

9 Education, Health and Care needs assessments and plans

What the chapter covers

This chapter covers all the key stages in statutory assessment and planning and preparing the Education, Health and Care (EHC) plan, and guidance on related topics.

It includes:

- when a local authority **must** carry out an EHC needs assessment, including in response to a request
- who **must** be consulted and provide advice
- the statutory steps required by the process of EHC needs assessment and EHC plan development, including timescales
- how to write an EHC plan
- requesting a particular school, college or other institution
- requesting and agreeing Personal Budgets, including sources of funding
- finalising and maintaining an EHC plan
- transferring an EHC plan
- reviews and re-assessments of an EHC plan
- ceasing an EHC plan
- disclosing an EHC plan

Relevant legislation

Primary

Sections 36 – 50 of the Children and Families Act 2014

The Care Act 2014

Section 2 of the Chronically Sick and Disabled Persons Act 1970

Sections 17, 20 and 47 of the Children Act 1989

Regulations

The Special Educational Needs and Disability Regulations 2014

The Special Educational Needs (Personal Budgets) Regulations 2014

Special Educational Needs (Miscellaneous Amendments) Regulations 2014

The Community Care Services for Carers and Children's Services (Direct Payments) Regulations 2009

The National Health Service (Direct Payments) Regulations 2013

The Special Educational Needs and Disability (Detained Persons) Regulations 2015

Introduction

- 9.1 The majority of children and young people with SEN or disabilities will have their needs met within local mainstream early years settings, schools or colleges (as set out in the information on identification and support in Chapters 5, 6 and 7). Some children and young people may require an EHC needs assessment in order for the local authority to decide whether it is necessary for it to make provision in accordance with an EHC plan.
- 9.2 The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood. To achieve this, local authorities use the information from the assessment to:
- establish and record the views, interests and aspirations of the parents and child or young person
 - provide a full description of the child or young person's special educational needs and any health and social care needs
 - establish outcomes across education, health and social care based on the child or young person's needs and aspirations
 - specify the provision required and how education, health and care services will work together to meet the child or young person's needs and support the achievement of the agreed outcomes
- 9.3 A local authority **must** conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. The factors a local authority should take into account in deciding whether it needs to undertake an EHC needs assessment are set out in paragraphs 9.14 to 9.15, and the factors a local authority should take into account in deciding whether an EHC plan is necessary are set out in paragraphs 9.53 to 9.56. The EHC needs assessment should not normally be the first step in the process, rather it should follow on from

planning already undertaken with parents and young people in conjunction with an early years provider, school, post-16 institution or other provider. In a very small minority of cases children or young people may demonstrate such significant difficulties that a school or other provider may consider it impossible or inappropriate to carry out its full chosen assessment procedure. For example, where its concerns may have led to a further diagnostic assessment or examination which shows the child or young person to have severe sensory impairment or other impairment which, without immediate specialist intervention beyond the capacity of the school or other provider, would lead to increased learning difficulties.

- 9.4 During the transition period local authorities will transfer children and young people with statements onto the new system (see paragraphs x and xi of the Introduction and paragraph 1.17 in Chapter 1, Principles, for more information on transition and transfer of statements). No-one should lose their statement and not have it replaced with an EHC plan simply because the system is changing.
- 9.5 EHC plans should be forward-looking documents that help raise aspirations and outline the provision required to meet assessed needs to support the child or young person in achieving their ambitions. EHC plans should specify 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.
- 9.6 An EHC needs assessment will not always lead to an EHC plan. The information gathered during an EHC needs assessment may indicate ways in which the school, college or other provider can meet the child or young person's needs without an EHC plan.
- 9.7 The statutory processes and timescales set out in this chapter **must** be followed by local authorities. Local authorities should conduct assessments and prepare and maintain EHC plans in the most efficient way possible, working collaboratively with children and young people and their parents. It should be possible to complete the process more quickly than the statutory timescales permit, except in more complex cases or where there is disagreement. It is vital that a timely process is supported by high quality engagement with the child and his or her parents or the young person throughout the assessment, planning and review process.

Requesting an EHC needs assessment

Relevant legislation: Section 36 of the Children and Families Act 2014

- 9.8 The following people have a specific right to ask a local authority to conduct an education, health and care needs assessment for a child or young person aged between 0 and 25:

- the child's parent
- a young person over the age of 16 but under the age of 25, and
- a person acting on behalf of a school or post-16 institution (this should ideally be with the knowledge and agreement of the parent or young person where possible)

9.9 In addition, anyone else can bring a child or young person who has (or may have) SEN to the attention of the local authority, particularly where they think an EHC needs assessment may be necessary. This could include, for example, foster carers, health and social care professionals, early years practitioners, youth offending teams or probation services, those responsible for education in custody, school or college staff or a family friend. Bringing a child or young person to the attention of the local authority will be undertaken on an individual basis where there are specific concerns. This should be done with the knowledge and, where possible, agreement of the child's parent or the young person.

9.10 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 EHC needs assessment and maintaining an EHC plan for children and young people in youth custody are set out in Chapter 10, Children and young people in specific circumstances.

Considering whether an EHC needs assessment is necessary

Relevant legislation: Section 36 of the Children and Families Act 2014 and Regulations 3, 4, and 5 of the SEND Regulations 2014

9.11 Following a request for an EHC needs assessment, or the child or young person having otherwise been brought to its attention, the local authority **must** determine whether an EHC needs assessment is necessary. The local authority **must** make a decision and communicate the decision to the child's parent or to the young person within 6 weeks of receiving the request. The local authority does not have to consider whether an EHC needs assessment is necessary where it has already undertaken an EHC needs assessment for the child or young person during the previous six months, although the local authority may choose to do so if it thinks it is appropriate.

