

Draft consultation regulations

Clauses 36, 37, 44, 45 and 46

Education (Special Educational Needs) (Assessment and plan) Regulations

Citation and commencement

1. These Regulations may be cited as the Education (Special Educational Needs) (Assessment and Plan) Regulations 2014 and come into force on 1st September 2014.

Interpretation

2. In these Regulations—

“the Act” means the Children and Families Act 2014;

“educational institution” means a school or post-16 institution;

“health care professional” means an individual who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002;

“provision required by the child or young person to assist in preparation for adulthood and independent living” includes provision relating to—

- (i) finding employment,
- (ii) obtaining accommodation,
- (iii) participation in society;

“responsible commissioning body” means the clinical commissioning group or the National Health Service Commissioning Board that exercises functions in relation to the child or young person concerned.

EHC Needs Assessments

Consideration

3. Where a local authority receives a request for an EHC needs assessment under section 36(1) of the Act or otherwise becomes responsible for a child or young person, before determining whether it may be necessary for special educational provision to be made for the child, it must consult the child’s parent or the young person as soon as practicable after the request being made, or of it becoming responsible for the child or young person.

Determination whether or not special educational provision may be necessary

4.—(1) Where a local authority determines that it is not necessary for special educational provision to be made it must notify the child’s parent or the young person in accordance with section 36(5) of the Act as soon as practicable, but in any event within 6 weeks of receiving a request for an EHC needs assessment under section 36(1) of the Act or of becoming responsible for the child or young person in accordance with section 23 of the Act.

(2) Where the local authority determines that it may be necessary for special educational provision to be made, it must notify the child's parent or the young person that it is considering securing an EHC needs assessment in accordance with section 36(7) of the Act.

(3) Where the local authority determines that it is considering securing an EHC needs assessment it must also notify—

- (a) the responsible commissioning body;
- (b) the officers of the authority who exercise the authority's social services functions for children or young people with special educational needs;
- (c) in relation to a child—
 - (i) if the child is a registered pupil at a school, to the head teacher (or equivalent position) of that school, or
 - (ii) if the child receives education from a provider of relevant early years education to the head of Special Educational Needs in relation to that provider; and
- (d) in relation to a young person—
 - (i) if the young person is a registered pupil at a school, to the head teacher (or equivalent position) of that school, or
 - (ii) if the young person is a student at a post-16 institution, to the principal (or equivalent position) of that institution,

of its decision.

Decision whether or not to conduct an EHC needs assessment

5.—(1) The local authority must notify the child's parent or the young person of its decision whether or not it is necessary to secure an EHC needs assessment for the child or young person as soon as practicable and in any event within 6 weeks of receiving a request for an assessment under section 36(1) of the Act or of becoming responsible for the child or young person in accordance with section 23 of the Act.

(2) The local authority must also notify the persons who were notified in accordance with regulation 4(3) of its decision.

(3) When notifying the child's parent or the young person of its decision that it is not necessary to secure an EHC needs assessment for the child or young person, it must also notify them of—

- (a) their right to appeal that decision;
- (b) the time limits for doing so;
- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people.

(4) The local authority need not comply with the time limit referred to in paragraph (1) if it is impractical to do so because—

- (a) the authority has requested advice from the head teacher or principal of a school or post-16 institution during a period beginning 1 week before any date on which that school or institution was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
- (b) the authority has requested advice from the head of special educational needs in relation to, or other person responsible for, a child's education at a provider of relevant early years education during a period beginning 1 week before any date on which that provider was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;

- (c) exceptional personal circumstances affect the child or his parent, or the young person during the time period referred to in paragraph (1); or
- (d) the child or his parent, or the young person, are absent from the area of the authority for a continuous period of not less than 4 weeks during the time period referred to in paragraph (1).

