IPSEA
Independent Parental Special Education Advice

EHC plan checklist

This checklist sets out what legally **must** be included as a minimum in any Education, Health and Care Plan ("**EHC plan**") issued by a Local Authority ("**LA**") under Part 3 of the Children & Families Act 2014 (section 37) and the SEN Code of Practice when they are implemented. Implementation is currently intended to start from 1 September 2014.

The checklist is also based on the SEN Regulations[1] and SEN Code of Practice[2].

The sections we have used are required by the law or Code and **must** be kept separate and referred to by alphabetical reference. But they do not have to appear in alphabetical order: LAs can include any other information or section they would like. Practically, all EHC plans should include basic details of the child, young person and their parents such as name, date of birth etc.

If an EHC plan does not contain **all** of the sections which are needed[3] then it will not be legally compliant.

We suggest that this checklist can be used by:

- Parents/ young people who are being consulted and are supporting their LA in developing a standard format for an EHC plan for their area;
- Parents/ young people being issued an EHC plan under any pilot schemes or when implementation begins;
- Independent Supporters, Information, Advice & Support Services (previously Parent Partnership Services) and anyone else guiding parents/ young people through the process of statutory assessment potentially leading to an EHC plan after 1 September 2014;
- Schools receiving or advising around the contents of new EHC plans;
- LAs to ensure that their EHC plan format is compliant with the minimum legal requirements;

The four underpinning principles

The preparation process and the contents of the EHC plan must reflect the four key statutory principles which require LAs to have regard to:

(a) the views, wishes and feelings of the child and his or her parent, or the young person;

(b) the importance of the child and his or her parent, or the young person, participating as fully as possible in decisions relating to the exercise of the function concerned;

(c) the importance of the child and his or her parent, or the young person, being provided with the information and support necessary to enable participation in those decisions;

(d) the need to support the child and his or her parent, or the young person, in order to facilitate the development of the child or young person and **to help him or her achieve the best possible educational and other outcomes**.

(Children and Families Act, section 19, our bold type)

Plans should also be "clear, concise, understandable and accessible to parents, children, young people, providers and practitioners".

The law requires needs and provision to be "specified", which case law has established means no vagueness, especially in the provision sections.

[1] The Special Educational Needs and Disability Regulations 2014 SI No. 1530
[2] Special educational needs and disability code of practice: 0 to 25 years (January 2015) valid from 1 April 2015.
[3] Not all will be needed in every case. For example, not every parent/YP will want a personal budget or direct payments.

		What the Code says	IPSEA notes
SECTION A:	**The views, interests and aspirations of the child and their parents, or of the young person**	1 Details about the child or young person's **aspirations and goals** for the future (but not details of outcomes to be achieved – see [paragraphs 9.64 – 9.69 of the SEN Code for more] on outcomes for guidance).When agreeing the aspirations, consideration should be given to the child or the young person's aspirations for • paid employment, • independent living and • community participation. 2 Details about **play, health, schooling, independence, friendships, further education and future plans including employment** (where practical). 3 A summary of **how to communicate** with the child or young person and engage them in decision-making. 4 The child or young person's **history**. 5 If written in first person, the plan should make clear whether the child or young person is being quoted directly, or if the views of the parents or professionals are being represented.	• The plan is a formal legal document. Some prototype plans call this section "All about me". We query whether writing in the first person is appropriate unless specifically requested by the child/young person. • As the heading indicates, the aspirations of the parents of a child should be recorded as well as that of the child.
SECTION B:	**The child or young person's special educational needs**	1 All of the child or young person's identified special educational needs **must** be specified. 2 SEN may include needs for health and social care provision that are treated as special educational provision because they educate or train a child or young person(see paragraphs 9.73 [of the SEN Code] onwards)	• A special educational need is a learning difficulty or disability which requires special educational provision. Special educational provision is educational or training provision that is additional to, or different from, that made generally for others of the same age in ordinary schools/settings, or any educational provision

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			for a child under two. • Each and every SEN must be specified whether it is to be provided for by the school/FE college, the LA, the health service or any other provider. • If the child needs health or social care provision that educates or trains the child or young person then the need for that provision must be specified in this section. • If the same broad area of need requires more than one type of provision (e.g. physical difficulties may require both physio and occupational therapy) it must be split into more than one need, e.g. gross motor difficulties, fine motor difficulties. A judge has compared this section to a list of symptoms, each of which must be answered by an item in the list of special educational provision.
SECTION C:	**The child or young person's health care needs which relate to their SEN**	3 The EHC plan **must** specify any health needs identified through the EHC needs assessment which relate to the child or young person's SEN. Some health care needs, such as routine dental health needs, are unlikely to be related. 4 The Clinical Commissioning Group (CCG)may also choose to specify other health care needs which are not related to the child or young person's SEN (for example, a long-term condition which might need management in a special educational setting).	• Section C concerns needs for health care. **Educational needs** arising from health issues are listed in Section B. • Despite the comment in the Code, some children and YP with SEN may need to use dentists or other health professionals trained for people with SEN/D for their dental or other health needs. Parents should try to ensure that these needs at least feed into the Joint Strategic Needs Assessments by LAs and CCGs so that commissioners of services are aware of the demand. This need could be specified in section C of an EHC plan.

