## Contents of an EHC Plan

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### Law and Guidance

- > Part 3 of the Children and Families Act 2014.
- ➤ The Special Educational Needs and Disability Regulations 2014
- ➤ SEND Code of Practice dated January 2015
- ➤ Special Educational Needs and Disability A Guide for Parents and Carers, dated August 2014



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### Draft EHC Plan

- The draft EHC Plan must be sent to the parents by the Local Authority (LA) between weeks 14-16 of EHC Needs Assessment process.
- It should arrive with a letter from the LA and all the advice and information gathered as part of the EHC Needs Assessment process.
- There's a lot to consider at this stage and timing is crucial, so be prepared and act quickly.
- If everyone has been working together as they should have been, there should not be any great surprises in your child's draft EHC plan.
- It is a legal document and the wording is very important, so you need to check it carefully.



### **Timescales**

- You have 15 days from the date the draft was sent to:
  - Ask for changes to or make comments (officially called 'making representations') about the plan.
  - Express your preference of school to be named in section I of the plan.
  - Ask the local authority to arrange a meeting with you to discuss the draft plan.
  - If time is very tight, for example if you are trying to get some help to check the plan, ask the local authority for an extension. Most will agree to this – the exact wording of the regulations is at least 15 days.
- As a result of your representations the local authority may:
  - o Issue a final plan with all or some of the changes you want.
  - o Issue an unchanged final plan.
  - Make changes of their own and reissue the plan in a draft form.
- It is always good to negotiate with the local authority, but do not engage in endless 'ping pong'. If it
  looks as if the local authority is not going to agree to your changes, it is generally preferable to get a
  final plan and then go for mediation and/or appeal as necessary.
- Even if you "sign off" the draft plan, you will still have the right to appeal once the final version has been issued.

### **Evidence and Reports**

- The reports are the information and advice gathered from different people as part of the EHC needs assessment. They should be at the back of the plan and listed in Section K.
- The first thing you need to do is to check the reports, as the content of the plan will be based on this
  evidence.
- Check that all reports are listed, including your own views and any independent evidence you may
  have sent in. If anything is missing, inform the local authority immediately.
- You may want to make additional copies of the reports that you can write on.
- Go through the reports and highlight all difficulties identified and any help that has been recommended. It can be helpful to use different colours for needs and provision.
- Also make a note of any differences of opinion, for example about what your child can or can't do, or about the amount of support required.



### What should an EHC Plan contain?

- No national standard format for EHCP different LA's have different templates
- The requirements for each section are set out in paragraph 9.69 of the CoP and strongly recommend that parents and young people check this carefully. The EHCP must contain:
- Section A the views, interests and aspirations of the child/young person and their parents
- Section B the child or young person's special educational needs
- Section C the child or young person's health needs which relate to their SEN
- Section D the child or young person's social care needs which relate to their SEN
- Section E the outcomes sought for the child or young person
- Section F special educational provision required by the child or the young person



### What should an EHC Plan contain?

- Section G any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN
- Section H1 any social care provision which must be made for a child or young person
- Section H2 any other social care provision which result in the child or young person having SEN
- Section I placement
- Section J personal budget (including arrangements for direct payments)
- Section K appendices list and attach all documents upon which the EHC Plan is based

### Most important Sections

### The legally enforceable sections of EHC Plan are:

- Section B It should be a 'pen portrait' of the child or young person's special educational needs, outlining their areas of difficulty in accessing learning.
- Section F this section should include all the special educational provision required to meet the child or young person's special educational needs.
- Section I this section should include the name and type of the school or post-16 institution which the child or young person will attend.



### What does a Poor EHC Plan look like?

A poorly written plan may include more than one of the following:

- No reference to diagnosis E.g. ASD despite the child having the diagnosis for many years
- Lots of historical information no longer relevant reference to a school child not attended for many years
- Blank sections in the EHC Plan
- Special Educational Provision which should be in Section F as it educates and trains recorded in wrong and unenforceable Sections of the EHC Plan – D and H
- Reference to funding at a certain level (this meaningless)
- Therapy input being provide only by school staff and not appropriately qualified and experienced therapists.



