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Guidance

# Guidance for local authorities on the treatment of education, health and care plans when a child or young person moves out of or into their area

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## Applies to England

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This guidance will help local authorities in England understand their functions in relation to education, health and care (EHC) plans when children and young people move out of or into their area. It summarises the expectations set out in the [special educational needs and disability \(SEND\) code of practice](#) statutory guidance and gives additional detail on those expectations.

It applies to a child or young person with an EHC plan who either moves to a different local authority area within England or outside of or back to England.

Chapter 9 of the [SEND code of practice](#) is the principal statutory guidance on these functions for local authorities and others.

Children and young people with EHC plans who move, either to a different local authority area within England or outside of England and back, can face unique difficulties. Families move for various reasons, such as:

- moving house, including within the private rented sector
- parents being in a business or trade that requires them to travel from place to place
- moving temporarily to stay with relatives
- employment – for example, families with a Crown Servant parent posted overseas

These examples are not exhaustive and there will be other reasons for families to move. There are also different circumstances under which families move. For example, some families move frequently.

## Moving to a different local authority area within England

Where a child or young person moves to a different local authority area within England, the old local authority must transfer the EHC plan to the new local authority, within the timescales set out in legislation. This means on the day of the move, unless the old local authority has not had 15 working days' notice of the move. In that case, the old local authority must transfer the EHC plan within 15 working days beginning with the day on which it did become aware.

Where attendance at the school or educational institution specified in the EHC plan would no longer be practicable due to the child or young person's move, the new local authority must place the child or young person at an appropriate school or educational institution until the plan is formally amended.

For more information about transferring EHC plans, see:

- [section 47 of the Children and Families Act 2014](#)<sup>[footnote 1]</sup>
- [regulation 15 of the SEND Regulations 2014](#)<sup>[footnote 1]</sup>
- paragraphs 9.157 to 9.162 of the [SEND code of practice](#)

## Moving outside of England (including overseas)

A local authority may cease to maintain an EHC plan only if they are either no longer responsible for the child or young person or determine that it is no longer necessary for the plan to be maintained. Ceasing to maintain an EHC plan means the local authority would end the plan and no longer maintain it.

A local authority has discretion over whether to cease to maintain an EHC plan when they are no longer responsible for the child or young person – for example, when the child or young person moves out of the local authority's area. There is no requirement on the local authority to cease an EHC plan in these circumstances. A local authority has the power to maintain the plan.

Where a child or young person has moved outside of England and the local authority is determining whether to cease to maintain an EHC plan, local authorities are best placed to decide what factors they need to consider. They must make decisions on a case-by-case basis. Factors that the local authority may wish to consider in making their decision in this scenario are likely to include (but may not be limited to):

- whether the move is expected to be permanent or temporary

- if the move is expected to be temporary:
  - the expected length of time that the child or young person will be outside of England
  - where they expect to live on return to England

## **Maintaining an EHC plan when a child or young person moves outside of England**

Where a local authority decides to maintain the EHC plan, they must review it at least every 12 months. Where the plan names a school in section I, they can amend that section of the plan, following the statutory procedures, to:

- remove the name of the school
- leave in the type of provision

The school will normally then be able to release the school place, applying the usual processes for pupil departure and removal from roll.

For more information about reviewing an EHC plan, see:

- [section 44 of the Children and Families Act 2014](#)<sup>[footnote 1]</sup>
- [regulations 18 to 22 of the SEND Regulations 2014](#) <sup>[footnote 1]</sup>
- paragraphs 9.166 to 9.185 of the [SEND code of practice](#)

## **Ceasing to maintain an EHC plan when a child or young person moves outside of England**

Where a local authority is considering ceasing to maintain a child or young person's EHC plan, they must:

- inform the child's parent or the young person that they are considering this
- consult the child's parent or the young person
- consult the headteacher or principal of the school or the equivalent person at any other educational institution that is named in the EHC plan

Following this, if the local authority decides to cease to maintain the EHC plan, they

must notify:

- the child's parent or the young person
- the institution named in the EHC plan
- the responsible health commissioner

The local authority has various duties over notifying the child's parent or the young person of its decision to cease to maintain the EHC plan. These include notifying them of their right to appeal that decision and the time limits for doing so. The local authority must continue to maintain the EHC plan until after:

- the end of the period allowed for bringing an appeal against its decision to stop maintaining the plan (where there is no such appeal before the end of that period)
- the appeal has been finally determined (where the parent or young person has made an appeal before the end of that period)

For more information about ceasing an EHC plan, see:

- [section 45 of the Children and Families Act 2014](#)<sup>[footnote 1]</sup>
- [regulations 29 to 31 of the SEND Regulations 2014](#)<sup>[footnote 1]</sup>
- paragraphs 9.199 to 9.210 of the [SEND code of practice](#)

## Returning to England

Where the local authority has maintained an EHC plan for a child or young person who moved outside of England, they may wish to consider when to review the EHC plan once they become aware that a child or young person is due to return to England.

Where the local authority has ceased to maintain an EHC plan and the child or young person returns to England, they can place the child or young person in a special school or special post-16 institution without an EHC plan in specified circumstances, including where the parents and certain other interested parties all agree. For more information, see:

- [section 34 of the Children and Families Act 2014](#)<sup>[footnote 1]</sup>
- paragraph 1.29 of the [SEND code of practice](#)

1. These links are to the versions of the legislation on legislation.gov.uk and consequently may not contain more recent amendments. [↩](#) [↩2](#) [↩3](#) [↩4](#) [↩5](#) [↩6](#) [↩7](#)

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