9.12 The local authority **must** notify the child's parent or the young person that it is considering whether an EHC assessment is necessary, and **must** consult the child's

parent or the young person as soon as practicable following a request for an EHC needs assessment (or having otherwise become responsible). This is particularly important where the request was not made by the child's parent or the young person, so they have sufficient time to provide their views. In considering whether an EHC needs assessment is necessary, local authorities **must** have regard to the views, wishes and feelings of the child and his or her parent, or the young person. At an early stage, the local authority should establish how the child and his or her parent or the young person can best be kept informed and supported to participate as fully as possible in decision-making. The local authority **must** arrange for the child and his or her parent or the young person to be provided with advice and information relevant to the child or young person's SEN, (for more information, see paragraph 9.21 and Chapter 2).

9.13 Where the local authority considers that special educational provision may need to be made in accordance with an EHC plan and is considering whether an EHC needs assessment is necessary, it **must** notify:

- the child's parent or the young person (and **must** inform them of their right to express written or oral views and submit evidence to the local authority)
- 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)

9.14 In considering whether an EHC needs assessment is necessary, the local authority should 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. To inform their decision the local authority will need to take into account a wide range of evidence, and should pay particular attention to:

- 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
- 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 **must** 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.

9.15 A young person who was well supported through the Local Offer while at school may move to a further education (FE) college where the same range or level of support is not available. An EHC plan may then be needed to ensure that support is provided and co-ordinated effectively in the new environment. It may also be the case that young people acquire SEN through illness or accident, or have an existing condition that requires increasing support as they get older.

9.16 Local authorities may develop criteria as guidelines to help them decide when it is necessary to carry out an EHC needs assessment (and following assessment, to decide whether it is necessary to issue an EHC plan). However, local authorities **must** be prepared to depart from those criteria where there is a compelling reason to do so in any particular case and demonstrate their willingness to do so where individual circumstances warrant such a departure. Local authorities **must not** apply a 'blanket' policy to particular groups of children or certain types of need, as this would prevent the consideration of a child's or young person's needs individually and on their merits.

9.17 The local authority **must** decide whether or not to proceed with an EHC needs assessment, and **must** inform the child's parent or the young person of their decision within a maximum of six weeks from receiving a request for an EHC needs

assessment (or having otherwise become responsible). The local authority **must** give its reasons for this decision where it decides not to proceed. The local authority **must** also notify the other parties listed in section 9.13 above of its decision.

- 9.18 If the local authority intends to conduct an EHC needs assessment, it **must** ensure the child's parent or the young person is fully included from the start and made aware of opportunities to offer views and information.
- 9.19 If the local authority decides not to conduct an EHC needs assessment it **must** inform the child's parents or the young person of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services. The local authority should also provide feedback collected during the process of considering whether an EHC needs assessment is necessary, including evidence from professionals, which the parent, young person, early years provider, school or post-16 institution may find useful.

Principles underpinning co-ordinated assessment and planning

Relevant legislation: Section 19 of the Children and Families Act 2014 and Regulations 7 and 9 of the SEND Regulations 2014

- 9.20 Children, young people and families should experience well co-ordinated assessment and planning leading to timely, well informed decisions. The following general principles underpin effective assessment and planning processes:

Involving children, young people and parents in decision-making

- 9.21 Local authorities **must** consult the child and the child's parent or the young person throughout the process of assessment and production of an EHC plan. They should also involve the child as far as possible in this process. The needs of the individual child and young person should sit at the heart of the assessment and planning process. Planning should start with the individual and local authorities **must** have regard to the views, wishes and feelings of the child, child's parent or young person, their aspirations, the outcomes they wish to seek and the support they need to achieve them. It should enable children, young people and parents to have more control over decisions about their support including the use of a Personal Budget for those with an EHC plan.
- 9.22 The assessment and planning process should:
- 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 that 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

9.23 This approach is often referred to as a person-centred approach. By using this approach within a family context, professionals and local authorities can ensure that children, young people and parents are involved in all aspects of planning and decision-making.

9.24 Local authorities should support and encourage the involvement of children, young people and parents or carers by:

- providing them with access to the relevant information in accessible formats
- giving them time to prepare for discussions and meetings, and
- dedicating time in discussions and meetings to hear their views

9.25 In addition, some children and young people will require support from an advocate where necessary (this could be a family member or a professional) to ensure that their views are heard and acknowledged. They may need support in expressing views about their education, their health, the future and how to prepare for it, including where they will live, relationships, control of their finances, how they will

participate in the community and how they will achieve greater autonomy and independence. Local authorities should ensure that children and young people who need it have access to this support.

- 9.26 Practitioners in all services involved in the assessment and planning process need to be skilled in working with children, parents and young people to help them make informed decisions. All practitioners should have access to training so they can do this effectively.

Support for children, young people and parents

- 9.27 Local authorities should have early discussions with parents or the young person about what the EHC needs assessment process and development of an EHC plan will involve, and the range of options that will be available, such as different types of educational institution and options for Personal Budgets and how these may differ depending on the type of educational institution for which the parents or young person express a preference.
- 9.28 Local authorities **must** work with parents and children and young people to understand how best to minimise disruption for them and their family life. For example, multiple appointments should be co-ordinated or combined where possible and appropriate.
- 9.29 Local authorities **must** provide all parents, children and young people with impartial information, advice and support in relation to SEN to enable them to take part effectively in the assessment and planning process. This will include the EHC needs assessment process, EHC plans and Personal Budgets (including the take-up and ongoing management of direct payments). This should include information on key working and independent supporters as appropriate. (See Chapter 2 for more information.)

Co-ordination

- 9.30 Local authorities are responsible for ensuring that there is effective co-ordination of the assessment and development process for an EHC plan. The co-ordination should include:
- planning the process to meet the needs of children, parents and young people
 - timing meetings to minimise family disruption
 - keeping the child's parent or young person informed through a single point of contact wherever possible and

- ensuring relevant professionals have sufficient notice to be able to contribute to the process

9.31 The EHC needs assessment and plan development process should be supported by senior leadership teams monitoring the quality and sufficiency of EHC needs assessments through robust quality assurance systems. Families should have confidence that those overseeing the assessment process will be impartial and act in their best interests.

