

ASK THE
JUDGE



#10 Cessation of Education, Health and Care (EHC) Plans

Frequently asked questions for parents and young people

These Frequently Asked Questions have been prepared to provide a summary of the key duties on local authorities following the introduction of the Children and Families Act 2014. They are not to be treated as providing legal advice and should be used as a guide only.

If legal advice is required contact SEN4You directly on 01908 082422 or Advice@SEN4You.co.uk

KEY PROVISIONS

- Sections 45 Children and Families Act 2014
- Regulations 29, 30 and 31 of The Education (Special Educational Needs and Disability 2014) Regulations
- Chapter 9 SEN and Disability Code of Practice 2014

Can an EHC Plan be ceased?

Yes. The local authority may cease to maintain an EHC Plan if it determines that it is no longer necessary for the plan to be maintained or it is no longer responsible for the child or young person.

What does the local authority have to consider before ceasing an EHC Plan?

A local authority may cease to maintain an EHC Plan when any of the following conditions apply:

- The local authority is no longer responsible for the child or young person, for example if they have moved to another local authority area;
- It decides that special educational provision is no longer necessary;
- The young person is over the compulsory school age;
- Whether the child or young person requires the SEN provision specified in the plan;
- Remaining in education or training would enable the young person to progress and achieve those outcomes – and others that may subsequently be agreed.

When does a local authority cease responsibility for a child/young person?

The circumstances where a local authority is no longer responsible for the child or young person include where any of the following conditions apply:

- A young person aged 16 or over leaves education to take up paid employment (including employment with training but excluding apprenticeships);
- The young person enters higher education;
- A young person aged 18 or over leaves education and no longer wishes to engage in further learning;
- The child or young person has moved to another local authority area.

Can the local authority cease an EHC Plan when a young person turns 19?

When deciding whether a young person aged 19 or over no longer needs the special educational provision specified in the EHC Plan, a local authority must take account of whether the education or training outcomes specified in the EHC Plan have been achieved. Local authorities must not cease to maintain the EHC Plan simply because the young person is aged 19 or over.

What if the child/young person is excluded from provision or voluntarily leaves college?

Where a young person of compulsory school or participation age, i.e. under the age of 18, is excluded from their education or training setting or leaves voluntarily, the local authority must not cease their EHC Plan, unless it decides 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.

The focus of support should be to re-engage the young person in education or training as soon as possible and the local authority must review the EHC Plan and amend it as appropriate to ensure that the young person continues to receive education or training.

What if the young person is 18 or over and leaves college midway through the course?

Where a young person aged 18 or over leaves education or training before the end of their course, the local authority must not cease to maintain the EHC Plan unless a review has taken place to determine whether the young person wishes to return to education or training, either at the educational institution specified in the EHC Plan or somewhere else.

If the young person does wish to return to education or training, and the local authority thinks it is appropriate, then the local authority must amend the EHC Plan as necessary and it must maintain the plan. The local authority should seek to re-engage the young person in education or training as soon as possible.

Does the EHC Plan automatically cease if a young person leaves education?

No. Where a young person of compulsory participation age leaves education or training but does not start paid employment the local authority must maintain their EHC Plan and take appropriate steps to re-engage them in education or training as soon as possible.

Does an EHC Plan cease if a young person is placed into custody?

No. A local authority will not be able to cease an EHC Plan because a child or young person has been given a custodial sentence. The local authority will have to keep the plan. For those who are detained the plan will have to be temporarily suspended but reviewed on release.

What are the local authority's duties to young people aged 19-25?

There is no entitlement to continued support or an expectation that those with an EHC Plan at age 18 must be allowed to remain in education or training from age 19 to 25.

When does education for young people aged 19-25 continue?

The local authority should continue to maintain an EHC Plan for a 19-25 year old where all of the following conditions apply:

- The education and training outcomes set out in their plan have not yet been achieved;
- The young person wants to remain in education or training so they can complete or consolidate their learning, including accessing provision that will help them prepare for adulthood;
- Special educational provision is still needed;

- Remaining in education or training would enable the young person to progress and achieve those outcomes.

What is the process for ceasing an EHC Plan?

Where a local authority is considering ceasing to maintain a child or young person's EHC Plan it must:

- Inform the child's parent or the young person that it is considering this;
- Consult the child's parent or the young person;
- Consult the school or other institution that is named in the EHC Plan;

Where, following the consultation, the local authority decides 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 CCG of that decision.

The local authority must also notify the child's parent or the young person of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support, and disagreement resolution services.

When would a cessation decision take effect?

Support should generally cease at the end of the academic year, to allow young people to complete their programme of study. In the case of a young person who reaches their 25th birthday before their course has ended, the EHC Plan can be maintained until the end of the academic year in which they turn 25 (or the day the apprenticeship or course ends, or the day before their 26th birthday if later).

Where a young person aged 18 or over is in receipt of adult services, the local authority should ensure that adult services are involved in and made aware of the decision to cease the young person's EHC Plan.

Where the care part of an EHC Plan is provided by adult services under the Care Act 2014 because the person is 18 or over, the care plan will remain in place when the other elements of the EHC Plan cease. There will be no requirement for the young person to be re-assessed at this point, unless there is reason to re-assess him or her for health and social care because their circumstances have changed.

Is there a right of appeal if the local authority ceases an EHC Plan?

Where the child's parent or the young person disagrees with the local authority's decision to cease their EHC Plan, they may appeal to the Tribunal. Local authorities must continue to maintain the EHC Plan until the time has passed for bringing an appeal or, when an appeal has been registered, until it has been concluded.