



# Transition to Adulthood

## Duty of Co-operation and Coordination

Making the transition to adulthood in the case of a young person with SEND can be a worrying and difficult time. All public bodies have a duty to co-operate and co-ordinate transition assessments to reduce the strain on children, young persons, and their families.

## Can the EHCP simply continue?

An EHCP does not have to end at age 18. The law allows EHCPs to continue to age 25 in circumstances where it is evidenced that the young person still has special educational needs and/or where they need more time to achieve the education and training outcomes identified in the plan.

## What does 'transition' and 'transition assessment' mean?

Transition means the process of moving from children's services to adult education, health and social care services.

A transition assessment is the means by which care needs in adulthood are identified. Any assessment should be person centred and must cover all aspects of daily life.

## When should transition assessments take place?

- **EHCP:** For those with an EHCP, transition planning should begin in Year 9. The education team in the Local Authority should take the lead in preparing the child for adulthood. The EHCP should be used to coordinate provision and help achieve agreed outcomes.
- **Social care:** A Local Authority's social services department must also assess any transition needs if it can be reasonably predicted that the child may also have care and support needs as an adult.
- **Health:** For those in receipt of a Continuing Care package, or if there is evidence a child may have NHS Continuing Healthcare needs as an adult, the child should be brought to the attention of the Clinical Commissioning Group ("CCG") at age 14. A screening assessment to determine eligibility for NHS Continuing Healthcare should be completed at age 16-17, to ensure that if eligible, a package is in place by the time of the child's 18th birthday.

## When is a Local Authority's transition assessment duty engaged?

- (1) If it is 'likely' that a disabled child and/or carer(s) will have care and support needs after transition; and
- (2) It will be of 'significant benefit' to be assessed.

If a Local Authority refuses to assess, it must give reasons.

## What does 'likely need' mean?

If there is an appearance of any need for care and support as an adult. If services have been received as a child, it is likely there will be a need for services in adulthood. Eligibility is irrelevant to the assessment decision. Adult social care services are means tested.

## How is 'significant benefit' determined?

Generally, it will be of significant benefit when needs for care and support as an adult can reasonably be predicted. This will depend on a range of factors such as:

- The stage reached at school and any upcoming exams.
- Whether the young person or carer wishes to enter further education or training, or get a job.
- Whether the young person is planning to move out of their parental home into their own accommodation.
- Whether the young person will have care leaver status when they become 18.
- Whether the carer of the young person wishes to remain in or return to employment when the young person leaves full time education.
- The time it may take to assess.
- The time it may take to plan and put in place adult care and support.
- Any relevant family circumstances or planned medical treatment.

If the Local Authority does not believe it is the right time to assess, a future date and time to complete the assessment must be agreed.

## Does a Carer have a right to be assessed?

Yes. A carers assessment should be completed simultaneously with a transition assessment if it is considered that the carer is likely to have needs for support after a disabled child becomes 18 and it would be of significant benefit to the carer.

## What is NHS Continuing Healthcare?

NHS Continuing Healthcare is a non-means tested complete package of ongoing care that is arranged and funded solely by the NHS where an adult (aged 18+), has been assessed and found to have a 'primary health need' as a result of an injury, illness or disability. In practical terms, eligibility for NHS Continuing Healthcare means the NHS is responsible for care provision and meeting all of the associated costs.

## What happens if my child is not eligible for NHS Continuing Healthcare?

Even if the eligibility criteria is not met, needs should be assessed because unless Continuing Healthcare needs are considered, there is a risk that health needs may be overlooked.

## What happens once a child turns 18?

Your child will transfer from children's to adults services. There should be no gap in provision. Any existing care package should not be withdrawn until transition assessments have been completed and a new package agreed.

## What if a child or young person lacks capacity?

The Local Authority will need to confirm whether it is in the child or young person's best interests for transition assessments to take place.

## Once a child leaves school, what provision may be available?

Often when a child leaves school, a carer's needs for support increases because the child does not have a full timetable. To address any potential gaps, transition assessments should explore options to ensure the young person is fulfilled. This may include volunteering, community participation or training.

## If a young person wishes to leave home, what accommodation options should be considered?

There are 3 principal types of accommodation capable of delivering care and support to an adult. These include:

- 1) Supported living: This is a package of care and support provided in self-contained, rented accommodation.

A tenancy agreement may be required. If the adult lacks capacity to sign the agreement, an Attorney or court appointed Deputy for Property & Financial affairs will need to sign the agreement. If no such authority exists, the agreement may need to be authorised by the Court of Protection.

Housing benefit can be claimed at the higher rate because the delivery of care and accommodation is separate.

- 2) Shared lives: This is a package of care and support provided in accommodation focused on supporting persons with learning disabilities.
- 3) Residential care: This is care provided by a registered care home to meet more complex needs.

If offered a choice, you can express a preference for particular accommodation which the Local Authority must then arrange.

If the preferred option costs more than the Local Authority deems necessary, a third party (such as a parent, relative or charity) may be asked whether they are able to 'top up' the fees. This is a voluntary arrangement. The Local Authority cannot force a third party to pay a top-up fee, although if no one is able to pay the top-up fee, that option may not be available. If you are not offered a choice of accommodation, a top-up payment cannot be sought by the Local Authority.

## What if a young person wishes to transition to higher education?

Transition assessments must support transition to higher education. A disabled student's allowance (a type of non-means tested grant) may be available to help meet the extra costs a disabled student may encounter such as specialist IT equipment or a note-taker.

## What issues commonly arise?

- Education, health and social care bodies do not begin transition planning early enough. This may cause unlawful gaps in provision and delays.
- Many refuse to complete transition assessments even when the criteria is met.

- Lack of co-ordination between public bodies leaves families stressed and without an understanding of how needs will be met once a child turns 18. This is wrong and a transition planning co-ordinator should be appointed.
- For those who require therapeutic interventions, such as speech and language therapy, often this gets lost.
- Continuing Healthcare needs are not screened or assessed, which risks failure to identify health needs.
- Social care needs are not assessed, which risks failure to identify social care needs.
- Many in receipt of Continuing Care funded packages are found not eligible for NHS Continuing Healthcare, which can lead to inter-authority disputes about how a jointly-funded package of health & social care will be funded.
- Families are not provided with a choice of accommodation or unlawful top-ups are sought.
- There is a refusal to extend an EHCP to age 25 years or beyond age 18 years in circumstances where there is a need for continued special education.

## How can Lester Aldridge assist?

We can provide:

- An initial, free consultation to discuss the best approach to ensure the transition to adulthood is as smooth as possible.
- Advice and representation throughout the transition planning process.
- Advocacy at needs assessments to ensure assessors take into account all of the necessary evidence.
- Access to experts whom can prepare bespoke reports which provide a benchmark to negotiate with public bodies to ensure assessments reflect need.
- Detailed, written submissions in support of needs assessments.
- On-going support to negotiate with public bodies throughout the process.
- Advice at each key stage in respect of any challenges required.