Sharing information

9.32 Information sharing is vital to support an effective assessment and planning process which fully identifies needs and outcomes and the education, health and care provision needed by the child or young person. Local authorities with their partners should establish local protocols for the effective sharing of information which addresses confidentiality, consent and security of information (see the References section under Chapter 9 for a link to the DfE advice '*Information sharing for practitioners and managers*'). Agencies should work together to agree local protocols for information collection and management so as to inform planning of provision for children and young people with SEN or disabilities at both individual and strategic levels.

9.33 As far as possible, there should be a 'tell us once' approach to sharing information during the assessment and planning process so that families and young people do not have to repeat the same information to different agencies, or different practitioners and services within each agency.

9.34 Local authorities **must** discuss with the child and young person and their parents what information they are happy for the local authority to share with other agencies. A record should be made of what information can be shared and with whom. (See paragraphs 9.211 to 9.213 for further information on confidentiality and disclosing EHC plans.)

Timely provision of services

9.35 Where particular services are assessed as being needed, such as those resulting from statutory social care assessments under the Children Act 1989 or adult social care legislation, their provision should be delivered in line with the relevant statutory guidance and should not be delayed until the EHC plan is complete. For social care, help and support should be given to the child and family as soon as a need is identified and not wait until the completion of an EHC needs assessment.

Cross-agency working

- 9.36 Joint working between local authorities and CCGs in the development of an EHC plan supports the provision of effective services for children and young people with SEN. (See Chapter 3, Working together across Education, Health and Care for joint outcomes, for guidance on services working together, and the section later in this chapter on agreeing the health provision in EHC plans.)
- 9.37 Consideration should be given to:
- the range of professionals across education, health and care who need to be involved and their availability
 - flexibility for professionals to engage in a range of ways and to plan their input as part of forward planning
 - providing opportunities for professionals to feed back on the process, and its implementation, to support continuous improvement

Looked after children

- 9.38 Local authorities should be particularly aware of the need to avoid any delays for looked after children and carry out the EHC needs assessment in the shortest possible timescale. Addressing a looked after child's special educational needs will be a crucial part of avoiding breakdown in their care placement.

Timescales for EHC needs assessment and preparation of an EHC plan

Relevant legislation: Sections 36, 37, 38, 39 and 40 of the Children and Families Act 2014 and Regulations 4, 5, 8, 10, and 13 of the SEND Regulations 2014

- 9.39 The process of EHC needs assessment and EHC plan development **must** be carried out in a timely manner. The time limits set out below are the maximum time allowed. However, steps **must** be completed as soon as practicable. Local authorities should ensure that they have planned sufficient time for each step of the process, so that wherever possible, any issues or disagreements can be resolved within the statutory timescales. Where the child's parent or the young person agrees, it may be possible to carry out steps much more quickly and flexibly. For example, a child's parent or the young person might be happy to agree changes to an EHC plan following a review while at the review meeting, where all parties are content. Under no circumstances should the child's parent or the young person be put under pressure to agree things more quickly than they feel comfortable with, and where there is any doubt or the child's parent or the young person requests more time, local authorities **must** follow the steps and timescales set out in this guidance.

9.40 The whole process of EHC needs assessment and EHC plan development, from the point when an assessment is requested (or a child or young person is brought to the local authority's attention) until the final EHC plan is issued, **must** take no more than 20 weeks (subject to exemptions set out below).

9.41 The following specific requirements apply:

- Local authorities **must** give their decision in response to any request for an EHC needs assessment within a maximum of 6 weeks from when the request was received or the point at which a child or young person was brought to the local authority's attention
- When local authorities request information as part of the EHC needs assessment process, those supplying the information **must** respond in a timely manner and within a maximum of 6 weeks from the date of the request
- If a local authority decides, following an EHC needs assessment, not to issue an EHC plan, it **must** inform the child's parent or the young person within a maximum of 16 weeks from the request for a EHC needs assessment, and
- The child's parent or the young person **must** 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

