

COVID-19 AND SEN

Supporting Children and young people with SEN as schools and colleges prepare for wider opening 26th May

This guidance provides information on provision for those with EHC plans and others with complex needs, such as those with SEND who do not have an EHC plan, but for whom the educational setting or local authority has exercised its discretion to do a risk assessment and offer a place at an educational setting.

Points:

- Throughout the coronavirus (COVID-19) outbreak, educational settings have been asked to ensure that [vulnerable children and young people](#) can attend where appropriate, including those children and young people who have an EHC plan, and for **whom it is determined, following a risk assessment**, that their needs can be as safely or more safely met in the educational environment. As settings prepare for wider opening, they should continue to offer places to vulnerable children and young people and **should look to bring back more children and young people with EHC plans in these target year groups. Their return should be informed by their risk assessments**, to help educational settings and local authorities ensure that the right support is in place for them to come back.
- We recommend that **risk assessments continue to be maintained for children and young people with EHC plans who remain at home.**
- **Vulnerable children and young people are expected to attend**, if it is appropriate for them (for example where there are no shielding concerns for the child or young person or their household, and/or following a risk assessment for children or young people with an EHC plan).
- Educational settings should ensure that pupils and students who are not attending settings full time in person **continue to engage in learning as far as is possible** (for example through remote education), and that an increasing focus is put on preparing the way for their return.
- Resources: In addition to a suite of online lessons and materials available from the Oak National Academy's [specialist curriculum](#) for children and young people with profound needs, we are helping parents to support learning at home, including by publishing a list of [online learning resources for children with SEND](#).

<https://preview.tinyurl.com/y9x382lz>

Changes to the law on education, health and care needs assessments and plans due to coronavirus (COVID-19) DfE 29th May

Amendments to the duty to secure provisions identified within EHCP and to vary the timescales for EHC needs assessments and plans

1) Education, health and care needs assessments and plans: guidance on temporary legislative changes relating to coronavirus (COVID-19) 30th April

Applicable to 31 May 2020 and reviewed before 1 June 2020. NB **Modification notice**

extending dates to 30th June 2020 28th May DfE : <https://preview.tinyurl.com/ycdpv8rc>

- a) **A notice from the Secretary of State for Education issued under the Coronavirus Act 2020 to modify section 42 of the Children and Families Act 2014 (duty to secure special educational provision and health care provision in accordance**

with EHC plan). The duty on local authorities or health commissioning bodies to secure or arrange the provision is temporarily modified to a duty to use 'reasonable endeavours' to do so.

- b) b) From 1 May to 25 September 2020 (inclusive). The SEND (Coronavirus) (Amendment) Regulations 2020 (the 'Amendment Regulations'). This instrument temporarily **amends 4 sets of Regulations that specify timescales that apply to local authorities, health commissioning bodies and others: principally for various processes relating to EHC needs assessments and plans.** Where it is not reasonably practicable or is impractical to meet that time limit for a reason relating to the incidence or transmission of coronavirus (COVID-19), the specific time limit (such as to issue a plan to someone eligible for one within 20 weeks of the initial request) in the regulations being amended will not apply. Instead, the **local authority or other body to whom that time limit applies will have to complete the process as soon as reasonably practicable** or in line with any other timing requirement in any of the regulations being amended

This guidance also confirms which key elements of the processes over EHC needs assessments and plans are unchanged. Notably this includes that a local authority **must:**

- still consider requests for a new EHC needs assessment
- still secure all of the required advice and information in order to be able to issue a plan
- have regard to the views and wishes of a child, the child's parent³ or a young person when carrying out its SEND functions under the [Children and Families Act 2014](#) ('the 2014 Act')

Annex A: details of the amendments to the existing Regulations

<https://preview.tinyurl.com/y9befy3b>

Legal Update on changes

Information from the legal teams at 39 Essex Chambers (Steve Broach and Thomas Amraoui). Clear presentation on the main aspects of the changes and what it allows (and does not allow) LA's to do. <https://preview.tinyurl.com/yda9fhvy>

Council for Disabled Children briefing <https://preview.tinyurl.com/y9s98dq3>
CDC FAQ.

