



BRIEFING PAPER

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Post-16 Special Educational Needs and Disabilities in England: FAQs

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Contents:

1. What are special educational needs?
2. SEND provision for students over 16 years of age
3. Education Health and Care Plans (EHC Plans)
4. Numbers of students
5. Funding
6. Disputes
7. Higher education

Contents

Summary	3
1. What are special educational needs?	4
1.1 What is the law around post-16 SEND?	4
2. SEND provision for students over 16 years of age	6
2.1 Do young people get support when they are no longer in compulsory education?	6
2.2 Do all students with SEND get the same level of support?	6
2.3 Are 19-25 year olds eligible for support?	6
2.4 Who is responsible for provision?	7
2.5 What is the Local Offer?	7
2.6 What is covered by SEND support?	7
2.7 Can students get help with transport costs?	8
2.8 Does support extend to students who have left education?	8
3. Education Health and Care Plans (EHC Plans)	10
3.1 What are EHC plans?	10
3.2 Can all young people with disabilities get an EHC plan?	10
3.3 When does an EHC Plan end?	11
4. Numbers of students	12
4.1 How many young people have an identified SEN or disability?	12
4.2 How many young people have EHC plans?	12
4.3 How many people aged 16+ with SEND stay on to further or higher education?	12
4.4 Where do those age 16+ receive this support, isn't it all in special schools?	13
5. Funding	14
5.1 Who pays for SEND provision?	14
5.2 How is SEND funded?	14
5.3 How much does it cost in total?	15
5.4 Can parents contribute towards the cost of a placement?	15
5.5 Can students access private provision?	15
5.6 Do local authorities have enough funding for post-16 SEND?	16
5.7 What is the government doing?	17
6. Disputes	19
6.1 What can I do if I disagree with the provision offered?	19
6.2 Where can I get advice?	19
7. Higher education	20
7.1 What happens when students enter higher education?	20
7.2 What are reasonable adjustments?	20
7.3 How many students have a disability?	21
7.4 Is there any funding to help disabled students?	21
7.5 How many students get DSA?	21
7.6 Is there any help for postgraduates?	22
7.7 What type of non-financial support is available?	22
7.8 How much do universities spend on students with disabilities?	23

Summary

The provision and funding of support for post-16 students with special educational needs and disabilities (SEND) is complicated and is different to support for school age students.

The current framework of support was introduced by the *Children and Families Act 2014*. Under this new framework the system of **Statements of Special Educational Needs and Learning Difficulty Assessments (LDAs)** for over 16s, was replaced by a single overarching system of support for students from 0-25 years of age and SEN statements and LDAs were replaced by **Education Health and Care (EHC) plans**. LDAs were phased out with the introduction of EHC plans and the last LDAs were phased out of the system in 2016.

Support for post -16 students is provided by different sources and in different forms depending on the level of support needed. Students with low level needs may be provided with support in the form of '**SEN support**' – students with more complex high needs will be supported through provision set out in an **Education Health and Care (EHC) plan**.

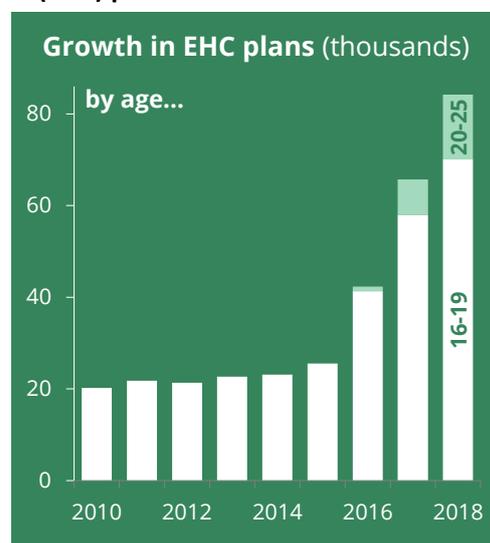
In January 2018 there were **20,450** pupils in state-funded schools aged 16+ who were on SEN support and a further **19,100** with EHC plans or statements.

A total of **84,260 young people aged 16-25 had EHC plans** (or statements of SEN) in January 2018. The majority (70,100) were aged 16-19. The total number has increased rapidly since the new legal framework came into force in 2014.

Students in higher education are supported by a completely different system of institutional support and government funded **Disabled Students' Allowances (DSAs)**.

56,900 students from England received DSAs in 2016/17, down from a recent peak of just over 60,000 in 2013/14.

This briefing paper answers some frequently asked questions about the provision of support for post-16 students with SEND.