### Section B – Special educational needs

- Describes the child's special educational needs i.e. What your child has difficulty with.
- Start with summary /general description of your child.
- Formal diagnosis e.g. ASD, Dyspraxia, Cerebral Palsy and test scores then must specify the actual difficulty your child has because of the condition
- It is a legal requirement that all the child's difficulties are listed in this section, so you can easily
  check that there is provision to meet each need.
- Code of Practice defines four broad areas of SEN namely
  - o Cognition and learning
    - **x** has a specific learning difficulty namely dyslexia
    - **y's** working memory is at the 1<sup>st</sup> percentile for her age and she has difficulty processing information and following complex instructions.
  - Communication and interaction
    - **z's** spoken language is at an early stage of development and she communicates through a mixture of gestures, signing and singe words.
    - a has difficulties with social use of language and he cannot hold a reciprocal conversation. ELWYERS

### Section B – Special educational needs

### Social, emotional and mental health

- **x** has been diagnosed with ADHD and his behaviour can be very impulsive.
- y has very high anxiety levels and finds the school environment extremely stressful and has periods of school refusal.

### o Physical, Motor and Sensory

- **x** has cerebral palsy which affects his right side and can experience difficulty trying to move round small places and cluttered environment.
- **x** has difficulty manipulating objects such as pencils, buttons, zips etc.
- **x** has handwriting difficulty and using tools such as compasses, rulers and cutlery.



### Section F – Special Educational Provision

- It is in relation to the issue of the detail and specificity of provision that most disagreements arise.
- Some LAs have a tendency to set out support in very vague terms.
- Section F should be as clear as possible as to what the child or young person will receive.
- Wording describing any itemised provision must be specific and quantified e.g. speech and language therapy - how much, how frequently, delivered by whom, where, when in the school day?
- Will the delivering professional understand what is intended.



### Section F Provision

- Challenge vague wording such as
  - 'as appropriate' / 'as required'
  - 'regular' / 'periodic'
  - 'subject to review'
  - 'would benefit from' / 'access to'
- Ask for detail and specificity
  - How long and how often receive therapy or programmes.
  - Content of therapy or teaching programmes.
  - Necessary qualifications and experience of staff clearly stated.



### **Examples of Provision**

- LSA
- Emotional Learning Support Assistant
- Speech and language therapy
- Occupational therapy
- ABA
- Specialist tuition
- Social group sessions
- Acoustic systems
- Community access/independence training
- Transport training
- Hydrotherapy
- Counselling



### Case Law – Provision

- Class sizes: H v Leicestershire [2000] ELR 471.
- Staff qualifications and experience: R v Wandsworth ex parte M [1998] ELR 424.
- Specification as to small group work: L v Clarke and Somerset [1998] ELR 129.
- Specification as to therapeutic input: R v Harrow ex parte M [1997] FCR 761.



## EHCP pre and post appeal



### Special Educational Needs







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Gloucestershire NIS

### Section B My Special Educational Needs All identified special educational needs MUST be included.

and definited special educational fleeds WOST be included.

Communication & Interaction (strengths, needs and current functioning):

- as a diagnosed speech disorder and has significant difficulties communicating verbally. The has approximately ten words that he is able to say clearly. Expressively he babbles using a range of speech but this is mostly unintelligible. Will point and use non-verbal means to communicate however he can become frustrated when is he unable to convey what he is trying to say. In addition to his words, has a limited number of signs he can use to communicate.
- With regards to understanding of language, he responds positively to staff calling his name (to gain attention) before delivering a short instruction.
   is able to make choices using a 'now/next' board. If is presented with too much verbal information can become confused.
   shows recognition of familiar environments and understands familiar instructions.
- is able to attend to adults in a highly motivating individualised situation however finds it more difficult when more children are involved in the play environment. Where the attention is not solely on the play environment where the attention is not solely on the play environment can be distracting for the play of th
- Example of the control of the control
- experiences difficulties sleeping and can wake in the night. This results in being tired during the day which can impact on his behaviour and attention. When tired attention is limited to a few seconds interest.

