

Last Thursday, 30th April, the Department for Education released guidance on changes relating to supporting children and young people with an Education Health and Care Plan (EHCP) and those undertaking the assessment process.

<https://www.gov.uk/government/publications/changes-to-the-law-on-education-health-and-care-needs-assessments-and-plans-due-to-coronavirus>

At the same time they shared the attached letter addressed to all children and young people with SEND and their families and those people that support them. This follows the anticipated news that there would be an easing of the statutory duties of the LA during the current situation.

There are two key areas that have been relaxed:

- The duty to secure provision set out within the EHCP
- Meeting statutory timescales for assessment

However, the guidance confirms that many of the duties that are detailed within the SEND Code of Practice remain in place with the need for close working and good communication between all parties being highlighted as essential to ensure children and young people with SEND receive appropriate provision during the current circumstances.

Timescales

Where possible the SEN Team will continue to fulfill its duties as identified within the SEND Code of Practice within the stipulated timeframes. However, there may be occasions when this is not possible due to circumstances relating to the impact of Coronavirus which mean that assessments cannot be undertaken. In these instances an exception will apply and the LA will continue with the assessment process as soon as possible.

Provision

It has been recognised that children and young people with an EHCP will need additional support during the current circumstances to ensure that their special educational needs are being met and that the attainment gap between them and their peers does not grow. Educational settings continue to receive high needs funding for children and young people with an EHCP and will need to consider the provision that is being made during the current circumstances.

Modifications to Section 42 of the Children and Families act made by the Secretary of State for Education has recognised that the special educational provision being made for individuals with an EHCP may need to be changed during the current situation but that providers;

“must use their ‘reasonable endeavours’ to secure or arrange the provision.”

Securing or arranging provision in an EHC plan under the modified s42 duty

(Extract from guidance document)

In some cases local authorities and health commissioning bodies may be able to secure or arrange the provision as set out in the EHC plan. Where, however, the full provision in an EHC plan cannot be delivered or delivered in the way described in the plan, local authorities, health commissioning bodies, education settings and others may find the framework below useful in exploring with parents and the child or young person what provision can reasonably be secured or arranged. There should be a focus on:

- the provision that the EHC plan describes as needed by the individual child or young person
- the availability of those who should usually deliver what is needed
- what can be done to deliver provision differently

The framework acknowledges that what constitutes reasonable endeavours will vary according to the needs of each child and young person and the specific local context. In deciding what provision would be required, it might be appropriate to consider the following:

What?

Securing something different to the provision stated in the plan, for example 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, for example early years provider, school, college, community setting, home or clinic

How?

Frequency and timing of provision may be altered or modified in the light of available staff and risks that may cause harm

When?

Method of delivery may be altered, for example virtual rather than face-to-face and smaller rather than larger groups for teaching (where this can be done following the guidance on reducing transmission of coronavirus (COVID-19))

By whom?

Changes to the person delivering the provision, for example a learning assistant under virtual supervision rather than a specialist therapist or teacher

Further details and examples of how provision can be adapted can be found within the DfE guidance document.

Annual Reviews of EHC plans

There is an expectation that annual reviews will continue to take place and that, where possible, these should take place within the expected timescales. The guidance recognises the need for settings to be flexible and, in Shropshire, many of our schools have already used a range of media platforms to enable these to take place.