

Legal Fact Sheet

The Government has legislated so as to strike the right balance during the outbreak of COVID-19 between:

- the needs of children and young people with special educational needs to receive the right support in a timely way; and
- managing the demands on local authorities and health bodies to respond to the outbreak.

Some aspects of the law on Education, Health and Care (EHC) assessments and plans have changed temporarily to give local authorities, commissioning health bodies and other bodies who contribute to the EHC process more flexibility in responding to the demands placed on them by COVID-19.

These changes have been brought about by:

- a. A notice from the Secretary of State issued under the Coronavirus Act 2020 to modify 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 local authorities or commissioning health bodies to secure [or arrange] the provision is temporarily replaced by a duty to use 'reasonable endeavours' to do so.
- b. The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020, that temporarily amend four sets of Regulations that set out timescales that apply to local authorities, commissioning health bodies and others: principally in relation to processes relating to EHC assessments and plans. There are maximum time limits for various processes relating to the EHC system. Where it has not been reasonably practicable to meet that time limit for a reason relating to the incidence or transmission of COVID-19, the local authority or other body to whom that deadline applies will instead have to complete the process in line with the requirement specified in the 2020 Regulations (such as 'as soon as is reasonably practicable thereafter').

It is only some aspects of the law on EHC assessments and plans that have been changed temporarily:

- The duty on local authorities or commissioning health bodies to secure [or arrange] the provision is temporarily replaced by a duty to use '*reasonable endeavours*' to do so
- Where it has not been reasonably practicable to meet a *time limit* for a reason relating to the incidence or transmission of COVID-19, the local authority or other body to whom that deadline applies will instead have to complete the process in line with the requirement specified in the 2020 Regulations (such as 'as soon as is reasonably practicable thereafter').

The full guidance can be found here.

<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>