

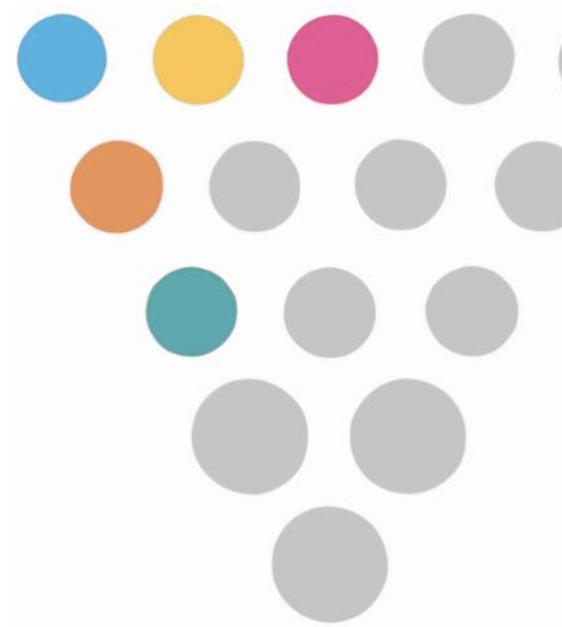


Guidance for schools and settings named in children and young people's Education, Health and Care plans during the Coronavirus (COVID-19) pandemic

25 August 2020, Version 5

Children's Health and Wellbeing

SEND



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1. Purpose of this document

The Department for Education (DfE) defines vulnerable children as those who have a social worker and those children and young people (CYP), up to the age of 25, with education, health and care (EHC) plans.

The purpose of this document is to set out the necessary actions in relation to statutory SEN processes for CYP with EHC plans during the Coronavirus (COVID-19) pandemic. It supports educational settings and the Statutory SEN Service in their continued joint work that is focussed on the best possible outcomes for CYP with EHC plans.

The document sets out the expectations on schools and settings on providing provision for vulnerable CYP. This is to ensure that the necessary legislative requirements are met and that there is consistent practice across all of the settings that provide education for Cornish CYP.

This guidance is based upon the latest information from the Department for Education (DfE). It identifies key points and provides some Cornwall specific information. If the information from the DfE changes this guidance will be updated.

2. Definition of educational settings

The guidance applies to:

- Registered childcare providers such as nurseries
- Local authority-maintained schools and academies (mainstream and special)
- Alternative provision including pupil referral units
- Non-maintained special schools
- Independent special schools
- General further education (FE) colleges
- Special post-16 institutions
- Other post-16 providers.

Some additional guidance is also available for early years settings to address matters that are specific to their particular context.

3.Children who have a social worker

There is an expectation nationally and locally that vulnerable children who have a social worker will attend an education setting during the Coronavirus pandemic. For CYP who are in care or are subject to a child protection plan colleagues from social care and/or the virtual school are the point of contact about attendance arrangements. **If CYP have a social worker and an EHC plan both the social care planning and monitoring, and, the arrangements set out in this document apply.**

To liaise with the Virtual School for Looked After Children please call 01872 323565 or email virtuelschool@cornwall.gov.uk .

To contact social care, in the first instance please contact the named social workers linked to the children and young people you work with. If you need support in accessing a social worker, or general advice, please contact the Early Help Hub 01872 322277 earlyhelphub@cornwall.gov.uk.

4.CYP with an EHC plan

i. Risk assessments - *section updated in version 5*

In accordance with the DfE's guidance there was an expectation that educational settings would undertake robust risk assessments for each CYP with an EHC plan in the second half of March 2020. Further guidance from the DfE about risk assessments was made available in April and May.

Decision making about educational arrangements for CYP with EHC plans was, and continues to need to be, informed by the up to date risk assessments for individuals and each setting's organisation level planning and risk assessment.

- Risk assessments are essential tools to support identification of the additional support CYP need to make a successful return to face to face education.
- Still subject to regular review, they inform education professionals' planning to deliver the provision specified in each EHC plan taking into consideration any breaks in provision during the 2019-2020 academic year.

