

The EHCNA Process

Stage One

- A parent, a young person over compulsory school age, or a person acting on behalf of a school or post-16 institution can request an EHC needs assessment*.
- Gather evidence
- Submit an EHC Needs Assessment request:
- The Local Authority (LA) has six weeks to respond with either 'Yes or no to assess'.

*(section 36(1) CFA 2014)

The legal test

“The local authority must secure an EHC needs assessment for the child or young person if, after having regard to any views expressed and evidence submitted under subsection (7), the authority is of the opinion that:

- (a) the child or young person has or may have special educational needs, and
- (b) it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.”*

*Stated in Section 36(8) of the (CFA 2014)

**Stated in Section 20(1) of the (CFA 2014)

Definition of ‘SEND’

The definition is contained in section 20;
there are two parts as follows:

“(1)A child or young person has special educational needs if he or she has a learning difficulty or disability which calls for special educational provision to be made for him or her.”**

“(2)A child of compulsory school age or a young person has a learning difficulty or disability if he or she—

- (a) has a significantly greater difficulty in learning than the majority of others of the same age, or
- (b) has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institution.”**

What type of evidence?

Although all of this evidence is useful to have do not worry if you don't have it all.

Pupil
Passport

Attendance
Records

List of provision
currently in place (if any).

Personal Learning Plans (PLPs) or
Individual Education Plans (IEPs).

Email correspondance
evidencing difficulties.

Professional reports
(e.g. Occupational Therapy, Clinical Psychologist,
Speech and Language Therapist etc.)

Useful points for writing an EHCNA request

- Try no to spend too much time outlining the special educational needs of the child/young person.
- Explain the special educational provision that may be required and why an EHC needs assessment may be necessary to identify and secure that provision.
- You do not need to prove that they need an EHCP – the legal test at this stage is whether they **may need** one.
- Try to quote wording from original reports/evidence
- If possible back up proposed provisions with evidence, for example:
 - “Sienna requires movement breaks throughout the day” please see Occupational Therapy report (Appendix I)
- Create an appendix of evidence. This makes evidence easier and clearer for the LA to refer to.

Stage Two

The local authority must notify the child's parent or the young person as soon as practicable and in any event within 6 weeks of receiving a request for an assessment*

Yes to Assess

- The LA will notify you of its decision.
- The LA will contact you to ensure they have details of all professionals involved.
- These professionals will be contacted to provide 'Statutory Advice'.

No to Assess

- The LA will notify you of its decision.
- The letter will provide a reason as to why the request has been refused.
- Within this letter will be your right to appeal.
- At this stage you must consider mediation before you can make an appeal.

*(regulation 5 The SEND Regulations 2014).

Mediation

What is it?

Mediation is the opportunity for you to discuss the outcome of your EHCNA request with the LA. The meeting will typically involve:

- Parent/carer/young person
- Mediator
- LA representative
- SENCO/teacher, if/ attending a school setting

The mediator is completely impartial and there to make sure the meeting is amicable and that everyone is given a chance to speak.

Do I have to mediate?

Usually, you must consider mediation before appealing to the SEND Tribunal. However, you do not have to attend mediation. You can obtain a mediation certificate and proceed to appeal.

The contact details for a mediation company will be provided on your letter.

Exception: if the appeal is solely about Section I (placement), you do not need to consider mediation or obtain a mediation certificate.

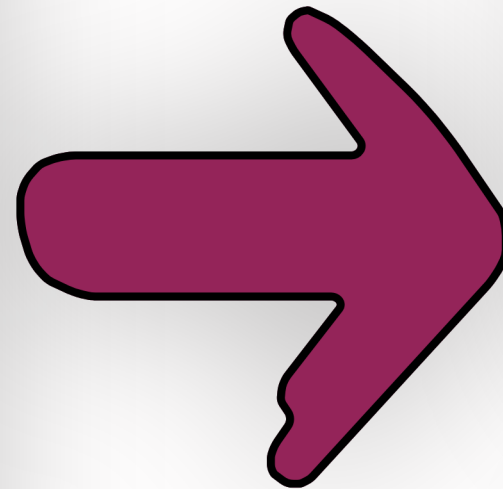
*The SEND Regulations 2014, regulation 33.

Stage Three

The EHC Needs Assessment takes place

As part of the assessment, the LA must seek advice and information about the child's or young person's education, health and care needs, the provision required and the outcomes intended

The professionals involved have **6 weeks** from the date the LA requests the advice.



Year 9 or above:
advice/info will be requested to ensure the young person has provision in place for preparation into adulthood and independent living

Medical/Health
Care professional

Advice/info from
social care if
involved

Info from other
people involved
with the
child/young person

Advice/info
from
school/SENCO

Educational
Psychologist
Assessment

Parent/young
person
contribution
form

Stage Four

Parents/carers or young person will be informed of the outcome of the EHCNA (usually within 16 weeks) and will either:

LA decides to issue an EHCP

You will be sent a draft EHCP and will then have **15 days**, beginning with the day on which the draft plan was served, in which to—

- ① make representations about the content of the draft plan, and to request that a particular school or other institution be named in the plan; and
- (ii) arrange a meeting between yourselves and the LA at which the draft plan can be discussed; and
- (b) be given advice the LA as to where you can find information about the schools and colleges that are available attend. *

The draft EHCP must not name a school or other institution in Section I.

LA decides not to issue an EHCP

This letter will provide details on your rights to mediation and how to appeal to the SEND tribunal.

If you want to make an appeal you must send the appropriate form off, either: within 2 months of the date on the decision letter, or within 1 month of the date on the mediation certificate if that date would be a later date than the two month period***

*Adapted from regulation 13 The SEND Regulations 2014)

** (Tribunal Rule 20(c)).

Stage Five

Reviewing the draft & choosing a placement

The LA will now consult with your parental preference of school and also with any other schools they feel appropriate.

Regardless of what level of funding has been agreed at panel you **can** request any form of school e.g. specialist, mainstream, independent or mainstream with a resource base.

This does not mean it will definitely be agreed but it is you **right** to request the school **you** feel most appropriate.



* (Tribunal Rule 20(c)).

Stage Six

Final EHCP

The LA will issue the final EHCP

Unless one of the statutory exceptions applies, the LA must issue the final EHCP within 20 weeks of receiving the original EHC needs assessment request.

If you do not agree with the final plan **you must send the appropriate form off, either:**

- **within 2 months** of the date on the decision letter, or
- **within 1 month** of the date on the **mediation certificate**, whichever is later.

If your appeal is only about Section I (placement), you do not have to consider mediation and do not need a mediation certificate before appealing.

Timeline

Draft EHCP: Parent/young person has at least 15 days to make representations

