



# SEND COVID 19

Briefing session

11<sup>th</sup>, 12<sup>th</sup>, 13<sup>th</sup> May 2020

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SEND 0-25



# Overview of the session



- Presentation outlining main changes related to SEND duties.
- How can you help to deliver on the ‘reasonable endeavours’ duty to secure provision in a child or young person’s EHC plan.
- The importance of record keeping – using ‘a plan on a page’.
- Sharing examples of current practice—open forum for settings.
- We have settings where this will impact more i.e. special schools where all children who attend hold an EHC plan ALSO some of our secondary schools have significant numbers. At all times we collectively need to consider what is reasonable given constraints.
- Advice keeps changing and our plans will need to adapt as a result.

# How to feedback during the presentation

- Please use 'chat' function.
- We will stop at appropriate points to work through the questions posed.
- QA at the end too.

# Education, Health and Care Plans: Guidance on temporary legislative changes relating to Coronavirus (COVID-19)



André Imich, SEN and Disability Professional Adviser, DfE

May 2020

# Why temporary changes are needed

- The Government has legislated on SEND so as to strike the right balance during the outbreak of coronavirus (COVID-19) between:
  - the needs of children and young people with SEND to be protected and receive the right support in a timely way; and
  - managing the demands on local authorities (LAs) and health bodies to respond to the outbreak.

# The guidance - target audience

- Parents, carers, young people, and parent carer forums;
- SEND Information Advice and Support Services (SENDIASS);
- Local authorities (LAs);
- Health commissioning bodies;
- Early years settings, schools, colleges and other education settings;
- Others who contribute advice and information to EHC needs assessments, such as educational psychologists and other health care professionals; and
- Mediation advisers.

# Two changes to SEND legislation

1. Section 42 of the CFA 2014 (duty to secure special educational provision and health care provision in accordance with EHC plan): the duty on LAs or commissioning health bodies to secure or arrange the provision is temporarily modified to a duty to use 'reasonable endeavours' to do so.
2. The SEND (Coronavirus) (Amendment) Regulations 2020 amend Regs that specify timescales that principally relate 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, the specific time limit will not apply - process must be completed as soon as reasonably practicable.

# Timing of changes

- Both sets of changes are effective from 1 May 2020.
- They cannot be applied retrospectively.
- The s42 modification must be renewed monthly, where the SoS decides it is still appropriate and proportionate.
- The timescale amendments are in place until 25 September 2020.



# The guidance emphasises:

- Only some aspects of the law on EHC needs assessments and plans have changed temporarily.
- Duties in law over EHC needs assessments and plans have not been 'turned off' - all other aspects of SEND law remain in place.
- The ongoing importance of co-production with children and young people with SEND and their parents.
- The impact of coronavirus may mean that the process and provision in place previously may need to change for the time being.
- A heightened need for effective, timely communication between LAs, health commissioning bodies, families, and all others involved in EHC needs assessment processes and plans.

# The importance of co-production

- Co-production, and effective communication, remain key at this challenging time, both at the strategic level and in relation to individual cases.
- Parent carer forums have an important role, working with LAs and health commissioning bodies, to gather and feed in parents' views on what can realistically be provided to children and young people when the usual ways of working are under such strain.

# Reasonable endeavours

- ‘Reasonable endeavours’ must be used to secure or arrange the provision in an EHC plan.
- Consideration must be given for each child and young person with an EHC plan about what they need to provide during the notice period.
- For some, this will mean that the provision specified in their plan can continue to be delivered.
- For others, this may result in a child or young person’s provision being different to that which is set out in their EHC plan, for some, or all, of the time that the notice is in force.

# Reasonable endeavours – individually applied

- The modified s42 duty relates to the provision for each individual child and young person.
- There must not be blanket policies applied about the provision to be secured or arranged.
- In reality – *you are already doing a lot! Focus on what is reasonable and what is possible given constraints. In some cases meeting the duty will simply be about recording activity that you are already doing.*

# Reasonable endeavours - decision-making

When making reasonable adjustments the following needs to be considered:

- the specific local circumstances, e.g. workforce capacity and skills and that of others whose input is needed; temporary closures of education settings; guidance on measures to reduce the transmission of coronavirus;
- the needs of and specific circumstances affecting the child or young person; and
- the views of the child, young person and their parents over what provision might be appropriate.

# Reasonable endeavours: alternative arrangements

Alternative arrangements will be dependent on:

- the needs of the child or young person,
- the provision that is specified in a plan, and
- the specific local circumstances.