Conduct of EHC Needs Assessments

6.—(1) Where the local authority secures an EHC needs assessment for a child or young person, it must seek the following advice and information, on the needs of the child or young person, and what provision may be required to meet such needs where it considers it appropriate to do so—

- (a) advice and information from the child’s parent or the young person;
- (b) educational advice and information—
 - (i) from the head teacher or principal of the school or post-16 or other institution that the child or young person is attending,
 - (ii) where this is not available, from a person who the local authority is satisfied has experience of teaching children or young people with special educational needs, or knowledge of the differing provision which may be called for in different cases to meet those needs,
 - (iii) if the child or young person is not currently attending a school or post-16 or other institution and advice cannot be obtained under sub-paragraph (b), from a person responsible for educational provision for the child or young person, and
 - (iv) if any parent of the child or young person is a serving member of Her Majesty’s armed forces, also from the Secretary of State for Defence;
- (c) medical advice and information from a health care professional identified by the responsible commissioning body;
- (d) psychological advice and information from an educational psychologist;
- (e) advice and information in relation to social care;
- (f) advice and information from any other person the local authority thinks is appropriate;
- (g) where the child or young person is in or beyond the year of compulsory schooling in which the majority of pupils in the class attain the age of 14, advice and information in relation to provision required by the child or young person to assist in preparation for adulthood and independent living; and
- (h) advice and information from any person the child’s parent or young person requests that the local authority seek advice from.

(2) Where it appears to the authority, in consequence of medical advice or otherwise, that the child in question is—

- (a) hearing impaired;
- (b) visually impaired; or
- (c) both hearing and visually impaired,

and any such person from whom advice is sought as provided in paragraph (1)(b) is not qualified to teach pupils who are so impaired, then the advice sought shall be advice given after consultation with a person who is so qualified.

(3) When seeking advice in accordance with paragraph (1)(b) to (h), the local authority must provide the person from whom advice is being sought with copies of—

- (a) any representations made by the child’s parent or the young person, and
- (b) any evidence submitted by or at the request of the child’s parent or the young person.

(4) The local authority must not seek the advice referred to in paragraphs (1)(b), (c), (d), (e), (f) (g) or (h) if such advice has previously been provided for any purpose and the person providing

that advice, the local authority and the child's parent or the young person are satisfied that it is sufficient for the purpose of arriving at a satisfactory assessment.

Matters to be taken into account in securing an EHC needs assessment

7.When securing an EHC needs assessment a local authority must—

- (a) consult the child and his or her parent, or the young person and take into account their views, wishes and feelings;
- (b) consider any information provided to the local authority by or at the request of the child, his or her parent or the young person;
- (c) consider the advice obtained in accordance with regulation 6(1);
- (d) engage the child and his or her parent, or the young person and ensure they are able to participate in decisions; and
- (e) minimise disruption for the child, the child's parent, the young person and their family.

Duty to co-operate in EHC needs assessments

8.—(1) Where a local authority requests the co-operation of a body in securing an EHC needs assessment in accordance with section 31 of the Act, that body must comply with such a request within 6 weeks of the date on which they receive it.

(2) A body need not comply with the time limit referred to in paragraph (1) if it is impractical to do so because—

- (a) exceptional circumstances affect the child, the young person or the child's parent during that 6 week period;
- (b) the child, the child's parent or the young person are absent from the area of the authority for a continuous period of not less than 4 weeks during the 6 week period referred to in paragraph (1); or
- (c) the child or young person fails to keep an appointment for an examination or a test made by the body during that 6 week period.

Provision of advice, information and support to parents and young people

9.When securing an EHC needs assessment the local authority must consider whether the child's parent or the young person requires any information, advice and support in order to enable them to take part effectively in the EHC needs assessment, and if it considers that such information, advice or support is necessary, it must provide it.

Decision not to secure an EHC plan

10.—(1) Where, following an EHC needs assessment, a local authority decides that it is not necessary for special educational provision to be made for a child or young person in accordance with an EHC plan, it must notify the child's parent or the young person of its decision, giving the reasons for it as soon as practicable, and in any event within 16 weeks of the local authority receiving a request for an EHC needs assessment in accordance with section 36(1) of the Act, or of the local authority becoming responsible for the child or young person in accordance with section 23 of the Act.

(2) It must also notify the responsible commissioning body and the person notified in accordance with regulation 4(3)(c) or (d).

(3) When notifying a child's parent or young person in accordance with paragraph (1) the local authority must also notify them of—

- (a) their right to appeal that decision;
- (b) the time limits for doing so;

- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people.

Plans

Preparation of EHC plans

- 11.** When preparing a child or young person’s EHC Plan a local authority must—
- (a) take into account the evidence received when securing the EHC needs assessment; and
 - (b) consider how best to achieve the outcomes to be sought for the child or young person.