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SECTION D:	**The child or young person's social care needs which relate to their SEN or to a disability**	1 The EHC plan **must** specify any social care needs identified through the EHC needs assessment which • relate to the child or young person's SEN or • require provision for a child or young person under 18 under section 2 of the Chronically Sick and Disabled Persons Act 1970. 2 The local authority may also choose to specify other social care needs which are not linked to the child or young person's SEN or to a disability. This could include reference to any child in need or child protection plan which a child may have relating to other family issues such as neglect. Such an approach could help the child and their parents manage the different plans and bring greater co-ordination of services. Inclusion of this information **must** only be with the consent of the child and their parents.	• An EHC assessment **must** include an assessment of a child or young person's social care needs. If appropriate, this will entail a statutory assessment under children's or adults social care legislation. Services must co-ordinate their statutory assessments so that families experience a streamlined process. • For children and young people under 18, the process of managing individual children's social care assessments is set out in the statutory guidance Working Together to Safeguard Children 2013. • For young people over 18, any assessment will be subject to adult social care processes and the Care Act 2014, and para 3.56 of the SEN Code.
SECTION E:	**The outcomes sought for the child or young person (including outcomes for life)**	1 A range of outcomes **over varying timescales**, covering education, health and care as appropriate but recognising that it is the education and training outcomes only that will help determine when a plan is ceased for young people over 18. **Therefore, for young people aged over 17, the EHC plan should identify clearly which outcomes are education and training outcomes.** See para 9.64 of the Code for more detail on outcomes. 2 A clear distinction between outcomes and provision. The provision should help the child or young person achieve an outcome; it is not an outcome in itself. 3 Steps towards meeting the outcomes.	• IPSEA stresses the necessity for all parties of clearly identifying which outcomes relate to education and training. • The principles require LAs to facilitate the development of the child or young person to achieve the "best possible" educational and other outcomes (one of the legislation's four underpinning principles, see introduction).

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		4 The arrangements for monitoring progress towards these outcomes, including review and transition review arrangements for the EHC plan and the arrangements for setting and monitoring shorter term targets by the early years provider, school, college or other education or training provider. 5 Forward plans for key changes in a child or young person's life, such as changing schools or moving on to adult care and/or from paediatric services to adult health or moving from further education to adulthood. 6 For children and young people preparing for the transition to adulthood, the outcomes that will prepare them well for adulthood and are clearly linked to the achievement of the aspirations in section A.	
SECTION F:	**The special educational provision required by the child or young person**	1 Provision must be detailed and specific and should normally be quantified, for example, in terms of the type, hours and frequency of support and level of expertise, including where the support is secured through a Personal Budget. 2 Provision must be specified for each and every need specified in Section B. It should be clear how the provision will support the outcomes. 3 Where health or social care provision educates or trains a child or young person, it must appear in this section (see para 9.73 [of the Code]). 4 There should be clarity as to how advice and information gathered has informed the provision specified. Where the local authority has departed from that advice, they should say so and give	• **All** special educational provision required to be put in place to support a child/young person in education and training should be specified. If it needed it must be included, without regard to cost or convenience. Health authorities cannot veto health provision's inclusion in this section. • The requirement to specify provision remains whether that provision is to be made by the school/institution, the LA, or other providers. • Note that provision **must** normally be specified in terms of hours etc. This is a legal requirement Exceptions to this, i.e. cases where flexibility is needed to meet the changing needs of a child/young person, are **extremely** rare in the experience of IPSEA (we could not think of actual casework examples). Case law has