1. What are special educational needs?

The current definition of special educational needs (SEN) and learning difficulties is set out in the [Children and Families Act 2014 s20](#):

When a child or young person has special educational needs

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

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

(a) has a **significantly greater difficulty in learning than the majority of others of the same age**, or

(b) has a disability which prevents or **hinders him or her from making use of facilities of a kind generally provided** for others of the same age in mainstream schools or mainstream post-16 institutions.

There is no single definition of disability in the UK.

The [Equality Act 2010](#) defines people covered by the disability sections of the Act as people with “**physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities**”. This definition provides a relatively low threshold: ‘long-term’ is defined as ‘a year or more’ and ‘substantial’ is defined as ‘more than minor or trivial’. This definition includes sensory impairments such as those affecting sight or hearing, and long-term health conditions such as asthma, diabetes, epilepsy, and cancer.

1.1 What is the law around post-16 SEND?

There is a framework of legislation and statutory guidance governing the provision of Special Educational Needs and disability (SEND).

The [Children and Families Act 2014](#) introduced a new legislative framework for children and young people aged 0-25 with SEND. It brought in a **single system of integrated Education, Health and Care Plans (EHC plans)** to cover all students from **0-25 years of age**. The reforms aimed to increase protection for young people with SEND and to promote a **greater focus on outcomes and preparing for adulthood**. Part 3 of the Act contains all the relevant sections about children and young people with SEN and disabilities.

The government also published **statutory guidance** on the SEND provisions, [Special educational needs and disability code of practice: 0 to 25 years Statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities](#), January 2015. This **Code of Practice (COP)** provides statutory guidance on duties, policies and procedures relating to Part 3 of the *Children and Families Act 2014* and associated regulations and applies to England.

Various **regulations** have also been made under the Act - the most relevant ones being:

- [*The Special Educational Needs and Disability Regulations 2014*](#) (the main regulations underpinning the Act)
- [*The Special Educational Needs \(Personal Budgets\) Regulations 2014*](#)

The DfE have also issued **non-statutory guidance** for local authorities, [SEND: 19- to 25-year-olds' entitlement to EHC plans](#).

The *Equality Act 2010* also sets out legal obligations that post-16 institutions, local authorities and others have towards disabled young people:

- They **must not directly or indirectly discriminate** against, harass or victimise disabled children and young people
- They **must make reasonable adjustments**, including the provision of auxiliary aids and services, to ensure that disabled children and young people are not at a substantial disadvantage compared with their peers. This duty is anticipatory
- Public bodies are covered by the public sector equality duty and, when carrying out their functions, must have regard to the need to **eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non-disabled children and young people**.

The [IPSEA \(Independent Parental Special Education Advice\)](#) webpage [SEN and disability statute law, regulations and guidance](#) gives more detail on SEND law.

2. SEND provision for students over 16 years of age

2.1 Do young people get support when they are no longer in compulsory education?

The *Children and Families Act 2014* brought in regulations which provide for **support for all children and young people aged 0-25 with SEND**.

Chapter seven of the [SEN and Disability Code of Practice 2015](#) contains the statutory guidance in relation to further education colleges, sixth form colleges, 16 – 19 academies and some independent specialist colleges to **identify, assess** and **provide support** for young people with SEND.

2.2 Do all students with SEND get the same level of support?

All mainstream schools or colleges should provide support for students with SEND through their **SEND Support**. SEND support should provide assistance for students with lower level needs. The type of support available is set out in question 2.5.

Students with more complex needs may be eligible for an **Education Health and Care (EHC) plan** – these documents set out the details of individual provision which is required to meet a student’s needs as identified by an Education Health and Care assessment.

2.3 Are 19-25 year olds eligible for support?

The *Children and Families Act 2014* covers SEND provision for young people up to the age of 25. Section 36 of the *Act* sets out that **all young people aged 19 to 25 have the right to request an EHC needs assessment** unless one has been carried out in the last six months.

Local authorities **must** set out in their **Local Offer** the support that they provide for all 19 to 25 year olds with SEND – this includes students without an EHC plan.

Further education providers **must** use their **best endeavours** to secure the SEND provision needed by all young people aged 19 to 25 with SEND attending their institution.

