

## **Choosing a nursery, school or college for a child or young person with an EHCP**

Environment is key. Finding a school that can meet your child's needs, where you believe they will make the greatest progress, be happy and reach their outcomes, is hugely important.

Here are some general guidelines. Clearly they cannot cover everything, but they do aim to provide a useful starter.

### **What kind of school does my child need?**

The golden rule is to be sure that you are fully aware of not only your child's range of special educational needs but also their extent and severity. They all affect their ability to cope with the full national curriculum.

Before you make your case to the LA stating what school you want your child to attend, it's vital that you understand needs. And draw on any advice you are or have received. Bear in mind, too, that in the course of an EHC needs assessment or during the process of challenging an inadequate EHCP, you will probably learn a lot more about your child than you initially suspected. As a consequence, your preliminary ideas about what kind of school might be most suitable may well change.

### **How many schools should I visit?**

- If you have a clear picture of your child's needs, you may not need to visit very many. Indeed, avoid seeing a lot –as it is likely they will not all be appropriate.
- Take a look at the school's website to understand the profile of children it is supporting. Does it sound like this school has children and young people with a similar profile of needs?

When you visit, try to arrange an appointment to talk to the school SENCo so that you can ask about how they would support your child and check whether the school is able to meet your child's needs.

## **Are there any resources that will help me choose a school?**

You might like to take a look at the following for information on both maintained and independent special schools, as well as mainstream schools that provide some specialist support for certain special needs:

- Choosing a School for a Child with Special Needs Ruth Birnbaum (Jessica Kingsley Publishers, 2009) Very detailed and helpful guidance on choosing a school.
- The Good Schools Guide: publishes independent reviews of more than 120 special schools and colleges, and details SEN support available in more than 1,100 mainstream schools. It also has a consultancy service helping parents to find the right school. <http://www.goodschoolsguide.co.uk/sen>
- John Catt's Which School? For Special Needs
- The Local Authority Local Offer website should list all local schools supporting children and young people with SEN. This includes mainstream, maintained, special schools, independent schools.

Ofsted reports are available online and are well worth checking. For independent schools, the website of the Independent Schools Inspectorate should be consulted.

Lists of schools are also available from national support groups such as the National Autistic Society and the Dyslexia Association.

Never discount the value of local knowledge, if you are looking to place your child in a school local to you: check whether there are any local SEN support groups or advisory services, and in particular whether there are any locally-based Facebook groups who may well have members with direct experience of schools in your area.

## **What main points should I take into account when considering schools and what level of provision is my child entitled to?**

Clearly, you need first to know the full range of your child's needs and the type of provision that will be required to address them.

Your child is entitled to provision that is appropriate and adequate to meet needs. That does not mean that they will automatically get it from the local authority, since what the authority considers adequate and appropriate may not be what your evidence suggests is needed!

Remember also that whilst you may wish your child to receive a placement that can provide a very high level of teaching, support and therapy, this may not be educationally or financially

justified –it may be regarded as “Rolls Royce” rather than adequate provision.

### **How does legislation impact choosing a setting when you have an EHCP?**

Parents or young people have a legal right to request that a particular school or college is named in in their EHCP (or can express a preference if for an independent school, college or other institution).

The parent or young person has a right to request any of the following types of school or college:

- Maintained mainstream school (with or without a specialist provision unit)
- Maintained nursery school - LA specialist
- Maintained school - LA specialist provision
- Independent Specialist school
- Non-maintained school - Academy or Free School
- An institution approved by the Secretary of State under section 41 (independent special schools and special post-16 institutions: approval)
- Further education college
- Other post 16 college or training facility

These are listed in section 38(3) of the Children and Families Act (CAFA) 2014.

