

# Inclusion: Bulletin for Schools and Settings

## Temporary changes to legislative guidance to Education Health and Care Needs – COVID 19

On 30<sup>th</sup> April 2020, the Government published the following guidance and modification notice which come into effect on 1<sup>st</sup> May 2020 and last until 25<sup>th</sup> September 2020 around timescales for new assessments and from 1<sup>st</sup> May 2020 until 31<sup>st</sup> May 2020 around annual reviews and provision for children with current EHCPs. Both of these may be extended or changed.

### Guidance:

<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>

### Modification notice:

<https://www.gov.uk/government/publications/modification-notice-ehc-plans-legislation-changes>

## But what does that mean in practice?

First and most importantly, NYCC remains committed to meeting our statutory duties for children and young people with Special Educational Needs and Disabilities. Any temporary changes to timescales and provision due to Covid-19 are just that and the modification to the law does not change the underlying duties.

### Some things haven't changed at all:

The LA and Health organisations:

- MUST still consider new requests for EHC assessment
- MUST ask for advice and information from all the professionals involved

- MUST seek the views and wishes of the child/ young person and the child's parent / carer
- MUST continue to involve parents / carers and children and young people in any decisions
- MUST still undertake statutory reassessments of EHCs
- MUST still review EHCPs
- MUST still give parents 15 days to respond to a draft EHCP
- MUST still give schools 15 days to respond to a consultation for a new placement
- MUST still respond to complaints and support the right to appeal
- MUST still engage with SEND tribunals

## **What has temporarily changed?**

What has changed is there is an understanding that some of the above might not be able to happen in the statutory timescales because of children / young people not being in schools / settings, professionals not being able to undertake assessments and staff across the children's workforce being pulled into Covid-19 frontline duties which means they can't write reports, deliver provision or contribute to an assessment as quickly or in the same way as they would usually do.

## **What does this mean in practice for new requests for assessment:**

### **Can we still request an EHC assessment?**

Yes, you can. Exactly as before, schools / settings can submit an EHCAR or parents can request an assessment. We still MUST have consent from parents / carers / young person but if this is difficult to achieve by signing the form / letter, we have agreed a process by which we can email you and we will document consent from that email trail.

Once we have the request and consent we will consider the information as we usually do. Where we have enough information to agree to assess, we will process that as quickly as possible and let you know. Where we don't have enough information to agree to assess we will get in touch with you by phone where possible (or by email) and have a discussion.

Our statutory duty is to make this decision in 6 weeks. The modification means that it is acceptable for this to take longer. In practice we are committed to and still achieving that 6 week decision and we do not anticipate situations where we couldn't achieve this. Only if we couldn't contact parents / carers / young people / key professionals for a discussion as described above would we extend this to ensure you are involved in the decision making process.

### **Will an EHC assessment go ahead when it's agreed?**

Yes, it will. We will write out to all the involved professionals and advice givers as usual and we will contact the Educational Psychology service to undertake their assessment. If you already have reports about the child, they can be submitted and if they provide sufficient information we will use those for the assessment even if they are not in the usual format. The Educational Psychologist (EP) will still undertake their assessment if they don't have recent information. This may not be face to face but they will contact you and do as much of their assessment as possible in this way. They will still write their report and submit their evidence and they will note on the report that the assessment was carried out

during the covid-19 restrictions and highlight what impact that might have on the quality of the advice.

We understand at the moment that many frontline health and care staff are prioritising work related to covid-19 duties. This means they may not be able to return the information to us within 6 weeks.

Where this is the case, we are committed to a quality assessment and we will not complete the assessment without sufficient information to do so. We will be flexible around the format of that advice but we won't compromise quality if we have no advice.

The modifications mean that if we have tried to secure the advice but due to covid-19 it is delayed, we don't have to complete the assessment and make a decision within 16 weeks. The guidance states that the final EHCP MUST still include all of the required advice and information so if gathering those takes longer than usual, we will take the time to ensure we have an EHCP that complies with the guidance and is right for your child.

### **Will the child's school placement be named in the EHCP?**

Yes, it will. Once a decision has been made to issue an EHCP – which may be later than 16 weeks (see above) – we will consult as usual to the settings of parental preference, current school and any other suitable schools that are under consideration. Schools and settings are still expected to respond within 15 days and if they can't, they are expected to let us know within 15 days why they can't and when we can expect a response.

If there is a change of school, the child can still be placed on the new school roll and this will be named in section I. The child should receive the support from this new school in line with their arrangements for other pupils and there should be a discussion about how the provision in the EHCP will be delivered during the covid-19 restrictions.

### **Should Annual reviews still go ahead?**

Yes, they should. There are some groups that are prioritised and where every effort should be made to ensure they still take place within timescales.

However, for all children with EHCPs there is a recognition that Annual Reviews may not take place in the usual way. They may need to happen remotely / virtually. They may need to be shorter. The paperwork and reports may be simplified. The guidance gives a number of suggestions for how they could take place.

### **Should a child still receive the provision in their EHCP?**

Yes, they should – but there may be temporary changes during this period. The modifications at this time acknowledge that if children aren't attending school or if therapists aren't available to provide specified input or if classroom support can't take place as specified then this temporary change is acceptable. However, reasonable endeavours should be taken to ensure, where possible, that provision detailed in the EHCP, continues.

You should discuss with parents/carers what can be delivered even in a different way and what can't be delivered temporarily and what that means. Consideration could include:

- Materials / resources / advice / homework should all be modified in line with the identified needs and provision in the EHCP and should be personalised for the child as far as possible.
- Alterations to the frequency and timing of the delivery of provision in school, e.g. moving to a part-time timetable.
- On line learning
- 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.

It is important that schools document these reasonable endeavours and keep them under review for each child / young person with an EHCP. The LA has circulated a document through which you can do this and which provides you with a framework to consider these reasonable endeavours.

Date: 12 May 2020