**[Name of family]**

**[Address of family]**

**[Contact details]**

**Wednesday 9th March 2022**

Director of Children’s Services

**[Name of local authority]**

**[Address of local authority]**

For the attention of: **[Name of Director of Children’s Services]**

Dear **[Name],**

***[Child or young person’s name], [DOB]: Failure to issue an amended final EHC plan within 12 weeks of an Annual Review.***

I am writing as the parent of the above child**,**who has an EHC plan. **[Child/young person’s name]** had their annual review meeting on [**Insert date of annual review meeting].**

The High Court has ruled (*8th March 2022*) that local authorities must adhere to fixed legal time limits when annually reviewing the needs of children and young people with special educational needs. This judgement means that local authorities **must** stick to strict timescales so that no child is lost within the annual review process.

Amending a young person’s EHCP and issuing their final amended plan **must be done within 12 weeks of the annual review.**

Excerpts from the following Case Law further illustrate the recent rulings against the lackadaisical manner that local authorities approach this area of the Annual Review process.

***R (L, M, and P), v Devon County Council  [2022] EWHC 493 (Admin):***

1. Under 22(3) where the local authority decides to amend the plan following representations, it must send the finalised EHC plan "*as soon as practicable, and, in any event within eight weeks of the local authority sending a copy of the EHC plan in accordance with paragraph 2(a)*". That means that if it takes 15 days for the parents to make their representations, counting eight weeks from the notification under Regulation 20(10), namely 29thMarch, the authority has until 24thMay. If the obligation to "notify" under 20(10) is as explained under 22(2)(a), and includes the proposed amendments, this last date of 24th May will see a finalised plan in place by 12 weeks from the review meeting. Such a timescale is in my judgement wholly consistent with the structure of the scheme, in light of its subject matter and the timescales provided elsewhere in the framework.
2. In spite of the resource implications of a time-limited amendment process, I am unconvinced that there is a particular reason for this stage of the process not to be subject to the exacting timetable which obtains elsewhere in the scheme. The need for a parent or young person to achieve certainty (either by acceptance in good time, or by way of appeal) is as acute in respect of amendments as it is on the initial provision of a plan. Evidence shows that where a very extended period is taken to produce certainty, serious prejudice may result. Mr Anderson argued that amendment was different from cessation or continuation. Therefore, because many more materials are required to be considered, it ought not to be time limited. I disagree, for the reasons I have given.

This new Case Law stipulates 4 weeks after an annual review the local authority must have issued a notice stating its intention whether to amend an EHC plan, to maintain it unchanged, or to cease it. When the local authority has issued a decision to amend, they must also issue a draft amended plan **at the same time.** Consequently, the final amended plan **must be issued within 8 weeks of sending the draft plan.**

The Honourable Mrs Justice Foster DBE, in her judgement issued on the 8th of March 2022, was explicitly clear in her ruling:

**81.** “The perceived absence of a time limit for notifying amendments has in my judgement, allowed the defendant County Council to act inconsistently with the statutory objective, which must be understood as including the time sensitive determination of the developing requirements of children and young people with special educational needs.”

You are in breach of this legal duty on the grounds that the above-mentioned specified timeframes have passed, and the local authority has not issued the **[draft amended EHC Plan/amended Final EHC Plan].**

Any delay in completing the annual review process in a timely manner disturbs a family’s right of appeal and can result in injustice. This potential injustice is exacerbated if local authorities do not adhere to their statutory timeframes and consequently create an environment of prejudice and injustice around what should be a holistic and family friendly process.

Bearing these matters in mind, and given the missed deadline stipulated in recent Case Law, of **within 12 weeks of the Annual Review meeting**, it is not appropriate to apply the usual complaints process timescales.

Consequently, please send the **[draft amended EHC Plan/amended Final EHC Plan]** as soon as possible, but in any case, within 5 working days.

I look forward to an early reply and trust that it will not be necessary to take this matter further.

Yours faithfully,

**[Name of parent/carer]**

**On behalf of [name of young person]**

**[Contact details]**