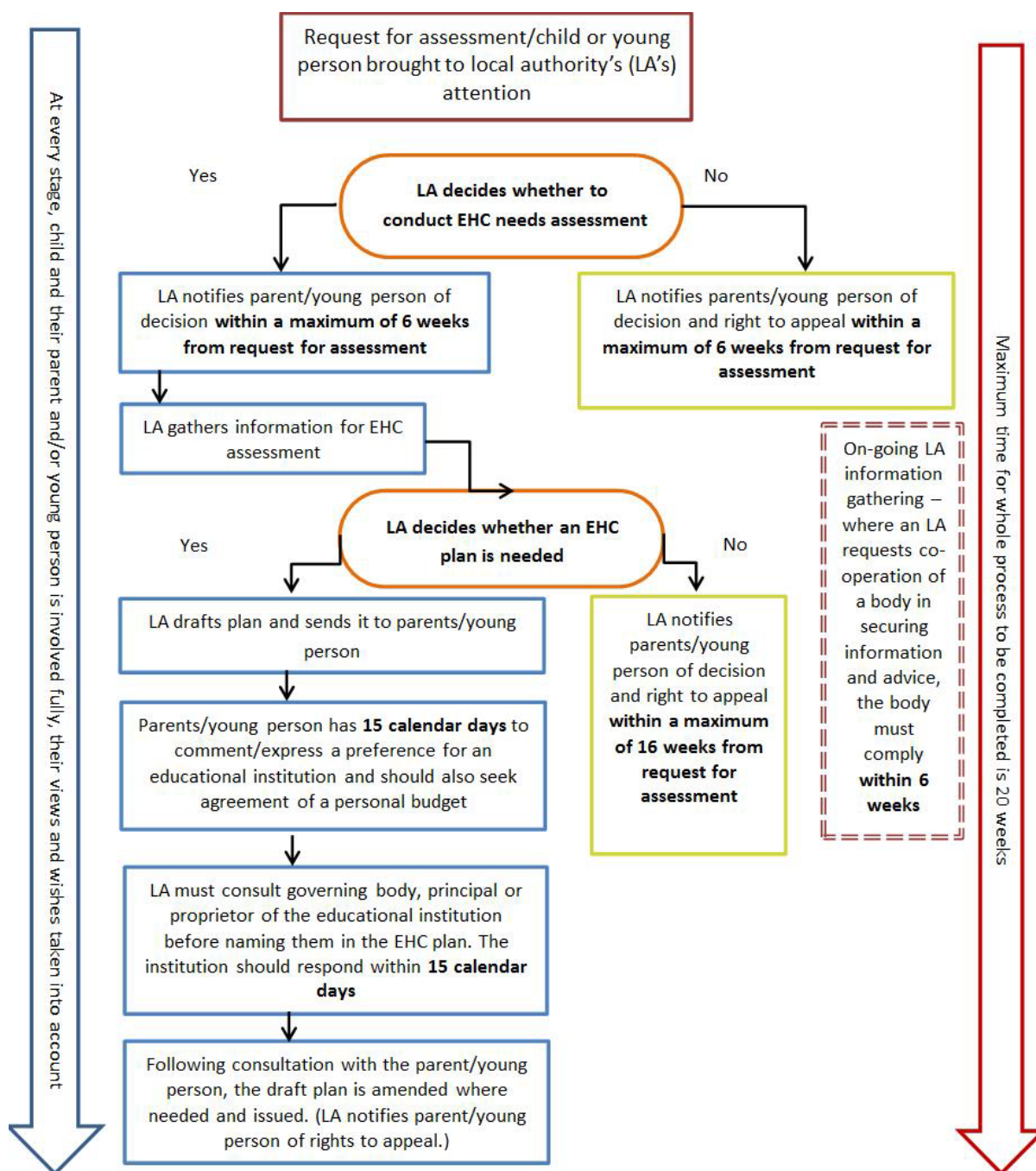
9.42 Where there are exceptional circumstances, it may not be reasonable to expect local authorities and other partners to comply with the time limits above. The Special Educational Needs and Disability Regulations 2014 set out specific exemptions. These include where:

- appointments with people from whom the local authority has requested information are missed by the child or young person (this only applies to the duty on partners to comply with a request under the EHC needs assessment process within six weeks)
- the child or young person is absent from the area for a period of at least 4 weeks
- exceptional personal circumstances affect the child or his/her parent, or the young person, and
- the educational institution is closed for at least 4 weeks, which may delay the submission of information from the school or other institution (this does

not apply to the duty on partners to comply with a request under the EHC needs assessment process within six weeks)

- 9.43 The child's parent or the young person should be informed if exemptions apply so that they are aware of, and understand, the reason for any delays. Local authorities should aim to keep delays to a minimum and as soon as the conditions that led to an exemption no longer apply the local authority should endeavour to complete the process as quickly as possible. All remaining elements of the process **must** be completed within their prescribed periods, regardless of whether exemptions have delayed earlier elements.
- 9.44 The diagram on the following page sets out the statutory timescales and decision points for the process of EHC needs assessment and EHC plan development that local authorities **must** adhere to, subject to the specific exemptions set out in paragraph 9.42. Throughout the statutory process for EHC needs assessment and EHC plan development, local authorities **must** work in partnership with the child and his or her parent or the young person. There is more information earlier in this chapter on the principles of working with parents and young people, and relevant statutory requirements.

Statutory timescales for EHC needs assessment and EHC plan development



Advice and information for EHC needs assessments

Relevant legislation: Section 36 of the Children and Families Act 2014 and Regulations 6, 7, and 8 of the SEND Regulations 2014

- 9.45 When carrying out an EHC needs assessment the local authority should seek views and information from the child using appropriate methods, which might include observation for a very young child, or the use of different methods of communication such as the Picture Exchange Communication System.
- 9.46 The local authority **must** gather advice from relevant professionals about the child or young person's education, health and care needs, desired outcomes and special educational, health and care provision that may be required to meet identified needs and achieve desired outcomes.
- 9.47 The local authority should consider with the child's parent or the young person and the parties listed under paragraph 9.49 the range of advice required to enable a full EHC needs assessment to take place. The principle underpinning this is 'tell us once', avoiding the child's parent or the young person having to provide the same information multiple times. The child's parent or the young person should be supported to understand the range of assessments available so they can take an informed decision about whether existing advice is satisfactory. The local authority **must not** seek further advice if such advice has already been provided (for any purpose) and the person providing the advice, the local authority and the child's parent or the young person are all satisfied that it is sufficient for the assessment process. In making this decision, the local authority and the person providing the advice should ensure the advice remains current.
- 9.48 Decisions about the level of engagement and advice needed from different parties will be informed by knowledge of the child or young person held by the early years provider, school or post-16 institution they attend. For example, if the educational provider believes there are signs of safeguarding or welfare issues, a statutory social care assessment may be necessary. If there are signs of an underlying health difficulty, a specialist health assessment may be necessary.
- 9.49 In seeking advice and information, the local authority should consider with professionals what advice they can contribute to ensure the assessment covers all the relevant education, health and care needs of the child or young person. Advice and information **must** be sought as follows (subject to para 9.47 above):
- Advice and information from the child's parent or the young person. The local authority **must** take into account his or her views, wishes and feelings