However support for young people aged 19-25 with SEND is **not an automatic entitlement**. Provision may end if it is deemed to be **no longer necessary** or if a student has **achieved the aims** in their EHC plan:

Young people turning 19 who have EHC plans

In line with preparing young people for adulthood, a local authority must not cease an EHC plan simply because a young person is aged 19 or over. Young people with EHC plans may need longer in education or training in order to achieve their outcomes and make an effective transition into adulthood. **However, this position does not mean that there is an automatic entitlement to continued support at age 19 or an expectation that those with an EHC plan should all remain in education until age 25.** A

local authority may cease a plan for a 19- to 25-year-old if it decides that it is no longer necessary for the EHC plan to be maintained. Such circumstances include where the young person no longer requires the special educational provision specified in their EHC plan. In deciding that the special educational provision is no longer required, the local authority must have regard to whether the educational or training outcomes specified in the plan have been achieved. [[SEND COP](#) p190]

When a 19 to 25-year-old continues with an EHC plan, the local authority must **review it at least annually**.

The plan must contain outcomes which should enable the young person to complete their education and training successfully and move on to the next stage of their lives.

2.4 Who is responsible for provision?

Local authorities must set out in a **Local Offer** the type of support and facilities that they provide for all 19 to 25 year olds with SEND.

Further education providers must use their **best endeavours** to secure the SEND provision needed by all young people aged 19 to 25 with SEND attending their institution.

Under the *Equality Act 2010* mainstream FE colleges must also make **reasonable adjustments** for disabled students.

2.5 What is the Local Offer?

Local authorities **must** publish a Local Offer, **setting out in one place information about provision they expect to be available** across education, health and social care for children and young people in their area who have SEN or are disabled, including those who do not have Education, Health and Care (EHC) plans.

The Local Offer must also include services **outside the local authority** area which children and young people might use.

Children, young people and parent carers must be involved in developing the Local Offer and it should reflect what they need. The Offer should be reviewed and developed over time.

Details of the Local Offer are set out in the Code of Practice in chapter 4.

Contact, an organisation which provides support for families with disabled children, has published a factsheet called [The Local Offer Explained](#) which sets out the role of local authorities and what is included in the Local Offer.

2.6 What is covered by SEND support?

All FE providers (school sixth forms, sixth form colleges and FE institutions) should have a named person in overall charge of SEND provision. SEND support might include the following:

- accessible information, like symbol-based materials
- help with personal care (or access to it)

- assistive technology, specialist tuition or note-takers
- one-to-one and small group learning support
- access to therapies
- housing/independent living training.

2.7 Can students get help with transport costs?

Under Section 509AB of the *Education Act 1996* local authorities are required to set out in their Transport Policy Statement to what extent the provisions include arrangements for learners with learning difficulties and/or disabilities up to age 25.

The DfE statutory guidance explains the duties of local authorities with regard to transport for students with SEND:

The 16-18 transport duty relates to young people of sixth form age with special educational needs and disabilities aged up to 19 (and beyond the age of 19 if they are continuing on a particular course started before the age of 19).

Local authorities also have a duty under the Education and Skills Act 2008 to encourage, enable and assist the participation of young people with special educational needs and disabilities up to the age of 25 in education and training. It therefore follows that it is good practice for local authorities to include information about what transport arrangements are available and whether they are adequate to enable these young people to participate.¹

The guidance states there is no requirement for local authorities to offer transport to a specific provider named in a student's EHC plan:

Young people with an EHC plan will have an institution named in their plan at Section I. There is no entitlement to transport to and from this named provider and transport should only be named in an EHC plan in exceptional circumstances. Local authorities should ensure during EHC plan discussions that parents are made aware that transport support will be considered in accordance with the local authority's own post-16 transport policy.²

The *Children and Families Act 2014* requires local authorities to publish their transport policies on their Local Offer.

2.8 Does support extend to students who have left education?

The Code of Practice outlines the arrangements that should be made in preparation for students leaving education or training:

All young people with SEN should be **supported to make the transition to life beyond school or college**, whether or not they have an EHC plan. As well as preparing them for adulthood generally, schools and colleges should ensure that young people with SEN have **the information they need** to make the final steps in this transition.

¹ DfE, [Post-16 transport to education and training Statutory guidance for local authorities October 2017](#) p12 paras 17 and 18

² *Ibid* para 21

This includes information about local employers, further training, and where to go for further advice or support.

For young people with EHC plans, where it is known that a young person will soon be completing their time in education and training, the local authority should use the **annual review prior to ceasing the EHC plan to agree the support and specific steps** needed to help the young person to **engage with the services and provision they will be accessing once they have left education**.

Some young people will be moving into employment or going on to higher education. Others will primarily require ongoing health and/or care support and/or access to adult learning opportunities. They may be best **supported by universal health services and adult social care and support, alongside learning opportunities in the adult skills sector**. For those who have just completed an apprenticeship, traineeship or supported internship the best option may be for them to leave formal education or training and either begin some sort of paid employment resulting from their work placement, or to access further support and training available to help them secure a job through Jobcentre Plus.

