

MOORE BLATCH FACTSHEET

Statutory deadlines concerning children with Special Educational Needs (SEN)

Whether applying for an initial Education, Health and Care (EHC) needs assessment or appealing an existing EHC plan, it is important to understand the law in this area as well as the deadlines both you and your Local Authority (LA) must adhere to.

An understanding of the process, plus knowing how to progress your case in a timely manner all helps secure the best outcome for your child.

Education, Health and Care (EHC) process

Once your Local Authority receives a request for an EHC needs assessment, they have six weeks to respond and let you know whether they have or haven't decided to carry out an assessment.

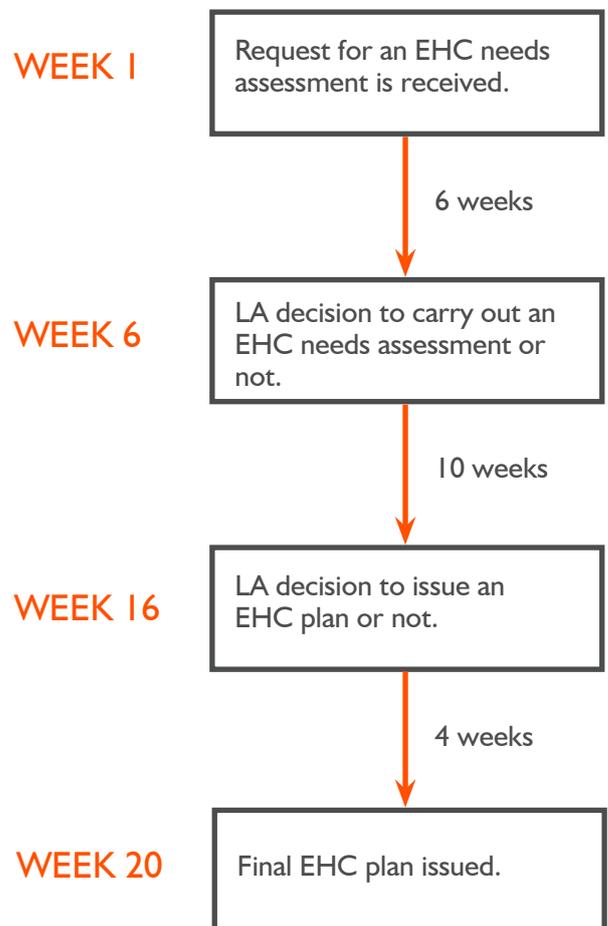
If the decision is that an assessment will be carried out, then it needs to take place within 10 weeks of that decision being made.

At the end of that 10 week period (16 weeks since the initial request for an assessment), your Local Authority must let you know whether they will or won't be issuing an EHC plan.

If the decision is to provide an EHC plan, then a first draft of that plan is usually provided alongside that decision.

The Local Authority then has 4 weeks to provide a final version of the EHC plan.

The whole process - from receiving a request for an EHC needs assessment, to issuing a final EHC plan should take 20 weeks.



At every stage of the above process, the Local Authority's decisions can be appealed. The decisions that can be appealed are:

- Refusal to carry out an EHC needs assessment
- Refusal to issue an EHC plan
- The contents of the final EHC plan

The Special Educational Needs and Disability Tribunal (SENDIST)

If you aren't happy with a decision made by your Local Authority, you have two months from the date you receive their decision letter to appeal to the Tribunal.

Before most cases can be brought to the Tribunal, you must show that you have considered mediation.

To evidence this, you will need to obtain a mediation certificate (also within two months from the decision), and any appeal you make must be made within one month of receiving this certificate.

Once an appeal is lodged, a 12-week timetable will be registered by the Tribunal. If you are appealing a refusal by your Local Authority to carry out an EHC needs assessment, the appeal will be listed immediately for a paper hearing, meaning no attendance is required by any of the parties involved.

If the appeal is against a refusal to issue an EHC plan, or the contents of a final EHC plan, then you will be expected to attend a hearing.

On the day of the hearing, the Judge will likely explain when to expect a final decision. Usually, a decision is received within 10 working days.

The Special Education Needs and Disability Tribunal (SENDIST) decision timetables

If the Tribunal orders that an EHC needs assessment should be carried out, your Local Authority must begin the assessment within 4 weeks of this decision being made.

If the Tribunal decides that amendments must be made to the EHC plan, or that an EHC plan should be issued, these changes need to be actioned within 5 weeks.

If you are appealing against Section I, which states the school the child or young person in question should attend, and the Tribunal orders that a change of school is required, then your Local Authority has 2 weeks within which to change this in the EHC plan.

If the Tribunal finds that an EHC plan must either be maintained or ceased, this should happen immediately.

Please contact Janata Ali on 023 8071 8101 or janata.ali@mooreblatch.com

www.mooreblatch.com

The information in this leaflet is correct as at October 2017. Moore Blatch LLP is authorised and regulated by the Solicitors Regulation Authority. Please note that the information contained in this leaflet is provided for guidance only and should not be relied upon as a replacement for legal advice. You should talk to a qualified solicitor about your specific circumstances.