- Educational advice and information from the manager, headteacher or principal of the early years setting, school or post-16 or other institution attended by the child or young person. Where this is not available the authority **must** seek advice from a person with experience of teaching children or young people with SEN, or knowledge of the provision which may meet the child's or young person's needs. Where advice from a person with relevant teaching experience or knowledge is not available and the child or young person does not attend an educational institution, the local authority **must** seek educational advice and information from a person responsible for educational provision for the child or young person
- If the child or young person is either vision or hearing impaired, or both, the educational advice and information **must** be given after consultation with a person who is qualified to teach pupils or students with these impairments
- Medical advice and information from health care professionals with a role in relation to the child's or young person's health (see the section later in this chapter on agreeing the health provision in EHC plans)
- Psychological advice and information from an educational psychologist who should normally be employed or commissioned by the local authority. The educational psychologist should consult any other psychologists known to be involved with the child or young person
- Social care advice and information from or on behalf of the local authority, including, if appropriate, children in need or child protection assessments, information from a looked after child's care plan, or adult social care assessments for young people over 18. In some cases, a child or young person may already have a statutory child in need or child protection plan, or an adult social care plan, from which information should be drawn for the EHC needs assessment
- From Year 9 onwards, advice and information related to provision to assist the child or young person in preparation for adulthood and independent living
- Advice and information from any person requested by the child's parent or young person, where the local authority considers it reasonable to do so. For example, they may suggest consulting a GP or other health professional
- Advice from a youth offending team, where the child or young person is detained in a Young Offender Institution. Where the young person is

serving their sentence in the community the local authority should seek such advice where it considers it appropriate

- Any other advice and information which the local authority considers appropriate for a satisfactory assessment, for example:
 - Early Help Assessments
 - in the case of children of members of the Armed Forces, from the Children's Education Advisory Service
 - in the case of a looked after child, from the Virtual School Head in the authority that looks after the child and the child's Designated Teacher and the Designated Doctor or Nurse for looked after children

- 9.50 The local authority **must** give to those providing advice copies of any representations made by the child's parent or the young person, and any evidence submitted by or at the request of the child's parent or the young person.
- 9.51 The evidence and advice submitted by those providing it should be clear, accessible and specific. They should provide advice about outcomes relevant for the child or young person's age and phase of education and strategies for their achievement. The local authority may provide guidance about the structure and format of advice and information to be provided. Professionals should limit their advice to areas in which they have expertise. They may comment on the amount of provision they consider a child or young person requires and local authorities should not have blanket policies which prevent them from doing so.
- 9.52 Advice and information requested by the local authority **must** be provided within six weeks of the request, and should be provided more quickly wherever possible, to enable a timely process. (This is subject to the exemptions set out in paragraph 9.42.)

Deciding whether to issue an EHC plan

Relevant legislation: Sections 36 and 37 of the Children and Families Act 2014

- 9.53 Where, in the light of an EHC needs assessment, it is necessary for special educational provision to be made in accordance with an EHC plan, the local authority **must** prepare a plan. Where a local authority decides it is necessary to issue an EHC plan, it **must** notify the child's parent or the young person and give the reasons for its decision. The local authority should ensure it allows enough time to prepare the draft plan and complete the remaining steps in the process within the 20-week overall time limit within which it **must** issue the finalised EHC plan.

9.54 In deciding whether to make special educational provision in accordance with an EHC plan, the local authority should consider all the information gathered during the EHC needs assessment and set it alongside that available to the local authority prior to the assessment. Local authorities should consider both the child or young person's SEN and the special educational provision made for the child or 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 whether
- the special educational provision made prior to the EHC needs assessment was well matched to the SEN of the child or young person

9.55 Where, despite appropriate assessment and provision, the child or young person is not progressing, or not progressing sufficiently well, the local authority should consider what further provision may be needed. The local authority should take into account:

- 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
- whether it may be necessary for the local authority to make special educational provision in accordance with an EHC plan

9.56 Where a local authority carries 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 the local authority should consider what new special educational provision is needed, taking into account the points in 9.55 above.

Decision not to issue an EHC plan

Relevant legislation: Section 36 of the Children and Families Act 2014 and Regulation 10 of the SEND Regulations 2014

- 9.57 Following the completion of an EHC needs assessment, if the local authority decides that an EHC plan is not necessary, it **must** notify the child's parent or the young person, the early years provider, school or post-16 institution currently attended, and the health service and give the reasons for its decision. This notification **must** take place as soon as practicable and at the latest within 16 weeks of the initial request or of the child or young person having otherwise been brought to the local authority's attention. The local authority **must** also inform the child's parent or the young person of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services.
- 9.58 The local authority should ensure that the child's parent or the young person are aware of the resources available to meet SEN within mainstream provision and other support set out in the Local Offer.
- 9.59 The local authority should provide written feedback collected during the EHC needs assessment process, which the child's parent, the young person, early years provider, school or post-16 institution can understand and may find useful, including evidence and reports from professionals. This information can then inform how the outcomes sought for the child or young person can be achieved through special educational provision made by the early years provider, school or post-16 institution and co-ordinated support from other agencies.

Transparent and consistent decision-making

- 9.60 It is helpful for local authorities to set up moderating groups to support transparency in decision-making. Such groups can improve the consistency of decision-making about whether to carry out an EHC needs assessment and whether to issue an EHC plan. Through sampling and retrospective comparison, moderating groups can also help local authority practice to become more robust and clearly understood by schools, early years settings, post-16 institutions, young people and parents.