This **transition should be planned with timescales and clear responsibilities and the young person should know what will happen when their EHC plan ceases**. During this planning process, the local authority must continue to maintain the young person's EHC plan as long as the young person needs it and remains in education or training. (p140)

3. Education Health and Care Plans (EHC Plans)

3.1 What are EHC plans?

The majority of young people with SEND will have their needs met within local mainstream schools or colleges through **SEND support**. SEND support provides most students with an appropriate level of assistance – the type of support available is outlined in section 2.6 above.

Some young people with more complex needs may need **more support than is available through SEND support** and in these cases an [EHC needs assessment](#) can be carried out to enable the local authority to set out appropriate provision in an EHC plan.

EHC plans identify educational, health and social needs and set out the additional support to meet those needs. The Code of Practice gives an overview of the purpose of an EHC plan:

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:

1. establish and record the **views, interests and aspirations** of the parents and child or young person
2. provide a full **description of the child or young person's special educational needs** and any health and social care needs
3. **establish outcomes** across education, health and social care based on the child or young person's needs and aspirations
4. **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 outcomes³

Local authorities **must consult the young person throughout the process of assessment** and production of an EHC plan - the needs of the individual young person should sit at the heart of the assessment and planning process.

The Code of Practice chapter 9 p141 covers all the key stages in statutory assessment and planning and in preparing an EHC plan.

3.2 Can all young people with disabilities get an EHC plan?

Although an EHC plan can include health or social care needs a young person will **not get a plan if they only have health or social care needs** that do not affect their education.

³ SEND COP p142

3.3 When does an EHC Plan end?

A local authority may end an EHC plan if they determine that the young person **no longer requires the SEND provision** specified in the plan, or if the **education or training outcomes specified in the plan have been achieved**. A plan will also cease when a **local authority is no longer responsible for a young person**, this may occur in the following circumstances:

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

Local authorities **must not cease to maintain an EHC plan simply because the young person is aged 19 or over**.

Significant health or social care needs alone are not enough for an EHC plan to continue. If a young person leaves education, their health and social care needs will still be managed by the health service and local authority social services department.

An EHC plan cannot carry on into higher education. [Section 7](#) looks at what support students can get in higher education.

Information on ending an EHC plan is set out in the Code of Practice on p202-205.

4. Numbers of students

4.1 How many young people have an identified SEN or disability?

In January 2018 there were 20,450 pupils in state-funded schools aged 16+ who were on SEN support and a further 19,100 with EHC plans or statements. More than 80% of those with EHC plans or statements were in special schools. Virtually all those on SEN support were in mainstream schools.

4.2 How many young people have EHC plans?

84,260 young people aged 16-25 had EHC plans (or statements) in January 2018. The majority (70,100) were aged 16-19. The total number has increased rapidly since the new legal framework came into force in 2014. **The 2018 total was more than three times the 2014 level.** The trend is shown opposite broken down by type and age.⁴

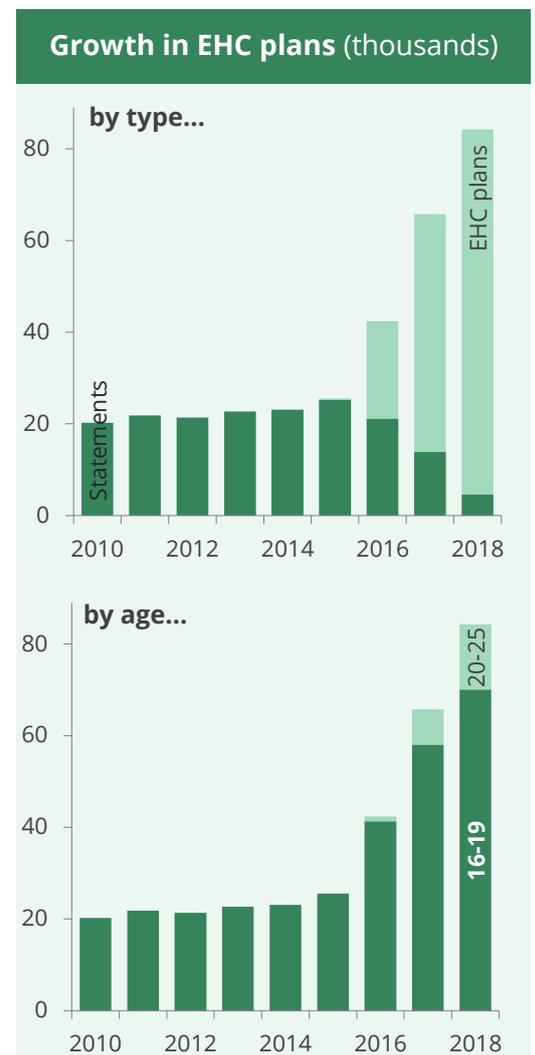
Nearly all these young people had EHC plans rather than statements in 2018. This growth has been among 16-19 year olds as well as 20-25 year olds (who had support extended to them by the new framework).

