

PLYMOUTH'S LOCAL PLAN (DRAFT)

Transfer of Statements of SEN to
Education, Health and Care Plans (EHCPs)



I. CONTEXT

The Department for Education (DfE) has begun the process of implementing major reforms to the Special Educational Needs system. New legislation came into force on 1st September 2014 and we are now beginning a gradual transition to full implementation of the new system. As a result of these reforms to the way SEN is identified and managed we must make changes to our current practice. National guidance and information on the conversion of existing statements of SEN can be found at the [Council for Disabled Children website](#).

The EHC assessment process and plan have been co-produced and piloted with parents over the last year. The transfer from a Statement or Learning Disability Assessment to having an EHCP will be a gradual process. This is to make sure that it can be managed within the Government's designated timescale. All current Statements of Special Educational Needs (SEN) need to be transferred to an EHC Plan by 1st April 2018. The DfE have also indicated that by 1st September 2016 an EHC Plan should be in place for young people if they need one for children moving from one phase of their education to another, for example moving from primary to secondary education. Young people in further education and training who receive provision as a result of a Learning Disability Assessment (LDA) (section 139a/Moving On Plan), if they are continuing in further education or training beyond that date, will have the LDA converted to an EHCP where appropriate.

There are 1583 children and young people with Statements of SEN in Plymouth and approximately 300 young people with Learning Disability Assessments. Plymouth is aiming to transfer children and young people as quickly as possible, at a pace that is achievable. We want to deliver an effective new system while maintaining high quality arrangements for those continuing with Statements of SEN.

Currently when Statements of SEN are reviewed at the Annual Review, not all of them continue to be needed and those that are no longer required are ceased. The same applies under the new system and will be considered at the transfer review meeting. In Plymouth we are referring to this meeting as a conversion meeting. The legal test of when a child or young person requires an EHC plan remains the same as that for a statement of SEN under the Education Act 1996. Therefore, it is expected that all children and young people who have a Statement of SEN and who would have continued to have one under the 1996 provisions, will be transferred to an EHC plan. No child or young person should lose their statement of SEN and not have it replaced with an EHC plan simply because the system is changing.

At the same time as SEN reforms, national funding reform has also taken place which has meant that more and more resource is available in schools. A significant number of children and young people can be supported in schools and Colleges without the need for local authority involvement. Funds are delegated direct to schools and Colleges allowing for up to £6000 per individual to be available to support additional educational needs identified.

2. KEY MESSAGES

- All new applications, from 1 September 2014, for statutory assessments will be considered as applications for Education, Health and Care needs assessments.
- It is anticipated that the vast majority of children and young people with statements will convert to an EHC Plan unless the statement ceases.

- Children and young people with exiting statements will have a Transfer review meeting to convert a statement to an EHC plan. Between September 2014 and September 2015, local authorities are required to transfer young people with statements of SEN to the new arrangements if they are moving from school to a post 16 institution or apprenticeship.
- Local Authorities should aim to transfer children at the points in their education at which a significant review of the statement would have otherwise taken place, for example primary to secondary school.
- Learning Difficulty Assessments for students leaving school to go onto post -16 education will no longer be written.
- Young people in further education and training who receive support as a result of a Learning Difficulty Assessment (LDA) can choose to request an EHC plan.

3. PROCESS

The process of transferring a statement to an Education, Health and Care Plan is called a Transfer Review and can last up to 14 weeks. During that time a conversion meeting will be held, which will replace the scheduled Annual Review. The review process will be different and will focus on the child or young person's aspirations, parent/carer's views and identifying the outcomes to be achieved over the next year and phase of education. A minimum of two weeks' notice will be given to parents and the young person of the Local Authority's intention to undertake a transfer review of an existing statement so that they can come to the meeting prepared.

We will retain a process for managing the existing statements and until a Statement becomes an EHC plan, it will continue to be reviewed in the same way i.e. through Annual Reviews. The need for a Statement to transfer to an EHCP will be considered for every child/young person at the appropriate annual review. There is an expectation that all Statements that would have continued under the current system will convert to EHC Plans.

Plymouth will continue to raise awareness through newsletters, bulletins, meetings and training opportunities that schools and other professionals should continue to use the old system where required. It is important to be aware that the Statement still has the same statutory protections whilst it is in place

Parents/carers and all the professionals in the "Team around Me" will be invited to the Conversion Meeting. The precise purpose of the meeting will vary depending on the point during the transfer review that the meeting takes place. It is for local authorities to determine who should attend the meeting to ensure it achieves its purpose. For example, the meeting may take the format of an annual review meeting which contributes to the EHC needs assessment to which a range of relevant professionals are invited to consider the child or young person's progress and the future provision required. Alternatively, the meeting may take place between the local authority and the child's parents or the young person to discuss the draft EHC plan. The school, parents and other professionals will receive a skeleton plan in advance of the meeting so that they can come prepared.