### **There are two key areas of legislation that are relevant**

#### **1. Section 39(4) of the Children and Families Act 2014 – parental right to preferred school**

The Local Authority must name the parent/carer's preferred school provided the following does not apply

- (a) the school or other institution requested is unsuitable for the age, ability, aptitude or special educational needs of the child or young person concerned, or
- (b) the attendance of the child or young person at the requested school or other institution would be incompatible with—
  - (i) the provision of efficient education for others, or
  - (ii) the efficient use of resources.

## 2. Section 33 Children and Families Act 2014 -

States that a child or young person with an EHC plan **must** be educated in a mainstream setting unless:

1. it is against the wishes of the child's parent or the young person; or
2. it is incompatible with the provision of efficient education for others **and** the LA *shows* that there are no reasonable steps that it could take to prevent the incompatibility.

This is an important for those wishing to exercise their right to a mainstream education. See below.

## **MAINSTREAM SCHOOLS**

Most children with special educational needs are educated in mainstream schools. Many make some provision for children with SEN whether in the form of extra support, a general SEN resource centre, a unit specialising in a particular need, or some enhanced provision that may include access to speech and language therapy or specialist teaching. However, it is generally expected that the children will spend at least part of their time in mainstream class of approximately 30 pupils.

### **Can I insist that my child is educated in mainstream?**

Many parents are anxious that their children are educated in mainstream schools, and their parental right to this is clearly set out in Section 33 of the Children and Families Act 2014 (see above).

Where parental preference is for a mainstream school, that preference must be met unless the placement would be incompatible with the efficient education of other pupils and there are no reasonable steps that can be taken to avoid the incompatibility.

Reasonable steps may include action which may make the placement considerably more expensive, for example providing full time 1:1 (or even greater) support. However, this does not necessarily mean that parental preference for a particular mainstream school must be met – if, for example, the child needs particular adaptations which are only available in a different mainstream school, the LA can name that school rather than the parental preference.

If a child is to be educated in mainstream, it is important that any provision required to assure adequacy of progress should be set out specifically, in detail and quantified, in *section F* of the EHCP. If it is not, then the risk of inadequate progress is significant. Whether the provision is to include placement in a unit or resource centre or not, it is important that parents ensure that all the provision needed –specialist teaching, trained and experienced support, appropriate therapies –is included in the EHCP. For academies, it would be wise to check most carefully the provision they may have on site, including the background and status of the SENCOs, as well as the time they are allocated for their work – some are shared across in a number of schools in multi-academy trusts.

### **Can my child's EHCP name an independent mainstream school?**

It can, but it is rare that a local authority will agree to name one. Generally if parents accept that a child can be educated in the mainstream, an LA will want to name a maintained school or academy. The LA may choose to do so where there is good evidence that factors like small class size, quiet environment or some specialism at the school makes such a placement appropriate. You can of course choose to place your child at a private mainstream school at your own expense, in which event the LA has no obligation to fund support in the school; however, sometimes it is possible to negotiate a deal with LAs whereby they may agree to provide some funding, for example a sum equivalent to what they would have paid if your child had been in the mainstream.

It is not possible to use funding secured through a personal budget to cover all or part of private school fees.

### **MAINTAINED SPECIAL SCHOOLS AND ACADEMIES**

Special schools tend to be maintained, local and usually accepting of a range of special *educational* needs. Frequently they are for children with moderate, severe or profound and multiple learning difficulties (MLD, SLD or PMLD) but who may also have other needs such as autism; however, some specialise in providing for particular types of difficulty, particularly autism and dyslexia. Some are designated under the very broad description of behavioural, emotional and social difficulties (BESD). Special schools are usually funded for a set number of pupils whether the school is full or not.

There are undoubtedly some good schools of this kind, but they vary and in particular may suffer from funding limitations, and being restricted to limited NHS provision for therapies.

You also need to consider the cognitive levels of your child and the peer group that they will be with in a maintained specialist school. High functioning, cognitively very able children may

well find there is no peer group in a maintained, local authority-run school due to the general nature of their intake. Parents should also consider what is being offered to pupils by way of the National Curriculum and whether in fact, a cognitively very able pupil with SEN would have the opportunity to study for the appropriate examinations - in which case, this would not be an appropriate school.

