

Key Messages

- The Government has recognised that there needs to be some flexibility to the law around EHC Needs Assessments and EHC Plans during the Covid-19 crisis.
- This might be because
 - the child or young person is not currently attending an early years setting/school/college;
 - 'social distancing' guidelines may disrupt education settings' normal programmes, for those who are still attending, and makes certain interventions impractical;
 - the resources and services to secure the provision are [reduced or] unavailable because of illness, self-isolation or the need to direct staff resource at responding to the pressures generated by COVID-19.
- The Government have temporarily modified two aspects of the law around SEND because of Covid-19.
- The modifications are in place from 1st May 2020.
- They two modifications are:
 1. Changing from an 'absolute duty' on local authorities and commissioning health bodies to provide what is written in an EHC plan to making 'reasonable endeavours' to provide all or some of the provision written in a child or young person's EHC plan. The duty will be renewed one month at a time.
 2. Recognising that there may be delays in some of the processes and it may be impossible to meet timescales that are set out around EHC Needs assessments and EHC plans. The law now requires the processes to be completed 'as soon as is reasonably practicable thereafter'. This is in place until 25th September 2020 and will be reviewed for extension on that date.
- The modifications are temporary. When the Covid-19 crisis is over, the modifications will end and the normal duties and timescales will be back in place.
- All other aspects of EHC law remain unchanged. A local authority must still consider requests for a new EHC needs assessment or a re-assessment. Where the local authority decides to carry out an EHC needs assessment, it must still secure all of the required advice and information in order to be able to issue a plan.
- Annual reviews can and should continue. Reviews may, in the current circumstances, need to take a different form. It may be appropriate to use a simpler format to gather information electronically and to hold the meeting by phone or by virtual meeting.
- Section 19 of the Children and Families Act 2014 is still in force and key. Local Authorities must work together with children, young people and their parents when making decisions and plans.
- The aim is for families and the local authority or health body to work together to agree a mutually satisfactory arrangement for the time being. This may mean that for some or all of the period that the law is modified, a child or young person's provision may differ temporarily from what is set out in their EHC plan.
- Each case needs to be determined depending on the child, young person and families own circumstances. Local Authorities and commissioning health bodies are not able to make blanket decisions.
- There must be a written record of the decision with confirmation in writing to the parents or young person what it has decided to do and why. This should include the details of how to keep this under review.