### Cognition & Learning (strengths, needs and current functioning):

- Sworking below age related expectations. He shows and interest in a range of toys and games but does not yet play with these items in
  expected ways. He may copy an adults action such as trying to wind up a toy, or push something back in when prompted. Most of
  exploratory and relates to cause and effect.
- can find it difficult to maintain attention when on his own however if sat with an adult he will engage more readily.

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- sensory modulation difficulties
- · reduced visual motor integration
- · delayed pencil skills
- · delayed gross motor skills and low muscle tone
- · difficulties with age appropriate self-care
- · history of glue ear
- · possible ocular difficulties.

### Section B

My Special Educational Needs

All identified special educational needs MUST be included

Communication & Interaction (strengths, needs and current functioning):

- XXXX has a diagnosed speech disorder and has significant difficulties communicating verbally. XXXXX has approximately ten words
  that he is able to say clearly. Expressively he babbles using a range of speech but this is mostly unintelligible. XXXXX will point and
  use non-verbal means to communicate however he can become frustrated when is he unable to convey what he is trying to say. In
  addition to his words, XXXXX is using some Makaton signing to communicate.
- XXXXX presents with a severe expressive developmental language disorder. He shows a very high level of communicative intent, but
  he struggles hugely to produce words and put words together. The Independent Therapist suggests that this affects his self
  confidence and although, when observed, XXXXX tried to engage with other children he simply could not speak to them and therefore
  did not persist with communicating with them.
- XXXXX had very considerable difficulties with producing speech sounds and was really difficult to understand. When he tries to communicate, particularly with other children, he often does not get a response. He demonstrates difficulties with the production of consonants and vowels both in isolation and particularly, in words. He has a high level of inconsistency in his production of sounds and words.
- With regards to XXXXX's understanding of language, he responds positively to staff calling his name (to gain attention) before delivering a short

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### Special Educational Needs







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Pre Appeal 7.4.20

shows no awareness of numbers and is unable to name any digits or count any objects.

### Social, emotional and mental health (strengths, needs and current functioning):

- Imited social language and is unable to verbally initiate interactions with his peers. As such, tends to use physical mediums (such as pointing, reaching for and offering his hand) to try and initiate interactions. Whilst this can work at times, on other occasions peers can misread or misuateristand situations.
- When playing with an adult engages well and generally responds positively to requests and commands. When left to play independently however, whas a tendency to push boundaries, such as throwing items on the floor or tipping things up. On these occasions, responds positively to an adult gaining his attention.
- If playing independently complex can display low level disruptive and physical behaviours however if an adult is able to play and talk with him, he complies and his behaviour is much improved.

### Sensory and/or physical needs (strengths, needs and current functioning):

- displays good control; his fine motor skills appear to be developing appropriately however he displays no interest in mark marking
  activities.
- With regards to gross motor skills, he is able to run safely when playing in the garden with him generally avoiding obstacle and peers.
- mass a history of experiencing ear infections and has had grommets fitted.

### Self-care and independence (including preparation for adulthood):

- is presently in nappies, both during the day and at night, and whilst he will sit on the toilet at his setting he does not indicate when he requires the toilet. In addition, gives no indication of when he is wet or soiled and is unable to dress himself independently at present,
- enjoys meal times and is beginning to show elements of confidence in his self care and independence (eg, drinking from an open beaker, washing his hands).

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Instruction. XXXXX is able to make choices using a 'now/next' board. If XXXXX is presented with too much verbal information XXXXX can become confused. XXXXX shows recognition of familiar environments and understands familiar instructions.

