



LA Briefing for PCF – Monday 4th May 2020

As you will now be aware, the 1st May brought about some temporary changes to the LA statutory duties regarding SEND processes during the current Coronavirus pandemic.

It is only some aspects of the law on EHC needs assessments and plans that have changed temporarily; and the law has been modified, not disapplied.

The main features of the temporary changes focus on provision and timescales and in implementing these the government has sought to strike a balance during Covid-19 between:

- the needs of children and young people with SEND to be protected and to receive the right support in a timely way; and
- managing the demands on local authorities (education and social care) and health bodies to respond to the outbreak.

Whilst the laws around SEND remain in place

1. The duty to secure and arrange **provision** is temporarily modified to use 'reasonable endeavors' to do so. This is with effect from the 1st of May 2020 to the 31st of May 2020
2. **Timescales** that relate to needs assessments and plans will not apply but **only** where it is not practical or possible to meet a time limit for a reason relating directly to the incidence or the transmission of Coronavirus. In these circumstances all parties must carry out their duties as timely as possible

These modifications cannot be applied retrospectively.

The modifications to Section 42 of the SEND legislation around **provision** must be renewed by the Secretary of State **monthly**. **The timescale** modifications currently apply **until 25th September 2020**.

These 2 aspects of the law around EHC needs assessments that have changed temporarily places an even greater requirement for local authorities, health services and the other bodies involved in the processes relating to EHC needs assessments and plans to communicate **regularly, effectively and timely** with the families of those children and young people with EHC plans, or who are being assessed for plans or who apply for an EHC needs assessment. Where the changes in the law affect what families experience, they need to be advised:

- o what provision will be secured for each child and young person and the reason for any difference from what is specified in the EHC plan
- o when decisions will be made as part of the various processes relating to EHC needs assessments and plans

It is also still necessary for local authorities to ensure that children, young people and parents are provided with the information, advice and support necessary to enable them to participate effectively

in discussions and decisions about their support. Co-production is even more important than ever during these challenging times both at a strategic level and in relation to individual cases.

Local authorities (for special educational provision and social care) or health commissioning bodies (for health care provision) must also use their 'reasonable endeavors' to secure or arrange the provision. They must consider, for each child and young person with an EHC plan, what they can reasonably provide in the current circumstances during the notice period. For a very small minority of children and young people, the provision specified in their plan can continue to be delivered; but for the vast majority adjustments will need to be made. Where these are needed an annual review does not have to be held.

Examples of these temporary changes are as follows:

Examples of alternative arrangements may include:

- alterations to the frequency and timing of the delivery of provision in school, for example, moving to a part-time timetable
- a temporary placement in another school - mainstream or special. This will need to be with the agreement of the parent or young person and full account should be taken of the needs of the child or young person
- attendance at a local hub
- adjustments to home-to-school transport arrangements to support a modified school attendance timetable
- video class sessions for children to keep in touch with classmates and teaching staff
- a home learning reading programme, provided by a Special Educational Needs Co-ordinator (SENCo) and reviewed weekly
- weekly phone or video contact from school staff to monitor home learning programmes, to provide feedback, and to make adjustments as necessary
- a school or college delivering direct education or support in the home where a young person is not able to attend school or college (subject to risk assessment and appropriate health protection measures)
- educational psychologists providing brief therapy interventions
- specialist SEN Teachers providing advice and support to parents in relation to autism, visual or hearing impairment or literacy programmes
- enlarged materials being provided in the home where a child or young person has a visual impairment.
- a speech and language therapist delivering sessions via video link
- a health visitor or school nurse providing health advice or developmental reviews via teleconferencing
- the parent and child travelling to receive the therapy at suitable premises, where this can be done in ways consistent with guidance on reducing the transmission of coronavirus (COVID-19)
- an occupational therapist or a physiotherapist video linking to a child's home and modelling exercises that the parents could do with their child
- occupational therapists providing webinars for school staff on topics such as sensory strategies or pre-writing skills, or a teletherapy service
- sending home accessible hard copy therapy programmes with additional phone support for parents and young persons to help them work through them
- where an EHC plan already includes a personal budget or a direct payment, widening its use to enable the purchase of equipment or other relevant material to support home learning

- exercise sessions by video
- provision of alternatives to short breaks by providing online resources and activities for young people
- loaning parents school equipment, such as specialist support equipment (seating equipment, IT equipment used at school etc.) to be used at home to support learning
- counselling, or cognitive behaviour therapy, delivered over the phone once a week for 6 weeks by a mental health worker

The local authority and health bodies must keep an accurate record of the provision it has secured and agreed with parents and carers, for children and young people if this is anything other than what is stated in the EHCP and this must also be confirmed with the parents and/or young people. The provision must be kept under review during this challenging period and circumstances may change over time.

