

# Coronavirus (COVID-19) Guidance on statutory assessments, Education, Health and Care Plans and Annual Reviews

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## Introduction

The DfE has published guidance for educational settings highlighting the expectation that all schools remain open where possible to provide places for key workers and **vulnerable children**, including where needed those students with EHCPs (<https://www.gov.uk/government/publications/covid-19-school-closures/guidance-for-schools-about-temporarily-closing> ).

Further guidance on 22<sup>nd</sup> March 2020 ( <https://www.gov.uk/government/publications/covid-19-school-closures/guidance-for-schools-about-temporarily-closing>), recommends that *'children and young people (CYP) **remain at home wherever possible**, and for schools to remain open only for those children who absolutely need to attend'*. Ealing SEN Assessment Service (SENAS) is seeking to ensure that our service continues to be delivered, particularly to our most vulnerable residents. The information below provides information about what you can expect in relation to EHC Assessment process.

## Requests for EHC needs assessments

Schools/colleges, parents/carers and young people will still be able to request an EHC needs assessment by emailing [ERSA@ealing.gov.uk](mailto:ERSA@ealing.gov.uk). It is likely that there will be enough evidence to support a full assessment of need if professionals are already involved with the child or young person and the education provider has been implementing their advice.

Given the national emergency and the constraints this is causing there may need to be some flexibility in terms of timing of the assessment in response to a request.

## Undergoing EHC needs assessments

When the request for EHC needs assessment has been agreed, a range of people across education, health and social care are approached for their advice. This will be more difficult because:

- health and care staff may be asked to work in front line services instead of their usual role given the level of health emergency

- some professionals may not be available due to sickness, needing to self-isolate or caring for children
- Educational Psychologists will not be able to see and assess children and young people in school/college in the usual way which forms a very important part of the assessment

The SENAS team will keep working to ensure that appropriate provision for children and young people is put in place and if there are unavoidable delays keep parents updated.

## **Finalising EHC Plans**

It will be harder to consult with schools/colleges to name in Section I of an EHC Plan at present. For completed assessments which are waiting on the final EHC Plan to be issued the current school/college will be named. This will mean that the child or young person will still be supported by that school/college during the COVID-19 crisis.

In cases where the CYP is not attending their preferred school, we will be asking the consulted schools to give a preliminary response based on the information available. If an observation is essential before confirming suitability of placement, the Local Authority (LA) will name the type of placement in Section I until an observation has taken place and the receiving school is able provide an official response. The CYP may need to remain in his/her current provision until the preferred placement is secured.

If the CYP is not attending education and is statutory school age the school either nearest, recommended by LA or parental preference may need to admit.

In cases where parental preference is for mainstream provision, the LA has a statutory duty to secure that placement unless incompatible with the efficient education of others; incompatible with efficient use of public resources; or incompatible with the child/young person's aptitude, age, SEN or ability. If a school is closed and unable to process consultation, the LA will name the school in line with parental preference.

In any of the above circumstances following admission, if concerns arise about progress, engagement or safety, the school will need to carry out an emergency annual review. If there is a safeguarding concern the school's

procedures around seeking parental consent and making a referral should be followed at all times.

SENAS will work together with parents/ carers, young people and schools/colleges to make sure that children, young people and their families feel safe and supported.

## Annual reviews

Updated guidance from the Department of Education has informed Local Authorities and schools that Secretary of State for Education has maintained the requirement for annual reviews to be conducted during the COVID 19 pandemic. Therefore, the Local Authority is required ask schools to ensure that Annual Reviews continue to go ahead as scheduled, using virtual or other means as required.

The Local Authority does however, recognise that within the current context of significantly reduced attendance and staffing, despite best endeavours, it may not always be possible or practical to hold annual reviews at the scheduled time.

The Department for Education has allowed for some flexibility with regards to the timing of those reviews where the incidence or transmission of coronavirus (COVID-19) means that holding the review would be impossible or impractical. In these circumstances the decision may be taken to postpone the annual review. This decision is one that would always need to be made by the school in collaboration with the parent/carer/young person. However, if a review has been postponed then it should be rescheduled and completed as soon as reasonably practicable.