- XXXXX appears to be responding to instructions containing one piece of information and working towards understanding instructions containing
  two pieces of information. In most contexts, however, he is able to respond to instructions when prompts are given e.g. pointing and gesture and
  the use of objects in the environment. He has more difficulties with specific instructions.
- XXXXX is able to attend to adults in a highly motivating individualised situation however finds it more difficult when more children are involved in
  the play environment. Where the attention is not solely on XXXXX, he loses focus more quickly and does not appear to listen to what is being said.
  Sounds in the environment can be distracting for XXXXX.
- XXXXX enjoys interacting with others and will look at an adult and initiate interaction, although not always using appropriate means e.g. he will swipe objects onto the floor, pull leaflets out of drawers, bang cupboard doors. He may stop when told but will return to these tasks and smile while he repeats the action.
- XXXXX experiences difficulties sleeping and can wake in the night. This results in XXXXX being tired during the day which can impact on his behaviour and attention. When tired XXXXX's attention is limited to a few seconds interest.

### Cognition & Learning (strengths, needs and current functioning):

- XXXXX is working below age related expectations. He shows and interest in a range of toys and games but does not yet play with these items in
  expected ways. He may copy an adults action such as trying to wind up a toy, or push something back in when prompted. Most of XXXXX's play is
  exploratory and relates to cause and effect.
- XXXXX is often on his own agenda. XXXXX can find it difficult to maintain attention when on his own however if sat with an adult he
  will engage more readily.

XXXXX shows no awareness of numbers and is unable to name any digits or count any objects.

Social, emotional and mental health (strengths, needs and current functioning):

XXXXX presents as a sociable child with limited communicative skills, who is clearly interested in the activities and play of his peers around him.
 XXXXX does however have a very limited social language and is unable to verbally initiate interactions with his peers. As such, XXXXX tends to use physical mediums (such as pointing, reaching for and offering his hand) to try and initiate interactions. Peers can misread or misunderstand

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### Special Educational Needs









### situations

- XXXXX has difficulties with social communication in that he is not able to use his language effectively for a number of functions including requesting and commenting and for conversation. However, this is because of his severe developmental language disorder.
- When playing with an adult XXXXX engages well particularly when this is something of his interest. When left to play independently however, XXXXX has a tendency to push boundaries, such as throwing items on the floor or tipping things up. On these occasions, XXXXX responds positively to an adult gaining his attention.
- If playing independently XXXXX can display low level disruptive and physical behaviours however if an adult is able to play and talk with him, or remove him from the classroom, he complies and his behaviour is much improved.

### Sensory and/or physical needs (strengths, needs and current functioning):

- XXXXX spends his day sensory seeking. XXXXX has difficulties with sensory modulation impacting his ability to engage in and attend
  to tasks, play and social interactions. XXXXX can manage 2-5 minutes of focus before his behaviour becomes dysregulated and
  erraftic. He also becomes dysregulated when he is calm.
- XXXXX has a history of glue ear. He seems to seek low frequency sound. This leads to some repetitive play such as with the hoover.
   He also seeks loud noise.
- XXXXX has reduced visual motor integration impacting pencil skill and handwriting development. He also struggles with tasks that
  require orientation such as shape sorters and puzzles.
- XXXXX has delayed pencil skills: XXXXX uses a variety of pencil grasps and swaps between left and right for pencil skills. In school
  XXXXX does not tend to put pen to paper much and has limited interest in doing this.
- XXXXX has poor gross motor skills and low muscle tone.

### Self-care and independence (including preparation for adulthood):

XXXXX has difficulties with age appropriate self-care. XXXXX is presently in nappies, both during the day and at night, and whilst he will sit on the
toilet at his setting he does not indicate when he requires the toilet. In addition, XXXXX gives no indication of when he is wet or solled and is
unable to dress himself independently at present. At home Mum has reported at times XXXXX has been able to tell if he is wet or not.

