

Applying for an Education Health Care Plan (EHC Plan)



Introduction

Chapters 5, 6 and 7 of the SEND Code of Practice (0-25 years) 2014, makes it clear:

“High quality teaching that is **differentiated** and **personalised** will meet the individual needs of the majority of children and young people. Some children and young people need educational provision that is additional to or different from this. This is special educational provision under Section 21 of the Children and Families Act 2014. Schools and colleges **must** use their best endeavours to ensure that such provision is made for those who need it. Special educational provision is underpinned by high quality teaching and is compromised by anything less.” (p14)

Swindon Borough Council has produced a [Good Practice Guide 2014](#) to support early years providers, schools and colleges to deliver consistent and high quality provision to meet the needs of children and young people in their care.

Early years providers, schools and colleges should know precisely where children and young people with special educational needs (SEN) are in their learning and development. They should:

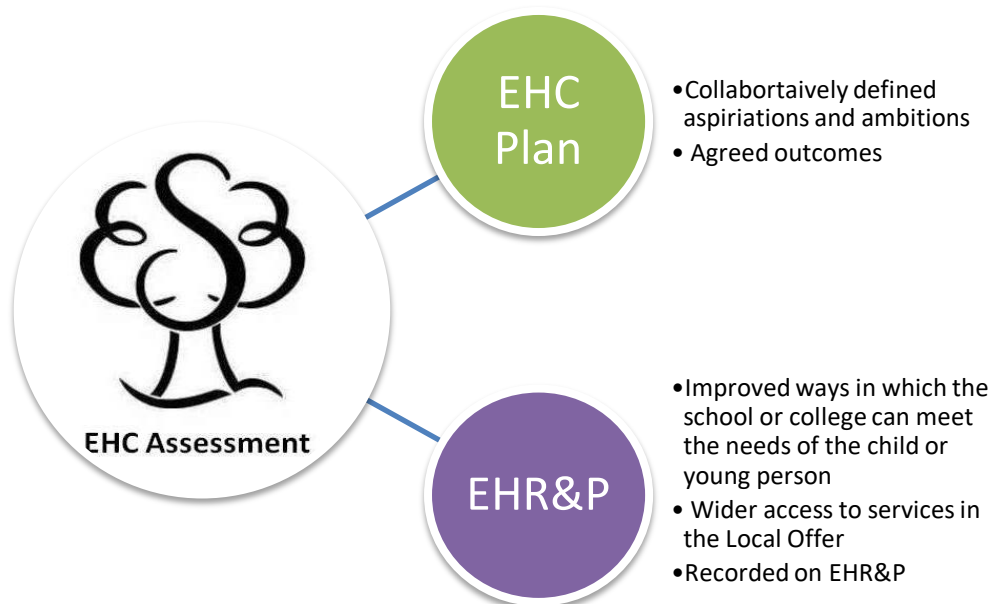
- ensure decisions are informed by the insights of parents and those of children and young people themselves;
- have high ambitions and set stretching targets for them;
- track their progress towards these goals;
- keep under review the additional or different provision that is made for them;
- promote positive outcomes in the wider areas of personal and social development, and
- ensure that the approaches used are based on the best possible evidence and are having the required impact on progress.

Element 1 and 2 [funding](#) to support children and young people with SEN has been designated directly to schools and colleges to enable practitioners to focus on inclusive practice and removing barriers to learning through a graduated approach. A national threshold determines the level of spend a provider is required to cover before applying for top-up funding/high needs block and/or an EHC assessment/plan.

In effect, prior to an EHC assessment request, early years providers, schools and colleges should:

- ✓ complete, review, monitor and evaluate the [Swindon Early Help Record & Plan \(EHR&P\)](#);
- ✓ host a [Local Offer](#) meeting to review, monitor and evaluate the EHR&P with the child, young person and family to consider alternative methods of provision.

An EHC Plan is the outcome of an EHC assessment, although not all EHC assessments necessarily lead to a plan.