Form of EHC plan

- 12.**—(1) When preparing an EHC plan a local authority must set out in separate sections—
- (a) the information specified in section 37(2) of the Act;
 - (b) 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;
 - (c) the views, interests and aspirations of the child and his parents or the young person; and
 - (d) where any special educational provision is to be secured by a direct payment, the special educational needs and outcomes to be met by the direct payment.
- (2) The health care provision specified in the EHC Plan in accordance with paragraph (a) must have been agreed by the responsible commissioning body.
- (3) Where the child or young person is in or beyond the year of compulsory schooling in which the majority of pupils in the class attain the age of 14, the EHC plan must include within the special educational provision, health care provision and social care provision specified, provision required by the child or young person to assist in preparation for adulthood and independent living.
- (4) The advice and information obtained in accordance with regulation 6(1) must be set out in appendices to the EHC plan.

Timescales for EHC plans

- 13.**—(1) When a local authority sends a draft plan to a child’s parent or young person it must—
- (a) give them at least 15 days in which to make representations about the content of the draft plan, and to request that a particular school or other institution be named in the plan; and
 - (b) advise them where they can find information about the schools and colleges that are available for the child or young person to attend.
- (2) A local authority must send the finalised EHC plan to—
- (a) the child’s parent or to the young person;
 - (b) the governing body, proprietor or principal of any school or other institution named in the EHC plan; and
 - (c) to the responsible commissioning body,
- as soon as practicable, and in any event within 20 weeks of the local authority receiving a request for an EHC needs assessment in accordance with section 36(1) of the Act, or of the local authority becoming responsible for the child in accordance with section 23 of the Act.

(3) The local authority need not comply with the time limit referred to in paragraph (2) if it is impractical to do so because—

- (a) the authority has requested advice from the head teacher or principal of a school or post-16 institution during a period beginning 1 week before any date on which that school or institution was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
- (b) the authority has requested advice from the head of special educational needs in relation to, or other person responsible for, a child's education at a provider of relevant early years education during a period beginning 1 week before any date on which that provider was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
- (c) exceptional personal circumstances affect the child or his parent, or the young person during the time period referred to in paragraph (1); or
- (d) the child or his parent, or the young person, are absent from the area of the authority for a continuous period of not less than 4 weeks during the time period referred to in paragraph (1).

Sending the finalised EHC plan

14. When sending a copy of the finalised EHC plan to the child's parent or the young person in accordance with section 39(8)(a) of the Act, the local authority must notify them of—

- (a) their right to appeal matters within the EHC plan in accordance with section 51(2)(c) of the Act;
- (b) the time limits for doing so;
- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people

Transfer of EHC plans

15.—(1) This regulation applies where a child or young person in respect of whom an EHC plan is maintained moves from the area of the local authority which maintains the EHC plan ("the old authority") into that of another local authority ("the new authority").

(2) The old authority, within 15 working days beginning with the day on which it became aware of the move, shall transfer the EHC plan to the new authority.

(3) From the date of the transfer—

- (a) the EHC plan shall be treated as if it had been made by the new authority on the date on which it was made by the old authority; and
- (b) where the new authority makes an EHC needs assessment and the old authority has supplied the new authority with advice obtained in pursuance of the previous assessment the new authority must not seek further advice where the person providing that advice, the old authority and the child's parent or the young person are satisfied that the advice obtained in pursuance of the previous assessment is sufficient for the purpose of the new authority arriving at a satisfactory assessment.

(4) The new authority shall within 6 weeks of the date of the transfer notify the child's parent or the young person informing him—

- (a) that the EHC plan has been transferred;
- (b) whether it proposes to make an EHC needs assessment; and

(c) when it proposes to review the EHC plan in accordance with paragraph (5).

(5) The new authority shall review the EHC plan in accordance with section 44 of the Act before the expiry of the later of—

- (a) the period of 12 months beginning with the making of the EHC plan, or as the case may be, with the previous review, or
- (b) the period of 3 months beginning with the date of the transfer.

(6) Where, by virtue of the transfer, the new authority comes under a duty to arrange the child or young person's attendance at a school or post-16 institution specified in the EHC plan but in the light of the child or young person's move that attendance is no longer practicable, the new authority may arrange for the child or young person's attendance at another school or post-16 institution appropriate for him or her until such time as it is possible to amend the EHC plan.