No new advice will be sought at this stage if parents, Local Authority and professionals agree that existing advice is current and can be used for the assessment process. Should new advice be required then the [4 stage guide to the EHC process](#) and at a glance [flow chart](#) have been produced to provide more detail on the EHC assessment and planning process. Parents and young people are at the heart of the process and will be provided opportunities to contribute to the assessment and will be kept informed at all stages.

Plymouth has prepared a transfer review format and guidance for schools to use as part of this process and has appointed 3 conversion officers who will support schools and facilitate the transfer process.

4. ARRANGEMENTS FOR APPEAL AND MEDIATION

From the point that the 'transfer review' commences, parents and young people will have the right to appeal under the new system and appeal rights relating to statements of SEN under the Education Act 1996 will no longer be available to parents. Local authorities cannot commence an EHC needs assessment if an appeal has been brought under section 326 of the Education Act 1996 Act.

During the transition period the parents of children and young people with statements of SEN will continue to be:

- invited to provide evidence for annual reviews, sent copies of the evidence that others have provided for the reviews and be invited to the annual review meeting in the timescales set out in the 2001 Regulations
- provided with a proposal to amend, or draft amended statement of SEN with an amendment notice, where the local authority proposes to amend a statement of SEN with the content of the notice as prescribed including their right to appeal to the First-tier Tribunal (SEN and Disability)
- advised of their right, following a review which does not result in an amendment to a statement of SEN, to appeal to the First-tier Tribunal.
- advised of their right to appeal to the First-tier Tribunal where the local authority proposes to cease to maintain a statement of SEN and not replace it with an EHC plan

You may want to speak to someone about any concerns you may have and ask for some information or advice. Plymouth Parent Partnership provides the information, advice and support service, relating to Special Educational Needs and Disabilities (SEND), for young people, parents and carers within the Plymouth Local Authority area.

Plymouth Parent Partnership and Careers South West (CSW) have been commissioned by the Department for Education (DFE) to provide Independent support to help young people, parents/carers to understand the SEND process. Parent Partnership also provides support to parents and carers with support at meetings and is also able to provide support regarding choosing schools and the school admissions process.

Information provided is impartial and confidential.

You can contact the Parent Partnership service by following this link to their web page plymouthparentpartnership.org.uk

Or by telephone 01752 258933 or by email parentpartnership@plymouth.gov.uk

If parents do not agree with the Local Authority regarding the council's decisions about their child's special educational needs and the EHC Plan they are able to appeal to the Special Educational Needs and Disability Tribunal. For example, the council may not agree that your child needs extra support in the classroom to help them with learning difficulties. You can also appeal to the Tribunal if the school or council has discriminated against your disabled child.

Before any appeal it is anticipated that everyone involved in the assessment process will discuss the problem and try to resolve it. A mediation service will bring you, the school and the council together to see if you can work out a solution. Parents do not have to try this, but if they do it will not affect their right to appeal.

The service is called Global Mediation and can be contacted on 0800 064 4488 or at sen@globalmediation.co.uk or by going to their website [Global Mediation website](#)

5. LEARNING DISABILITY ASSESSMENTS (139A)

Local authorities have undertaken LDAs for young people either because they had a statement of SEN at school or because, in their opinion these young people are likely to need additional support as part

of their future education or training and would benefit from an LDA to identify their learning needs and the provision required to meet those needs. Therefore young people who are currently receiving support as a result of an LDA and remain in further education or training during the transition period, who request and need an EHC plan, must be issued with one where a statutory plan is required.

Children and young people with statements of SEN and young people who receive support as a result of an LDA will be gradually transferred over to the new arrangements and details of the timescale is included later in this document. Those requiring a statutory plan to secure the relevant provision to meet their special educational needs must be issued with an Education, Health and Care (EHC) plan by 1 September 2016.

If a parent or young person does not agree with the placement decision of the local authority, following a conversion from an LDA to an EHC plan, an initial review of the decision, most usually by a senior officer not involved in the original consideration will be undertaken in a timely manner to enable later stages of the challenge process to be undertaken. If the original decision is upheld and the young person remains dissatisfied, access to the independent mediation service describe above could be considered. Parents or students, if they remain dissatisfied, may raise the issue with the Local Government Ombudsman or seek a judicial review.

Plymouth will take all reasonable steps to inform young people in further education or training who receive support as a result of a LDA of their option to request an EHC needs assessment and how this could benefit them (e.g. planning focused on outcomes, social care and health input, personal budget, right of appeal). This may be done, for example, through further education and training providers or by the local authority directly when notifying the young person about a forthcoming review of their LDA. We will also inform these young people about the local impartial information, advice and support service and independent supporters. It is anticipated that further education and training providers will make sure that their students are aware of their right to request an EHC plan.

A request for an EHC needs assessment for a young person who receives support as a result of an LDA received from someone other than the young person will only proceed with the young person's agreement. Under the timescales set out in the SEN Regulations 2014 local authorities have six weeks following a request within which to consider whether it is necessary to carry out an assessment. The Special Educational Needs and Disability Code of Practice: 0-25 years (pages 133-136) sets out the evidence local authorities should take into account in considering whether an EHC needs assessment is necessary. This includes evidence of the action already being taken by the post-16 institution to meet the young person's SEN.