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XXXXX enjoys meal times and is beginning to show elements of confidence in his self care and independence (eg, drinking from an open beaker, washing his hands).

### Section (

### My health needs

Details of the child or young person's health needs which are related to their special educational needs:

XXXXX has developmental delay, particularly affecting his expressive language and comprehension. He has immature social
communication due to his language difficulties and he also has some sleeping difficulties. XXXXX has been found to have
abnormalities of his thyroid for which he takes medication.

### Section D

### My social care needs

Details of the child or young person's social care needs which are related to their special educational needs:

An assessment of XXXXX and his family under the Care Act has been undertaken, he is now on a CIN plan. This plan lacks detail and further clarification of XXXXX and his family's needs is required, included a carer's assessment for XXXXX and her mother. XXXXX's family will need assistance with identifying holiday respite schemes, and general respite as Mrs XXXXX has already lost full time employment due to XXXXX not being in full time education since September 2020.

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## Special Educational Provision Communication and Interaction



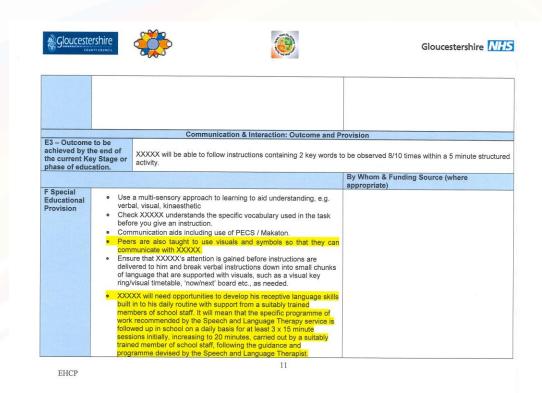




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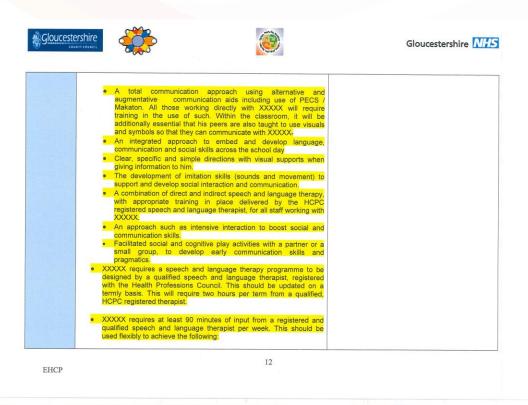
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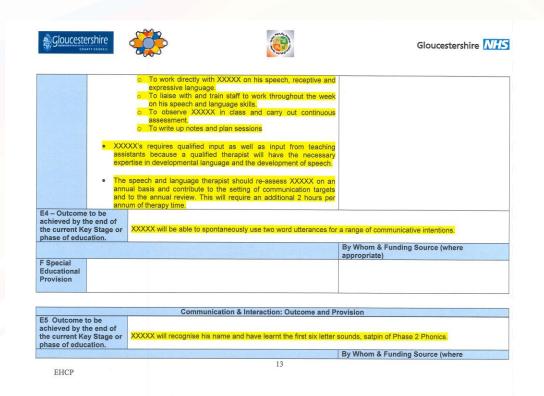
Provision to be observed 8/10 times within a 10 minute  By Whom & Funding Source (where appropriate)  Teaching and support staff from ordinarily available and top up funding
appropriate) Teaching and support staff from ordinarily available
Following an assessment visit a programme will be devised by the Speech and Language Therapist and activities demonstrated to excusions alst aff and resources provided as appropriate, in order to implement this effectively the speech and language therap should visit the sort of one to 15 Strater crosssions to 15 Strater crosssions of the strategies and interventions with the school staff of the strategies and interventions with the school staff or monitor the effectiveness of the interventions complete direct 1:1 work with the child and the teaching assistant