(7) Where, by virtue of the child or young person's move, another commissioning body becomes the responsible commissioning body for that child or young person, the original responsible commissioning body must notify the new responsible commissioning body of the move within 15 working days beginning on the day on which it became aware of the move.

(8) Where it is not practicable for that new commissioning body to secure the health care provision specified in the EHC plan, it must, within 15 working days of becoming aware of the move, request the new local authority makes an EHC needs assessment or reviews the EHC Plan, and where the new local authority receives such a request it must comply with that request.

Change of responsible commissioning body

16.—(1) This regulation applies where, in relation to a child or young person in respect of whom an EHC plan is maintained, another commissioning body becomes the responsible commissioning body for that child or young person, and the local authority which maintains the EHC plan remains the same.

(2) The original responsible commissioning body must notify the new responsible commissioning body of the change in responsible commissioning body within 15 working days beginning on the day on which it became aware of the change.

(3) Where it is not practicable for the new commissioning body to arrange the health care provision specified in the EHC plan, it must, within 15 working days of becoming aware that it is the new responsible commissioning body, request the local authority makes an EHC needs assessment or reviews the EHC Plan, and where the local authority receives such a request it must comply with that request.

Restriction on disclosure of EHC plans

17.—(1) Subject to the provisions of the Act and of these Regulations, an EHC plan in respect of a child or young person shall not be disclosed without the child or young person's consent except—

- (a) to persons to whom, in the opinion of the local authority concerned, it is necessary to disclose the EHC plan in the interests of the child or young person;
- (b) for the purposes of any appeal under the Act;
- (c) for the purposes of educational research which, in the opinion of the local authority, may advance the education or training of children or young persons with special educational needs, if, but only if, the person engaged in that research undertakes not to publish anything contained in, or derived from, an EHC plan otherwise than in a form which does not identify any individual including, in particular, the child concerned and the child's parent or the young person;
- (d) on the order of any court or for the purposes of any criminal proceedings;
- (e) for the purposes of any investigation under Part 3 of the Local Government Act 1974 (investigation of maladministration);

- (f) to the Secretary of State when he requests such disclosure for the purposes of deciding whether to—
 - (i) give directions or determinations (for any purpose), or
 - (ii) make an order under section 496, 497 or 497A of the Education Act 1996.
- (g) for the purposes of an assessment of the needs of the child or young person with respect to the provision of any statutory services for him or her being carried out by officers of an authority by virtue of arrangements made under section 5(5) of the Disabled Persons (Services, Consultation and Representation) Act 1986;
- (h) for the purposes of a local authority in the performance of its duties under sections 22(3)(a), 85(4)(a), 86(3)(a) and 87(3) of the Children Act 1989;
- (i) to Her Majesty’s Chief Inspector of Education, Children’s Services and Skills, exercising the right to inspect and take copies of a statement in accordance with section 10(1)(e) of the Education Act 2005 and section 140(2)(a) of the Education and Inspections Act 2006;
- (j) to a Young Offender Institution for the purposes of the performance of its duties under rule 38 of the Young Offender Institution Rules 2000;
- (k) to a Secure Training Centre for the purposes of the performance of its duties under rule 28 of the Secure Training Centre Rules 1998.

(2) A child may consent to the disclosure of an EHC plan for the purposes of this regulation if his or her age and understanding are sufficient to allow him to understand the nature of that consent.

(3) If a child does not have sufficient age or understanding to allow him to consent to such disclosure, his parent may consent on his behalf.

(4) The arrangements for keeping a child or young person’s EHC plan must be such that the ensure, so far as is reasonably practicable, that unauthorised persons do not have access to them.

(5) In this regulation, any reference to an EHC plan includes a reference to any representations, evidence, advice or information obtained in relation to an EHC plan.

Reviews and re-assessments

Circumstances in which a local authority must review an EHC plan

18.—(1) Where a child or young person is within 12 months of a transfer between phases of his or her education, the local authority must review and amend, where necessary, the child or young person’s EHC plan before 15 February in the calendar year of the child or young person’s transfer and amend the EHC plan so that it names the school, post-16 or other institution which the child or young person will attend following that transfer.

(2) For the purposes of paragraph (1) a transfer between phases of education means a transfer from—

- (a) relevant early years education to school;
- (b) infant school to junior school;
- (c) primary school to middle school;
- (d) primary school to secondary school;
- (e) middle school to secondary school; or
- (f) secondary school to a post-16 institution.