Delivery is dependent on a range of factors, e.g.:

- the availability and capacity of specialist staff to deliver particular interventions,
- the extent of the arrangements schools can make to provide home learning programmes, and
- the availability of suitable IT equipment in the home.

# Reasonable endeavours - Examples of alternative arrangements

- Alterations to the frequency and timing of the delivery of provision in school, e.g. moving to a part-time timetable.
- A temporary placement in another school - mainstream or special, with the agreement of the parent or young person.
- Attendance at a local hub.
- Video class sessions for children to keep in touch with classmates and teaching staff.
- Home learning reading programme, provided by SENCo, reviewed weekly.
- EPs providing brief therapy interventions.
- Specialist SEN Teachers providing advice and support to parents re autism, visual or hearing impairment or literacy.
- A SaLT delivering sessions via video link.
- An OT video linking to a child's home and modelling exercises that the parents could do with their child.

# Record-keeping and communication

There is specification that a record is kept of the provision secured or arranged at this time;

- confirm to the parents or young person what it has decided to do, and explain why the provision differs from that in the plan for the time being;
- keep under review whether the provision it is securing or arranging means that it is still complying with the reasonable endeavours duty, and takes account of the changing circumstances for the child, and for services.



# Reasonable endeavours – a plan on a page

What?	Securing something different to the provision stated in the plan, e.g.. in relation to availability of staff, availability of technology and any significant risk that may cause harm
Where?	Location where provision is to be provided may be altered – early years setting, school, college, community setting, home, clinic
When?	Frequency and timing of provision may be altered or modified in the light of available staff and risks that may cause harm
How?	Method of delivery may be altered, e.g.. virtual rather than face-to-face and smaller rather than larger groups for teaching (in line with the guidance on reducing transmission of coronavirus)
By Whom?	Changes to the person delivering the provision, e.g.. a learning assistant under virtual supervision rather than a specialist therapist or teacher

# What support would be helpful for children with SEND and their parents?

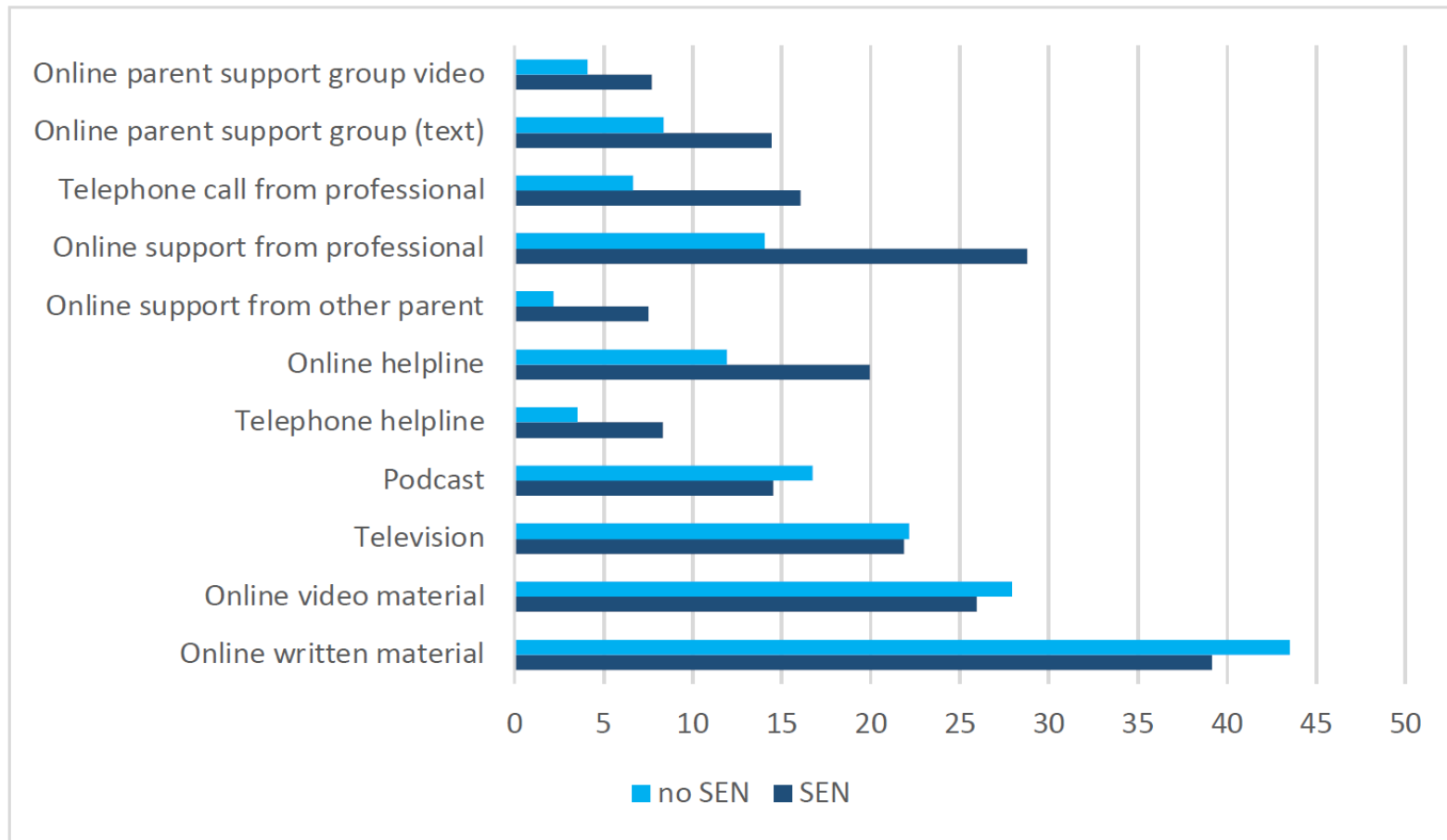
York University Study - 10% of parents reported that they did not require any further support or that the support they were receiving was adequate.

