

# All About Education , Health and Care Plans (EHCP's)

**Page 1-2**

What is an EHCP?

**Page 3**

Timeline of EHCP

**Page 4**

Key checklist with  
Laws

**Page 5**

Images to Remember

**Page 6**

F&Q's

**Page 7-8**

Reliable EHCP  
resources and links

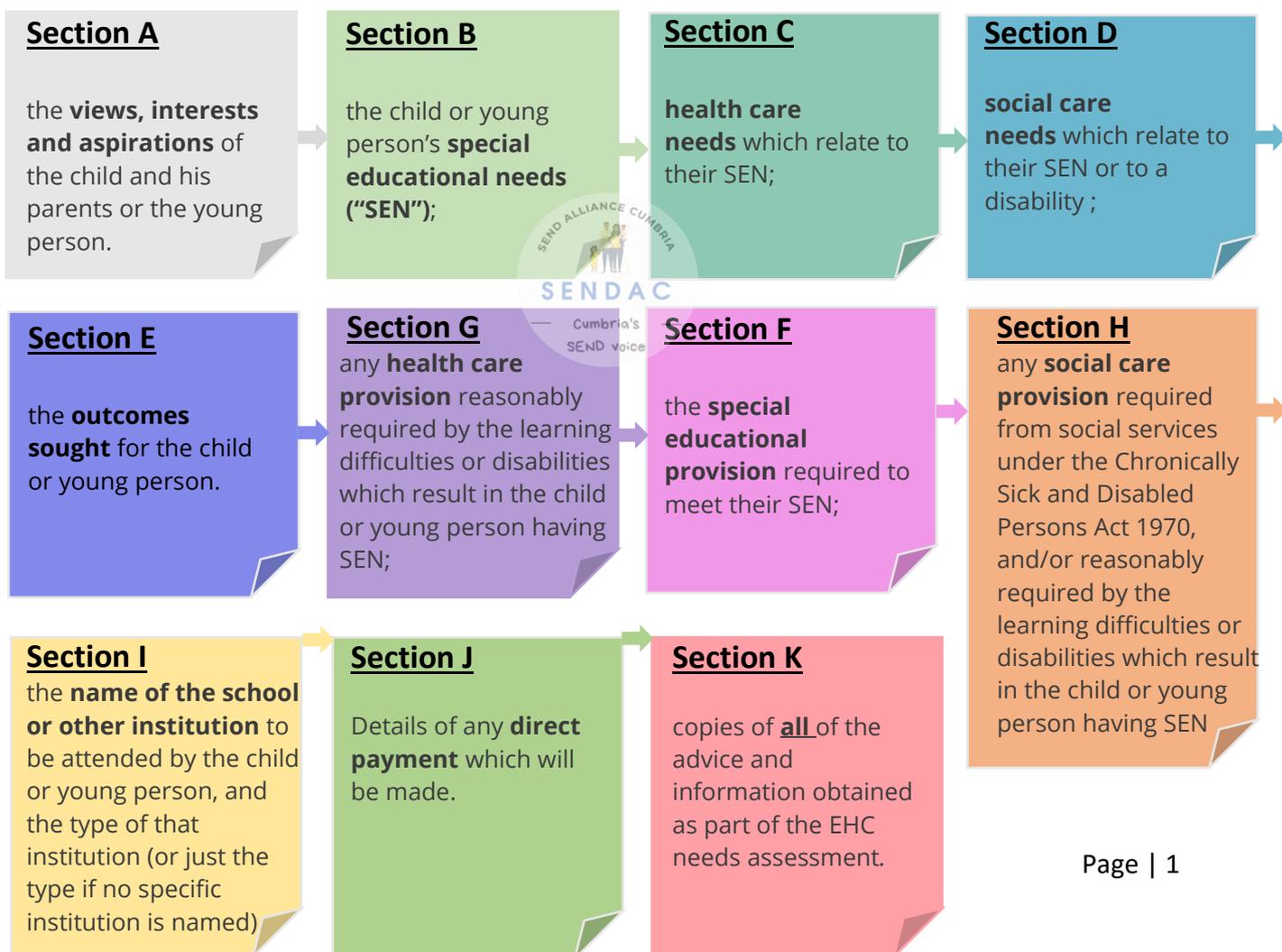
## What is an Education, Health and Care Plan (EHCP)?