(3) Where it is proposed that a young person transfers from one post-16 institution to another post-16 institution at any other time, the local authority must review and amend, where necessary, the young person’s EHC plan at least seven months before that transfer takes place so that it names the post-16 institution that the young person will attend following the transfer.

Conduct of reviews

19.When undertaking a review of an EHC plan, a local authority must—

- (a) consult the child and the child's parent or the young person, and take account of their views, wishes and feelings;
- (b) consider the child or young person's progress towards achieving the outcomes specified in the EHC plan and whether these outcomes remain appropriate for the child or young person;
- (c) consult the school or other institution attended by the child or young person.

Review meeting where the child or young person attends a school or other institution

20.—(1) As part of a review of a child or young person's EHC plan, the local authority must secure that a meeting to review that EHC plan is held and can require the person referred to in paragraph (2)(b) to arrange and hold that meeting.

(2) The following persons must be invited to attend that meeting—

- (a) the child's parent or the young person;
- (b) provider of the relevant early years education or the head teacher or principal of the school, post-16 or other institution attended by the child or young person;
- (c) an officer of the authority who exercises the local authority's education functions in relation to children and young people with special educational needs;
- (d) a health care professional identified by the responsible commissioning body to provide advice about health care provision to the child or young person;
- (e) an officer of the authority who exercises the local authority's social services functions in relation to children and young people with special educational needs.

(3) At least two weeks' notice of the date of the meeting must be given.

(4) The meeting must consider the child or young person's progress towards achieving the outcomes specified in the EHC plan.

(5) When the child or young person is in or beyond the year of compulsory schooling in which the majority of pupils in the class attain the age of 14, the review meeting must consider what provision is required to assist in preparing the young person for adulthood and independent living.

(6) The local authority must ask the person identified in paragraph (2)(b) to prepare a written report on the child or young person, setting out that person's recommendations on any amendments required to be made to the EHC plan, and should refer to any difference between those recommendations and recommendations of others attending the meeting.

(7) The person preparing the written report must obtain advice and information about the child or young person from those referred to in paragraph (2)(a), (c), (d) and (e) in advance of the meeting, and must circulate that advice and information to those invited to attend the meeting at least two weeks in advance of the meeting.

(8) After the review meeting has been held, the person asked to prepare a report on the child or young person must do so within two weeks after the review meeting, and must send it to everyone invited to attend the meeting in accordance with paragraph (2).

(9) The local authority must then decide whether it proposes to continue to maintain the EHC plan in its current form, to amend it or to cease to maintain it and must notify the child's parent or the young person and the person referred to in paragraph (2)(b) within four weeks after the review meeting.

(10) If the local authority proposes not to amend the child or young person's EHC plan, it must also notify the child's parent or the young person of—

- (a) their right to appeal matters within the EHC plan in accordance with section 51(2)(e) of the Act;
- (b) the time limits for doing so;

- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people.

Review of EHC plan where the child or young person does not attend a school or other institution

21.—(1) This regulation applies where a local authority carry out a review of an EHC plan and the child or young person concerned does not attend a school or other institution.

(2) The local authority must prepare a written report on the child after obtaining advice and information about the child or young person from those people who are invited to a meeting in accordance with paragraph (3).

(3) The local authority must invite the following persons to a meeting as part of the review of an EHC plan—

- (a) the child’s parent or the young person;
- (b) an officer of the authority who exercises the local authority’s education functions in relation to children and young people with special educational needs;
- (c) a health care professional identified by the responsible commissioning body to provide advice about health care provision to the child or young person;
- (d) an officer of the authority who exercises the local authority’s social services functions in relation to children and young people with special educational needs;
- (e) any other person whose attendance the local authority considers appropriate.

(4) At least two weeks’ notice of the date of the meeting must be given.

(5) The meeting must consider the child or young person’s progress towards achieving the outcomes specified in the EHC plan.

(6) When the child or young person is in or beyond the year of compulsory schooling in which the majority of pupils in the class attain the age of 14, the review meeting must consider what provision is required to assist in preparing the young person for adulthood and independent living.

(7) The local authority must circulate the advice and information obtained in accordance with paragraph (2) to those people invited to the meeting in accordance with paragraph (3) at least two weeks before the meeting.

