



# Guide to an EHCP

By Tania Griffiths QC



## Educational Health Care Plans - Your questions answered by Tania Griffiths QC

The Education and Health Care Plan (EHCP) was created by the Children and Families Act 2014. It is a valuable document. It is a legal document and is the passport to a proper education for your child. It gives the young person priority at their preferred school placement, which could be a maintained school, academies, or more specialist provision. If a school is named in the EHC Plan, then the child has to be admitted to that school, even if the school is over-subscribed. The EHCP can also provide entitlement to benefits, for example - the Personal Independence Payment (PIP). The Plan may entitle the young person to free transport to school (not just a travel pass), depending upon their need. Therefore, an EHCP is the modern equivalent of the old 'Statement of Special Educational Needs'. However, it contains much more than the old statement, for example, the EHCP covers health and social care needs.

### Who is the EHCP for?

An EHCP is issued to children, or young people. Who have a Special Educational Need (SEN). The definition of SEN is that a child is having "a significantly greater difficulty in learning than the majority of others of the same age" or "has a disability which prevents or hinders them from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions". The EHCP will set out your child's educational needs in terms of what support they require and are entitled to.

## Why was it changed from Statement of Educational Need?

One of the reasons why the old statements became EHCPs was to have a wider remit and confer more benefits. However, central to the philosophy of the EHCP is that it generates certainty and stability, for example, if a specific educational need is written in Section B of the plan, then the Local Authority have to provide for that need in

Section F. It is the responsibility of the Local Authority to ensure that the need is met and not the parents/carers. Also, the Local Authority must specify precisely what provision must be made.



## Is there an age limit to an EHCP?

The EHCP can continue until the end of the academic year in which the young person turns 25. The Local Authority may cease to maintain a plan only where it is no longer responsible for the young person; or it is no longer necessary for the plan to be maintained, for example, if the young person has left full time education and is now in paid employment.

## When should parents/carers ask for an EHCP?

Parents/carers should ask for an EHCP when their child has special educational needs, which require educational provisions to be made in order to meet those needs; and the aim of the plan is to ensure that the Local Authority will make provision for those additional needs. Even if your child's needs are currently being met, there is a risk that funding that you may be receiving for this currently, is not secure. Current support may become unavailable in the future, for example, when your child moves up to key stage 3 (Secondary school). You should also ask for an EHCP if you want your child to access specialist education. They will not be eligible for this without an EHCP.



However, it is not just if you would like your child to attend a special school. A child with an EHCP can still attend mainstream school (with or without a resource base) as of right (unless the presence of your child in that mainstream school is detrimental to other pupils) and the Local Authority has to provide

for their needs. Parents/carers have a right to select a mainstream school education for their child, and the Local Authority have a duty to make it suitable; unless this results in incompatibility with the education of others and that this incompatibility cannot be overcome by the taking of reasonable steps.

## Does every child with a special educational need have an EHCP?

Not all children/young people with an SEN have an EHCP. This may be due to the level of need being at the lesser end of the scale, so that their difficulties can be managed within an ordinary mainstream setting (possibly with an extra support being managed within the school budget, or with higher needs funding).

It could be because no one has asked for the needs of the young person to be assessed or because the child is still functioning at a sufficiently high level so as to 'mask' their difficulties. A good example of this are girls with Attention Deficit Hyperactivity Disorder (ADHD). Often girls with ADHD are missed prior to their teenage years because ADHD is often perceived to be mainly a male condition, or because the girl has become very skilled at 'masking' her difficulties up to that point.



Another reason could be because the parents/carers have been put off applying for an EHCP because they are reluctant to 'label' their child, or that there has been an assessment process in the past that was flawed. This could have been because there was insufficient evidence of the child's needs put forward for consideration.

Finally parents/carers may have taken other steps to meet the needs of their child, for example, a private education which would then mean that the child is no longer the responsibility of the Local Authority.