

## APPEALS AGAINST A REFUSAL TO ISSUE AN EDUCATION HEALTH AND CARE (EHC) PLAN

If the Local Authority (LA) refuses to issue an EHC Plan after they have carried out an EHC needs assessment you can appeal this decision. If the LA decides not to issue an EHC Plan they should notify you no later than 16 weeks after the request for the assessment was made.

Section 37 (1) of the Children and Families Act 2014 sets out the legal test for whether an EHC plan should be issued:

·Where, in light of an EHC needs assessment, it is necessary for special educational provision to be made for a child or young person in accordance with an EHC plan –

- a) The local authority must secure that an EHC plan is prepared for the child or young person, and
- b) Once an EHC plan has been prepared, it must maintain the plan.

The LA have to decide, on the basis of the evidence and advice gathered as part of the EHC needs assessment whether it is necessary for the child or young person to have an EHC plan and this essentially means they need to consider whether the child or young person would receive the special educational provision they require without an EHC plan. If the school or college cannot provide the special educational provision from within their delegated SEN resources than an EHC plan is necessary.

You may wish to consider whether you feel the EHC needs assessment has adequately identified all of your child's needs and therefore whether sufficient special educational provision has been recommended. It would be helpful to submit evidence to support this, including reports from professionals such as an educational psychologist or from your child's teacher. Independent reports can be helpful but they are not essential and can be expensive.

It is also a good idea to submit evidence of the level of support that has already been in place such as provision maps and one plans and the impact of that support. If you can show that the school or college have been putting in appropriate support but your child is still not making expected levels of progress or that they are only making progress because the school are putting in a lot of extra support, this is good evidence that an EHC plan is needed. It is also really helpful if the school are in agreement that an EHC plan is needed and can provide evidence that they are unable to meet your child's needs.

For more information on lodging an appeal please see our appeals factsheet.