Others would like:

- Regular and tailored support from specialist professionals, ideally those who usually support their child at school.
- Appropriate educational activities that reflect their additional needs; some wanted support in explaining the lockdown to their child.
- Materials or ideas for home learning that are specific to their child's needs, e.g. sensory toys and equipment.
- Child to see familiar faces, even if just to say "*good morning*".
- Advice or support focused on their child's mental health and wellbeing.
- Help with food shopping.
- Respite care for the child, inc. attending some sort of structured activity outside the home (e.g. part-time school, play-group, weekend club).

# Research: Covid-19 worries, parent/carer stress and support needs, by child SEN and parent/carer work status

Figure 9. Preferences for how support should be delivered for parents/carers reporting on a child with SEN/ND



For parents/carers of a child with SEN/ND, the most popular ways to receive this advice/support were through online written materials (39.2%), personalised online

# Advice for parents and carers looking after children with SEND.

- [online education resources for children with SEND](#)
- [coronavirus educational resources](#) from The Sensory Projects
- [SEND-specific resources for learning from home](#) from Tech Ability
- [advice on supporting children with a learning disability or autistic spectrum disorder \(ASD\)](#) (CDC)
- [recommendations on special educational needs](#) (Education Endowment Foundation)
- [resources for under 5s](#) (Early Years Alliance).

# Timescales for EHC needs assessments and plans

- The law is changed only where, in a particular case, it is not reasonably practicable, or it is impractical, for a LA, health commissioning body or other body to discharge its duties for a reason relating to coronavirus;
- The modification is to the timing only. Where it is **not reasonably practicable or impractical to conclude an action** within the statutory timescale – e.g.. 6 weeks for a decision whether to make an EHC needs assessment - for a reason relating to the incidence or transmission of coronavirus (COVID-19), the LA or other body to whom that deadline applies will instead have to complete the process either as soon as reasonably practicable or in line with any other timing requirement in any of the regulations being amended.

# Timescales for EHC needs assessments and plans – key areas affected

- Handling of requests for EHC needs assessments;
- Decisions whether to issue plans;
- The preparation and issue of plans;
- Annual reviews of plans;
- The processes relating to mediation;
- The process for a LA reviewing for the first time the making and use of direct payments from a Personal Budget that is part of an EHC plan; and
- The timing of actions that the LA and health commissioning body must take when the First-tier Tribunal makes non-binding recommendations in respect of health and social care matters within an EHC plan.

# Implications for assessments and making of EHC plans

- Each case needs to be determined based on its own circumstances - there is no blanket lifting of the timescale requirements.
- LAs and health bodies cannot make blanket policies, such as “We are unable to provide EP or SaLT advice in 6 weeks”.
- Where there is a delay due to reasons related to coronavirus, LAs and health bodies must complete the action as soon as is practicable.
- Decisions, including those over the content of an EHC plan, must continue to be made in accordance with the statutory framework and be based on the individual needs, provision and outcomes for the child or young person.

# Delays: Follow the Code of Practice

LA must continue to have regard to the SEND Code of Practice (9:43):

- *The child's parent or the young person should be informed if exemptions apply.*
- *LAs should aim to keep delays to a minimum and as soon as the conditions that led to an exemption no longer apply the LA should endeavour to complete the process as quickly as possible.*
- *All remaining elements of the process must be completed within their prescribed periods, regardless of whether exemptions have delayed earlier elements.*

Where the circumstances relating to coronavirus set out in the Amendment Regulations apply to more than one process, then an exception may apply to each of these processes.