There are no changes to the duty of schools to admit children - if the school is closed, they must put the children onto their roll where they are named in an EHCP and they must be treated as any other child within that setting, including undertaking an initial Covid-19 risk assessment, which is then regularly revisited and dynamically updated with the local authority also informed of any changes in circumstances, such as home learning being commenced or ceased. Consultations with schools and settings must also be conducted as per the existing legislation, within a 15-day response period.

From 1st May all new requests for EHCP needs assessments will be assessed upon receipt and 'reasonable endeavours' must be taken by the local area to expedite the process as efficiently as possible. It is only if the children themselves, their household (parents or carers) or the officers are diagnosed with Covid-19 or showing symptoms, or, are directly affected by measures implemented to limit the incidence of transmission of the virus, that 'normal' timescales will not apply. The availability of the workforce and temporary closures of education settings may also impact upon the practicality of being able to assess and issue (where appropriate) Education, Health and Care plans however **blanket policies will not be applied by Leicestershire Local Authority and each case will be assessed on an individual basis**, taking into account the needs and specific circumstances of the child or young person, alongside their views and/or those of their parents or carers.

It has been made very clear that EHC plans cannot be issued without health advice.

With regard to annual reviews, there is a power under the Coronavirus Act 2020 for the Secretary of State for Education by notice, to temporarily disapply the duty to conduct annual reviews. A notice under this power has **NOT** yet been issued, so the **annual review requirements remain in place**. The government has, however, legislated to provide some extra flexibility for local authorities over the timing of these reviews, where it is impractical for a local authority to complete an annual review of a plan within the prescribed timescales for a reason relating to the incidence or transmission of coronavirus (COVID-19), then the local authority must complete it as soon as reasonably practicable. Annual reviews may take a different form, such as undertaken remotely but they must still take place with transfer reviews for children and young people moving between key stages finalised as a priority if not already completed.

Local authorities are asked to identify priorities for review, which may include:

- children and young people with significant changes of need or circumstances
- looked after children
- children and young people in residential provision

- children and young people in out of area provision, especially independent and non-maintained provision

There are no changes to the complaints systems and processes and SENDIASS will continue to have a key role to play in supporting families to secure appropriate provision.

Full details of the temporary legislative changes can be found by accessing the following links:

- <https://www.gov.uk/government/publications/changes-to-the-law-on-education-health-and-care-needs-assessments-and-plans-due-to-coronavirus/education-health-and-care-needs-assessments-and-plans-guidance-on-temporary-legislative-changes-relating-to-coronavirus-covid-19>
- <https://www.gov.uk/government/publications/modification-notice-ehc-plans-legislation-changes>

Children and Family Wellbeing Service

The service has been incredibly busy supporting families since the crisis began. Staff have been working creatively to find ways to deliver group work and programmes to families over the phone and on-line, as all group work programmes had to come to an end as the new restrictions came in. All families currently open to the service will be receiving regular contact with a worker – the frequency of contact dependent on the level of need for each child and family – it may vary from monthly through to several times per week. Contact can include telephone calls and texts, skype video calls and home visits where appropriate. We are working with families and schools to ensure that where it is considered in the best interests of the child to be in school that a place is available to them and is being taken up.

Early in the crisis the service was busy purchasing essential food items for families across our service and social care, where they were particularly hard hit through job losses, or lacked the ability to get out to the shops due to socially isolating and having no access to on-line services for ordering deliveries. As the situation around food availability has improved this role is now reducing. The service has drawn together a huge number of resources for children and families on the subject of Covid 19 – many of them focused on maintaining positive emotional health and wellbeing, and also child-friendly explanations of the virus. These resources are being placed on the Local Offer at regular intervals and also shared through the Local Offer Facebook page and the CFWS locality Facebook pages. Staff are making these resources available to families they are supporting via email and post. We hope that families are finding them useful. We continue to receive new referrals to the service every day and we are responding to them through our normal processes. Due to staff spending less time travelling we are finding we are able to slightly increase response times to families with a telephone support offer.

The CFWS will continue to provide updates as changes to service delivery and provision are implemented.

Recovery

The Local Authority is working closely with schools and settings to plan for children and young people returning to school in line with future announcements from central government. I am aware that the situation over recent weeks has been very stressful, particularly for parents and carers of children and young people with SEND. As time progresses we are hopeful that the light at the end of the tunnel is getting closer and that we will be in a position to resume 'Business as Usual' able to continue to

improve services and provision working in co-production with parents and partners. We will be engaging with schools, settings, colleges and the Parent Carer Forum (and other parent representatives and stakeholders) to work alongside the local authority to develop our plans for recovery.

Kind Regards,

A handwritten signature in blue ink, appearing to read 'PM Sumner'.