In 2017 3,256 new EHC plans were made for young people aged 16-25. This number has also increased since 2014 when 262 new EHC plans or statements were made for this age group.⁵

4.3 How many people aged 16+ with SEND stay on to further or higher education?

After the end of academic year 2015/16 87% of pupils with an EHC plan⁶ who had completed Key Stage 4 were in education for the first two terms of 2016/17. 45% were attending an FE college or other FE provider, 12% school sixth form or sixth form college and 30% 'other' education destinations (including special schools). The overall rate was slightly higher than the level for all pupils of 86%.⁷

In 2016/17 an estimated 8.3% of pupils who had an EHC plan⁸ while in compulsory education had started higher education by age 19. This rate has increased over time from 5.5% in 2009/10, but



⁴ [Statements of SEN and EHC plans: England, 2018](#), DfE

⁵ *ibid.*

⁶ Or statement of SEN

⁷ [Destinations of KS4 and KS5 pupils: 2017](#), DfE

⁸ Or statement of SEN

remains well below the equivalent figure for pupils without SEN of 46.8%. Pupils at 'SEN support' level were also less likely to enter HE; 19.2% did so in 2016/17.⁹

4.4 Where do those age 16+ receive this support, isn't it all in special schools?

Official statistics do not give a complete breakdown the type of provision for young people by age. However, some data can help give a partial picture.

In January 2018 46,850 young people in further education institutions had EHC plans or statements. 15,540 were in state-funded special schools, 3,560 in state-funded mainstream schools and 2,330 were undertaking apprenticeships, traineeships or supported internships. The remainder will be in other types of special schools or 'educated elsewhere'.¹⁰

Pupils without SEN were more than five times as likely to go on to higher education than those with EHC plans or statements

⁹ [Widening participation in higher education: 2018](#), DfE

¹⁰ [Statements of SEN and EHC plans: England, 2018](#), DfE

5. Funding

5.1 Who pays for SEND provision?

The **Education and Skills Funding Agency (ESFA)** provides **further education providers** with funding to cover the cost of SEND support in their annual budget allocation and through the provision of high needs funding.

Extra top up funding for very high needs provision is supplied from **local authorities'** High Needs budgets.

Local authorities cannot use their high needs budget for 19-25 year olds who do not have an EHC Plan, unless they are completing a course started before they were 18. Similarly, authorities cannot use their Dedicated Schools Grant to fund places for 19 to 25 year olds in schools (including maintained mainstream schools, maintained special schools, mainstream and special academies, non-maintained special schools, and independent schools). The only exception to this is for 19-year-olds who are completing a secondary education course started before they turned 18.

Further information is available in guidance published by the Department for Education:

- [SEND: 19- to 25-year-olds' entitlement to EHC plans](#)
- [High needs funding arrangements: 2018 to 2019](#)

5.2 How is SEND funded?

FE providers are allocated funding for 16-19 year olds and students up to the age of 25 with SEND using a national funding formula. This formula is used to calculate a provider's **core allocation** – this allocation includes an amount of funding for **disadvantaged students**.

SEND funding is composed of **three elements**.

If a student's additional support costs total £6,000 per year or less a provider is expected to fund these using its **core funding allocation (element one)**.

If a student's support costs are more than £6,000 per year a student would be classified as high needs for funding purposes. Providers are allocated **high needs funding (element two)** to fund the first £6,000 of additional support for high needs students. This high needs funding is generally allocated to a specific number of **commissioned high needs places** per year.

The cost of more expensive provision should be met by the student's local authority in the form of **top-up funding (element three)** from their high needs budget.

