

## **Consultations review 2026**

### **Purpose**

- To ensure consistency of approach to school consultations
- To reduce the administrative burden across processes for the EHCP Casework Team and settings
- To ensure clear guidance for settings, parent/carers and Officers
- To support timely, transparent and child-centred placement decisions for children, young people and their families.
- To improve equity of admissions across mainstream schools and raise expectations of inclusion of children and young people with SEND

### **Context**

- The current process, especially around Phase Transfer, is to consult with the three nearest mainstream settings, or the two nearest mainstream settings for post-16
- There is an increasing pressure on the team and settings due to the high volume of consultations being issued with the increase in students with EHCPs
- This results in a high administrative burden across the Local Area
- There is also a need for clearer guidance for Officers and settings
- A standardised approach would be beneficial to ensure consistency and clarity.
- Delays in consultation and placement decisions can have a significant impact on children and young people and increase uncertainty for families.
- Consulting with three schools instead of prioritising the nearest mainstream school weakens local accountability for inclusion. It can enable exclusionary cultures to persist and could increase the likelihood that children and young people will need to travel further from their community to access suitable provision.

### **Scope**

The review is specifically looking at mainstream consultations and consultation processes in relation to

- EHCNAs
- Phase Transfer
- In year transfers
- Following Annual Reviews (where appropriate)
- Summer exceptions for EHCNAs

It will also look at how the EHCP Casework Team responds to schools in relation to negative consultation responses

## **1. Consultations**

- We propose to move to a process whereby we consult with only one setting in the majority of cases for all consultation processes stated
  - EHCNAs – this would usually be the current setting where the student is on roll where applicable
  - Phase Transfer – this would be the nearest mainstream setting
  - In year transfers - this would be the nearest mainstream setting
  - Annual Reviews – this would be the current setting
- Where a case is particularly complex, further consultations may be required and will be considered on a case-by-case basis
- Where the current or named setting is not the nearest school, consultations will also be sent to nearer settings (up to the three nearest)
- Where the parental preference is not the nearest school, consultations will also be sent to nearer settings (up to the three nearest)
- The reason for this is that students may not be eligible for transport in situations where a nearer school can meet need and offer placement
- Where, especially during the Phase Transfer process or when in appeal, parental preference is for a specialist placement, consultations will still be sent to three nearest by travel distance mainstream settings, or the two nearest mainstream settings for post-16
- The EHCP Casework Team may consult further where required, if there are specific reasons why a wider consultation process needs to take place. The EHCP Casework Team will, on these occasions, communicate with the setting(s) where possible to explain why a consultation has been sent.
- Parents and carers will be provided with clear information about how consultation decisions have been reached and how parental preference has been considered.

Risks with this approach (especially for Phase Transfer):

- There will be a limited range of responses if we only consult with one setting - some schools are more inclusive than others so we may get one negative consultation where other settings would have felt they can meet need.
- Parental preference for specialist may not be stated until the point of appeal so we will in these cases have only consulted with one setting. If this is the case, then we would have limited information during the appeal process to potentially support the LA decision making process and limited time during an expedited appeal to gain any further evidence

## **2. School consultation responses**

- Where a school has provided a negative response to a consultation this will be considered by the relevant Officer alongside their manager if required
- It may be necessary for there to be a follow up meeting or discussion with the setting to further review the situation and any mitigations which can be put in place where a negative response has been received

- A response will then be provided by the Officer to the setting in writing which addresses the points raised by the school where the school is being named. This should happen before the EHCP is finalised
- During Phase Transfer a meeting should be offered by a Senior Officer to each secondary school to discuss consultation responses before settings are named.

Risks with this approach:

- The majority of the issues raised by schools are in relation to funding which are not always within the remit of the EHCP Casework Team to resolve
- Some consultation responses do not provide sufficient evidence against the legal grounds for refusing admission.

These could be mitigated by clearer guidance to the team and ongoing training for settings

### **3. Summer exemptions**

- The provision in Reg 10(4)(a) of the SEND Regulations allows Local Authorities to delay completing an EHCNA where they have requested information from a school where it is closed for at least 4 weeks, i.e. during the summer holidays. So Local Authorities are permitted to delay if this is required to obtain advice from the school.
- This has not been implemented in the past by Oxfordshire for new assessments, but it should be noted that we have already stated that any Phase Transfer consultations should not be issued during the summer holidays or the first week in the Autumn Term.
- Generally, there has been little feedback from settings that they are unable to provide advice in relation to EHCNAs either during the first six weeks when an assessment has been submitted, or where the LA has agreed to assess and request additional advice from the setting
- The main feedback has been in relation to the consultation process during the summer holidays and some schools not being able to respond to these as staff are not available. It should be noted that many schools do respond to consultations during this period and also that fewer EHCPs are usually issued in August.
- There are however a number of risk factors in applying summer exemptions:
  - Tracking and logistics - given the very high number of students going through the statutory assessment process at any one time
  - Backlogs – delaying some assessments could lead to a knock-on effect on workload as numbers would be higher and so may impact on statutory timeframes for other students
  - Responses – often we do not receive responses from schools when consultations are sent as part of EHCNA processes and there is no guarantee we would receive this even if more time was provided
  - Placements – there is a concern in delaying the end of the EHCNA process and naming a setting for a student and feedback from many parents has been that they would like to have a setting named in time for September and not doing this may disadvantage them

- It is likely that we would already be naming the setting where the student is on roll so we may be delaying this unnecessarily
- We would therefore propose that we continue not to apply summer exemptions moving forward and ensure that we finalise EHCPs within the 20-week timeframe. We would however suggest the following:
  - That schools are encouraged to indicate availability of senior leaders during the summer and to respond to consultations within the timeframes wherever possible
  - That if schools do not have staff available during the summer period and are unable to complete the consultation response within the timeframe, then they do so as soon as they are practically able to in September. However, please note that the Local Authority will continue to finalise EHCPs within the 20-week timeframe, even when a response has not been received so that we continue to meet our statutory duties
  - That the Local Authority will give additional time for the consultation responses to be received by settings during the summer holidays, where the 20-week timeframe allows
  - If the Final EHCP has been issued during the summer period the Assessment Team will discuss any concerns with the school in September, including a meeting if appropriate
  - The EHCP Casework team will track cases over the summer for any incomplete consultation responses, ensuring that any outstanding issues are monitored and addressed promptly when schools return in September

**Follow up actions:**

- Guidance document for officers around consultation processes
- Guidance document for schools around lawful consultation responses
- Development of standard responses to settings, especially around funding and legal requirements
- Training for Officers once guidance is completed, especially on responding to schools, directions and chasing responses from schools
- Training for schools/settings on consultation responses
- Develop clear information for parents and carers, in partnership with OxPCF and SENDIASS, explaining the consultation process, how consultation decisions are made and how parental preference is considered.
- Review the impact of the revised consultation process after 6 months, including feedback from schools, parent carers, OxPCF and SENDIASS, to inform any future amendments.

EHCP Casework Team, July 2026