An Educational, health and care plan or commonly known as an 'EHCP' / 'EHC Plan', is a legally binding document that identifies the educational, health and social care needs of a child/young person and all of the support that is necessary to meet those needs. The document **must** contain **all** of the special educational needs of a child (What the person can and cannot do). What provisions are needed to meet those needs (Support, services and adaptations that will be provided to meet their needs) and the school/educational setting that must provide those provisions (The school/setting your child will attend).

Some benefits of a child or young person having an EHC Plan:

- It is legally binding, therefore, all education, health and social care professionals working with the child have a legal duty to follow the provision in the plan and parents can complain to the school/professional if they fail to do this. It is the LA's legal duty to ensure the provision in an EHCP is delivered and parents have the right to bring this to the attention of the LA when this is not happening
- It allows parents the chance to have their say in the support their child will get.
- It's an accessible document where all of the aspirations, needs, support and outcomes of the child are in one single place for anyone working with the person to pick up and read.
- The child's educational setting will receive funding from the LA to support the child with the needs described in the plan

Regulation 12 of the Special Educational Needs and Disability Regulations 2014, states that an EHCP **must** have the following sections: (these sections do not have to be in any order)



There should be a clear link between each section of an EHCP, this is commonly called the 'Golden Thread', this Golden Thread allows a clear linkage to be seen between the aspirations, needs, provisions and outcomes of the child/Young person. It should be clear in the EHCP what the aspirations of the Child/Child's parents are, what needs are in the way of achieving those aspirations, what provision they need in place to meet those needs and the Outcomes that will be achieved to progress towards the aspirations.

It is important to note that every single one of the child's special educational needs **must** be identified in section B and there **must** be a provision in section F to meet each and every one of those needs, there may need to be more than one provision to meet a single need and some provisions may cover more than one need.

Case law: "In *R v The Secretary of State for Education and Science ex parte E* [1992] 1 FLR 377, the Court of Appeal ruled that Part 2 of a Statement (Now called section B of the EHCP) must set out all of a child's special educational needs identified during an assessment. In addition, Part 3 of a Statement (what is now Section F of an EHC plan) must specify the provision required to meet each of the needs identified,"

An example of how the sections should be linked:

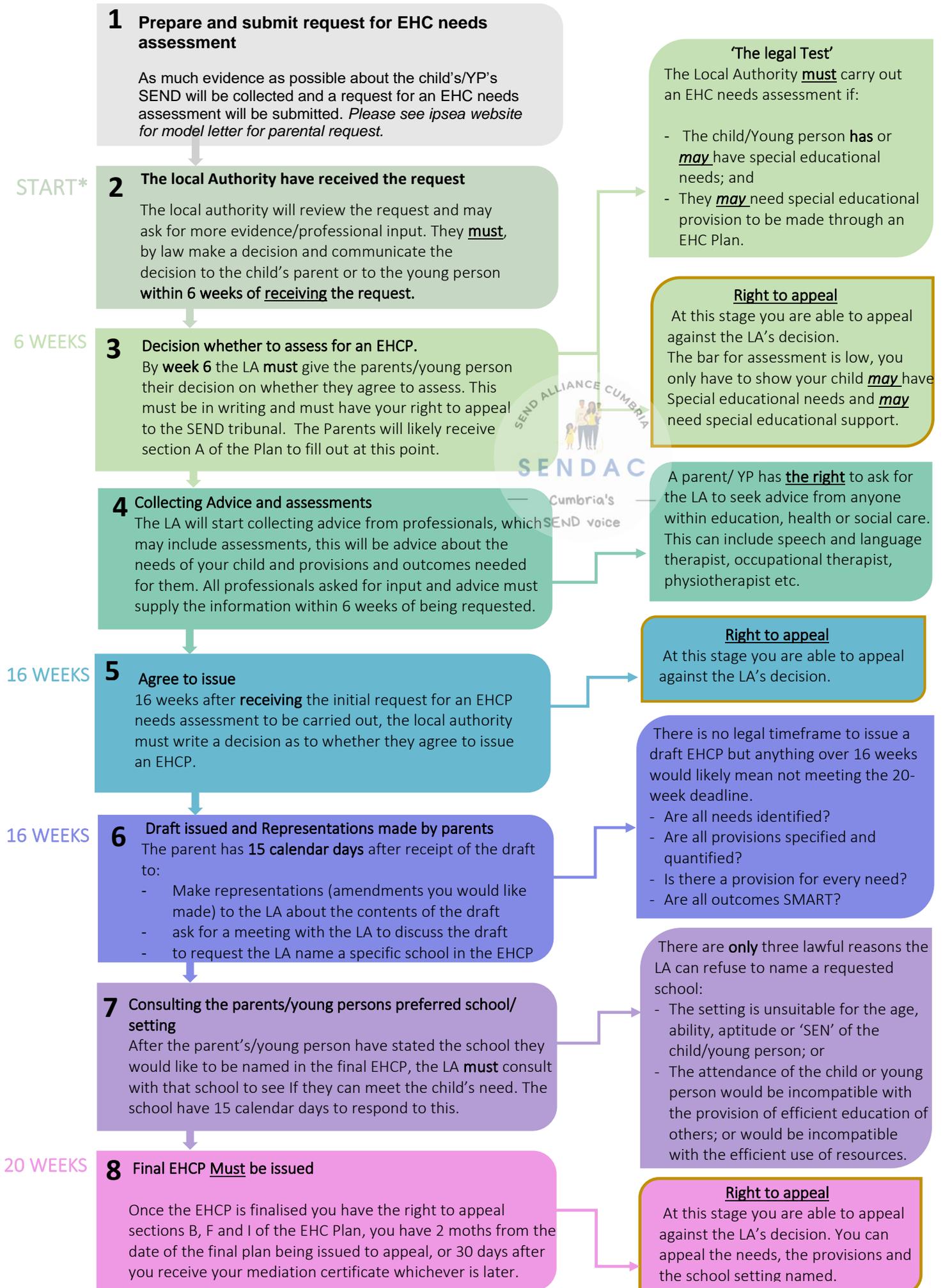
| Aspirations   | Needs   | Provisions   | Outcomes  |
|---|---|--|---|
| I would like Alex to be able to increase his understanding and listening skills, overall becoming more independent. | Alex has a significant expressive and receptive language delay. | Alex will receive 1 hour a day of intensive interaction on a 1:1 basis with a qualified speech and language therapist qualified to at least a level 4.<br><br>All staff working with Alex must have an enhanced level of training in SLCN and Autism to a minimum of level 2 AET | By the end of Key stage 1, Alex will develop his early listening and attention skills so that he can follow instructions given in class of 2 information-carrying words.<br><br> |

### The Golden Thread



A local authority ("LA") is required to finalise the Education, Health and Care ("EHC") plan as soon as practicable but in any event **within 20 weeks** of the initial request for assessment. This is a legal duty and the LA must comply with this deadline, please see below:

# EHCP Timeline and Lawful Timescales set out in The SEND code of practise



## Key things to look out for in an EHCP & Relevant Law:

1. Are all of the child's/young person's special educational needs written into section B? **every single** one of the child's special educational needs **must** be identified in section B.

**Case Law:** R v The Secretary of State for Education and Science ex parte E [1992] 1 FLR 377, the Court of Appeal ruled that Part 2 of a Statement (Now called section B of the EHCP) must set out **all** of a child's special educational needs identified during an assessment.

2. Are all of the special educational provisions (all extra support and services) needed by the child/young person written into section F? There **must** be a provision in section F to meet each and every one of the needs in section B, there may need to be more than one provision to meet a single need and some provisions may cover more than one need.

**Case Law:** R v The Secretary of State for Education and Science ex parte E [1992] 1 FLR 377, Part 3 of a Statement (what is now Section F of an EHC plan) must specify the provision required to meet each of the needs identified,"

3. Is any of the wording in section F 'vague' or 'woolly'? If it is, it must be specified and quantified! 'If any of the words used in the plan are unclear or woolly, it is possible the special educational provision will not be delivered in the right quantity or by the right person. It is even possible it will not be provided at all' -IPSEA

**Law:** The provision set out in the EHC plan must be detailed and specific and should normally be quantified, for example, in terms of the type, hours and frequency of support and level of expertise (Paragraph 9.69 of the Code).

