Dear Colleagues,

**Provision for children and young people registered at your setting with an EHCP**

As you will be aware, the Government recently announced changes to legislation for children and young people with EHCPs. We have provided summary guidance below on the changes and what is needed, and the evidence the DfE are requiring of us all to underpin these changes – this can be found overleaf.

As anticipated the announcement on Sunday 10th May has not made any further changes to this area of requirement. If anything, the instruction from the DfE that education settings and other agencies must further encourage all vulnerable children of all ages, including those with EHCPs, to take up the school on-site offer is likely to increase scrutiny in this area.

We are aware that each setting has already been working with children and their families to put provision in place that best meets the child’s needs at these challenging times. The Government direction has been clear that *reasonable endeavours* must take place to provide the special educational and health provision set out in the child’s plan; and that all who are party to the plan know what provision cannot be delivered, or is taking place in an adjusted way. The requirement set out by the DFE is that this is evidenced.

As I am sure you have, we have also been considering what changes and support a child might need to return to your setting and how this can be achieved within current parameters of COVID-19 requirements and the planning for returning to school. To support this planning we have attached some documents with this briefing which you may find supportive to use with your children, families and workforce.

We recognise the current challenges facing schools and the impact of requiring evidencing the provision. Following review with Special School Heads we have identified a staged process to support and facilitate the collation of this work. This staged approach is only of relevance to Special Schools due to the high volume of EHCP’s.

All other schools please move straight to stage 4 of this guidance. If you already have a provision map please submit this with any amendments to take account of COVID 19 with your best endeavours to meet provision. Please confirm this has been done in partnership with parents and they are satisfied with the offer.

**Stage 1** –Special Schools will submit a ‘core offer’ statement covering what they are offering in school (i.e. if part time attendance, altered hours etc.

**Stage 2** –Special Schools will submit the names of children attending on-site with a statement advising that EHCP is being met as Child is attending school

**Stage 3**- Special Schools will submit where parents have declined to send the child into school with a statement advising that this means the school is not meeting the EHCP but could do so if the child attended.

Whilst this will need to be at child level if schools prefer they can send the LA a list of Children this applies for each stage to evidence this is their best endeavours including evidence of parental satisfaction and the offer of support at home for stages 1,2 and 3.

**Stage 4** – schools will fully complete the provided template for all other children – including those where parents, LA or others have raised concerns and return to us showing what is and isn’t being provided and why.

**Stage 5**- If there are concerns regarding a child in relation to provision on the EHCP or education provision the school make contact with the named LA locality link in a timely way to address the concerns or the LA locality link makes contact with the school. If the concern is of a safeguarding nature usual safeguarding procedures are followed.

**Stage 6**- If there are concerns from school or LA regarding availability of provision to meet assessed and identified needs these discussions take place in a timely way to review provision, resolve the concern and plan next steps for the child. This will be done through direct conversations with the LA locality link or EHCP caseworker and either party may commence the communication.

**Returns:**

If you are a special school returns need to be sent to your relevant SEND locality leads for your area. Due to the volume of EHCP’s held in Special Schools we will provide the additional support of a fortnightly Team Around the School meeting to talk about concerns in relation to children and young people the school or LA may have. This meeting will be arranged by your SEND Locality Lead.

Where you are a secondary school returns need to be sent to your LA locality link.

Where you are a post 16 provision or an independent provider returns will be done through your LA locality link in the specialist commissioning team.

Where you are a primary school we are asking for this to be done through your primary cluster to you LA locality link.

With children with EHCPs in mainstream settings we are not proposing regular TAS meetings any concerns can be raised through your through your LA locality link. Where the matter becomes specific to EHCP casework your LA locality link will pass this through to the casework team.

LA link list below, when submitting your emails can these please be headed “EHCP Provision”. Returns to be made by 19th June 2020.

To satisfy the requirements of the DfE I have attached a template we are asking you to complete, hold on the pupil’s file and also return to your LA Representative to evidence how provision is being made for children and consideration of what is needed to support a return to the setting, school or college.

If there are significant changes to the provision being made through the plan we are asking you to request an urgent Annual Review to respond to individual children’s needs. If you are hosting such a meeting please ensure any virtual platform used is GDPR compliant (i.e. not the public version of Zoom) or speak to your LA representative if you need help arranging this.

We will also review feedback on a thematic level so we can consider emerging themes, how settings are responding to these and how the local authority and its health colleagues can best offer support so would encourage completion of the latter elements of the return so we can support with this.

This is a statutory area where parents will be able to challenge any decisions made by education settings and other partners during this time and it is therefore important that we are well prepared together to respond to this. On that basis I would be grateful if you could please complete the correct Stage in this guidance for your CYP and send to the LA Representative as per detailed list overleaf by 19th June 20 or all children and young people with an EHCP in your setting.