5.3 How much does it cost in total?

The total value of local authority high needs budget is £6.3 billion in 2019-20. This covers SEND support for all ages 0-25 including top-up funding and allocations to special schools. This spending is not broken down by age.¹¹

In 2018/19 high needs funding of £256 million was allocated directly to institutions for 38,750 students in 16-19 further education. A further £94 million was paid as local authority block funding for high needs pupils in maintained school sixth forms and special schools.¹²

5.4 Can parents contribute towards the cost of a placement?

The *Children and Families Act 2014* section 63 contains the provisions relating to the charging of fees for special educational provision at non-maintained schools and post-16 institutions. Subsection 2 states:

(2) The local authority must pay any fees payable in respect of education or training provided for the child or young person at that school, institution or place in accordance with the EHC plan.

If a local authority names a particular educational provider in an EHC plan it **must** meet the full cost of that placement. Parents should not have to contribute financially to the cost of the placement.

5.5 Can students access private provision?

A young person or their parents have a right to request a specific education provider and where a school or college is **named** in an EHC plan the education provider **must admit** the young person unless a local authority considers this **an inefficient use of resources**.

The Code of Practice gives information on the parent's or young person's right to specify a particular education provider in an EHC plan on p172-174:

Requests for a particular school, college or other institution

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

5. maintained nursery school
6. maintained school and any form of academy or free school (mainstream or special)
7. non-maintained special school
8. further education or sixth form college
9. independent school or independent specialist colleges (where they have been approved for this purpose by the Secretary of State and published in a list available to all parents and young people)

9.79 If a child's parent or a young person makes a request for a particular nursery, school or post-16 institution in these groups the

¹¹ DSG allocations 2019-20, DfE

¹² [16 to 19 funding allocations for the 2018 to 2019 academic year](#), ESFA

local authority **must comply with that preference** and name the school or college in the EHC plan unless:

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

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

9.80 The local authority must consult the governing body, principal or proprietor of the school or college concerned and consider their comments very carefully before deciding whether to name it in the child or young person's EHC plan, sending the school or college a copy of the draft plan. If another local authority maintains the school, they too must be consulted.

Students may be refused a place at a private provider if a local authority considers that a mainstream school **can offer an equivalent provision**.

Young persons may also make representations for places at independent schools or independent specialist colleges or other post-16 providers that are **not on the list** in the Code of Practice in 9.78 and the local authority must **consider** their request.

The IPSEA webpage [Choosing a school/college with an EHC plan](#) has further information.

5.6 Do local authorities have enough funding for post-16 SEND?

Concerns have been raised regarding the adequacy of funding in the context both of EHC plans extending to 25 and of wider funding pressures in the FE sector. In [written evidence to the Education Committee](#),¹³ the special educational needs charity IPSEA stated that funding had not been provided to cope with extra demands on the system:

...a fundamental part of the issue is that the further education sector was not provided with extra funding to cope with the increased demands of the Act. Previously Statements ended at 19, whereas now EHC plans (rightly, in our view) continue until 25. This significant increase in the cohort of young people who are entitled to additional support has not been matched by costed funding, and indeed has come at a time of significant cuts to the further education sector. As a result, young people are missing out on education, colleges are struggling to provide for the young people who are enrolled, and there is a shortage of adequately skilled staff.

¹³ [IPSEA's response to the Education Committee's Special Educational Needs and Disability Inquiry](#), June 2018

Outside of the education sector, there is also significant pressures on the health service in providing therapies required for those over 16, and on LA budgets for providing transport to adult learners and support with independent living.

An [article](#) in the *Guardian* in November 2018 referred to a ‘crisis’ in local authority funding of SEND:

A crisis in funding for children with special educational needs is plunging councils across the country deeper into the red and forcing parents into lengthy legal battles to secure support, according to an *Observer* investigation that reveals a system at breaking point.

Council overspending on children’s special educational needs and disabilities (SEND) has trebled in just three years and is continuing to increase, with councils having to raid hundreds of millions from their overall schools budget to cope. The *Observer* has identified 40 councils that have either cut special needs funding this year, are considering making cuts or are raiding other education budgets to cope next year.

Data from freedom of information requests and council reports shows that the combined overspend on “high needs” education budgets among councils in England soared from £61m in 2015-16 to £195m in 2017-18. It is already expected to hit £200m this year. The figures cover 117 of England’s 152 councils, meaning the true figures will be higher.¹⁴

5.7 What is the government doing?

In December 2018 the government [announced](#) an extra £350 million SEND funding for local authorities:

Children with special educational needs and disabilities (SEND) are set to benefit from an extra £350 million funding to provide specialist support and tailored facilities, helping those with complex needs to succeed.

The Education Secretary Damian Hinds has today (Sunday 16 December) announced that councils will receive an additional £250 million over the next two years on top of the £6 billion already provided for the high needs budget this year, to provide much needed support for children and young people with complex SEND.