Each week the CDC collects questions from the public. These are shared with the DfE and colleagues with specific areas of expertise within CDC who provide responses that are listed weekly. Week 1 for instance includes: *My child is currently on an EHCP at the local primary school. We have agreed with school to keep him at home. If our child is to be home-schooled potentially for the rest of this school year, are we entitled to claim for part of any EHCP funding that has been provided to the school? And if so, who do we look to contact?* <https://preview.tinyurl.com/yawyqf66>

IPSEA update on COVID-19, school closures and SEN provision

5th June

A list of FAQs on how the COVID-19 measures will affect children and young people with SEN that covers:

- School closures and SEN provision
- Gradual re-opening of schools and safety measures to be taken
- EHC needs assessments and EHC plans
- Social care provision

- Exclusions and children out of school
- School/college placement in September
- Early years provision
- Making a complaint or challenging a decision
- Further information

Points include:

Do schools have to allow all children with EHC plans to attend?

For children with EHCP and complex needs, LAs and schools have been advised to carry out a risk assessment to determine whether “*their needs can be as safely or more safely met in the educational environment*”. The DfE guidance on supporting children and young people with SEND explains that where a child or young person with an EHC plan will be safer at home, the DfE recommends they stay at home. Where they will be as safe or safer at an education setting, the DfE recommends they attend the education setting. For children with EHC plans who do not fall into the ‘complex needs’ category, and for whom no formal risk assessment has been carried out, the current government position is that education at school should be available and they should be “*encouraged*” to attend.

Resources: *Ensuring the safe return to school of pupils with EHCPs: Optimus Education: FAQs.* Natalie Packer provides access to:

- Example proforma for your whole school risk assessment.
- Example proforma for an individual risk assessment.

<https://preview.tinyurl.com/yan6d345>

The Coronavirus Act 2020 has temporarily amended the absolute duty to make the provision in an EHC plan (section 42 of the Children and Families Act 2014) to a ‘**reasonable endeavours**’ duty. This means that during the specified period of notices made under the Act (**currently until 30th June 2020**) LAs need to do whatever they reasonably can to put provision in place, but if they cannot do so they would not necessarily be breaching the law. The guidance on EHC needs assessments and plans during the COVID-19 crisis explains that LAs and health commissioning bodies “*must consider for each child and young person with an EHC plan what they can reasonably provide in the circumstances*”. This includes considering the individual child/young person’s needs, as well as their and their parents’ views, and keeping arrangements for provision under review.

Resource: Useful advice and proformas on Essex County Council website that include a ‘**reasonable endeavours plan template**’ to share with parents.

<https://preview.tinyurl.com/ydyjc856>

Do the LA still need to carry out EHC needs assessments?

Yes, however, the deadlines have been relaxed.

Will annual reviews still need to be carried out?

The Amendment Regulations mean that annual reviews still need to be carried out but the usual deadlines have been relaxed, provided the reason for the delay is “*relating to the incidence or transmission of coronavirus (COVID-19)*”.

<https://preview.tinyurl.com/ycxdb78d>

Changes to the school exclusion process during the coronavirus (COVID-19) outbreak 29th May

The new regulations change some of the procedures that must be followed in relation to an exclusion. They apply to all maintained schools, academies (including alternative provision academies but excluding 16 to 19 academies) and pupil referral units. The arrangements will apply to all exclusions occurring until 24th Sept 2020.

<https://preview.tinyurl.com/ycqyn5q3>

From Covid-19 back to the Classroom: A toolkit for meeting the emotional challenge

This is a brief overview from Oxfordshire Hospital School, of the main issues that identifies links to further sources of information. Contents:

1. Introduction and impact of the pandemic
2. Identifying pupils
3. Building school knowledge,
4. Individual programmes of support
5. The recovery curriculum
6. Providing support
7. Screening questions. (Pupils and parents)

<https://preview.tinyurl.com/yanjbcto>

Supporting a bereaved pupil

This resource has been developed by Child Bereavement UK in collaboration with the London Grid for Learning. Contents include:

- Children's understanding of death
- Managing grief
- Role of the school
- Death and grief in the curriculum
- Taking care of yourself
- A pupil's perspective

<https://preview.tinyurl.com/yctukteq>

Supporting the mental health and well-being of pupils, staff and families 5th June

Lorraine Peterson's website offers a list of websites offering useful resources to support all those in school respond to the mental health issues of pupils, parents, staff and families.

<https://preview.tinyurl.com/ybewce85>

Online courses from Creative Education

This company is providing free access to a number of online courses to support schools and parents during the pandemic. These include:

- Support a safe and successful return to school
- Use simple self-soothe strategies
- Stay mentally well during COVID-19

<https://preview.tinyurl.com/ycaz8wnp>