Writing the EHC plan

Relevant legislation: Section 37 of the Children and Families Act 2014 and Regulations 11 and 12 of the SEND Regulations 2014

9.61 The following principles and requirements apply to local authorities and those contributing to the preparation of an EHC plan:

- Decisions about the content of EHC plans should be made openly and collaboratively with parents, children and young people. It should be clear how the child or young person has contributed to the plan and how their views are reflected in it
- EHC plans should describe positively what the child or young person can do and has achieved
- EHC plans should be clear, concise, understandable and accessible to parents, children, young people, providers and practitioners. They should be written so they can be understood by professionals in any local authority
- In preparing the EHC plan the local authority **must** consider how best to achieve the outcomes sought for the child or young person. The local authority **must** take into account the evidence received as part of the EHC needs assessment
- EHC plans **must** specify the outcomes sought for the child or young person. Outcomes in EHC plans should be SMART (specific, measurable, achievable, realistic, time-bound). See the section on 'Outcomes' (paragraph 9.64 onwards) for detailed guidance on outcomes.
- Where a young person or parent is seeking an innovative or alternative way to receive their support services – particularly through a Personal Budget, but not exclusively so – then the planning process should include the consideration of those solutions with support and advice available to assist the parent or young person in deciding how best to receive their support
- EHC plans should show how education, health and care provision will be co-ordinated wherever possible to support the child or young person to achieve their outcomes. The plan should also show how the different types of provision contribute to specific outcomes
- EHC plans should be forward looking – for example, anticipating, planning and commissioning for important transition points in a child or young person's life, including planning and preparing for their transition to adult life

- EHC plans should describe how informal (family and community) support as well as formal support from statutory agencies can help in achieving agreed outcomes
- EHC plans should have a review date (which should link to other regular reviews, including the child in need plan or child protection plan reviews if appropriate)

Content of EHC plans

Relevant legislation: Section 37 of the Children and Families Act 2014 and Regulation 12 of the SEND Regulations 2014

9.62 The format of an EHC plan will be agreed locally, and it is expected that the plan will reflect the principles set out in Chapter 1 of this document. However, as a statutory minimum, EHC plans **must** include the following sections, which **must** be separately labelled from each other using the letters below. The sections do not have to be in the order below and local authorities may use an action plan in tabular format to include different sections and demonstrate how provision will be integrated, as long as the sections are separately labelled.

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.

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

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.

- 9.63 In addition, where the child or young person is in or beyond Year 9, the EHC plan **must** include (in sections F, G, H1 or H2 as appropriate) the provision required by the child or young person to assist in preparation for adulthood and independent living, for example, support for finding employment, housing or for participation in society.

Outcomes

Relevant legislation: Section 37 of the Children and Families Act 2014 and Regulations 11 and 12 of the SEND Regulations 2014

- 9.64 EHC plans **must** specify the outcomes sought for the child or young person in Section E. EHC plans should be focused on education and training, health and care outcomes that will enable children and young people to progress in their learning and, as they get older, to be well prepared for adulthood. EHC plans can also include wider outcomes such as positive social relationships and emotional resilience and stability. Outcomes should always enable children and young people to move towards the long-term aspirations of employment or higher education, independent

living and community participation. (See Chapter 8 for more details on preparing for adulthood.)

- 9.65 Long-term aspirations are not outcomes in themselves – aspirations **must** be specified in Section A of the EHC plan. A local authority cannot be held accountable for the aspirations of a child or young person. For example, a local authority cannot be required to continue to maintain an EHC plan until a young person secures employment. However, the EHC plan should continue to be maintained where the young person wants to remain in education and clear evidence shows that special educational provision is needed to enable them to achieve the education and training outcomes required for a course or programme that moves them closer to employment. For example, by accessing a supported internship or apprenticeship.
- 9.66 An outcome can be defined as the benefit or difference made to an individual as a result of an intervention. It should be personal and not expressed from a service perspective; it should be something that those involved have control and influence over, and while it does not always have to be formal or accredited, it should be specific, measurable, achievable, realistic and time bound (SMART). When an outcome is focused on education or training, it will describe what the expected benefit will be to the individual as a result of the educational or training intervention provided. Outcomes are not a description of the service being provided – for example the provision of three hours of speech and language therapy is not an outcome. In this case, the outcome is what it is intended that the speech and language therapy will help the individual to do that they cannot do now and by when this will be achieved.
- 9.67 When agreeing outcomes, it is important to consider both what is important *to* the child or young person – what they themselves want to be able to achieve – and what is important *for* them as judged by others with the child or young person's best interests at heart. In the case of speech and language needs, what is important to the child may be that they want to be able to talk to their friends and join in their games at playtime. What is important for them is that their behaviour improves because they no longer get frustrated at not being understood.
- 9.68 Outcomes underpin and inform the detail of EHC plans. Outcomes will usually set out what needs to be achieved by the end of a phase or stage of education in order to enable the child or young person to progress successfully to the next phase or stage. An outcome for a child of secondary school age might be, for example, to make sufficient progress or achieve a qualification to enable him or her to attend a specific course at college. Other outcomes in the EHC plan may then describe what needs to be achieved by the end of each intervening year to enable him or her to achieve the college place. From Year 9 onwards, the nature of the outcomes will reflect the need to ensure young people are preparing for adulthood. In all cases,

EHC plans **must** specify the special educational provision required to meet each of the child or young person's special educational needs. The provision should enable the outcomes to be achieved.

- 9.69 The EHC plan should also specify the arrangements for setting shorter term targets at the level of the school or other institution where the child or young person is placed. Professionals working with children and young people during the EHC needs assessment and EHC plan development process may agree shorter term targets that are not part of the EHC plan. These can be reviewed and, if necessary, amended regularly to ensure that the individual remains on track to achieve the outcomes specified in their EHC plan. Professionals should, wherever possible, append these shorter term plans and targets to the EHC plan so that regular progress monitoring is always considered in the light of the longer term outcomes and aspirations that the child or young person wants to achieve. In some exceptional cases, progress against these targets may well lead to an individual outcome within the EHC plan being amended at times other than following the annual review.

