

Delays to EHCNA Process

- Exceptions and Your options



Please note: 'child' = 'child or young person'

In law, there are specific deadlines that must be met by the LA during an EHCNA (Education, Health & Care Needs Assessment). One of these is that within 16 weeks of the EHCNA request being received, you should hear if an EHCP is **not** going to be issued. Another one is that if the LA agrees that an EHC plan is needed, the final EHC plan must be issued within 20 weeks of the initial EHCNA request. In this factsheet we will take a look at the exceptions and advise on what options you can take if these deadlines are not met.

The Exceptions

There are certain exceptions set out in the [SEND Regulations](#) (13(3) and 10(4)) when the LA do not have to comply with this 16/20-week deadline such as summer holidays, or parent/child not being in the country or being unavailable for 4 weeks or more (as well as when Tribunal have been involved with any part of the EHCNA process).

Whilst it is accepted that there is a lack of Educational Psychologists available to do their assessments (which are a mandatory part of the EHCNA), this or the lack of other professionals, or waiting to receive reports, are not acceptable exceptions in law.

Your options if there is a delay

If none of the exceptions apply and you have not heard the LA's decision whether they will issue an EHCP within 16 weeks of the EHCNA being received OR if an EHCP has been agreed, but the final is not issued within 20 weeks, then here are your options:



Step 1. Contact your child's SEND Officer

Contact your child's SEND Officer (or ehcna.team@westsussex.gov.uk if you are not sure who this is) to find out why there is a delay and when you will be told or will receive the EHC plan. If you do not hear back within a reasonable time, then you may wish to contact the manager for the team. If you do not know who this is, contact the relevant North / South team as above and request the manager to contact you instead with this information. If already done this go straight to Step 2 or 3.

Step 2. Complaint to the LA SENAT Team Service Manager

Before considering making a formal complaint, you may wish to give SENAT the opportunity to put this situation right by contacting the SENAT Service Manager and explaining the concern/issue and what they could do to resolve it. They can be contacted ehcna.team@westsussex.gov.uk.

Step 3. Formal Complaint to the Local Authority (if not happy with response from Service Manager)

If you have not received a response, or a satisfactory response from Step 1 (or Step 2 if you did this), then you can [submit a complaint to the Local Authority](#) for failure to adhere to statutory deadlines. This would be under a 'corporate complaint'.

In your letter, include the dates of the deadlines that SENAT should have responded by, and what the current situation is (i.e. you do not know if there will be an EHC plan, you have not received the finalised EHC plan) and explain how your child is **being disadvantaged** by this delay / what you believe the consequences to the delay are. (i.e. your child is not getting the provision they need, they are not attending school, they are

anxious or being excluded, you are missing out on a school place at a specialist school and so on).

Include any information you have received from SENAT regarding the reason for the delay. If there has also been a lack of response then also include the dates you have contacted them, and any responses you *did* receive.

Complaints to the LGO

If you are not happy with this response or you do not receive a response in a reasonable time *and your child is being disadvantaged* by this delay, then you can consider [making a complaint to the LGSCO](#).

Please note: A complaint will usually only be accepted by the LGSCO where you have completed Step 3 (formal complaint to the LA) AND where your child has missed out on provision or education as a result of the delay in receiving the draft or final EHC Plan. Follow the LGSCO [complaint procedure guidelines](#) for things to consider, and to register your complaint.

For further advice on making a complaint to the LA or the LGSCO and the steps involved please see our [factsheet series](#) on 'How to write a complaint' and / or 'Complaints to the LGSCO' in our 'Effective Communication' series.

In the meantime, we suggest you talk with the school about whether additional provision can be made (temporarily) whilst waiting for the EHC plan to be finalised, using the 'Post Twenty-Week Funding payment' they will be allocated as the assessment has gone over the 20-week timescale. This funding allows the school to put in additional provision whilst waiting for the final EHCP.



SENDIAS may be able to look at any wording you put together and make suggestions, if necessary, prior to submitting your complaint. Please contact them if this is something you think you may need.

Service Statement

The role of the SENDIAS service is to ensure all parents, children and young people have access to impartial information, advice and support so they can make informed decisions related to their situation. Any information that is shared with the service is in confidence unless permission has been obtained to share this with any individuals, services and agencies that may be able to help in the circumstances. For more detail, view our [policies and privacy notice](#) on our website.

How to contact us: Tel: 0330 222 8555 / Email: send.ias@westsussex.gov.uk or cyp.sendias@westsussex.gov.uk (up to age 25) / Website: www.westsussexsendias.org

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