



IPSEA

Independent Parental Special Education Advice

Timeline for the transition process from a statement to an EHC plan

November 2014

The Children and Families Act 2014 (C&FA 2014) came into effect on 1 September 2014, but the government has staggered the deadlines for when LAs must transfer children and young people with statements to Education, Health and Care (EHC) plans. This year (September 2014 to September 2015) the following groups **must** be transferred:

- children/young people moving from school (including school sixth forms) to a post-16 institution or an apprenticeship
- young people who receive support as a result of a Learning Difficulty Assessment (LDA) (on their request)
- children and young people with non-statutory EHC plans but who do not have a statement ('non-statutory' plans are those issued before the new law came into effect on 1 September 2014).

Children/young people in other year groups can be transferred in 2014/15 if the LA wants, and the government advises LAs to transfer those moving from one phase to another (e.g. primary to secondary), but this is not a legal duty.

Local authorities (LAs) are responsible for running the transition process.

The law is clear that transition from a statement to plan **must be via an EHC needs assessment** which **must run to the deadlines below**.

When you receive a draft plan, see IPSEA's advice at <http://www.ipsea.org.uk/what-you-need-to-know/ehc-plans/draft-ehc-plans>.

In particular, check it against IPSEA's checklist at <http://www.ipsea.org.uk/download-resource?id=f8198e64-81f4-4e03-a09a-7bab67866983>

Abbreviations and where to download law and guidance

C&FA 2014	Children and Families Act 2014
C&FA 2014 (T&SP) (No. 2)	Children and Families Act 2014 (Transitional and Saving Provisions) (No. 2) Order 2014, SI No. 2014/2270
EHC	Education, Health and Care
LA	Local authority: the local government body responsible for EHC needs assessments and plans
LDA	Learning Difficulty Assessment
SEND Code	Special educational needs and disability code of practice: 0 to 25 years: statutory guidance for organisations who work with and support children and young people with special educational needs and disabilities
SEN reforms transitional guidance	Transition to the new 0 to 25 special educational needs and disability system: statutory guidance for local authorities and organisations providing services to children and young people with SEN
SEND Regs 2014	Special Educational Needs and Disability Regulations 2014 SI No. 2014/1530

<i>Time</i>	<i>LA legal duty</i>	<i>IPSEA note</i>	<i>Where in law</i>
At least 2 weeks before assessment starts	Letter to parents/ young person giving notice of the date the EHC needs assessment will begin	Note that this letter does not start the EHC assessment, but must be sent before the process starts.	C&FA 2014 (T&SP) (No. 2) Article 18
Weeks 0–8	<p>EHC needs assessment process needs to be completed within 8 weeks. This process is laid out in SEND Regs 2014 Regulation 6.</p> <p>The LA must gather information and advice as to the child or young person’s:</p> <ol style="list-style-type: none"> 1. Special educational needs; 2. The provision needed to support those needs 3. The outcomes that would be expected to result from that provision being put in place <p>The LA must seek this information and advice from:</p> <ol style="list-style-type: none"> (a) The child’s parent or the young person; (b) Education – from the head teacher or principal of the school or post-16 or other institution that the child or young person is attending, or where this is not available, from a person who the local authority is satisfied has experience of teaching children or young people with special educational needs, or knowledge of the differing provision which may be called for in different cases to meet those needs (c) Medical – a health care professional identified by the responsible commissioning body; (d) Psychological – from an educational psychologist; (e) Social care – part of LAs Children’s services (f) Any other person the local authority thinks is appropriate; (g) Where the child or young person is in or beyond year 9, advice and information in relation to provision to assist the child or young person in preparation for adulthood and independent living; and (h) From any person the child’s parent or young person reasonably requests that the local authority seek advice from. This can include advice and information from education, health and social care professionals. 	<p>Week 0 is when the 14 week maximum for the transition process starts.</p> <p>There is no time limit for assessment set out in the law or guidance, but for the transfer process to be completed within 14 weeks (that limit is in the law), this period of 8 weeks must be complied with to allow for the draft plan consultation periods below.</p> <p>Note that you can request that the LA seek advice from anyone you think they should approach, which might include private tutors, therapists, etc.</p> <p>At some point during Weeks 0–8 the LA must hold a meeting with the parents or young person. Exactly when the meeting is held is up to the LA as long</p>	<p>Advice required and who the LA must seek it from: SEND Regs 2014 Reg. 6(1)</p> <p>6 week time limit for advice to be sent to LA after request SEND Regs 2014 Reg. 8(1)</p> <p>Requirement to hold meeting during assessment C&FA 2014 (T&SP) (No. 2) Article 20(3). Requirement that</p>

<i>Time</i>	<i>LA legal duty</i>	<i>IPSEA note</i>	<i>Where in law</i>
	<p>The SEND Code says that the advice should be clear, accessible and specific (paragraph 9.51).</p> <p>The exception to seeking new advice</p> <p>The LA need not seek new evidence from any one of these people if it is agreed that existing information and advice is “sufficient” for the purposes of the assessment. The judgement that an individual report is sufficient must be made by the LA, the original author of that report, and the parent or young person. If any one of these disagrees or is no longer available, then the LA must seek new advice.</p> <p>An LA must not make a “blanket” decision that all existing information and advice is sufficient for a child or young person, but must look at each piece of advice and request consent from the author and the parent or young person. The SEND Code paragraph 9.47 advises that parents and young people should be supported to make an informed decision.</p>	<p>as it is held during assessment.</p> <p>The hosting of the meeting may be delegated to a school/college if they agree, but an officer of the LA who can make SEN decisions must attend.</p>	<p>meeting is with LA officer who exercises education functions on behalf of LA: C&FA 2014 (T&SP) (No. 2) Article 20(4)</p> <p>Consent needed to use old advice SEND Regs 2014 Reg. 6(4).</p>
Week 8	<p>A draft EHC plan needs to have been produced and sent to the parent or young person by this time.</p> <p>At the same time, the LA must advise the parent or young person where they can find information about the schools and colleges that are available for the child or young person to attend.</p> <p>The parent or young person then has at least 15 calendar days after receipt of the draft plan in which to:</p> <ol style="list-style-type: none"> 1. Make representations to the LA about the contents of the draft EHC plan 2. Ask for a meeting with an LA officer to discuss the draft EHC plan 3. To tell the LA the type of school/college (mainstream or special) and the actual school they would like named in the final EHC plan. 		<p>Parent/young person’s right to respond to draft EHC plan and request school/institution: C&FA 2014 s38(2)</p> <p>Time allowed, info on schools and right to meeting: SEND Regs 2014 Reg. 13(1)</p>
Week 11	<p>LA must consult with the school/college the parent or young person has requested. School or college should respond within 15 days (SEND Code paragraph 9.83).</p>		<p>C&FA 2014 s39(2)</p>
Week 14	<p>Final EHC plan issued by the LA. Statement automatically ceases</p>		<p>14 week limit: C&FA 2014 (T&SP) (No. 2) Article 21(3)</p>