# Annual reviews of EHC plans

- Annual review requirements remain in place.
- A review meeting, even if by necessity briefer than usual, can be reassuring for parents, children and young people, through ensuring that their EHC plan is up-to-date.
- Where it is impractical to complete an annual review of a plan within the prescribed timescales for a reason relating to coronavirus, then it must complete it as soon as reasonably practicable.
- Annual review meetings may need to take a different form.
- It is important that they continue to ensure that the child or young person is at the centre of the process and can engage with the process in a meaningful way.

# Priorities for review

- children and young people with significant changes of need or circumstance;
  - looked after children;
  - children and young people in residential provision; and
  - children and young people in out of area provision, especially independent and non-maintained provision.
- LAs must already have completed this year's required transfer reviews for a child or young person moving between key phases of education. Where, exceptionally, completion has been delayed, these transfer reviews need to be finalised as a priority.

# The duty on education settings to admit (section 43): no change

- An early years setting, school, college or other setting named in an EHC plan must admit the child or young person.
- Where a setting is temporarily closed, the setting must still admit – child or young person must be placed on the roll and treated similarly to other pupils or students in the setting.
- LAs should consider the needs of those with an EHC plan, and make a risk assessment, consulting educational settings and parents or carers, to determine whether these children and young people can have their needs met at home and be safer there than attending an educational setting.
- Reasonable endeavours must be made to secure the provision in the EHC plan.

# Timescale for education settings to respond to a proposal to name them in an EHC plan: no change

- The expectation that early years settings, schools, and colleges have up to 15 days to respond to a proposal to name their institution in an EHC plan remains in place, and settings should be able to engage effectively in this aspect of the process.
- LA must send the proposed setting the draft plan and all advice and information received, which includes information about the individual's needs, provision and outcomes. The proposed setting can also make direct contact with the family.
- Communication during this part of the process is key to effective decision-making. We recommend that in parallel with sending the proposal to the setting, the LA also makes phone contact.
- Where the setting expects a possible delay in responding, it needs to communicate with the LA early.

# Complaints and rights of appeal of parents and young persons: no change

- No new complaints systems or processes.
- It is particularly important that there are effective ways of resolving disagreements about how a LA or health body have discharged their modified s42 duty, or about timeliness.
- In the first instance, families will be able to use the LA's or health commissioning body's complaints procedures. LAs and health commissioning bodies need to ensure that these procedures remain effective for the current context.
- SENDIASS will continue to have a key role to play in supporting families in finding the best way forward.

# Further Coronavirus (COVID-19) publications

- [EHC needs assessments and plans: guidance on temporary legislative changes relating to coronavirus \(COVID-19\)](#)
- [Coronavirus \(COVID-19\): guidance on vulnerable children and young people](#)
- [Coronavirus \(COVID-19\): SEND risk assessment guidance](#)
- [Coronavirus \(COVID-19\): guidance on isolation for residential educational settings](#)
- [COVID-19 guidance for educational settings](#)
- [Coronavirus \(COVID 19\): list of online education resources for home education](#)
- [Coronavirus \(COVID-19\): guidance for children's social care services](#)

# Support to make reasonable endeavours duty

- LA
- Health



# SIS Team update

## Support To Schools

- The SIS team are available to support learning programmes from schools being accessed at homes or in settings by CYP – please contact your allocated SIS team member for support.
- SIS have established agreed protocols and processes for virtual support to CYP at home where agreed and required.
- SIS will ensure that schools are aware of activities being undertaken at home with CYP to enhance their `reasonable endeavours`.

## Support to Families

- SIS team are in regular contact with families at home to offer support with home learning and are able to signpost families to resources to support their children`s learning and wellbeing.

## Statutory Duties

- Attendance at any virtual annual review and writing advice for statutory assessments.
- Ensuring reports and other documentation are in place for annual reviews and other required processes.

## Hearing and Vision Concerns

- Online meeting with SATH Audiology /ENT Ophthalmology Departments to discuss cases and process ongoing referrals
- Hearing aid repairs and equipment for visual impaired children- advice and maintenance continuing.

## What would help SIS?

- On line access to material being used with CYP so we can support learning and advise on differentiation and **accessibility**.