What to include in each section of the EHC plan

Section	Information to include
(A) The views, interests and aspirations of the child and their parents, or of the young person	<ul style="list-style-type: none"> • Details about the child or young person's aspirations and goals for the future (but not details of outcomes to be achieved – see section above on outcomes for guidance). When agreeing the aspirations, consideration should be given to the child or young person's aspirations for paid employment, independent living and community participation • Details about play, health, schooling, independence, friendships, further education and future plans including employment (where practical) • A summary of how to communicate with the child or young person and engage them in decision-making. • The child or young person's history • If written in the first person, the plan should make clear whether the child or young person is being quoted directly, or if the views of parents or professionals are being represented
(B) The child or young person's special educational needs (SEN)	<ul style="list-style-type: none"> • All of the child or young person's identified special educational needs must be specified • SEN may include needs for health and social care provision that are treated as special educational provision

Section	Information to include
	because they educate or train the child or young person (see paragraphs 9.73 onwards)
(C) The child or young person's health needs which relate to their SEN	<ul style="list-style-type: none"> • The EHC plan must specify any health needs identified through the EHC needs assessment which relate to the child or young person's SEN. Some health care needs, such as routine dental health needs, are unlikely to be related • The Clinical Commissioning Group (CCG) may also choose to specify other health care needs which are not related to the child or young person's SEN (for example, a long-term condition which might need management in a special educational setting)
(D) The child or young person's social care needs which relate to their SEN	<ul style="list-style-type: none"> • The EHC plan must specify any social care needs identified through the EHC needs assessment which relate to the child or young person's SEN or which require provision for a child or young person under 18 under section 2 of the Chronically Sick and Disabled Persons Act 1970 • The local authority may also choose to specify other social care needs which are not linked to the child or young person's SEN or to a disability. This could include reference to any child in need or child protection plan which a child may have relating to other family issues such as neglect. Such an approach could help the child and their parents manage the different plans and bring greater co-ordination of services. Inclusion must only be with the consent of the child and their parents
(E) The outcomes sought for the child or the young person	<ul style="list-style-type: none"> • A range of outcomes over varying timescales, covering education, health and care as appropriate but recognising that it is the education and training outcomes only that will help determine when a plan is ceased for young people aged over 18. Therefore, for young people aged over 17, the EHC plan should identify clearly which outcomes are education and training outcomes. See paragraph 9.64 onwards for more detail on outcomes • A clear distinction between outcomes and provision. The provision should help the child or young person achieve an outcome, it is not an outcome in itself • Steps towards meeting the outcomes • The arrangements for monitoring progress, including review and transition review arrangements and the arrangements for setting and monitoring shorter term

Section	Information to include
	<p>targets by the early years provider, school, college or other education or training provider</p> <ul style="list-style-type: none"> • Forward plans for key changes in a child or young person's life, such as changing schools, moving from children's to adult care and/or from paediatric services to adult health, or moving on from further education to adulthood • For children and young people preparing for the transition to adulthood, the outcomes that will prepare them well for adulthood and are clearly linked to the achievement of the aspirations in section A
<p>(F) The special educational provision required by the child or the young person</p>	<ul style="list-style-type: none"> • Provision 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, including where this support is secured through a Personal Budget • Provision must be specified for each and every need specified in section B. It should be clear how the provision will support achievement of the outcomes • Where health or social care provision educates or trains a child or young person, it must appear in this section (see paragraph 9.73) • There should be clarity as to how advice and information gathered has informed the provision specified. Where the local authority has departed from that advice, they should say so and give reasons for it • In some cases, flexibility will be required to meet the changing needs of the child or young person including flexibility in the use of a Personal Budget • The plan should specify: <ul style="list-style-type: none"> ○ any appropriate facilities and equipment, staffing arrangements and curriculum ○ any appropriate modifications to the application of the National Curriculum, where relevant ○ any appropriate exclusions from the application of the National Curriculum or the course being studied in a post-16 setting, in detail, and the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum ○ where residential accommodation is appropriate,

Section	Information to include
	<p>that fact</p> <ul style="list-style-type: none"> ○ where there is a Personal Budget, the outcomes to which it is intended to contribute (detail of the arrangements for a Personal Budget, including any direct payment, must be included in the plan and these should be set out in section J) • See paragraph 9.131 onwards for details of duties on the local authority to maintain the special educational provision in the EHC plan
(G) Any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN	<ul style="list-style-type: none"> • Provision should be detailed and specific and should normally be quantified, for example, in terms of the type of support and who will provide it • It should be clear how the provision will support achievement of the outcomes, including the health needs to be met and the outcomes to be achieved through provision secured through a personal (health) budget • Clarity as to how advice and information gathered has informed the provision specified • Health care provision reasonably required may include specialist support and therapies, such as medical treatments and delivery of medications, occupational therapy and physiotherapy, a range of nursing support, specialist equipment, wheelchairs and continence supplies. It could include highly specialist services needed by only a small number of children which are commissioned centrally by NHS England (for example therapeutic provision for young offenders in the secure estate) • The local authority and CCG may also choose to specify other health care provision reasonably required by the child or young person, which is not linked to their learning difficulties or disabilities, but which should sensibly be co-ordinated with other services in the plan • See paragraph 9.141 for details of duties on the health service to maintain the health care provision in the EHC plan
(H1) Any social care provision which must be made for a child or young person under 18 resulting from	<ul style="list-style-type: none"> • Provision should be detailed and specific and should normally be quantified, for example, in terms of the type of support and who will provide it (including where this is to be secured through a social care direct payment) • It should be clear how the provision will support achievement of the outcomes, including any provision