**Case law:** It should be clear from reading section F of the EHC plan "who, what, when and how long" in relation to each element of special educational provision listed (EC v North East Lincolnshire LA [2015] UKUT 0648 (AAC)).

**Case law:** 'Provision in Section F of an EHCP must be so specific and clear as to leave no room for doubt as to what has been decided' (L v Clarke and Somerset CC (1998))

**Case Law:** The Provision must also outline the staff qualifications and experience of those teaching students, i.e., whether the teacher involved has to be expressly qualified or experienced to deal with particular special educational needs (L v Wadsworth Ex Parte M [1998] ELR 424)

4. Is the school or college the child will be attending written in section I? This **must** not be written in a draft Plan but **must** be written in the final. Is the school the one the parent or young person asked to be named?

**Law:** The LA can lawfully **only** refuse to name your first preference if:

- The setting is unsuitable for the age, ability, aptitude or special educational needs ("**SEN**") of the child or young person; or
- The attendance of the child or young person would be incompatible with the provision of efficient education for others; or
- The attendance of the child or young person would be incompatible with the efficient use of resources. (section 39(4) CAFA 2014)

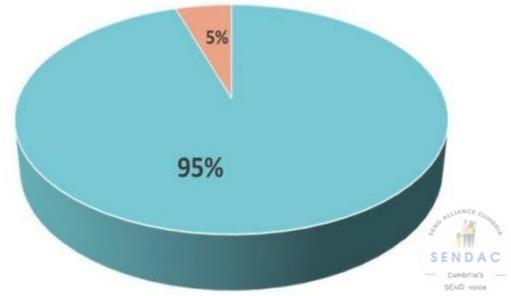
# Images to Remember

## Woolly Word BINGO!

No matter how 'dressed up' vague words are, they have no place in an EHCP and could make provisions non enforceable!

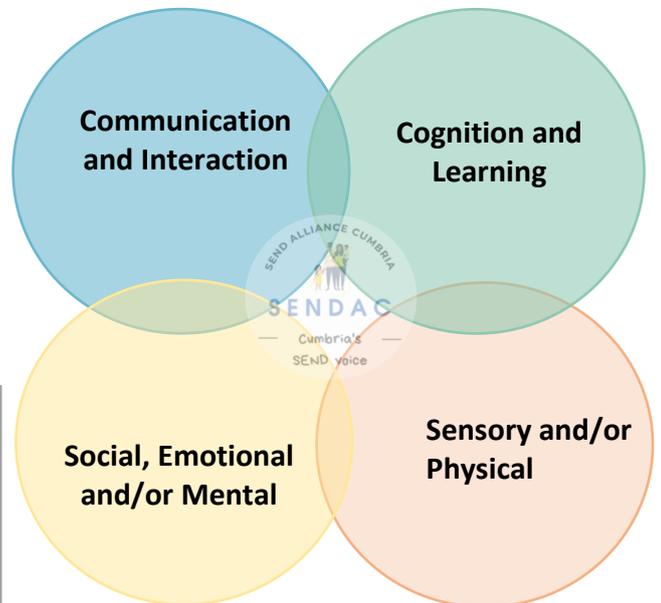
| May Benefit from | Opportunities for                   | Might/May            | No more than    |
|------------------|-------------------------------------|----------------------|-----------------|
| May Require      | When necessary                      | If/when/as available | Regular support |
| ACCESS TO        | <i>A program me will be devised</i> | As required          | 'small groups'  |
| Regular          | Could use                           | Up to                | As/when needed  |

Tribunal Statistics 2017/18



- percentage of parents that won at tribunal, including the LA conceding
- Percentage of Local Authority's that won at tribunal

## The four broad areas of SEND



NEEDS

VS

PROVISIONS

Has no sense of danger

Has social & communication difficulties

Has difficulties writing on white paper

Has low upper muscle tone



Requires 1:1 support at all times throughout the entire school day

All staff must be trained to at least autism level 2 AET

Coloured paper must be provided at all times when required to write

4 x 10-minute motor specific programmes daily provided by a level 3 SI OT

## Provision Checklist...

Who will carry out the provision? .....