6. TIMESCALE

The transfer plan detail is below and aims to ensure that a child/young person will have their statement converted to an EHC plan in readiness for the key academic transition points in their education. For example, if they are in Year 6 in September 2015 their statement will be converted during the 2015/16 academic year ready for their transfer to secondary education in September 2016.

All children with Statements of SEN, in the academic year 2014/15, in year groups 2, 6, 9 and year 11 will be the first to transfer to EHCPs. Maintained and Academy schools have been notified of this intention and of the actions they need to take in order to start the transfer review process.

The new 0-25 SEN and Disability Code of Practice 2014 introduces SEND Support in early years settings, schools and further education and training. This approach replaces Early years action and early years action plus in early years settings and School action and School action plus in schools. Early years settings and schools are expected to adopt the new approach by spring 2015 and to have applied it to all children and young people with SEND in their establishments by September 2015 at the latest. Further education and training providers should also implement the new approach set out in the 0-25 SEN Code of Practice from 1 September 2014.

7. TRANSFER OF STATEMENTS TO EHC PLANS

Academic year 2014-15

Local authority will aim to transfer of children and young people in the following groups in 2014/15:

- children and young people with statements of SEN issued with non-statutory EHC plans before 1 September 2014
- those moving from early years settings to school (including where the child remains at the same institution)
- those moving from an infant to a junior school
- those moving from primary to middle school
- those moving from primary to secondary school
- those moving from middle to secondary school
- those moving from mainstream to a special school
- those moving from a special to a mainstream school
- children in year 9
- all children in year 6, not just those who are transferring from one institution to another (in 2014/15, local authorities must take account of the wishes of families of children in year 6 in determining whether to conduct a transfer review in that academic year)
- all children and young people in year 11, not just those who are moving into further education or training (including those who are leaving custody)
- those moving between one local authority and another
- those who receive direct payments, under the SEN Direct Payments Pilot Scheme, for SEN provision in their statement of SEN or Learning Difficulties Assessment (these children and young people will need to be transferred to EHC plans by 30 September 2015 if their direct payments are to continue), and Children and young people leaving custody

Between 1 September 2015 and 31 March 2018, the local authority will transfer children and young people with statements of SEN to the new arrangements and prior to them moving from:

- early years settings to school (including where the child remains at the same institution)
- an infant to a junior school
- primary to middle school
- primary to secondary school
- middle to secondary school
- school (including school sixth forms) to a post-16 institution or an apprenticeship – including those in year 11 released from custody)
- mainstream to a special school, or
- special school to a mainstream school

Between 1 September 2016 to 31 March 2018, the local authority will aim to transfer the following groups of children and young people from:

- all children with statements of SEN in year 6, not just those who are transferring from one institution to another– local authorities must consult the child’s parent on whether to secure an EHC assessment
- all children and young people in year 11, not just those who are moving into further education
- children and young people leaving custody
- children and young people with statements of SEN issued with non-statutory EHC plans before 1 September 2014 (where this expectation has not been met in 2014/15), and
- those moving between one local authority and another

Academic year 2015/16

From 1 September 2016, all young people who receive support as a result of an LDA in further education and training who continue in further education or training beyond that point and who need an EHC plan must have one.

The first cohort of children to be transferred to an EHC plan is detailed below:-

Tranche 1 (August to December 2014)

Secondary transfers

▪ Year 6: Mainstream	84
▪ Year 2: Mainstream	2
▪ Year 6: Special	47
Total	133

Tranche 2 January 2015 to April 2015

Post-16

▪ Year 11: Mainstream leavers	88
▪ Year 11: Special leavers	87
▪ Year 11: Special learners	16
Total	191

Tranche 3 (May 2015 to July 2015)

Transition

▪ Year 2: Mainstream	57
▪ Year 9: Mainstream	59
▪ Year 9: Specials	76
Total	195

This will leave approximately 1,000 statements that will remain and these will be converted at the relevant transition points across the following 2 years.

7. CONSULTATION

The Department for Education (DfE) statutory guidance on the transition for the new system was published on 28 August 2014 with an expectation that local authorities publish the first version of the transfer plan in September 2014. In anticipation of the final guidance, the local authority produced a draft transfer plan in May 2014 based on draft DfE guidance. This was initially shared and developed by the Core Delivery Group and then shared more widely across all agencies involved in the changes to SEN.

The consultation on the transfer plan took place in the following groups:-

7 May SEND Conference attendance at the conference includes parents, Health, Schools and Voluntary and community organisations

26 June SENCO conference - SENCO from Secondary and Primary Schools attended

7 July CHIDS staff development day -representatives from all teams in the SEND service

27 September Early Years Conference - representatives from across all Early Years settings including Children's' Centres

Current consultation is taking place with Parents