



Timeline for the transition process from a statement to an EHC plan

The Children and Families Act 2014 (**C&FA 2014**) came into effect on 1 September 2014. Transition from the old law to the new law for children and young people with statements is being staggered over a period of years (the end date is 1st April 2018).

The law contains some “must” duties – i.e. where local authorities (“**LAs**”) have a statutory duty to effect the transition, and some “should” duties, where LAs have been advised by the government that they should prioritise certain groups. Within that framework is it up to the LAs when transition starts.

In 2016 and 2017 LAs must transition children in Year 9 and children and young people transferring to a different phase of education (e.g. primary to secondary).

KEY:

C&FA 2014	The Children and Families Act 2014
TP Regs	Children and Families Act 2014 (Transitional and Saving Provisions) (No. 2) Order 2014 (as amended) ¹
SEND Code	Special Educational Needs and Disability Code of Practice: 0 to 25 years: (January 2015)
Departmental Advice	Transition to the new 0 to 25 special educational needs and disability system: September 2015
SEND Regs 2014	The Special Educational Needs and Disability Regulations 2014, as amended ²
LDA	Learning Difficulty Assessment (sometimes called a section 139A assessment)
LA	Local authority: the local government body responsible for EHC needs assessments and plans

¹ Amended in August 2015 by the Children and Families Act 2014 (Transitional and Saving Provisions) (Amendment) (No 2) Order 2014)

² The SEND Regs 2014 have been amended twice since they were first passed, by The Special Educational Needs (Miscellaneous Amendments) Regulations 2014 and The Special Educational Needs and Disability (Amendment) Regulations 2015 .

The law is clear that transition from a statement to plan must be via an EHC needs assessment which must run to the deadlines below. It is not lawful for statements to be “tipped” into plans without going through an EHC needs assessment. For what an EHC needs assessment must comprise, see IPSEA’s resource, [What is an EHC needs assessment](#)

When you receive a draft plan , see IPSEA’s advice at [What you need to know about draft EHC plans](#)

In particular, check it against IPSEA’s checklist at [IPSEA’s EHC plan checklist](#)

THE TIMELINE

Time	Legal Duty	Ipssea note	Where in law
Minus 2 weeks	LA must sent letter to parents/young person + school/college/other setting giving notice of the date the EHC needs assessment will begin – this starts a process which must last a maximum of 18 weeks	Notice must be at least two weeks	TP Regs: Article 18
Week 0	<p>EHC needs assessment starts. The LA must gather advice and information as to (1) the child or young person’s needs; (2) the provision needed to support those needs; and (3) the outcomes that would be expected to result from the provision being put in place.</p> <p>The LA must seek:</p> <ul style="list-style-type: none"> (a) advice and information from the child’s parent or the young person; (b) educational advice and information from the head teacher or principal of the school or post-16 or other institution that the child or young person is attending (or other appropriate person where this is not available); (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 year 9, advice and information in relation to provision to assist the child or young person in preparation for adulthood and independent living; and (h) advice and information from any person the child’s parent or young person reasonably requests that the LA seek advice from. 	<p>Week 0 is when the 18 week maximum for the transition process starts.</p> <p>Note that you can request that the LA seek advice from anyone you think they should approach, which might include private tutors, therapists.</p> <p>At some point during the process the LA must hold a meeting with the parents or young person.</p> <p>The hosting of the meeting may be delegated to a school/college if they agree, but an officer of the LA who can make SEN decisions must attend.</p>	<p>Advice required and from whom: SEND Regs 2014:Reg. 6(1)</p> <p>6 week time limit for advice to be sent to LA after request SEND Regs 2014 Reg.8(1)</p> <p>Requirement to hold meeting during transition TP Regs : Article 20(3).</p> <p>Requirement for the meeting to be with LA officer who exercises education functions on behalf of LA: TP Regs; Article 20 (4)</p>