What is an EHC Plan?

An EHC Plan is a forward looking, aspirational, statutory document that captures the long-term ambitions of the child or young person (0-25 years), as well as the necessary provision to meet their SEND needs. EHC Plans should explain how services will be delivered as part of a whole package, and explain how best to achieve the outcomes sought across education, health and social care for the child or young person.

Who can request an EHC assessment?

- A child's parents

- A young person over the age of 16 but under 25
- A person acting on behalf of a school or post-16 institution (this should be with the knowledge and agreement of the parent or young person, where possible)
- An individual (e.g., foster carer, health and social care professional, early years practitioner, youth offending team or probation service, those responsible for education in custody, school or college staff or a family friend) who has specific concerns and thinks that an EHC assessment may be necessary. This should be done with the knowledge and, where possible, agreement of the child's parent or the young person.

Children and young people under 19 in youth custodial establishments also have the right to request an assessment for an EHC Plan. The child's parent, the young person themselves or the professionals working with them can ask the home local authority to conduct an EHC needs assessment while they are still detained. The process and principles for considering and carrying out an assessment for young offenders in custody remains the same as for all children and young people.

What happens after a request for an EHC assessment has been made?

Within **six weeks** of an EHC needs assessment request being made the local authority must determine whether an EHC needs assessment is necessary and communicate the outcome of their decision to the child's parents or to the young person.

In considering whether an EHC needs assessment is necessary, the local authority will consider whether there is evidence that, despite the early years provider, school or post-16 institution having taken relevant and purposeful action to identify, assess and meet the special educational needs of the child or young person, the child or young person has not made expected progress.

Early years providers, schools and colleges should make regular assessments of progress for all pupils. These should seek to identify children and young people making less than expected progress given their age and individual circumstances. This can be characterised by progress which:

- is significantly slower than that of their peers starting from the same baseline;
- fails to match or better the child's previous rate of progress;
- fails to close the attainment gap between the child and their peers;
- widens the attainment gap.

This may be recorded, reviewed and evaluated through an Early Help Record and Plan or other statutory plans in place such as a child in need plan.

What evidence will the local authority use to determine whether an EHC assessment is necessary?

The EHC assessment and plan process is underpinned by the principles of participation and transparency. Therefore, in determining whether an EHC assessment is necessary, the local authority will take into account the views, wishes and feelings of the child and his or her parent, or the young person. In addition, the local authority has a statutory duty to contact:

- the health service (the relevant Clinical Commissioning Group (CCG) or NHS England where it has responsibility for a child or young person);
- local authority officers responsible for social care for children or young people with SEN;
- where a child attends an early years setting, the manager of that setting;
- where a child or young person is registered at a school, the head teacher (or equivalent);
- where the young person attends a post-16 institution, the principal (or equivalent).

The decision of whether to consider an EHC assessment is weighed against a wide range of evidence and in particular:

- evidence of the child or young person's academic attainment (or developmental milestones in younger children) and rate of progress;
- information about the nature, extent and context of the child or young person's SEN;
- evidence of the action already being taken by the early years provider, school or post-16 institution to meet the child or young person's SEN and the impact of such action;
- evidence that where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided;
- evidence of the child or young person's physical, emotional and social development and health needs, drawing on relevant evidence from clinicians and other health professionals and what has been done to meet these by other agencies, and
- where a young person is aged over 18, the local authority will consider whether the young person requires additional time, in comparison to the majority of others

of the same age who do not have special educational needs, to complete their education or training. Remaining in formal education or training should help young people to achieve education and training outcomes, building on what they have learned before and preparing them for adult life.

The Swindon Guidance criteria for an EHC assessment can be found [here](#).