(8) After the review meeting has been held, the local authority must prepare a report on the child or young person within two weeks after the review meeting setting out its recommendations on any amendments required to be made to the EHC plan, and should refer to any difference between those recommendations and recommendations of others attending the meeting.

(9) The local authority must send the report to everyone invited to the meeting in accordance with paragraph (3).

(10) The local authority must decide whether it proposes to continue to maintain the EHC plan in its current form, to amend it or to cease to maintain it and must notify the child’s parent or the young person within four weeks after the review meeting.

(11) If the local authority proposes not to amend the child or young person’s EHC plan, it must also notify the child’s parent or the young person of—

- (a) their right to appeal matters within the EHC plan in accordance with section 51(2)(e) of the Act;
- (b) the time limits for doing so;
- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and

- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people.

Circumstances in which a local authority must secure a re-assessment

22.A local authority must secure a re-assessment of a child or young person’s EHC Plan where it receives a request to do so from the responsible commissioning body for that child or young person.

Securing a re-assessment of educational, health care and social care provision

23.—(1) When securing a re-assessment of educational, health care and social care provision in a child or young person’s EHC plan a local authority must comply with the requirements of regulations 6 and 7.

(2) Regulations 8 and 9 also apply to re-assessments.

Circumstances in which it is not necessary to re-assess educational, health care and social care provision

24.—(1) Where a local authority receives a request to re-assess a child or young person in accordance with section 44(2) of the Act or regulations 15(8), 16(2) or 22 it does not need to do so where—

- (a) it has carried out an assessment or re-assessment within the period of six months prior to that request, or
- (b) it is not necessary for the authority to make a further assessment.

(2) Where the local authority does not need to re-assess the child or young person it must notify the child’s parent or the young person of that within 15 days of receiving the request to re-assess and must also notify them of—

- (a) their right to appeal matters within the EHC plan in accordance with section 51(2)(d) of the Act;
- (b) the time limits for doing so;
- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people

Amending or replacing an EHC plan following a re-assessment

25.—(1) Where the local authority decides to amend or replace an EHC plan following a reassessment it must comply with the requirements of regulations 11, 12, 13(1) and 14, and with sections 33 and 38 of the Act and with section 39 or 40 of the Act (as appropriate).

(2) The local authority must send a copy of the finalised EHC plan in accordance with section 39(8) or 40(5) of the Act (as appropriate) as soon as practicable, and in any event within 14 weeks of the notification under regulation 24(2) or of deciding it is necessary to reassess under section 44(3) to—

- (a) the child’s parent or the young person;

- (b) the governing body, proprietor or principal of any school or other institution named in the plan; and
 - (c) the relevant responsible commissioning body.
- (3) The local authority need not comply with the time limit referred to in paragraph (2) if it is impractical to do so because—
- (a) the authority has requested advice from the head teacher or principal of a school or post-16 institution during a period beginning 1 week before any date on which that school or institution was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
 - (b) the authority has requested advice from the head of special educational needs in relation to, or other person responsible for, a child's education at a provider of relevant early years education during a period beginning 1 week before any date on which that provider was closed for a continuous period of not less than 4 weeks from that date and ending 1 week before the date on which it re-opens;
 - (c) exceptional personal circumstances affect the child or his parent, or the young person during the time period referred to in regulation 13(1); or
 - (d) the child or his parent, or the young person, are absent from the area of the authority for a continuous period of not less than 4 weeks during the time period referred to in regulation 13(1).

Amending an EHC plan following a review

26.—(1) Where the local authority is considering amending an EHC plan following a review it must—

- (a) send the child's parent or the young person a copy of the EHC plan together with a notice specifying the proposed amendments, together with copies of any evidence which supports those amendments;
- (b) give them at least 15 days in which to—
 - (i) make representations about the content of the draft plan;
 - (ii) request that a particular school or other institution be named in the plan;
 - (iii) request a meeting with an officer of the local authority, if they wish to make representations orally.
- (c) advise them where they can find information about the schools and colleges that are available for the child or young person to attend.

(2) Where the local authority decides to amend the EHC plan following representations from the child's parent or the young person, it must send the finalised EHC plan to—

- (a) the child's parent or to the young person;
- (b) the governing body, proprietor or principal of any school or other institution named in the EHC plan; and
- (c) to the responsible commissioning body

as soon as practicable, and in any event within 8 weeks of the local authority sending a copy of the EHC plan in accordance with paragraph (1)(a).