### Communication and Interaction







### Cognition and Learning





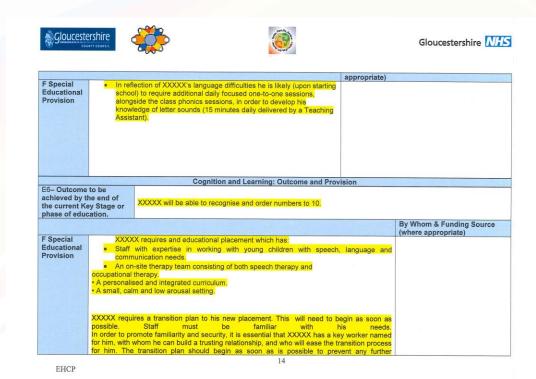


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Cognition and Learning: Outcome and Provision						
E4 – Outcome to be achieved by the end of the current Key Stage or phase of education.						
F0			By Whom & Funding Source (where appropriate)			
F Special Educational Provision	<ul> <li>In reflection of language difficulties he is likely (upon starting school) to require additional daily focused one-to-one sessions, alongside the class phonics sessions, in order to develop his knowledge of letter sounds (15 minutes daily delivered by a Teaching Assistant).</li> </ul>		Teaching and support staff from ordinarily available and top up funding.			

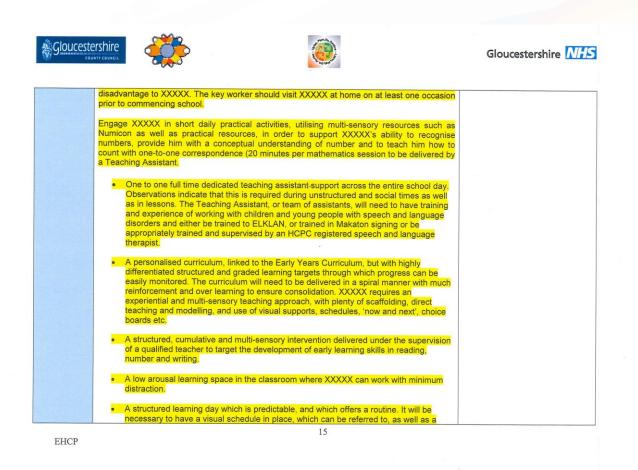
		Cognition and Learning: Outcome and Provision	
E5 – Outcome to be achieved by the end of the current Key Stage or phase of education.		will be able to recognise and order numbers to 20 as well as complete nu	mber bonds within 10.
F Special			By Whom & Funding Source (where appropriate)
Educational Provision	as Nu recog teach	ge in short daily practical activities, utilising multi-sensory resources such imicon as well as practical resources, in order to support ability to initiation as well as practical resources, in order to support ability to him now to count with one-to-one correspondence (20 minutes per mathematics on to be delivered by a Teaching Assistant.	Teaching and support staff from ordinarily available and top up funding.

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### Cognition and Learning





### Social Emotional and Mental Health







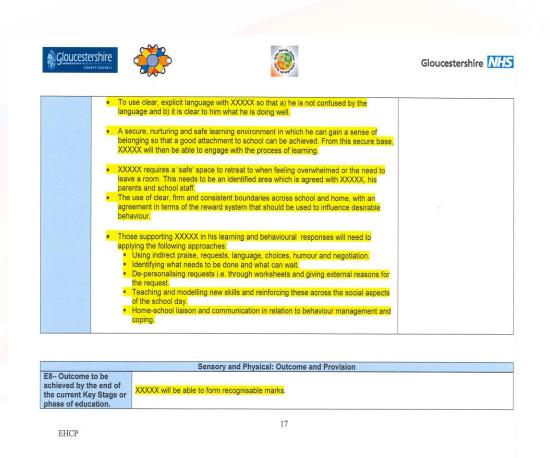
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E6 – Outcome to be achieved by the end of the current Key Stage or phase of education.		Social Emotional and Mental Health Difficulties: Outcome and Provision  will independently be able to initiate a play situation with a peer and be able to engage in a play situation period of five minutes.	
			By Whom & Funding Source (where appropriate)
F Special Educational Provision	Alon indiv minu lang over      To u	ts to scaffold play experiences and to model relevant social language and social of during free play and to ensure that the has allocated support during ructured times such as break time and lunch time.  gside this, to engage in in structured turn taking and sharing activities, with an idual or in small groups (first starting at 20 minutes per day increasing to 30 tites as and when appropriate). An adult should model relevant play skills and uage. Increasing the duration of the play activity and the number of peers involved time.  se clear, explicit language with so that a) he is not confused by the uage and b) it is clear to him what he is doing well.	Teaching and support staff from ordinarily available and top up funding.