What is the Provision? .....

When will the Provision take Place? .....

How will it happen? .....

## Frequently Asked Questions!

My child will be going to a special needs school, does this mean the EHCP can be

No! An EHCP should not be written based on the school the child is attending, but the child's needs and aspirations. In addition, B-M and B-M v Oxfordshire CC (SEN) (2018) Clarified this matter, confirming even when placing children in any type of specialist setting or specialist base, 'specificity' cannot be 'abandoned'

'These forms apply to children and young people without EHCP's. Parents who have children with EHCP's are not required to complete general preference forms. It is not lawful for L.A.'s to impose this requirement on these parents or young people' - Ipea. Nor do you have to name another school!

The LA have asked me to fill in a 'general preference form' to name other schools, in case my preference is not available, do I have to fill it in?

The school that I asked to be named in the EHCP is full, now what?

Being 'full' is **not a legal** reason to decline a place, the LA can only legally not name your preferred school for the following reasons:

- The setting is unsuitable for the age, ability, aptitude or special educational needs ("SEN") of the child or young person; or
- The attendance of the child or young person would be incompatible with the provision of efficient education for others; or would be incompatible with the efficient use of resources.

Can a parent Apply for an EHCP for their child?

Absolutely! Parents have an equal right to apply For an EHCP just as school do! Ipea even have a model letter here to make an EHCP request!  
<https://www.ipsea.org.uk/making-a-request-for-an-ehc-needs-assessment>



My child's EHCP is not specified and quantified and neither are the professional reports! What can I do?

*Para 9.51 of the Send CoP*- 'Evidence and advice submitted by those providing it should be clear accessible and specific' it is unlawful for professionals to use woolly wording and not specify and in most cases, quantify provision. If there is a failure to do this, you can either; write to the professionals yourself and ask them to specify the reports; and/or write to the director of children's services to complain using this model letter provided by ipsea: <https://www.ipsea.org.uk/complaining-when-the-local-authority-does-not-seek-the-correct-advice-during-an-ehc-needs-assessment-model-letter-7>. If the Reports are still not specified, you can appeal to tribunal and ask them to direct the LA to make these specified and quantified.

How often should an Annual review take place?

*Para 9.166 and 9.170 of Send CoP* - must be reviewed by the LA as a minimum every 12 months and should consider reviewing an EHC plan for a child under five at least every three to six months' Should in the case of the CoP is defined as 'must' be considered and that those who must have regard to it will be expected to explain any departure from it. In addition, you are able to request an early annual review at any time, although the LA do not have to agree to one.

My child's school are not following the EHCP, what can I do?

It is the LA's **duty** to ensure the provision in an EHCP is delivered and they cannot put this duty on anyone else, including school (Section 42 of CAF act 2014). However, it would be best to speak to the school first. If this does not change things, you can contact the LA using this ipsea model letter!  
<https://www.ipsea.org.uk/complaining-when-the-provision-in-an-ehc-plan-is-not-being-made-model-letter-6>. If there is no response in two weeks, you can complain to the Ombudsman, if the matter, however, is urgent you could consider Judicial Review

If your child's needs have changed you could wait until the next annual review. If it is urgent, you can ask for an early review, however, the LA can refuse this request and there is no right to appeal. If the request is refused and your child's needs have changed significantly, you could ask for a re-assessment of needs, if the LA refuse, you have a right to appeal to tribunal!

My child's needs have changed, What can I do?

About LA 'Banding'

Banding is what some LA's use to decide top up funding, LA's can refer to 'bands' but not instead of the specifying and quantification of provision (*SEN and disability code of practice 2015*) they **must** also secure and **fund all** of the **provision** in the EHCP, regardless of funding. If banding is used, they cannot base provision on this!

