



SEND Empowerment
ADVICE & SUPPORT

PHASE TRANSFER: A PARENT'S GUIDE

Understanding your child's EHC plan

What is Phase Transfer?

Phase transfer refers to the points in a child's education where they move from one stage to another. This guide focuses on the legal requirements for children with Education, Health and Care Plans (EHCPs) at these key transition points:

- **Early Years to Primary School**
- **Primary School to Secondary School**
- **Secondary School to Post-16 Education**

During phase transfer, the Local Authority (LA) *must* review and amend your child's EHCP to name the next appropriate educational placement. This process has specific legal deadlines. Even if your child is in an all-through school, the process still applies.

Key Legal Deadlines

The LA *must* finalize the amended EHCP, naming the new school or placement, by specific dates. Missing these deadlines can impact your child's education. Please be aware that LAs must adhere to the following statutory timescales when completing the phase transfer review:

- **This is the statutory deadline for children and young people with EHCP's who are transferring between school phases:** February 15th
- **Year 11 Transfer (Secondary to Post-16):** March 31st

School Phases include: Early year, infant to juniors & primary to secondary.

These dates are **crucial**. Ensure the LA is aware of them and is working towards them. If you haven't heard anything by these dates, contact the LA immediately.

To meet these deadlines, the LA should start the review in the autumn term.

The 4-Step Legal Process

The phase transfer process generally involves these four steps:

1. Review Meeting:

The LA should hold a review meeting to discuss your child's progress, needs, and potential future placements.

2. Consultation:

The LA consults with potential schools or placements to determine their suitability.

3. Amended EHCP:

The LA issues an amended EHCP naming the chosen placement.

4. Final EHCP:

The LA publishes the final EHCP by the statutory deadline.

Do I Need to Use Admissions Forms?

No. Children with EHC plans do **not** go through the normal admissions process.

However:

- LAs may *ask* you to complete preference forms
- They cannot require you to
- Not completing them may risk the LA naming a school you don't want
- Even if you complete the forms, the LA can only refuse your first choice if a legal reason applies.

Important:

The LA must not ask for your school preference before sending the amendment notice (Step 2).

If they do, you can still change your mind later.

Appeal Rights

You have the right to appeal the contents of the EHCP, including the named school or placement, to the Special Educational Needs and Disability Tribunal (SENDIST). You can appeal if:

- Refuses to name your preferred school
- Names only a type of school
- Refuses to amend the plan
- Amends the plan but you disagree with Sections B or F.

Appeals must be lodged within a specific timeframe, this should be noted on the decision letter from the LA.

Tell the Tribunal it is a phased transfer appeal so it can be prioritised.

Challenging LA Delays

If the LA fails to meet the statutory deadlines, there are steps you can take:

- **Formal Complaint:** Submit a formal complaint to the LA. Document all communications and actions. Early intervention is key to preventing significant delays.
- **Judicial Review:** In extreme cases, you can apply for a judicial review to challenge the LA's failure to comply with the law. You can challenge the LA if:
 - The review didn't start in the autumn
 - Amendments weren't issued within 4 weeks
 - You weren't given 15 days to respond
 - The final plan wasn't issued by the deadline
 - You were pushed into normal admissions route
- **Ombudsman:** You can complain to the Local Government and Social Care Ombudsman if the LA's complaint process fails to resolve the issue. You have strong legal rights during phase transfer, if something doesn't feel right, you can challenge it, calmly and confidently.

Key Takeaways

This guide highlights the crucial aspects of phase transfer for children with EHCPs. Remember to stay informed, proactive, and seek support when needed to ensure a smooth and successful transition for your child.