The Swindon Commitment

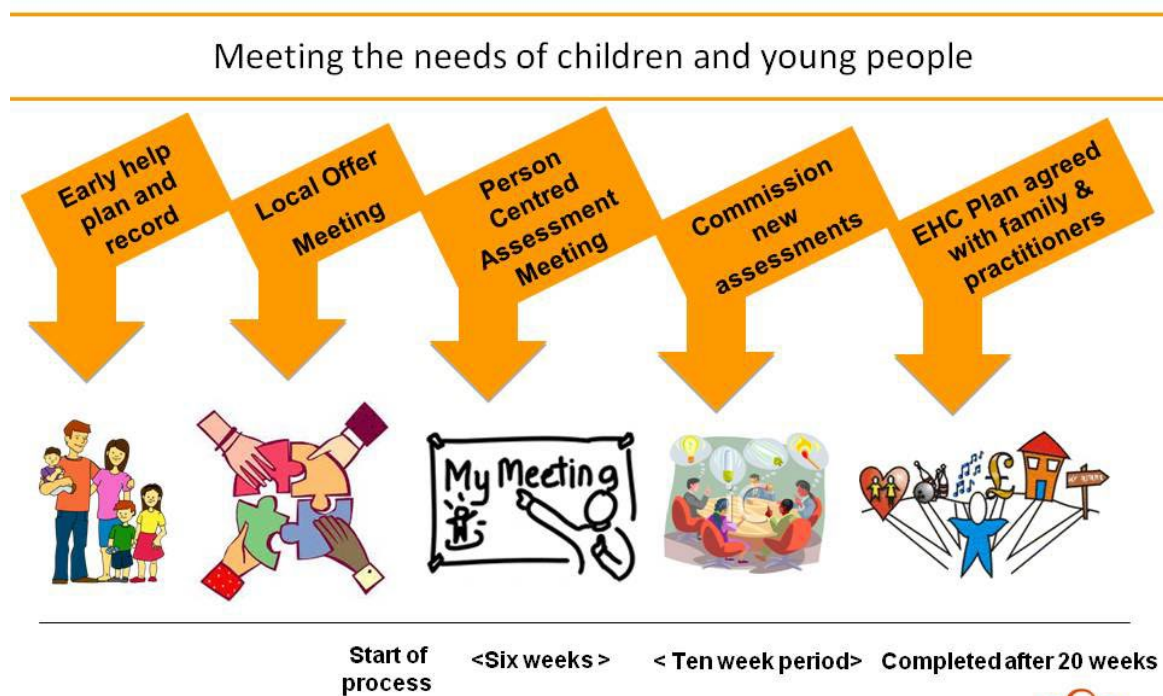
If it is decided to undertake an EHC assessment, Swindon Special Educational Needs & Assessment Team (SENAT) will ensure the child or young person and their family is fully involved from the start and made aware of opportunities to offer views and information. They will be provided with a point of contact.



In the event that a decision is made not to pursue an EHC assessment, a Local Offer meeting will be offered. At this meeting the professionals involved will draw up a non statutory plan to meet the child or young person needs from within the resources available within the local offer. This plan may be monitored, evaluated and reviewed and become the basis of future request for statutory needs assessment.

The child's parents or the young person have a right to appeal the decision within a limited timeframe and will be offered access to mediation, additional information, advice and support. In communicating the decision, we will provide feedback, which the parent, young person, early years provider, school or post-16 institution may find useful.

The following graphic summarises the 20-week cycle of an EHC assessment and planning process:



 *Process underpinned by continuous dialogue and on-going feedback*



Our guiding principles for a co-ordinated assessment and planning process

In Swindon we are committed to ensuring that children, young people and families should experience well co-ordinated assessment and planning leading to timely, well-informed decisions. To that end, we will consult the child and the child's parent or the young person throughout the process of assessment and production of an EHC Plan.