Section	Information to include
<p>section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA)</p>	<p>secured through a Personal Budget. There should be clarity as to how advice and information gathered has informed the provision specified</p> <ul style="list-style-type: none"> • Section H1 of the EHC plan must specify all services assessed as being needed for a disabled child or young person under 18, under section 2 of the CSDPA. These services include: <ul style="list-style-type: none"> ○ practical assistance in the home ○ provision or assistance in obtaining recreational and educational facilities at home and outside the home ○ assistance in travelling to facilities ○ adaptations to the home ○ facilitating the taking of holidays ○ provision of meals at home or elsewhere ○ provision or assistance in obtaining a telephone and any special equipment necessary ○ non-residential short breaks (included in Section H1 on the basis that the child as well as his or her parent will benefit from the short break) • This may include services to be provided for parent carers of disabled children, including following an assessment of their needs under sections 17ZD-17ZF of the Children Act 1989 • See paragraph 9.137 onwards for details of duties on local authorities to maintain the social care provision in the EHC plan
<p>(H2) Any other social care provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN</p>	<ul style="list-style-type: none"> • Social care provision reasonably required may include provision identified through early help and children in need assessments and safeguarding assessments for children. Section H2 must only include services which are not provided under Section 2 of the CSDPA. For children and young people under 18 this includes residential short breaks and services provided to children arising from their SEN but unrelated to a disability. This should include any provision secured through a social care direct payment. See chapter 10 for more information on children's social care assessments • Social care provision reasonably required will include any adult social care provision to meet eligible needs for

Section	Information to include
	<p>young people over 18 (set out in an adult care and support plan) under the Care Act 2014. See Chapter 8 for further detail on adult care and EHC plans</p> <ul style="list-style-type: none"> • The local authority may also choose to specify in section H2 other social care provision reasonably required by the child or young person, which is not linked to their learning difficulties or disabilities. This will enable the local authority to include in the EHC plan social care provision such as child in need or child protection plans, or provision meeting eligible needs set out in an adult care plan where it is unrelated to the SEN but appropriate to include in the EHC plan • See paragraph 9.137 onwards for details of duties on local authorities to maintain the social care provision in the EHC plan
(I) Placement	<ul style="list-style-type: none"> • The name <i>and</i> 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) • These details must be included only in the final EHC plan, <i>not</i> the draft EHC plan sent to the child's parent or to the young person • See paragraph 9.78 onwards for more details
(J) Personal Budget (including arrangements for direct payments)	<ul style="list-style-type: none"> • This section should provide detailed information on any Personal Budget that will be used to secure provision in the EHC plan • It should set out the arrangements in relation to direct payments as required by education, health and social care regulations • The special educational needs and outcomes that are to be met by any direct payment must be specified
(K) Advice and information	<ul style="list-style-type: none"> • The advice and information gathered during the EHC needs assessment must be set out in appendices to the EHC plan. There should be a list of this advice and information

Agreeing the health provision in EHC plans

Relevant legislation: Sections 26 and 37 of the Children and Families Act 2014 and Regulation 12 of the SEND Regulations 2014

- 9.70 Each CCG will determine which services it will commission to meet the reasonable health needs of the children and young people with SEN or disabilities for whom it is responsible. These services should be described in the Local Offer. Relevant local clinicians, such as community paediatricians, will participate in the development of the child's or young person's EHC plan, advising on the child's needs and the provision appropriate to meet them. CCGs **must** ensure that commissioned services are mobilised to participate in the development of EHC plans. The CCG as commissioner will often have a limited involvement in the process (as this will be led by clinicians from the services they commission) but **must** ensure that there is sufficient oversight to provide assurance that the needs of children with SEN are being met in line with their statutory responsibility. The CCG will have a more direct role in considering the commissioning of a service that does not appear in the Local Offer to meet the complex needs of a specific individual, or in agreeing a Personal Budget.
- 9.71 The health care provision specified in section G of the EHC plan **must** be agreed by the CCG (or where relevant, NHS England) and any health care provision should be agreed in time to be included in the draft EHC plan sent to the child's parent or to the young person. As part of the joint commissioning arrangements, partners **must** have clear disagreement resolution procedures where there is disagreement on the services to be included in an EHC plan.
- 9.72 For children and young people in youth custody, the arrangements for carrying out the health part of EHC needs assessments and arranging for the health provision in EHC plans to be made will be slightly different and further guidance for CCGs and relevant health commissioners is set out in Chapter 10.

Responsibility for provision

Relevant legislation: Section 21 of the Children and Families Act 2014

- 9.73 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.
- 9.74 Decisions about whether health care provision or social care provision should be treated as special educational provision **must** be made on an individual basis. Speech and language therapy and other therapy provision can be regarded as either education or health care provision, or both. It could therefore be included in an EHC plan as either educational or health provision. However, since communication is so

fundamental in education, addressing speech and language impairment should normally be recorded as special educational provision unless there are exceptional reasons for not doing so.

- 9.75 Agreement should be reached between the local authority and health and social care partners about where provision will be specified in an EHC plan.
- 9.76 In cases where health care provision or social care provision is to be treated as special educational provision, ultimate responsibility for ensuring that the provision is made rests with the local authority (unless the child's parent has made suitable arrangements) and the child's parent or the young person will have the right to appeal to the First-tier Tribunal (SEN and Disability) where they disagree with the provision specified.

The draft EHC plan

Relevant legislation: Section 38 of the Children and Families Act 2014 and Regulation 13 of the SEND Regulations 2014

- 9.77 The local authority **must** send the draft EHC plan (including the appendices containing the advice and information gathered during the EHC needs assessment) to the child's parent or to the young person and give them at least 15 days to give views and make representations on the content. During this period, the local authority **must** make its officers available for a meeting with the child's parent or the young person on request if they wish to discuss the content of the draft EHC plan. When the local authority sends the draft EHC plan to the child's parent or the young person the following apply:
- The local authority **must** notify the child's parent or the young person that during this period they can request that a particular school or other institution, or type of school or other institution, be named in the plan. The draft plan **must not** contain the name of the school, maintained nursery school, post-16 institution or other institution or the type of school or other institution to be attended by the child or young person (see below)
 - The local authority **must** advise the child's parent or the young person where they can find information about the schools and colleges that are available for the child or young person to attend, for example through the Local Offer
 - The local authority should also seek agreement of any Personal Budget specified in the draft plan (see paragraph 9.95 onwards for more information on Personal Budgets)