**CONTACT** – Your assigned SIS team member or [graham.groves@telford.gov.uk](mailto:graham.groves@telford.gov.uk) or [Theresa.robinson@terlford.gov.uk](mailto:Theresa.robinson@terlford.gov.uk)  
( Joint Team Leaders)





# LSAT update

We are pleased to be offering virtual support to schools at this time, including:

- \*Virtual planning meetings or one to one support for SENCOs;
- \*Teacher consultations via telephone or Microsoft Teams, including advice and guidance on how to support individuals with their home learning;
- \*Reports and consultations via online methods (in most instances advice can be given using evidence gathered from workbooks, education plans and conversations with children, parents and teachers over the phone);
- \*Online training delivery (either preparation of materials for staff to study in their own time with allocated slots for questions and answers, or small groups trained via Microsoft Teams).

The key is flexibility and we are working hard to deliver our support in different ways dependent on the needs of the school. Please contact your LSAT or [deborah.carpenter1@telford.gov.uk](mailto:deborah.carpenter1@telford.gov.uk) for further information.

# Educational Psychology:

- The Educational psychology Service (EPS) is open for business and we continue to deliver our traded service remotely. Please contact your link EP for: consultation on individual child, group and whole school issues. We also support staff and pupil wellbeing and provide Critical Incident responses.
- Schools who do not currently have an SLA with the EPS still have an identified link EP so please contact [Sendandinclusion@telford.gov.uk](mailto:Sendandinclusion@telford.gov.uk) or call 01952 385216 to make enquiries.
- EHC Reasonable Endeavours: EPS can provide support and advice on to help you make alternative arrangements to provision for children with EHCPs in the areas of cognition and learning, communication and interaction and social emotional and mental health needs. EPs will support the work of ELSAs and advise on and in some cases conduct therapy based work.
- The EPS is offering parent consultations and SENCos can facilitate this by contacting their link EP.
- EPs still have statutory responsibilities as part of the EHC needs assessment process; this means we will be contacting schools/settings and parents/carers to gather information and where possible carry out assessments through non-face to face methods.

# Traded Services

- We continue to provide provision over the summer term, albeit in a different fashion.
- Commitments need to be delivered over three terms (so if you purchase 6 sessions in total at least 2 should be used this term).
- Settings must use sessions from the LSAT and EP teams during the term.
- Sessions cannot be rolled over to Autumn and Spring Terms. This is not viable.
- Unclear at present when position will be more stable.

# Therapy provision

## Information from SHROPCOM Health provider

We aren't able to see people face to face at this time because of the Government instructions for social distancing and many of our staff are being redeployed within the wider NHS to support the national response to the virus. This means that we are not able to provide our full range of interventions.

Each of our services are keeping back a small team of staff to provide an advice line for you to call if you would like to speak to a therapist/team member. If you have concerns about a child's therapy needs or require an update to their current intervention plan please contact us on the number below, and we will help where we can.



## Advice Line

Open Monday to Friday 9am to 5pm

Call: 01743 450 800 (option 4) for Children's Therapy and CDC Services  
Occupational Therapy/Physiotherapy/Speech and Language Therapy/CDC  
Continued/...

In some cases your child may also have an Education, Health and Care Plan (EHCP). We will aim to respond to requests for contributions to children's Annual Review of their EHCP as and when they arise.

# SEND Team Update



The SEND team are continuing to offer support to all of our settings, families and partner agencies 0-25.

Please continue to hold virtual annual reviews, moving forward meetings and apply to the ISF panel. These are still going ahead thanks to the use of Microsoft teams.

With regard to any possible new EHC need assessment requests we ask that all educational settings first discuss these with your allocated SEND officer before starting an application. They will work with you to discuss how best to get SEND support and provision in place for children which might involve the use of more flexible release of ISF funding.

With regard to annual reviews, we are asking where possible that these are completed (although we know that will be a challenge!) and sent into the SEND team. We can help if you need a bit of help setting up virtual meetings —please ask your SEND officer or coordinator to ‘attend’ where you feel it is appropriate. Contact us on [sendandinclusion@telford.gov.uk](mailto:sendandinclusion@telford.gov.uk) or call 01952 385399

# Transition



Aqueduct School – Virtual tour:

<http://www.aqueductprimary.co.uk/our-school/reception-intake/>

# IN summary

- 2 key changes – exemption on 20 week timescale only in some cases.
- Need to undertake reasonable endeavours to provide for what is in a child or Yps EHC plan.
- Need to use ‘plan on a page’ to record what is being delivered.
- Ensure the plan on a page is agreed and shared with parents.
- Continue with annual reviews.



An opportunity to  
discuss SEN issues



# Evaluation

- Please leave a comment about the briefing using chat.
- How did you find the virtual briefing?
- What was helpful?
- Any further questions?