- If CYP are moving between providers e.g. Year 6 to Year 7, Year 11 to post 16, educational providers must liaise and exchange risk assessment information.
- Risk assessments are vital if CYP have to self-isolate, quarantine or if a local outbreak of COVID-19 requires a setting to return to more limited attendance, or temporary closure.
- **A risk assessment is essential if a CYP is not able to access their full education offer by 21 September 2020. Contact must be made with the Statutory SEN Service statutorySEN@cornwall.gov.uk as soon as such a risk is identified. This will enable the Local Authority (LA) to engage with the education provider, the CYP and their family to support planning and ensure that the necessary arrangements are put in place.**
- From 21 September 2020 any arrangement for pupils in year 11 and below that are not full time are no longer a 'phased return' but must be registered with the LA as a part-time timetable.

It has been very positive that education providers have shared copies of the risk assessments for CYP with EHC plans with the LA, enabling us to meet our joint responsibilities. Sharing risk assessments has been very beneficial enabling a range of feedback to be provided, as required. The most effective risk assessments seen are CYP-centred and regularly reviewed with evidence that the parent/carers' wishes, and the views of the CYP have been taken into account.

In summary settings are expected to:

- undertake risk assessments and keep them under review over time as circumstances may change
- alert the local authority if there may be a need for support about processes or engagement in individual cases.

To contact the local authority an email should be sent to statutorySEN@cornwall.gov.uk. Messages to this in-box are being triaged so appropriate support can be offered.

Additional information about risk assessments, including links to the latest DfE guidance, is available on School Messenger and the Council's COVID-19 SEN webpages.

ii. Audit trail - *section updated in version 5*

Regular contact with CYP and families enables clear ongoing communication. This enables risk assessments to be monitored, and updated as necessary, so that arrangements for the return to face to face education are responsive to the needs of individual CYP.

Information about contacts, each CYP's risk assessment, and the family and CYP's views should be included in the CYP's records and are the audit trail to be kept by each educational setting. They should be stored in case required in the future.

iii. Regular communication - *section updated in version 5*

Contents of section removed.

Education providers should continue to implement their usual good practice in communication with CYP, their families, other agencies and the LA .

iv. Returning to face to face education – *section updated in version 5*

There is a clear national and local expectation that all CYP, including those with EHC plans, will access their usual education arrangements from September.

Staff in settings need to consider any individual support requirements for CYP as they transition back into attending their setting e.g. social stories, accessible notices relating to changes to how buildings are now being used.

If there are any concerns that a return to face to face education for individual CYP who have EHC plans may not be achieved by 21 September 2020 contact must be made with statutorySEN@cornwall.gov.uk .

5. Other sources of support – *section updated in version 5*

All the education support services generally available to settings are continuing to provide advice and guidance. Contact details for all Cornwall Council services are available in the SEN File. www.cornwall.gov.uk/senfile.

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A range of transition guidance documents have been produced by Cornwall Council for different age ranges at www.cornwall.gov.uk/transitions covid. As well as providing very useful information to support the planning for CYP moving between education settings this year the documents may be helpful when staff are supporting CYP to transition back into face to face education.

Educational settings with CYP who have EHC plans are encouraged to maintain close contact with the local authority for support and advice. The local authority will continue to advise and support individual educational settings.

6. Statutory duties

i. Legal position – *section updated in version 5*

The Coronavirus Act 2020 enables the Secretary of State for education to publish adjustments to the statutory framework for SEN as set out in the Children and Families Act 2014. These are called ‘notices’. Each time a notice is issued it states why a change is deemed ‘appropriate and proportionate’.