Our **person-centred** approach will:

- focus on the child or young person as an individual;
- enable children and young people and their parents to express their views, wishes and feelings;
- enable children and young people and their parents to be part of the decision-making process;
- be easy for children, young people and their parents or carers to understand, and use clear, ordinary language and images rather than professional jargon;
- highlight the child or young person's strengths and capabilities;
- enable the child or young person, and those who know them best, to say what they have done, what they are interested in and what outcomes they are seeking in the future;
- tailor support to the needs of the individual;
- organise assessments to minimise demands on families;
- bring together relevant professionals to discuss and agree together the overall approach, and
- deliver an outcomes-focused and co-ordinated plan for the child or young person and their parents.

We will achieve this by

- ✓ providing children, young people and their families with access to the relevant information in accessible formats;
- ✓ giving children, young people and their families time to prepare for discussions and meetings, and
- ✓ dedicating time in discussions and meetings to hear the views of all involved.

In some cases, this may involve enlisting the help of an advocate and/or independent advice to ensure the views and wishes of the child, young person and family are heard.

Swindon is committed to promoting the 'tell us once' principle and will endeavour to ensure the EHC assessment and planning process embraces this approach.

This means sharing information with relevant professional involved as part of the assessment in line with the data protection act.



**Tell us
once...**

Timeline

The SEND Code of Practice (0-25 years) 2014 stipulates very clear guidelines on the timelines local authorities must work under when undertaking an EHC assessment.

- The whole process of the EHC needs assessment and EHC planning development must take no more than 20 weeks from the point of receiving the original request, with the exception of the following situations:
 - Within the first six weeks, appointments with people from whom the local authority has requested information are missed by the child or young person.
 - The child or young person is absent from the area for a period of at least four weeks.
 - Exceptional personal circumstances affect the child or his/her parent or the young person.
 - The educational institution is closed for at least 4 weeks and, therefore, the submission of vital information may be delayed. This does not apply to the application of an EHC needs assessment, i.e., the first 6 weeks in the timeline.
- The decision as to whether an EHC needs assessment is required should be shared with the child's parent and young person within a maximum of six weeks from the date of the request.
- If, having undertaken an EHC needs assessment, the local authority decides not to issue an EHC Plan, this must be communicated to the child's family or young person with 16 weeks from the initial request for an assessment.
- The parents of children and young people will be given 15 calendar days to consider and provide views on a draft EHC Plan and ask for a particular school or other institution to be named in it.

Visually, these dates can be represented as follows on a 20 week timeline:

Children, young people and their families have access to relevant information and are encouraged to share their views and wishes at all times.

Week	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
Initial request																				
		Decision to undertake an EHC assessment																		
						Assessments and decision whether to issue an EHC Plan														
																	Develop EHC Plan with families and young people, giving them 15 days to review draft. This also includes budget allocation.			

Weeks 7-16: EHC Needs Assessment

During this period, adhering to the ‘tell us once’ principle, the local authority will seek relevant information and advice from:

- the child’s parent or the young person;
- the Early Help Plan;
- educational professionals and specialists, including those qualified in supporting vision or hearing impairment and the Children’s Education Advisory Service for children of members of the Armed Forces;
- medical and health care practitioners (with consent, this may include consulting a GP);
- social care professionals.

In specific circumstances, additional advice may be sought for:

- young people in Year 9 onwards; the focus will be on preparing for adulthood, which includes independent living;
- Looked After child from the Virtual School Head in the authority, as well as the child’s Designated Teacher and the designated Doctor or Nurse;
- young offenders from the Youth Offending Team.

Decision whether to issue an EHC Plan

As mentioned previously, an EHC needs assessment does not always result in an EHC Plan. The decision to issue a plan is based on:

1. information available prior to the EHC needs assessment, i.e., during the initial request and
2. all the information gathered during the EHC needs assessment.

In reviewing this information, the local authority will consider both the child and young person's needs and the provision made for the child and young person, and whether:

- the information from the EHC needs assessment confirms the information available on the nature and extent of the child or young person's SEN prior to the EHC needs assessment, and
- the special educational provision made prior to the EHC needs assessment was well matched to the SEN of the child or young person.