Yours sincerely,

Amanda Henderson  
**Acting Head of Services for Children with Additional Needs**

***Temporary Legislative Changes***

On the 1st May 2020 changes to the SEN legislation came into force.

This covered two areas:

1. Section 42 of the Children and Families Act 2014 (duty to secure special educational provision and health care provision in accordance with EHC plan): the duty on LAs or commissioning health bodies to secure or arrange the provision is temporarily modified to a duty to use ‘*reasonable endeavours’* to do so. This is initially applied from 1st May 2020 and has been extended until 30th June 2020, this will be reviewed monthly by Secretary of State to decide if it is still appropriate and proportionate.
2. The SEND (Coronavirus) (Amendment) Regulations 2020 amend regulations that specify timescales that principally relate to EHC needs assessments and plans. Where it is not reasonably practicable, or is impractical, to meet that time limit for a reason relating to the incidence or transmission of coronavirus, the specific time limit will not apply; although the process must be completed as soon as reasonably practicable. This is applied from 1st May 2020 to 25Th September 2020)

**Please note that neither change can be applied retrospectively**

1. Special Educational and Health Provision in EHC plans - Reasonable Endeavours:

* Reasonable endeavours must still be used to provide the special educational and health provision set out in student’s EHC plans.
* Duties on settings to use their best endeavors to secure that the special educational provision called for by the student’s special educational needs, under section 66 of the Children and Families Act 2014, has not been altered.
* Consideration of whether provision can be reasonably provided must be individually applied and there cannot be a blanket policy about provision secured or arranged

Advice for decision making should take into account:

* the specific local circumstances, e.g. workforce capacity and skills and that of others whose input is needed; temporary closures of education settings; guidance on measures to reduce the transmission of coronavirus;
* the needs of and specific circumstances affecting the child or young person;
* the views of the child, young person and their parents over what provision might be appropriate

*Alternative Arrangements*

There is a requirement for settings to consider alternative arrangements to implement the stated provision for each child or young person with an EHCP. Alternative arrangements will be dependent on:

* the needs of the child or young person,
* the provision that is specified in a plan, and
* the specific local circumstances.

The delivery will also be dependent on a range of factors, e.g.:

* the availability and capacity of specialist staff to deliver particular interventions,
* the extent of the arrangements settings can make to provide home learning programmes, and
* the availability of suitable IT equipment in the home.

and should also receive regular review along the following lines:

* Does the provision available still provide what is stated?
* What is the child’s or young person’s situation?
* What services are available?

Record keeping is essential at this time and the communication between settings and parents or guardians is paramount to determine any changes to provision - what you intend to provide, why and how it differs from that in the plan. The attached template (as provided by the DfE) could be a useful tool to review the provision you already have evidenced through a provision maps, my plan plus documents or individual learning plans etc. along with considering these specific questions:

|  |  |
| --- | --- |
| What? | Securing something different to the provision stated in the plan, e.g. 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 – early years setting, school, college, community setting, home, clinic |
| When? | Frequency and timing of provision may be altered or modified in the light of available staff and risks that may cause harm |
| How? | Method of delivery may be altered, e.g. virtual rather than face-to-face and smaller rather than larger groups for teaching (in line with the guidance on reducing transmission of coronavirus) |
| By Whom? | Changes to the person delivering the provision, e.g. a learning assistant under virtual supervision rather than a specialist therapist or teacher |

2. Implications of SEND (Coronavirus) (Amendment) Regulations 2020Some statutory processes re EHC needs assessments and EHC Plans may be delayed where impacted on by Coronavirus and this is permissible under regulation

More detail regarding the Local Authority’s response to timescales and process will follow.

*Annual Reviews:*

* Requirements to complete remain in place.
* A review meeting, even if by necessity briefer than usual, can be reassuring for parents, children and young people, through ensuring that their EHC plan is up-to-date.
* If impractical to complete an annual review of a plan within the prescribed timescales for a reason relating to coronavirus, then it must complete it as soon as reasonably practicable.
* Annual review meetings may need to take a different form. GCC are currently looking into virtual platforms they feel are GDPR compliant.
* It is important that they continue to ensure that the child or young person is at the centre of the process and can engage with the process in a meaningful way.

3. Other important information:

There has been no change to the duty on education settings to admit a student with an EHC plan (section 43 Children and Families Act 2014) and even where a school is closed the student must be put on roll and treated as a student on roll.

In response to this there is also no change to the timescale for education settings to respond to a proposal to name them in an EHC plan.

