDCO. Parent's comments within the draft plan will only be used as background material - not evidence - unless it has the support of a professional.

To support this, it is important that the parent/carer has the opportunity to have a direct conversation with the relevant professional to give an accurate history of the child's profile. Without this, important information can be missed. A good working relationship with the professionals involved with your child is very important. Without proper evidence included in the draft plan, an EHCP will not be issued.

After the assessment has been completed and the draft plan has been created, the parents/ carers have 15 days to make representations about the content of the plan and the school to be named. The Local Authority should then name the school requested by the parent in EHCP unless the school is unsuitable for the child's age, ability, aptitude or SEN or because the attendance of the child at the school would be incompatible with the provision of efficient education for others or with the efficient use of resources. If no school is requested, or one of the exceptions applies, the Local Authority must name an appropriate school or specify an appropriate type of school.

Once the draft plan has been agreed, it will not be "Final" until the Local Authority have completed Section I: Placement. It is only then that they will send the Final Plan to the parents/ carers and notify them of their right to appeal. If the parents/ carers then agree to "sign off" the plan at this stage, including the named school, then the EHCP is finalised.

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About Tania Griffiths QC

Tania Griffiths QC is a senior barrister at Exchange Chambers, Liverpool with a personal and professional interest in the equality and education rights of children and young persons with Special Educational Needs.