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		reasons for it. 5 In some cases, flexibility will be required to meet the changing needs of the child or young person including flexibility in the use of a Personal Budget. 6 The plan should also specify: • any appropriate facilities and equipment, staffing arrangements and curriculum. • any appropriate modifications to the application of the National Curriculum, where relevant. • any appropriate exclusions from the application of the National Curriculum or the course being studied in a post-16 setting, in detail, and the provision which it is proposed to substitute for any such exclusions in order to maintain a balanced and broadly based curriculum. • where residential accommodation is appropriate, that fact. • where there is a Personal Budget, the outcomes to which it is intended to contribute (detail of the arrangements for a Personal Budget, including any direct payment **must** be included in the plan and these should be set out in section J). 7 See para 9.131 [of the Code] onwards for details on the local authority to maintain the special educational provision in the EHC plan.	established that this flexibility may be written into the Plan only to meet the needs of the child/young person, not those of the system. In any event a LA can review an EHC plan at any point if a child's or young person's needs change rapidly and therefore provision must be changed. • LAs should resolve conflicts between advice from different sources and state why they have reached their resolutions. • If the child is in or beyond Year 9 (broadly speaking,14 years old or older) this section must also set out the provision required to assist in the preparation for adulthood and independent living, for example, support for finding employment, housing or for participation in society. The special educational provision specified in the EHC plan **must** facilitate the development of the child or young person to achieve the "best possible" educational outcome (one of the legislation's four underpinning principles, see introduction). • Therapies which educate or train a child/young person must be specified in this section and may also appear in the health care provision or social care provision sections. For instance, where occupational therapy is required for educational activities, e.g. to enable stable sitting at a desk or gripping pens, manipulating objects etc., the provision must appear in this section. A useful test: if the provision was not delivered would the child or young person still be able to receive education and/or training on a par with

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			those without SEN/disabilities? If this is in doubt then the provision **must** be included as special educational provision. Examples: • speech & language therapy; • physiotherapy; • occupational therapy, • CAMHS services (child and adolescent mental health services) These are often so fundamental to education they must be recorded as educational provision unless there are exceptional reasons for not doing so. • Case law has established that speech and language therapy is normally special educational provision. • Once specified in this section, the LA must "secure" the provision, i.e. they must ensure that it is made. If a health body ceases to make the provision, the duty falls on the LA. An LA may well delegate funding to a school or post 16 institution, but if those institutions cannot make the provision out of that funding, then the LA is legally obliged to do so.
SECTION G:	**Any health provision reasonably required by the learning difficulties or**	1 Provision should be detailed and specific and should normally be quantified**, for example, in terms of the type of support and who will provide it.** 2 It should be clear how the provision will support achievement of the outcomes, including the health needs to be met and the outcomes to be achieved	• Where LAs depart from advice, they should say so and give reasons for it. LAs should resolve conflicts between advice from different sources and state why they have reached their resolutions. • Occupational therapy and physiotherapy or other therapies will be listed as educational

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	disabilities which result in the child/ YP having SEN	through provision secured through a personal (health) budget. 3 Clarity as to how advice and information gathered has informed the provision specified. 4 Health care provision reasonably required may include specialist support and therapies, such as medical treatments and delivery of medications, occupational therapy and physiotherapy, a range of nursing support, specialist equipment, wheelchairs and continence supplies. It could include highly specialist services needed by only a small number of children that are commissioned centrally by NHS England (for example , therapeutic provision for young offenders in the secure estate). 5 The LA and CCG may also choose to specify other health care provision reasonably required by the child or young person, which is not linked to their learning difficulties or disabilities, but which should sensibly be co-ordinated with other services in the plan. 6 See paragraph 9.141 [of the Code] for details of duties on the health service to maintain the health care provision in the EHC plan.	provision when they educate or train a child or young person. It may be possible for therapy to appear under both health and educational provision. Case law has established that speech and language therapy is normally special educational provision (Section F). • If the child is in or beyond Year 9 (broadly speaking14 years old or older) the health care provision must include that required to assist in the preparation for adulthood and independent living. • The health care provision specified in the EHC plan **must** facilitate the development of the child or young person to achieve the “best possible” health outcome • Once specified in this section, the provision **must** be secured by the relevant health commissioning body. Only provision “reasonably” required must be included in this section, and health authorities can refuse to have provision included whether reasonably required or not. This section is therefore open to provision not being included on grounds of cost or convenience, unlike special educational provision in Section F • There will be a fine line between provision in sections G and H. Where social care or health care educates or trains it must go in Section F as special educational provision. Likewise where it is required to enable a child/young person to access education, it should be included in Section F. • Parents of children with very severe health

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			needs may be able to ask for continuing health care. Details of continuing health care could be included in section G.
SECTION H1:	**Any social care provision which must be made for a child/ YP under 18 resulting from s.2 Chronically Sick & Disabled persons Act 1970 (CSDPA)**	1 Provision should be detailed and specific and should normally be quantified, for example, in terms of the type of support and who will provide it (including where this is to be secured through a social care direct payment). 2 It should be clear how the provision will support achievement of the outcomes, including any provision secured through a Personal Budget. There should be clarity as to how the advice and information gathered has informed the provision specified. 3 Section H1 of the EHC plan **must** specify all services assessed as being needed for a disabled child or young person under 18, under section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA). These services include: ○ practical assistance in the home ○ provision or assistance in obtaining recreational and educational facilities at home and outside the home ○ assistance in travelling to facilities ○ adaptations to the home ○ facilitating the taking of holidays ○ provision of meals at home or elsewhere ○ provision or assistance in obtaining a telephone and any special equipment necessary ○ non-residential short breaks (included in	• Section H1 relates only to children and young people under 18 who are receiving social care provision under section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA). • The statutory guidance Working Together to Safeguard Children requires that within one working day of a referral to social services, a decision is made as to the nature of services and assessments (e.g. child in need or child protection, or both). Provision of services can begin immediately; it need not await completion of the social services assessment. Where these services are provided in accordance with Section 2 of the CSDPA these must be detailed in this section of the EHC plan. • If the child is in or beyond Year 9 (broadly speaking14 years old or older) the social care provision required to assist in the preparation for adulthood and independent living must be included here. For example, support in finding employment, housing or for participation in society. • There will be a fine line between provision in sections G and H. Where social care or health care educates or trains it must go in section F as special educational provision. Likewise where it is required to enable a child/young person to access education, it should be included in section F.

