

## **SEND Myths**

**1. Myth: “All young people who have an Education, Health and Care plan in school will have a plan until they are 25.” –**

Fact - An EHC plan can continue as long as the YP stays in some kind of education or training (this doesn't cover higher education), and it is still necessary for the local authority to arrange the extra support they need in order to achieve the educational outcomes set out in their EHC plan.

**2. Myth: “The requirement for social care needs to be identified and met is not applicable if the child/YP is not currently known to social services.” –**

Fact - The EHC needs assessment must include advice on the child/yp's social care needs (although this may not need to be via an assessment under section 17 of the Children Act, it could be via Early Support or other non-statutory assessment processes).

**3. Myth: “A young person over 19 can only keep their EHC plan if they are working towards an educational qualification.” –**

Fact – Recent case law, Buckinghamshire vs SJ made it clear that not attaining qualifications or only making limited progress does not mean that SEN provision is not needed or of benefit.

**4. Myth: “If the parents' preferred school is named in an EHC plan, the LA does not have to provide transport to the school.” –**

Fact – If the child is eligible for school transport then the LA must provide it (Education Act 1996). When there is disagreement over the cost of placement LAs and parents can make a deal whereby the LA names the parents' choice of school if the parent agrees to provide transport.

**5. Myth: “Under the new law, LAs no longer have to specify provision in section F, we just enter the amount of funds allocated.” –**

Fact: if anything, the new law is clearer that provision in section F must be detailed and specific and should normally be quantified.

**6. Myth: “A child will only be eligible for an EHCP Assessment if they have an EP Report/been through 2 cycles of plan/do/review at SEN support/are 2 years behind/have spent £6000.” –**

Fact – The legal test for statutory assessment under the CfA is whether the child/YP has or may have SEN and it may be necessary for special educational provision to be made for the child or young person in an EHCP. All LAs will have criteria for making decisions on assessment but these must not impose a higher threshold than the legal test. The LA can reasonably expect the education provider to be able to evidence that they have taken ‘relevant and purposeful action’ (although a lack of this will not necessarily be enough to prove that an EHCP is not necessary), the LA cannot insist on an EP or any other report as part of any eligibility criteria.

**7. Myth: “All provision supplied by the NHS should be in section G as it is health provision.” –**

Fact: provision supplied by health providers which educates or trains the child/YP should be in section F. This is particularly applicable to speech and language therapy since communication is clearly essential to education, but it can apply to other types of health provision.

**8. Myth: “You can’t ask for a school placement outside your LA area.” –**

Fact: Yes, you certainly can, and the LA must comply with your preference unless the suggested placement is incompatible with the efficient use of public funds or the efficient education of other pupils.

**9. Myth: “Maintained mainstream schools can refuse to admit your child if they choose.” –**

Fact: No, they can’t, unless admission of your child would be incompatible with the efficient education of other children AND there are no reasonable steps that can be taken to overcome that incompatibility.