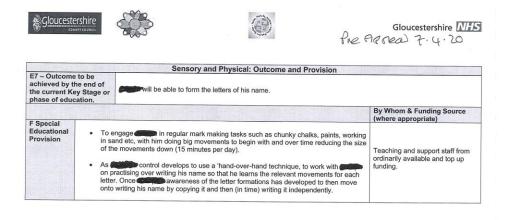
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### Sensory and Physical



Gloucestershire MIS By Whom & Funding Source (where appropriate) Programme Design and Review Educational A programme which includes targets, to be designed by an Occupational Therapist. Provision 4 x 45 minute direct OT sessions per term (assuming a three term year) provided by an OT with postgraduate experience and training in using sensory Integration/processing therapy and practice with an additional 15 mins per session for report writing (16 hours The OT to provide training to school staff to enable the implementation of therapy programmes including the TA. This would require 2 hours per term (assuming a three Teaching and support staff from The OT to review the programme on a half termly basis. This will require one hour per ordinarily available and top up XXXXX will require 30 minutes of Teaching/keyworker assistant time five times a week. XXXXX will not necessarily need to be taken out of the classroom, but recommendations by the Occupational Therapist could be incorporated and carried out within the classroom base and also incorporated into learning programmes. The Teaching Assistant would need to be trained by an Occupational Therapist to deliver the activities on the Occupational Therapy program. **Equipment Assessment and Review**  An Occupational Therapist to assess and recommend school based equipment to meet the child's needs. Equipment to be reviewed on a half termly basis. This will require 15 minutes each half term.

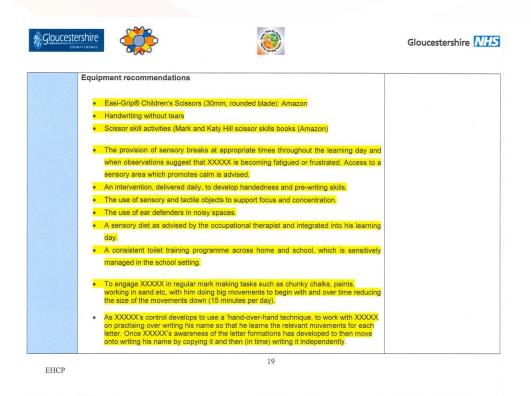
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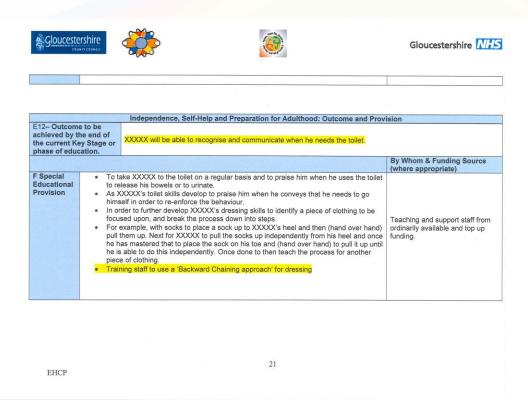
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### Sensory & Independence, Self Help