In addition, due consideration will be given to whether:

- the special educational provision required to meet the child or young person's needs can reasonably be provided from within the resources normally available to mainstream early years providers, schools and post-16 institutions, or
- it may be necessary for the local authority to make special educational provision in accordance with an EHC Plan.

In situations where we have carried out an EHC needs assessment for a child or young person and

- their circumstances have changed significantly, or
- the child or young person has recently been placed in a new setting, or
- their special educational needs were identified shortly before the EHC needs assessment,

and no comparable special educational provision was being made for the child or young person prior to the EHC needs assessment, then we will consider what new special educational provision is needed, taking into account the criteria above.

If a decision is made **not** to issue an EHC Plan, we will:

- Offer a Local Offer meeting with parents and professionals involved to ensure that the child's parents or young person are aware of the resources available to meet SEN within mainstream provision and other support set out in the Local Offer. This may be recorded in an Early Help Record and Plan, which will be monitored and reviewed by the school, early years setting or the college

- inform the child's parent and the young person of their right to appeal the decision and the time limit for doing so;

Swindon Borough Council is committed to transparent and consistent decision-making. Therefore, a moderating group (called the SEN Resource Allocation Panel) will be established to review the decision-making process of whether to carry out an EHC needs assessment and/or whether to issue an EHC Plan. This will help us continually to review our service and provision. Equally, views will be sought from children and young people and their families about our Local Offer. In line with the new regulations, these will be published publicly.

Weeks 17-20: Developing an EHC Plan

After the assessment is complete the SEN Case Officer will meet with parents and professionals to co-produce the plan. All EHC Plans will be written in collaboration with parents, children and young people. Their contribution to the plan will be clearly recorded and considered.

The format of the Swindon EHC Plan has been designed in line with the Code of Practice 2014 and agreed locally by consulting families, children and young people. The plan includes 12 sections:

- **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 SEN
- **Section D:** The child or young person's social care needs which are related to their SEN or to a disability
- **Section E:** The outcomes sought for the child or the young person. This should include outcomes for adult life. The EHC Plan should also identify the arrangements for the setting of shorter term targets by the early years provider, school, college or other education or training provider.

An outcome can be defined as the benefit or difference made to an individual as a result of an intervention.

- **Section F:** The special educational provision required by the child or the young person

Health or social care provision which educates or trains a child or young person must be treated as special educational provision and included in Section F of the EHC Plan.

- **Section G:** Any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN. 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 or 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.

The Draft EHC Plan

Following the meeting, the Plan will be circulated to parents and professionals involved in the assessment.

The child's parents and the young person have 15 days to review the draft EHC Plan. During this period, they can meet SENAT members to discuss the plan further and they can request that a particular school or other institution be named in the plan. The draft EHC Plan will **not** include the name of an educational institution.

This 15-day period will also give families and young people time to consider and agree arrangements for a [Personal Budget](#), if applicable.

Requesting a particular school, college or other institution

The child's parent or the young person has the right to request a particular school, college or other institution of the following type to be named in their EHC Plan:

- Maintained nursery school
- Maintained school and any form of academy or free school (mainstream or special)
- Non-maintained special school
- 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 and published in the Swindon Continuum of Provision document).

If a child's parent or a young person makes a request for a particular nursery, school or post-16 institution in these groups the local authority **must** comply with that preference and name the school or college in the EHC Pan, unless:

- it would be unsuitable for the age, ability, aptitude or SEN of the child or young person, or
- the attendance of the child or young person there would be incompatible with the efficient education of others, or the efficient use of resources.

Efficient education means providing for each child or young person a suitable, appropriate education in terms of their age, ability, aptitude and any special educational needs they may have. Where a local authority is considering the appropriateness of an individual institution, 'others' is intended to mean the children and young people with whom the child or young person with an EHC Plan will directly come into contact on a regular day-to-day basis.