Families will also benefit from more choice for their child’s education through an extra £100 million investment to create more specialist places in mainstream schools, colleges and special schools, giving more children and young people access to a good school or college place that meets their individual needs.¹⁵

¹⁴ [“Devastating’ cuts hit special educational needs”](#), *The Guardian*, 10 November 2019

¹⁵ Gov.UK, [“New funding to support children with special educational needs”](#), 16 December 2019

On 3 May 2019 the government launched a consultation into the funding of SEND, [Provision for children and young people with special educational needs and disabilities, and for those who need alternative provision: how the financial arrangements work](#). The consultation document states that the consultation is in response to concerns about the adequacy of funding:

In December 2018, having heard from some schools about the difficulties they encounter in providing support for their pupils with special educational needs (SEN) costing up to £6,000 per annum before they are able to access additional support from their local authority, the Secretary of State announced that there would be a wider call for evidence.

2.2 We have heard local authorities', schools' and colleges' concerns about the rising costs of provision for children and young people with SEN and those who are disabled, and about the reducing availability of specialist advice and support. We will be looking carefully at how much overall funding is required nationally ahead of the next government spending review. (p6)

The consultation will close on 31 July 2019.

We have received many representations concerning the adequacy of funding for special needs. We understand that the overall amount of funding available is the most pressing concern for many schools and local authorities.

DfE SEND
consultation p3

6. Disputes

6.1 What can I do if I disagree with the provision offered?

Young people can challenge their local authority about:

- their decision to not carry out an assessment
- their decision to not create an EHC plan
- the special educational support in the EHC plan
- the school named in the EHC plan

If a dispute cannot be resolved with a local authority a young person can [appeal to the Special Educational Needs and Disability \(SEND\) Tribunal](#).

6.2 Where can I get advice?

The following organisations provide information and advice on SEND:

- [IPSEA \(Independent Parental Special Education Advice\)](#)
- [Contact](#), for families with disabled children

7. Higher education

7.1 What happens when students enter higher education?

The SEND system in higher education is separate to the further education system - the *Children's and Families Act 2014* does not cover higher education. **An EHC plan cannot carry on into higher education.**

Higher education providers (HEPs) are bound by duties in the [Equality Act 2010](#), to ensure that disabled students are **not treated less favourably** than other students. The Act also places HEPs under a duty **to make reasonable adjustments** to ensure that people who are disabled are **not put at a substantial disadvantage** compared to people who are not disabled in accessing higher education.

Section 149 of the *Equality Act 2010* contains the Public Sector Equality Duty which requires public bodies, including HEPs, to comply with general duties to **eliminate discrimination**, to **promote equality of opportunity**, and to **foster good relations** between people who share a protected characteristic and people who do not share it.

7.2 What are reasonable adjustments?

Section 20 of the *Equality Act 2010* Act defines what is meant by the duty to make reasonable adjustments. The first requirement of the duty covers **changing the way things are done** (such as changing a practice), the second covers making **changes to the built environment** (such as providing access to a building), and the third covers **providing auxiliary aids and services** (such as providing special computer software or providing a different service). The duty is anticipatory.

Reasonable adjustments in higher education may include:

- adjustments to assessment practices and the provision of alternative assessment methods.
- improving physical access to the campus buildings
- providing auxiliary aids and services to enable or facilitate disabled students with studying

The Equality Challenge Unit have published a document [Managing reasonable adjustments in higher education](#), 2010 which gives guidance to HEIs on their strategies around the duty to make reasonable adjustments. Information on reasonable adjustments can also be found on the following websites:

- Equality and Human Rights Commission, [What are reasonable adjustments?](#)
- Disability Rights UK, [Adjustments for disabled students.](#)

7.3 How many students have a disability?

As EHC plans do not carry on to higher education there is no equivalent data for higher education students. Students are asked whether they have a disability. This can give an indication of the prevalence of self-reported disabilities, but not the severity and it cannot be compared to data on young people with EHC plans or receiving SEN support in school.

In 2017/18 302,700 students at UK universities said they had a disability of some kind. This was 12.9% of all students. The number has increased by around a third from 229,200 in 2013/14.

The most common type was 'a specific learning difficulty' such as dyslexia, dyspraxia or ADHD with 109,400 or around 40% of home students with a known disability. In recent years there has been a substantial increase in the number of home students who have a (self-reported) mental health condition; up from 33,050 in 2013 to 66,660 in 2017/18.¹⁶

The number of students with a self-reported disability increased by a third between 2013/14 and 2017/18. The number who said they had a mental health condition has doubled.

