

## **Annex 1: SEND response to Covid -19 (Version 1: 25.5.20)**

### **Legal SEND changes enacted on 01/05/2020**

The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020 and Coronavirus Act 2020 Modification of section 42 of the Children and Families Act 2014 (England) Notice 2020 are now live.

The below guidance explains the National changes in legislation during covid- 19 pandemic.

### **The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020**

The amended Regulations came into force on 1st May 2020 and will cease to have effect on 25th September 2020.

The regulations amend the legal timescales relating to a number of statutory duties (see below) **only** where it is not reasonably practicable to comply with the timescales for a reason relating to the **incidence or transmission of coronavirus**.

The timescales are replaced with a duty to complete the relevant action as “**soon as reasonably practicable**”.

#### **List of statutory duties:**

The timescales related to the below duties will be replaced with as “soon as reasonably practicable” where it is not reasonably practicable to comply with the timescales for a reason relating to the incidence or transmission of coronavirus.

- Time frames relating to the request of Education, Health and Care Assessments, issuing of draft plans within 16 weeks and issuing of final plans within 20 weeks.
- Annual Reviews of Education, Health and Care Plan.
- Education, Health and Care re-assessment requests and amending or replacing an EHC plan following a re-assessment.
- Duties for when a pupil/student moves from one Local Authority/CCG to another.
- Time scales following the issuing of a First-tier Tribunal order.
- Time frames relating to mediation.
- Local Authority duty to disclose EHC plans in relation to higher education within 15 days.
- Duty to review the use of direct payments within the first three months of them being agreed.

### **Coronavirus Act 2020 Modification of section 42 of the Children and Families Act 2014 (England) Notice 2020**

For pupils with Education, Health and Care Plans the absolute duty to secure special educational provision and health care provision will now be treated as discharged if reasonable endeavours have been used.

The above duty will be live during a specified period which starts at the beginning of 1st May 2020 and finishes at the end of 31st May 2020. However, the secretary of state can choose to extend this on a month by month basis.

The DfE and 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.

The following examples of alternative arrangements are based on existing good practice. The list is intended to be illustrative and is not a comprehensive list of possible arrangements.

**Individual school response:**

Schools will continue to support children with EHCPs in the best way possible during the coronavirus pandemic.

Decisions about provision will be made in consultation with parents/ school and professionals when available and in line with the child's risk assessment.

The risk assessment will be completed and reviewed throughout lockdown as appropriate to each individual child.

Whilst schools will encourage attendance from the proposed return date 1<sup>st</sup> June 2020, risk factors will be considered when making this decision and a school offer to the child/ family will be put in place. If parents turn down the offer then the school will continue to provide appropriate support with learning and emotional wellbeing. Schools will draw on the professionals involved to support with this provision where possible eg SALT, VI, HI, CCN teams.

Scheduled annual reviews will continue to be completed by remote means and paperwork will be submitted as required.

This information will be reviewed and updated as Government and local guidance suggests.