(3) Where the local authority decides not to amend the EHC plan, it must notify the child's parent or the young person of its decision and its reasons for this as soon as practicable and in any event within 8 weeks of the local authority sending a copy of the EHC plan in accordance with paragraph 1(a).

(4) When sending a the finalised ECH plan to the child's parent or the young person in accordance with paragraph (2), or notifying them in accordance with paragraph (3) the local authority must also notify them of—

- (a) their right to appeal matters within the EHC plan in accordance with section 51(2)(c) or 51(2)(e) of the Act (as appropriate);
- (b) the time limits for doing so;
- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people.

Amending an EHC plan without a review

27.If, at any time, a local authority proposes to amend an EHC plan, it shall proceed as if the proposed amendment were an amendment proposed after a review.

Ceasing to maintain an EHC plan

Circumstances in which a local authority may not cease to maintain an EHC plan where the person is under the age of 18

28.—(1) A local authority may not cease to maintain an EHC plan for a child or young person under the age of 18 unless it determines that it is no longer necessary for special educational provision to be made for the child or young person in accordance with an EHC plan.

(2) The local authority must review the EHC plan in accordance with regulations 18 and 19 and amend it in accordance with regulation 26 where appropriate, to ensure that the young person continues to receive education or training.

Circumstances in which a local authority may not cease to maintain an EHC plan where the person is aged 18 or over

29.—(1) When a young person aged 18 or over ceases to attend the educational institution specified in his or her EHC plan, so is no longer receiving education or training, a local authority may not cease to maintain that EHC plan, unless it has followed the procedure set out in this regulation and determined that the young person does not wish to return to education or training, or that returning to education or training would not be appropriate for the young person.

(2) When a young person aged 18 or over ceases to receive education or training, the local authority must review the EHC plan in accordance with regulations 18 and 19 and determine whether the young person wishes to return to education or training, either at the educational institution specified in the young person’s EHC plan, or otherwise.

(3) Where following the review, the local authority determines that the young person wishes to return to education or training either at the educational institution specified in the EHC plan, or at another educational institution, and that it is appropriate for the young person to do so, it must amend the young person’s EHC plan as it thinks necessary in accordance with regulation 26.

Procedure for determining whether to cease to maintain EHC plan

30.—(1) Where a local authority is considering ceasing to maintain a child or young person’s EHC plan it must—

- (a) inform the child’s parent or the young person that it is considering ceasing to maintain the child or young person’s EHC plan; and
- (b) consult the child’s parent or the young person;
- (c) consult the school or other institution that is named in the EHC plan.

(2) Where, following that consultation the local authority determines to cease to maintain the child or young person's EHC plan, it must notify the child's parent or the young person, the institution named in the child or young person's EHC plan and the responsible commissioning body of that decision.

(3) When notifying the child's parent or the young person of its decision to cease to maintain the EHC plan, it must also notify them of—

- (a) their right to appeal that decision;
- (b) the time limits for doing so;
- (c) the requirement for them to consider mediation should they wish to exercise that right of appeal; and
- (d) the availability of—
 - (i) disagreement resolution services; and
 - (ii) information and advice about matters relating to the special educational needs of children and young people.

Academic year

31.For the purposes of section 46 of the Act, an academic year is the period of twelve months which ends—

- (a) in relation to a young person attending an institution within the further education sector on 31st July;
- (b) in relation to a young person receiving apprenticeship training (as defined in section 83(5) of the Apprenticeships, Skills, Children and Learning Act 2009, on the date that that apprenticeship training finishes, or on the day before the young person attains the age of 26 if earlier;
- (c) in all other cases, on the day that the young person's course of education or training is scheduled to end, or on the day before the young person attains the age of 26 if earlier.

Disclosure of EHC plans

Disclosure of EHC plans

32.When a young person is intending to undertake a course of higher education in any calendar year, the local authority must disclose a copy of that young person's EHC plan to—

- (a) any person in connection with the young person's application for a disabled student's allowance in accordance with chapter 3 of part 5 of the Education (Student Support) Regulations 2011; and
- (b) the principal (or equivalent position) of the higher education institution at which it has been confirmed that the young person has a place to study,

within 15 working days of being asked to do so by the young person.