Home to school Support with Travel

The parents or young person's preferred school or college might be further away from their home than the nearest school or college that can meet the child or young person's SEN. In such a case, the local authority can name the nearer school or college if it considers it to be appropriate for meeting the child or young person's SEN. If the parents prefer the school or college that is further away, the local authority may agree to this but is able to ask the parents to provide some or all of the transport funding.

Transport should be recorded in the EHC Plan only in exceptional cases where the child has particular transport needs. See Swindon [Transport policy](#).

Transport costs may be provided as part of a [Personal Budget](#) where one is agreed and included in the EHC Plan as part of the special educational provision.

Children with EHC Plans can attend more than one school under a dual placement. Dual placements enable children to have support from a mainstream and a special school. This can help to prepare children for mainstream education, and enable mainstream and special schools to share and develop their expertise in supporting children with different types of SEN. In order for a child with SEN who is being supported by a dual placement to

be deemed as being educated at a mainstream school, they should spend the majority of their time there.

Where appropriate, a young person with an EHC Plan can attend a dual placement at an institution within the further education sector and a special post-16 institution. The local authority should work with the young person, post-16 provider and independent specialist college to commission such a placement where that will achieve the best possible outcome for the young person. To be deemed as being educated in a mainstream further education institution, young people should spend the majority of their time there.

Naming a School

Once the child's parent or young person has made a request for a particular school or college, the local authority will consult with the named institution by providing them with a copy of the draft EHC Plan. All educational institutions are bound by the Equality Act 2010 and Swindon Admissions Policy.

Where a parent or young person does not make a request for a particular nursery, school or college, or does so and their request is not met, the local authority **must** specify mainstream provision in the EHC Plan unless it would be:

- against the wishes of the parent or young person, or
- incompatible with the efficient education of others

Where a nursery, school or college is named in an EHC Plan, they **must** admit the child or young person. The head teacher or principal of the school, college or other institution named in the EHC Plan should ensure that those teaching or working with the child or young person are aware of their needs and have arrangements in place to meet them.

Institutions should also ensure that teachers and lecturers monitor and review the child or young person's progress during the course of a year.

Finalising the Plan

When changes are suggested to the draft EHC Plan by the child's parent or the young person and agreed by the local authority, the draft Plan should be amended and issued as the final EHC Plan as quickly as possible. The final EHC Plan can differ from the draft EHC Plan only as a result of any representations made by the child's parent or the young person (including a request for a Personal Budget) and decisions made about the school or other institution (or type of school or other institution) to be named in the EHC Plan. The local authority **must not** make any other changes – if the local authority wishes to make other changes it **must** re-issue the draft EHC Plan to the child's parent or the young person.

The final EHC Plan will be signed and dated by the SENAT officer responsible for signing off the final Plan and, if appropriate, the Social Care/Health Commissioner.

If changes to the draft EHC Plan are not agreed, the local authority may still proceed to issue the final Plan. In either case, the child's parents or the young person will be informed of their right to appeal to the Tribunal and the time limit for doing so.

Further information on mediation and appeals is provided [here](#).

Maintaining [health care provision](#) in an EHC Plan

Maintaining [social care provision](#) in an EHC Plan

Reviewing an EHC Plan

The EHC needs assessment and EHC Plan process builds on the graduated approach used by early years providers, schools and colleges in that it embraces the four-step process of:

- Assess
- Plan
- Do
- Review

Formal [reviews of the EHC plan](#) **must** take place at least annually. If a child or young person's SEN change, a review should be held as soon as possible to ensure that provision specified in the EHC Plan is appropriate.

Reviews **must** focus on the child or young person's progress towards achieving the outcomes specified in the EHC Plan. The review **must** also consider whether these outcomes and supporting targets remain appropriate.