A notice came into effect on 1 May 2020 and was in place until 31 July 2020. It related to the duties of local authorities and health commissioning bodies under section 42 of the Children and Families Act 2014. The notice did not absolve LAs or health commissioning bodies of their responsibilities under section 42: rather ‘reasonable endeavours’ had to be demonstrated to secure or arrange the provision. Since 1 August 2020 this notice is no longer in place and the duties of local authorities and health commissioning bodies under section 42 of the Children and Families Act 2014 are the same as prior to 1 May 2020.

Also, on 1 May 2020 the DfE amended, until 25 September 2020, the regulations that specify the timescales that apply to various processes relating to EHC needs assessments and plans. Where it is not reasonably practicable to meet the time scales set out in SEN legislation for a reason relating to the incidence or transmission of COVID-19, the specific time limit (such as to issue a plan to someone eligible for one within 20 weeks of the initial request) will not apply. Instead process have to be completed as soon as reasonably practicable. Reasonably practicable is defined as in a timely manner in accordance with general public law principles.

Any adjustments have to be individual to parts of a process and a particular CYP. There are no system changes and the modification relates to timing only, on a case by case basis for each individual step in a process.

The local authority has to record failure to meet timescales due to COVID-19 as an 'exception'. There is clear guidance about the process for exceptions, such as clear communication with families, set out in the SEND Code of Practice.

Please note:

Key elements of EHC needs assessments and plans processes remain unchanged.

This includes:

- considering requests for a new EHC needs assessment
- securing all the required advice and information in order to be able to issue an EHC plan
- having regard to the views and wishes of CYP and their families
- the duty on education settings to admit (section 43)
- timescales for education settings to respond to a proposal to name them in an EHC plan
- complaints and the rights of appeal.

ii. EHC plan reviews - *section updated in version 5*

Reviews of EHC plans need to take place as usual.

Many families and professionals have commented on some of the positive benefits of virtual attendance at review meetings during the spring and summer terms e.g. an external agency being able to take part when previously time spent travelling would have limited their capacity to be involved.

Updated guidance for virtual annual review meetings and/or including virtual participants is available for educational settings. It can be found on www.cornwall.gov.uk/sen-covid19-response

iii. EHC needs assessments - section updated in version 5

The legal right for schools, families and other agencies to request a statutory EHC needs assessment have remained in place.

Full information about EHC needs assessments is available in the SEN File on the Council website, any specific questions can be raised by emailing StatutorySEN@cornwall.gov.uk.

7. Ongoing monitoring by the local authority - section updated in version 5

In the very first stage of the response to COVID-19 the local authority primarily worked with educational settings at a provider level, in conjunction with some detailed activity relating to a small number of individual CYP. The response of educational settings working with CYP with EHC plans in our county, and much further afield, was of a high quality and focused on individuals' needs. There were many great examples of: person centred approaches; effective systems and assessments being developed in a timely manner; and, flexible front line working.

In April the local authority introduced a simple weekly return in relation to each CYP with an EHC plan. Providers engaged with this activity reporting the last date on which two-way contact took place with the CYP and/or their family, and the form of provision the CYP was accessing. CYP with EHC plans are one of the DfE defined vulnerable groups and the returns received were very helpful.

Exact reporting expectations from the beginning of the new academic year will be informed by DfE requirements. If further reporting is required the local authority will endeavour to provide clear information and, as before, limit the requirements of education providers as much as is possible.

8. Safeguarding - section updated in version 5

The partial closure of educational settings was unknown in most of our lifetimes and placed the families of some vulnerable pupils under increased pressure. The local authority's expectation is that all our education providers will be mindful of the experiences of CYP and their families when working with them over the coming weeks and months.

We all have a duty to ensure that all vulnerable CYP, including those with an EHC plan, are well cared for and safe and we must continue to ensure that the best interests of CYP always come first. Designated Safeguarding Leads should continue to be available in settings to ensure that CYP are protected at all times.

If anyone in a setting has a safeguarding concern about a CYP, standard safeguarding reporting processes must continue to be followed.

<https://www.cornwall.gov.uk/childprotection>

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This document will be revised and updated as required. If you have any feedback, please email julie.lemasurier@cornwall.gov.uk.