## **SECTION 41 SCHOOLS**

These are independent special schools which are on a list kept by the Department for Education under Section 41 Children and Families Act 2014. The main qualifications for being on the list are having a good financial and Ofsted record, and the main difference between Section 41 and other independent schools in practical terms is that they are subject to the same limitations in terms of being able to refuse placements as maintained schools and academies. This means that a large number of independent special schools choose not to be on the Section 41 list because they need a greater level of control over their intake.

### **What should I consider when choosing a special school?**

There is a danger that children placed in a special school may not get the specialist provision they require because their main need is seen as, for example, MLD when really it is another, more specific need that should be addressed. And in a BESD school, a child may be seen as one with behavioural difficulties rather than one whose behavioural presentation stems from, for example, disordered speech and language, impairments related to autism, sensory needs, anxiety, or ADHD.

Since special schools are often funded for a fixed number of pupils, it is very much in the financial interests of the local authority to keep them full. The suitability of the placement may therefore be of less importance. Furthermore, providing finance for one extra place may well be less expensive than funding a place in a specialist school that would be more appropriate.

Because mainstream special schools are funded by local authorities, provision of therapies tends to be limited to what the NHS can provide. In other words, therapists rarely work full-time on site and are therefore unable to integrate therapy into the classroom. It's more likely that there will be "bolt-on" provision, with a therapist coming in for a set period of time each week, although they would normally be available to some extent for telephone and email advice. There may be periods where no therapist is available at all, or where there are frequent changes of therapist. In many such schools, direct therapy with the child is not available (unless firmly in the child's EHCP) and an inadequate substitute is provided in the

form of therapy input from a therapist who comes into school to advise the teaching and support staff on programmes aimed to meet the child's needs.

Very often special schools accept children on the evidence provided by very inadequate EHCPs and state that they can meet the child's needs without first carrying out a full assessment of the children's needs or even meeting the child. It is a good idea to check what evidence has been provided to them, send a copy of any missing reports or documents that you think may be relevant, and to ask the school to carry out a full assessment anyway and to provide your own assessment form (a template is available from SOS!SEN).

If you decide that a special school is appropriate for your child, it is important to ensure that Section F of the EHCP is specific, detailed and quantified so that any lapse in the provision of therapies and specialist teaching may be addressed speedily –if necessary by seeking judicial review of the local authority.

## **SPECIALIST SCHOOLS**

As their name indicates, specialist schools provide a high level of specialist teaching and therapy, often in one or a particular group of special needs. They are usually independent schools, they are usually far less generalist than special schools, and their admissions profiles are more precise in respect of the ability levels required for entry and the levels of severity they target.

Whilst most focus on a particular primary need, they may also be able to provide for additional needs often associated with it: for example, a specialist school for children of at least average ability with speech and language difficulties may well be able to meet the needs of a child who also has high-functioning autism and sensory processing difficulties – although speech and language will be firmly the dominant need.

Equally, schools specialising in moderate to severe dyslexia may well be able to meet such commonly related needs as dyspraxia and speech and language difficulties. Schools for the hearing or visually impaired are likely to have clear admissions profiles relating to ability levels, and some may be able to meet other needs such as dyslexia and dyspraxia.

Many specialist schools offer residential care as well as day placements, or indeed may be wholly residential. Many have therapies fully-integrated into the school day, with therapists employed as full members of the school staff. Many are located in country areas and in large houses with extensive grounds. Some which specialise in working with pupils with complex needs including long-term medical conditions may have specialist medical staff. Needless to say, the very high level of specialist provision means that many have correspondingly high

fees.