Time	Legal Duty	Ipssea note	Where in law
	<p>Note in relation to the advice to be obtained:</p> <p>The SEND Code says that the advice should be clear, accessible and specific (paragraph 9.51). There is only one exception to seeking new advice which is where it is agreed, in relation to a particular advice, that existing information and advice is “sufficient” for the purposes of the assessment.</p> <p>The judgement that an individual report is sufficient must be made by all of the following</p> <ul style="list-style-type: none"> (1) the LA, (2) the original author of that report, and (3) the parent or young person. <p>If any one of these disagrees or is no longer available, then the LA must seek new advice. An LA must not make a “blanket” decision that all existing information and advice is sufficient for a child or young person, but must look at each piece of advice and request consent from the author and the parent or young person.</p> <p>The SEND Code paragraph 9.47 advises that parents and young people should be supported to make an informed decision.³</p>	<p>There is a significant focus on outcomes as a result of C&FA 2014. In relation to advice sought for assessment (see detail of Reg 6 above) it must include outcomes.</p> <p>Arguably, any advice prior to September 2014 would not be written to include outcomes so parents should carefully consider whether such advice is ‘sufficient’</p>	<p>SEND Regs 2014: Reg. 6(4).</p>

³ **NB in relation to young people with LDAs:** the time limit depends on whether the young person has requested an EHC needs assessment themselves (which they are entitled to do now). If the young person has made a request the time limit will be 20 weeks from the request under the SEND Regs (SEND Reg 13). The SEND Regs are silent on what happens if the LA starts the EHC needs assessment without a request having been made (and LAs are required under the Departmental Advice to carry out these transitions by 1st September 2016). Given that the first six weeks of the 20 weeks referred to in SEND Reg 13 correspond to the six weeks the LA has to comply with a request, we expect LAs to be able to complete the EHC needs assessment more quickly than the 20 weeks where there is no request but the 20 weeks is the final deadline.

Time	Legal Duty	Ipsea note	Where in law
Week 12 - 14	<p>A draft EHC plan needs to have been produced and sent to the parent or young person by this time.</p> <p>At the same time, the LA must advise the parent or young person where they can find information about the schools and colleges that are available for the child or young person to attend.</p> <p>The parent or young person then has at least 15 calendar days after receipt of the draft plan in which to:</p> <ol style="list-style-type: none"> 1. make representations to the LA about the contents of the draft EHC plan; 2. ask for a meeting with an LA officer to discuss the draft EHC plan; 3. tell the LA the type of school/college (mainstream or special) and the actual school/college they would like named in the final EHC plan. 	<p>There is no date specified in law by which the draft plan must be issued but for the transition process to be completed within 18 weeks, this must be issued by week 12 to allow for the draft plan consultation periods below. (LAs appear to be treating the time limit as week 14 because this is the date by which they must notify refusal but this is not enough time to meet the other time limits)</p>	<p>Parent/young person's right to respond to draft EHC plan and request school/institution: C&FA 2014 s38(2)</p> <p>Time allowed, info on schools and right to meeting: SEND Regs 2014 Reg. 13(1)</p>
Week 14	<p>If the LA decides not to issue an EHC plan, having carried out the EHC needs assessment they must so notify the parent/young person by this date. The parent/young person will have a right of appeal to the Special Educational Needs and Disability Tribunal against the decision to refuse to issue a plan and the statement must be maintained pending the resolution of the appeal.</p>	<p>This should be happening only in a small minority of cases where the child's needs have significantly changed as the legal tests are the same if not wider</p>	<p>Time limit for notice of refusal of a plan within 14 weeks⁴ : TP Regs: Article 22(3)</p>
Weeks 15 and 16	<p>During this time the 15 days the parent/young person have to respond to the Plan with their representations and notify their school choice will come to an end.</p>	<p>NB: this period may end earlier if the draft Plan was issued earlier – the 15</p>	<p>SEND Regs 2014 Reg. 13 (1) (a)</p>

⁴ 10 weeks where the assessment started before 1st September 2015 (TP Regs Article 22 (3A)).

Time	Legal Duty	Ipsea note	Where in law
		days starts when the draft plan is served	
Week 16	LA must consult with the school/college the parent or young person has requested. School or college should respond within 15 days (SEND Code paragraph 9.83).		C&FA 2014 s39(2)
Week 18	Final EHC plan issue by the LA. Statement automatically ceases.		18 week limit ⁵ : TP Regs: Article 21(3)

⁵ 14 weeks where the assessment started before 1st September 2015 (TP Regs Article 21 (3A)).