

## What's changed? What's the same?

This resource is designed to highlight where significant changes to the system have taken place and where key existing rights and protections have been maintained.

Further resources are available to give more detail on key aspects of the reforms should you want them.

### What's stayed the same?

#### Definition of SEN

The definition of SEN remains the same as before. This means that if someone is said to have SEN now, they will continue to be recognised as having SEN in the new system. The only difference is that, because the new system now extends to further education as well, those young people categorised as having Learning Difficulties and Disabilities (LDD) will now also be classed as having SEN.

#### Receiving an EHC Plan

The threshold for getting an assessment and receiving an Education, Health and Care (EHC) Plan is exactly the same as it is for a statement of SEN. This means that everyone who currently receives a statement should be able to receive an EHC Plan unless their needs themselves change.

#### Mainstream education

Local authorities must continue to ensure that children and young people with an EHC Plan are educated in mainstream settings, subject to the same caveats as currently exist. For more information about the presumption for inclusion, see our factsheet: 'Rights for parents and young people'.

### What's new?

Old system		New system
System runs from age 2 to end of school (usually age 16)		System runs from birth to age 25
System covers early years settings and schools (including most Academies and Free Schools), and local authorities		System covers early years settings, schools (including ALL Academies and Free Schools), further education settings including Independent Specialist Providers), local authorities, Health bodies (including Clinical Commissioning Groups (CCGs) and NHS England), and the Youth Secure Estate and Youth

		Offending Teams
No duty to involve children, young people and parents in decisions		Duty on local authorities to consider how to involve children, young people and parents in decisions about SEN support. <b>For more information about this, see our factsheet 'Parent and young people rights'</b>
The system applies to "children"		New distinction between "children" and "young people". Children become young people at the end of June on the year that they turn 16 and, at this point, they have primary decision-making rights.
Local authority must identify all children and young people likely to need a statement		Local authority must identify ALL children and young people with SEN and Disabilities (SEND)
Local authorities commission SEN and social care services locally. CCGs and NHS England commission health services locally		Local authorities and CCGs must make arrangements to jointly commission services for children and young people with SEND across education, health and social care
Local authorities must provide information to parents through a local Parent Partnership Service		Local authorities must provide a jointly commissioned information, advice and support service for children, young people and parents.  They must also provide a local offer that sets out the support it expects to be available for children and young people with SEND across education, health and social care
Statements of SEN (statements) help coordinate SEN support for children with the highest levels of need. Only the special educational provision has to be provided by law		Education, Health and Care Plans coordinate the education, health and social care support a child or young person needs in order to meet their SEN. There is a duty on local authorities and health bodies to provide all education and health provision that is set out in an EHC Plan and all provision provided under Section 2 of the Chronically Sick

		and Disabled Persons Act 1970.
Local authorities must complete the statementing process within 26 weeks		Local authorities must complete the EHC assessment and planning process within 20 weeks
Families can make a request for a particular school to be named in a statement. The school must admit the child or young person if the school is named in a statement		Families and young people can make a request for a particular early education setting, school, further education or training setting to be named in an EHC Plan. These settings must admit if they are named in a plan
The provision in a statement is managed by the local authority		A parent of young person can request that the local authority prepares a personal budget and some of the provision in a plan can be received in the form of a direct payment, if preferred
Statements cease when someone leaves school. They are replaced by Learning Difficulty Assessments (LDAs) if someone enters further education		Young people have a right to receive an EHC Plan up until the age of 25 if they wish to remain in education or training until then and it is agreed that it would benefit them to remain doing this
Parents can appeal a decision made by a local authority about someone's SEN, <sup>1</sup> or about a disability discrimination claim against either a school or the local authority, by going to the First-tier (SEND) Tribunal		Parents and young people can complain about a decision made by a local authority about someone's SEN, or about a disability discrimination claim against either a school, college or the local authority
Children and young people in custody cannot receive a statement		Children and young people can maintain an EHC Plan while in custody and can request that an assessment for a plan is carried out when they enter custody

<sup>1</sup> This includes a decision by the local authority not to conduct statutory assessments/reassessments, not to make an EHC Plan following statutory assessments or reassessments, not to name someone's preferred school in a plan, to cease to maintain a plan.