4. Key Documents (hyperlinks attached)

The first document explains the new legislation and notice referred to in this briefing:

* [EHC needs assessments and plans: guidance on temporary legislative changes relating to coronavirus (COVID-19)](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)
* [Coronavirus (COVID-19): guidance on vulnerable children and young people](https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-on-vulnerable-children-and-young-people/coronavirus-covid-19-guidance-on-vulnerable-children-and-young-people)
* [Coronavirus (COVID-19): SEND risk assessment guidance](https://www.gov.uk/government/publications/coronavirus-covid-19-send-risk-assessment-guidance/coronavirus-covid-19-send-risk-assessment-guidance)
* [Coronavirus (COVID-19): guidance on isolation for residential educational settings](file:///C:\Users\gkeen\AppData\Roaming\Microsoft\Word\Coronavirus%20(COVID-19):%20guidance%20on%20isolation%20for%20residential%20educational%20settings)
* [COVID-19 guidance for educational settings](https://www.gov.uk/government/publications/guidance-to-educational-settings-about-covid-19/guidance-to-educational-settings-about-covid-19)
* [Coronavirus (COVID 19): list of online education resources for home education](https://www.gov.uk/government/publications/coronavirus-covid-19-online-education-resources/coronavirus-covid-19-list-of-online-education-resources-for-home-education)
* [Coronavirus](https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-for-childrens-social-care-services) (COVID-19): guidance for children's social care services
* **EDUCATION LOCALITY LINK CONTACTS**

|  |  |  |  |
| --- | --- | --- | --- |
| **Locality** | **Type of Provision** | **Link facilitator** | **Contact Details** |
| County | Special Schools and Specialist commissioning Team | Kevin Nicholls  Kay Thomas  Kate Barnes  Tracy Oosthuizen | [Kevin.nicholls@gloucestershire.gov.uk](mailto:Kevin.nicholls@gloucestershire.gov.uk)  01452 328378  [Kay.thomas@gloucestershire.gov.uk](mailto:Kay.thomas@gloucestershire.gov.uk)  01452 427399  [Kate.barnes@gloucestershire.gov.uk](mailto:Kate.barnes@gloucestershire.gov.uk)  01452 427200  [Tracy.oosthuizen@gloucestershire.gov.uk](mailto:Tracy.oosthuizen@gloucestershire.gov.uk)  01452 427200 |
| Locality  Gloucester / Forest | Secondary | Sian Edwards | [Sian.edwards@gloucestershire.gov.uk](mailto:Sian.edwards@gloucestershire.gov.uk)  01452 427212 |
| Locality  Stroud/ Cotswolds | Secondary | Andrea Jordan | [Andrea.jordan@gloucestershire.gov.uk](mailto:Andrea.jordan@gloucestershire.gov.uk)  01452 328199 |
| Locality  Cheltenham/ Tewks | Secondary | Vikki Burt | [Victoria.burt@gloucestershire.gov.uk](mailto:Victoria.burt@gloucestershire.gov.uk)  01452 328767 |
| County | Alternative Provision | Phil Haslett | [Phil.haslett@gloucestershire.gov.uk](mailto:Phil.haslett@gloucestershire.gov.uk)  07812 536814 01452 324155 |
| Locality  South Cotswold | Primary | Cath Liptrot | [Catherine.liptrot@gloucestershire.gov.uk](mailto:Catherine.liptrot@gloucestershire.gov.uk)  07786 078612 |
| Locality  West Glos/Forest | Primary | Tim Foster | [Tim.foster@gloucestershire.gov.uk](mailto:Tim.foster@gloucestershire.gov.uk)  07710 861319 |
| Locality  Gloucester | Primary | Deb Harris | [Deb.harris@gloucetershire.gov.uk](mailto:Deb.harris@gloucetershire.gov.uk)  07342 072252 |
| Locality  Stroud | Primary | Vanessa Grimshaw | [Vanessa.grimshaw@gloucestershire.gov.uk](mailto:Vanessa.grimshaw@gloucestershire.gov.uk)  07788 968243 |
| Locality  North Cotswold | Primary | Anna Barker | [Anna.barker@gloucestershire.gov.uk](mailto:Anna.barker@gloucestershire.gov.uk)  07912 207800 |
| Locality  Tewksbury District | Primary | Teresa Cross | [Teresa.cross@gloucestershire.gov.uk](mailto:Teresa.cross@gloucestershire.gov.uk)  07803 561856 |
| Locality  Cheltenham | Primary | Marcella Scoles | [Marcella.scoles@gloucetershire.gov.uk](mailto:Marcella.scoles@gloucetershire.gov.uk)  07427 472552 |