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		Section H1 on the basis that the child as well as his or her parent will benefit from the short break) 4 This may include services to be provided for parent carers of disabled children, including following an assessment of needs under section 17ZD-17ZF of the Children Act 1989. 5 See paragraph 9.137 of the SEN Code onwards for details of the duties on LAs to maintain the social care provision in the EHC plan	
SECTION H2:	**Any other social care provision reasonably required by the learning difficulties or disabilities which result in the child/young person having SEN**	1 Social care provision reasonably required may include provision identified through • early help and • children in need assessments and • safeguarding assessments for children. Section H2 **must** only include services which are not provided under Section 2 of the CSDPA. For children and young people under 18 this includes residential short breaks and services provided to children arising from their SEN but unrelated to a disability. This should include any provision secured through a social care direct payment. See chapter 10 [of the SEN Code] for more information on children's social care assessments. 2 Social care provision reasonably required will include any adult social care provision to meet eligible needs for young people over 18 (set out in an adult care and support plan) under the Care Act 2014. See Chapter 8 for further detail on adult care and EHC plans. 3 The local authority may also choose to specify in	• Social care provision contained in Section H2 will be any other social care provision reasonably required (by the child or young person's learning difficulties or disabilities which result in SEN). Note that this is only provision "reasonably" required, so LAs can take into account cost and convenience, unlike the provision in Section F. • If the child is in or beyond Year 9 (broadly speaking14 years old or older)the social care provision required to assist in the preparation for adulthood and independent living must be included here. For example, support in finding employment, housing or for participation in society. • The social care provision specified in the EHC plan **must** facilitate the development of the child or young person to achieve the "best possible" social care outcomes (one of the legislation's four underpinning principles, see introduction).

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		section H2 other social care provision reasonably required by the child or young person, which is not linked to their learning difficulty or disabilities. This will enable the local authority to include in the EHC plan social care provision such as • child in need or • child protection plans, or • provision meeting eligible needs set out in an adult care plan where it is unrelated to the SEN but appropriate to include in the EHC plan. 4 See paragraph 9.137 onwards [of the SEN Code] for details of duties on local authorities to maintain the social care provision in the EHC plan..	
SECTION I:	**Placement**	1 The **name** and **type** of the school, maintained nursery school, post 16 institution or other institution to be attended by the child or young person (or, where the name of a school or other institution is not specified in the EHC plan, the type of school or other institution to be attended by the child or young person). 2 These details **must** be included only in the final plan, not the draft plan sent to the child's parents of to the young person. 3 See paragraph 9.78 [of the SEN Code] onwards for more details.	• These details are only included in the final plan so that the LA does not pre-empt consideration of any preference for an institution which the parents or young person may state, or any representation the parents or young person may make in favour of a non-maintained institution. • A maintained nursery school or school, or post-16 institution, or academy or free school which is named in this Part must admit the child or young person. • If parents have decided to electively home educate their child under section 7 of the Education Act this should be specified in this section. • If the LA has agreed education otherwise than in school or post-16 institution it should be specified here.

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SECTION J:	**Personal Budget (including arrangements for direct payments)**	1 This section should provide detailed information on any personal budget that will be used to secure provision in the EHC plan. 2 It should set out the arrangements in relation to direct payments as required by education, health and social care regulations. 3 The special educational needs and outcomes that are to be met by any direct payments **must** be specified.	• Any amount of money specified in this section must be enough to secure the provision specified. It is therefore essential that type and amount of provision is adequately specified, e.g. as well as amount of time per week, the qualifications and experience and therefore grade of a specialist teacher.
SECTION K:	**Advice & information**	The advice and information gathered during the EHC needs assessment **must** be set out in the appendices to the EHC plan. There should be a list of this advice and information.	• The list should include brief details of who gave the advice and when, e.g. John Smith, NHS speech and language therapist, 12 October 2014. • Copies of all the advice and information gathered during the statutory assessment process should be attached to the EHC plan as appendices

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