## Reliable EHCP Resources

**Sendiass:** <https://sendiass.cumbria.gov.uk/aboutcumbriasendiass.asp> -

Offering impartial information, advice and support to children and young people with special educational needs and or disabilities and their parents and carers. They know everything you need to know about EHCP's

| <b>Location:</b>                  | <b>Local co-ordinator:</b> | <b>Telephone:</b> | <b>Email:</b>  |
|-----------------------------------|----------------------------|-------------------|--|
| Allerdale Area                    | Susan Eastwood             | 07824 408922      | <a href="mailto:susan.eastwood@cumbria.gov.uk">susan.eastwood@cumbria.gov.uk</a>       |
| Barrow, Ulverston and Grange Area | Celia Jones                | 01229 407439      | <a href="mailto:celia.jones@cumbria.gov.uk">celia.jones@cumbria.gov.uk</a>             |
| Carlisle Area and North Cumbria   | Polly Shields              | 07788 360336      | <a href="mailto:pollyanna.shields@cumbria.gov.uk">pollyanna.shields@cumbria.gov.uk</a> |
| Copeland, Coniston and Ambleside  | Sally Godfrey              | 07795 110940      | <a href="mailto:sally.godfrey@cumbria.gov.uk">sally.godfrey@cumbria.gov.uk</a>         |
| Kendal and East Cumbria           | Emma Stephenson            | 07769 935446      | <a href="mailto:emma.stephenson@cumbria.gov.uk">emma.stephenson@cumbria.gov.uk</a>     |

### websites:

- The SEND Code of Practice- Details the legal and statutory requirements that must be followed by law as set out in the equality act 2010, the special educational needs and disabilities regulations 2014 and the children and families act 2014 including everything relating to EHCP'S. It may seem like a long and daunting read but it would it is a great benefit and resource to know to understand the law and guidance surrounding EHCP's, your child's rights and La's duties.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398815/SEND Code of Practice January 2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)
- Children's and Families Act Part 3- EHCP's  
<https://www.legislation.gov.uk/ukpga/2014/6/part/3/crossheading/education-health-and-care-plans/enacted>
- IPSEA- free expert advice, Free model letters from requesting to appealing and everything in between. Packed with EHCP advice <https://www.ipsea.org.uk> | <https://www.ipsea.org.uk/model-letters>
- The Noddy Guide- for all EHCP and SEN related case law!  
<https://www.matrixlaw.co.uk/wp-content/uploads/2016/02/Noddy-Guide-2020.pdf>

- Special Needs Jungle- Parent-led forum, with real expert advice and parent experiences, everything you need to know! <https://www.specialneedsjungle.com>
- Bright futures consultancy- Free 20-minute consultation absolutely worth it! <https://www.brightfuturesconsultants.com>
- SOSSEN- Free expert contact helpline! <https://www.sossen.org.uk>
- Writing Section A help!  
<https://www.northamptonshire.gov.uk/councilservices/children-families-education/SEND/ehc/Documents/Easyread%20guide%20for%20YP%20-%20all%20about%20me%20EHCP.pdf>
- All SEND Tribunal Forms- <https://www.gov.uk/government/collections/special-educational-needs-and-disability-tribunal-forms>
- Cumbria Local offer website:  
<https://localoffer.cumbria.gov.uk/kb5/cumbria/fsd/localoffer.page?familychannel=5>
- EHCP good practice and examples of EHCPs:  
[Education, Health and Care Plans: Examples of good practice \(councilfordisabledchildren.org.uk\)](https://www.councilfordisabledchildren.org.uk/education-health-and-care-plans-examples-of-good-practice)

## Videos

- Special Education Needs and Disability Mock Tribunal  
<https://www.youtube.com/watch?v=PmahNrw4oO8>
- Hearings at the special educational needs and disability tribunal  
<https://www.youtube.com/watch?v=ExNEpi-E4XI>
- [IASS video for Parents - what they are/how they can help? - YouTube](#)
- [IASS video for Children and Young People - what they are/how they can help? - YouTube](#)
- [Shropshire IASS - Checking your draft EHCP \(animated\) - YouTube](#)

**Facebook groups-** A great source to chat to people who have had similar experiences, and to get very quick expert advice informally:

- Operation diversity-  
<https://www.facebook.com/groups/operationdiversitycommunity>
- EHCP Experiences and SEND support  
<https://www.facebook.com/groups/393364594444461>
- EHCP Experiences England- <https://www.facebook.com/groups/1142134489176906>