7.4 Is there any funding to help disabled students?

Higher education students with special educational needs and disabilities are eligible to apply for a **Disabled Students' Allowance (DSA)** – the rules on DSA are contained in the *Education (Student Support) Regulations 2011*.

The DSA is a **non-means tested grant** that is paid by the government to eligible disabled students, to cover the extra study costs that are incurred because of their disability.

There are four elements to the full-time undergraduate DSAs:

- **General Allowance** - used to help pay course-related costs they may have as a direct result of their disability.
- **Specialist Equipment Allowance** - used to help buy equipment needed because of their disability.
- **Non-Medical Helper Allowance** - used to help pay for support workers such as British Sign Language interpreters or mobility trainers.
- **Travel Allowance** - used for any additional study-related travel costs they may have as a direct result of their disability.

Information on the maximum level of DSA payments is set out in detail in a SFE document, [DSA Guidance \(New Students\) 2018/19 1.0](#).

7.5 How many students get DSA?

56,900 students from England received DSA in 2016/17. The number increased from 47,300 in 2010/11 to a recent peak of just over 60,000 in 2013/14. It has fallen slightly since then. **The amount paid increased from around £109 million in 2010/11 to £134 million in 2013/14.** It has also fallen since 2013/14, but at a faster rate than the number of recipients, **down to just under £100 million in 2016/17.**

¹⁶ [HE Student data -Who's studying in HE?](#), HESA

The average payment per recipient has fallen from almost £2,350 in 2011/12 to around £1,750 in 2016/17; a 26% drop in cash terms.

Provisional figures for 2017/18 show a small increase in this amount. Most of the fall in the value of payments was in non-medical helpers element of DSA; down from £73 million in 2012/13 to (provisionally) £45 million in 2017/18.¹⁷

7.6 Is there any help for postgraduates?

Postgraduate students with disabilities are also eligible for support. These students may be able to access a [Postgraduate Disabled Students' Allowance](#) which is a single payment. The government recently announced a large increase in this payment from 2019/20:

And for postgraduate students with disabilities, we are increasing the maximum postgraduate disabled students' allowance to **£20,000** in 2019/20 from its current level of **£10,993**, which will help the most disabled postgraduate students with high support needs [[HC Deb 22 November 2018](#)]

7.7 What type of non-financial support is available?

Most higher education providers have **disability policies** describing the support that they provide for disabled students. A report by the Higher Education Funding Council for England in November 2017, [Models of support for students with disabilities](#), said that 90% of higher education providers (HEPs) had disability policies covering:

- Assessment (91%)
- Teaching and learning (82%)
- Student support (80%)
- Accommodation (66%)
- Student experience (44%)
- Inclusive curriculum design/universal design (43%).

Higher education institutions usually have a **disability services team** and **disability advisors** which provide students and staff with advice, manage internal non-medical support and ensure compliance with legislation.

The disability services team works directly with students to:

- **carry out a needs assessment and develop action plans** (detailing the reasonable adjustments that need to be made);
- **undertake testing** for Specific Learning Difficulties (SpLD), sensory and social needs;
- **develop tailored packages** for particularly complex cases (which could also involve support with academic skills, financial support and disability services);
- **support DSA claims** and applications for other relevant funding; and

¹⁷ [Student Support for Higher Education in England 2018](#), SLC

- **manage the resulting specific support** provision (e.g. mentors/tutors/advisers).

The support provided by institutions commonly includes: signers, note-takers, specialist support workers for those with mental health problems or SpLD (e.g. dyslexia tutors who work on a one-to-one basis with students on writing skills), help with assessment such as exam access arrangements (e.g. supervised rest breaks, separate room, additional time allowance, sitting exams at home), lecture notes and handouts in alternative formats, use of computers and assistive software and advising on adjustments to teaching approaches.

In addition, institutions aim to provide clear information for students, prospective students and staff on the services and support that is available.

7.8 How much do universities spend on students with disabilities?

In 2016/17 universities in England spent £94.5 million on widening participation activities with disabled students. Around £40 million of this was in central government funding through the funding council, the rest was from general income. Most of this spending went to support current disabled students (£78 million), with the remainder on progression to further study (£9 million) and outreach for potential students (£8 million). **Spending on current students has almost doubled from just over £40 million in 2010/11.**¹⁸

¹⁸ [Monitoring outcomes OFFA access agreements and HEFCE funding for widening access for students from disadvantaged backgrounds, improving retention and improving provision for disabled students for 2016-17](#), Office for Students

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