### **What should I consider when choosing a specialist school?**

First of all you need to consider suitability and whether your child's needs are significant enough to need such a placement. You also need to look carefully at the school's prospectus and check that it can provide all it says it can. Lovely grounds and former stately homes do not necessarily ensure the right provision. What actually happens in the classroom and during informal times is what really matters. It is as important when considering such places to check on staff turnover and qualifications, and on adequacy of therapy provision, as it would be for a generic special school or a resource base in a mainstream school. Generally, however, specialist schools do provide, in the classroom, a high level of integrated teaching and therapy. Again, if you are considering a school of this nature, try to talk to specialist staff to gain a full understanding of how they work and whether they can meet your child's needs, and ensure they have seen all the most up to date reports and evidence about them.

### **I think I have found the right school for my child but the local authority has a different view. I believe there is no other school in our area that can meet my child's needs. Can I insist on my choice?**

If there is no suitable school in the area, your child may be placed in a school outside your local authority boundary. However, because specialist schools tend to charge relatively high fees and transport to and from them can be expensive, it is no surprise that most authorities resist agreeing to such placements, arguing that they are not an efficient use of public funds. You cannot insist on such a placement, but you do have the option of an appeal to the SEN and Disability Tribunal in order to try to show that it is the nearest school able to meet your child's needs.

Some children may need a residential school placement because there is no nearer suitable school, or because they particularly need education that goes beyond the normal school day, particularly in relation to matters such as social and independence skills. If you need to argue for a residential school on this basis you will need very strong evidence that residential school is needed for educational reasons. Occasionally local authorities will agree to residential schools for social care and/or health reasons, in which case they will often seek to share funding between the education, health and social care budgets.

### **What if the school I want is full?**

If the local authority refuses your child a place in a maintained special school, academy, Section 41 school or in a unit/resource centre in a maintained mainstream school because it



is full, you do have the option of continuing to fight for a place by formally requesting that the authority provide an additional place: being full in itself is not a lawful reason for refusing a placement.

However, it must be recognised that there will be cases where a school is genuinely full, in which case they are entitled to argue that being forced to accept another child would be incompatible with efficient use of public funds. The local authority is entitled to override the refusal of a place by one of these schools, although in practice this is quite rare.

If the school refuses a placement, you can appeal to the SEN Tribunal, and you will need to show that none of the exceptions in Section 39(4) of the Children and Families Act 2014 applies.

If the school is an independent Non Section 41 school and it is full or indeed if it refuses a place for any other reason, you have no right of appeal.

## **HELPFUL HINTS**

- Whatever type of school you are considering, try to make sure that a detailed assessment of your child is undertaken and fully reported to you. It is likely that an independent specialist school will have their own admissions policy which will include assessments, taster days etc before they commit to offering a place.
- This has been mentioned above in relation to special schools but it is also important that specialist schools provide you with detail of how they assessed your child, who carried out the assessment, and how they justify their decision. This provides you with excellent evidence to argue your case for the right school. A letter from the school offering your child a place but saying little more than “he came, he spent the day, we’ll have him” is insufficient and you should try to insist on a full assessment and report.
- Check on staff qualifications, appropriate and successful experience, staff turnover, exam results, etc. –as this will give you a good guide to the stability and suitability of the school. Try to see the child on a normal day so that you can assess things like noise levels, behaviour in the corridors and common parts, how the children interact with the teachers and similar points. Ask about peer group for your child, who will they be with in a class? How many other children have a similar profile/similar needs?
- Where your child needs specialist teaching, check that the teaching staff do in fact have the required specialisation. For maintained schools, you can obtain this

- information under the Freedom of Information Act 2000. Independent schools and academies are not obliged to provide such information but you can still press for it; if you don't get the answers, then the suitability of the school may be in question.
- Sometimes it is very hard for parents to accept that the kind of school their child needs is one for children whose needs they thought were too severe. It is, however, vitally important to get the right school –because the wrong one will not help your child one bit. The advice of educational psychologists and other professionals is all-important and should be heeded, so long as the assessments they make are detailed and specific in terms of the provision needed.