Reviews should also:

- gather and assess information so that it can be used by early years settings, schools or colleges to support the child or young person's progress and their access to teaching and learning;
- review the special educational provision made for the child or young person to ensure it is being effective in ensuring access to teaching and learning, and good progress;
- review the health and social care provision made for the child or young person and its effectiveness in ensuring good progress towards outcomes; **(if applicable) other social care or health plans and reviews should be aligned;**
- consider the continuing appropriateness of the EHC Plan in the light of the child or young person's progress during the previous year or changed circumstances and whether changes are required, including any changes to outcomes, enhanced provision, change of educational establishment, or whether the EHC Plan should be discontinued;

- set new interim targets for the coming year and, where appropriate, agree new outcomes;
- review any interim targets set by the early years provider, school or college or other education provider.

Reviews **must** be undertaken in partnership with the child and their parent or the young person, and **must** take account of their views, wishes and feelings, including their right to request a Personal Budget.

Within four weeks of the review meeting, the local authority **must** decide whether it proposes to keep the EHC Plan as it is, amend the Plan, or cease to maintain the Plan, and notify the child's parent or the young person and the school or other institution attended.

Where it is agreed to amend an EHC Plan, SENAT will send the child's parent or the young person a copy of the existing (non-amended) Plan and an accompanying notice providing details of the proposed amendments, including copies of any evidence to support the proposed changes. The child's parent or the young person can request a meeting with the SENAT Officer to discuss the proposed changes.

The parent or young person **must** be given at least 15 calendar days to comment and make representations on the proposed changes, including requesting a particular school or other institution be named in the EHC Plan.

The review process will enable changes to be made to an EHC Plan so it remains relevant to the needs of the child or young person and the desired outcomes. There may be occasions when a [re-assessment](#) becomes appropriate, particularly when a child or young person's needs change significantly.

The process for re-assessment will be the same as the process for a first assessment (once the decision to carry out an assessment has been taken). Re-assessments **must** follow the same process as for the first EHC needs assessment and drawing up of the EHC Plan, set out earlier in this chapter, with the same timescales and rights of appeal for the child's parent or the young person.

The overall maximum timescale for a re-assessment is 14 weeks from the decision to re-assess to the issuing of the final EHC Plan, subject to any exceptions, as stated previously.

Ceasing an EHC Plan

It is possible that a joint decision is made to cease the EHC Plan. This may be when:

- the child or young person no longer requires the special educational provision specified in the EHC plan:

- deciding whether a young person aged 19 or over no longer needs the special educational provision specified in the EHC Plan: the Plan cannot be ceased simply because the young person is aged 19 or over.

The circumstances where a local authority is no longer responsible for the child or young person include where any of the following conditions apply:

- A young person aged 16 or over leaves education to take up paid employment (including employment with training but excluding apprenticeships)
- The young person enters higher education
- A young person aged 18 or over leaves education and no longer wishes to engage in further learning
- The child or young person has moved to another local authority area

Where a young person of compulsory school or participation age – i.e., under the age of 18 – is excluded from their education or training setting, or leaves voluntarily, the local authority **must not** cease their EHC Plan, unless it decides that it is no longer necessary for special educational provision to be made for the child or young person in accordance with an EHC Plan.

Where a young person aged 18 or over leaves education or training before the end of their course, the local authority **must not** cease to maintain the EHC Plan unless it has reviewed the young person's EHC Plan to 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 thinks it is appropriate, then the local authority **must** amend the EHC Plan as necessary and it **must** maintain the Plan. The local authority should seek to re-engage the young person in education or training as soon as possible.

A local authority will not be able to cease an EHC Plan because a child or young person has been given a custodial sentence. The local authority will have to keep the Plan. For those who are detained, the Plan will have to be temporarily suspended but reviewed on release.

Disclosure of an EHC Plan

A child or young person's EHC Plan **must** be kept securely so that unauthorised persons do not have access to it, so far as reasonably practicable (this includes any representations, evidence, advice or information related to the EHC Plan). An EHC Plan **must not** be disclosed without the consent of the child's parents or the young person, except for specified purposes or in the interests of the child or young person.