It is particularly important that reviews for the following groups of children go ahead as usual and therefore these groups should be prioritised if needed:

- Children or young people approaching key transitions. This includes not both children in their final year at a setting and in their penultimate year. This will ensure that arrangements can be made and EHC plans can be updated in preparation for transition.
- Children and YP with significant changes of need or circumstances.
- Looked after children.
- Children and YP in residential provision.
- Children and YP in out of area provision, especially independent and non-maintained provision.

As discussed, annual reviews will in most cases have to take a different form, and virtual or phone reviews are likely to be the most practical way forward. However, despite this, reviews should continue to be child centered and both the child and parent/carer should still be asked to contribute in a meaningful way. All relevant professionals should be invited as usual and make best endeavors to attend or contribute.

The Local Authority continue to have staff working to process annual reviews and they should be sent to [EHCPReviews@ealing.gov.uk](mailto:EHCPReviews@ealing.gov.uk) as usual. If the school or parent feel that their EHC Coordinator should attend the review, then they can contact EHCCOS to discuss their availability and EHCCOs will continue to attend through virtual means where possible.

If you have any concerns or queries about the annual review process and the advice given above, then please contact the Helen O'Brien (Annual Review Manager) at [obrienh@ealing.gov.uk](mailto:obrienh@ealing.gov.uk) .

## **Delivering provision specified in EHCPs**

In Ealing, most schools and other educational settings will remain open for vulnerable children and for the children of key workers. It is expected that schools will open as per the normal operating hours and offer extended provision where possible for children of key workers. When possible learners with an EHCP should be receiving their educational entitlement in a similar way to learners able to access the virtual curriculum.

Provision in special schools, specialist provision and ARP should continue wherever it is practically possible and where this does not place pupils or staff at increased risk.

The Headteacher and chair of governors should be working together on communication to parents and carers regarding new arrangements. Communications should reflect what schools can accommodate and this may need to be regularly updated depending on future guidance and changing circumstances.

Some parents and carers have highlighted concerns about CYP not receiving all aspects of the provision which have been identified in their EHC Plans. In line with government advice however, it is important to note that provision should

be focused on care for children and young people and some flexibility may need to be accepted.

With the above in mind, on 19 March, the Government introduced new legislation into Parliament, in the form of the Coronavirus Bill ('the Bill'), in response to the outbreak ( <https://services.parliament.uk/bills/2019-21/coronavirus.html>). This legislation states that:

*'where a local authority is, because of the outbreak, unable, for example, to put in place stated provision, they will need to use their reasonable endeavours to do this, but won't be penalised for failing to meet the existing duty as set out in the Children and Families Act 2014. These emergency powers will only be exercised for the shortest period and where necessary and will be regularly reviewed. We will also be seeking to amend regulations on the timescales for EHC plan processes where this is appropriate because of COVID- 19. I want to reiterate that these decisions are not taken lightly but I believe strike the right balance in these difficult times'.*

Discussions between the school and parents/carers should take place in the first instance to ascertain the level of provision which can reasonably be delivered. The Local Authority will continue to liaise with schools to understand the impact of any reduced provision.

## **Queries, concerns**

SENAS will continue to operate to ensure that parents/carers and young people remain informed of any changes.

- Whenever possible, the EHC Coordinators will continue to attend meetings. Where face-face meetings are not viable, EHC Coordinators or the line manager will take part in virtual meetings via Skype.
- Electronic queries will continue to be address via email and calls. Please do not send queries, requests or documents by post as this may result in delay.
- In order to enable effective email communication, please ensure that SENAS is provided with a range of contacts at school who can be emailed, e.g. SENCO, inclusion leads, HT, administration accounts. With confidential information, emails will need to be encrypted using Egress. Please ensure that all the contacts above have created an account, which is free, and you only need to complete all details when you sign up.