### Points to note

- Less specificity may be required for a child in a specialist placement but not in most cases & does not mean LA's can issue non-specific plans.
- LA should consider all evidence including reports from parents if depart from parent evidence must explain why
- Any provision which "trains or educates" a CYP is recognised and specified in Section F
  of an EHC Plan as special educational provision
- SLT, OT, Physio are often required to address a child's educational needs and should be included in Section F and not as health provision
- LA cannot refuse to include a particular therapy in EHC Plan just because it is not available in the area
- Must not contain anything allowing support to be changed without a right of appeal
- Must not say support will be provide by parents or NHS
- Funding details are unnecessary just need details of provision
- An LA cannot write a plan to fit the school it will nominate for the child
- It is NOT the responsibility of the school to arrange the provision specified in an EHC plan.

- Remember poorly or badly written EHC Plan, which do not specify the child's special educational needs and do not quantify the proper amount of provision those needs require may result in child's difficulties being categorised as 'naughty behaviour'
- Mainstream schools are not funded or resourced to provide a more enhanced package of support above what is written in an EHC Plan the only remedy school is left with is exclusion.
- Every child with SEN is entitled to a properly specified, detailed and quantified EHC Plan so that it is when a professional looks at the plan first time it is clear what the child's needs are and the provision they require to support them.
- The special educational provision should be what the child requires and NOT what the Local Authority is willing to provide.
- There is no 'this is what we can afford' clause in the legislation.



### Section I – Placement

- LA must consult parents as to their preference as to placement
- LA must meet parental preference placement unless it is unsuitable for the child concerned, or the attendance of the child at the requested school would be incompatible with the efficient education of others, or the efficient use of resources
- If CYP needs can be met cheaply in LA school then it can ignore parental preference
- If named in Section I school must admit child



### Final Tips

- When you read the plan do you clearly understand what is written in the document if you do not understand it then it should be challenged
- Is the information contained in the EHC Plan relevant e.g. If child is 12 years old then information about nursery education is no longer relevant
- Are all the diagnosis written into Section B Special Educational Needs
- Is the wording clear and specific in Section B if your expert evidence concludes X has a diagnosis of Autism Spectrum Disorder – then make sure it is recorded in Section B
- Are the therapies in the right sections SaLT and OT should be in Section F if they are not then you can
  not force the Local Authority to provide the provision
- Detailed, specific and quantified provision what, by who, how often and for how long. Words such as access to opportunities for, enable the Local Authority to provide as little as they want/can afford.
- After the Plan is reviewed check everything is still in the plan and therapies have not disappeared out of the plan
- Give the Local Authority no more than 4-6 weeks to arrange the therapies when Plan is first issued or issued as an amended Plan after an Annual Review or after Tribunal proceedings – do not give them any longer and if NHS do not have capacity to deliver the therapies then the LA must commission a private therapist
- If provision is quantified in Section F and it stops being delivered a simple pre action protocol letter from a solicitor explaining the Local Authority is in breach of its legal duty, can lead to it being swiftly restarted.

## Who has a duty to deliver what is in an EHC Plan

- LA has a duty to ensure they identify all CYP who have, or may have, SEN for whom they
  are responsible
- Only an LA can carry out an EHC Needs Assessment
- LA has an absolute duty to arrange provision in section F and simply has to be delivered
- The duty cannot be delegated to a school or college
- A failure to provide the provision included in the EHC plan is remedied by way of judicial review in the High Court
- Health provision in an EHC Plan must be delivered by the local commissioning group
- Social care provision must be delivered by Social Services



### M.O.T YOUR CHILD'S EHCP!

Education Lawyers' expert, specialist solicitors will carefully check through your child's draft Education, Health and Care Plan and offer practical recommendations for improvements.

- We'll check it includes all your child's needs
- We'll check it meets all needs with provision
- We'll check for legal compliance
- We'll advise on what's missing
- We'll provide a checklist for improvements
- We offer a fixed-price service

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