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Guidance

Conducting a SEND risk assessment during the coronavirus outbreak

Updated 7 May 2020

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This guidance advises local authorities to conduct risk assessments and makes suggestions and recommendations for how that might be done in collaboration with educational settings and parents.

As part of the response to coronavirus (COVID-19), educational settings have been asked to continue to provide care for a limited number of children and young people - those who are vulnerable (including those with an education, health and care (EHC) plan), and those whose parents or carers are critical to the coronavirus response. It is important to underline that all educational settings remain safe places for children and young people.

This guidance has been put together with help from special educational needs and disability (SEND) sector organisations and outlines pragmatic approaches that local authorities, educational settings, and parents or carers may wish to take.

This guidance document relates particularly to children and young people whose need for hands-on care or whose behaviours mean that there are more, or more nuanced, risks to be managed than for the majority of children and young people with EHC plans. Most of these children and young people attend special schools, specialist colleges and other specialist settings, but this guidance also applies to any mainstream educational setting caring for such children and young people.

Legal context

The Coronavirus Act 2020 (<http://www.legislation.gov.uk/ukpga/2020/7/schedule/17/enacted>) includes emergency powers to enable the Secretary of State, temporarily to disapply or modify legal requirements under the Children and Families Act 2014 (<http://www.legislation.gov.uk/ukpga/2014/6/part/3/crossheading/education-health-and-care-plans>), where appropriate and proportionate.

We have used these powers and changes to secondary legislation to temporarily amend some aspects of the law on EHC needs assessments and plans to give local authorities, health commissioning bodies, educational settings and other bodies who contribute to these processes more flexibility in responding to the demands placed on them by coronavirus. We have published detailed guidance about the changes to the law on education, health and care needs assessments and plans due to coronavirus (<https://www.gov.uk/government/publications/changes-to-the-law-on-education-health-and-care-needs-assessments-and-plans-due-to-coronavirus>) alongside these temporary changes.

The duty on early years providers, schools and colleges to co-operate with local authorities in the performance of their SEND duties remains in place. Close working and communication between all parties is a central element in ensuring that children and young people receive appropriate provision.

Ultimately, it is for parents/carers or a young person (or the corporate parent, where applicable and the child is in the care of the local authority) to decide whether the child or young person should continue to go to school or college.

Assessing risks

We are asking local authorities to consider the needs of all children and young people with an education, health and care (EHC) plan, and make a risk assessment, consulting educational settings and parents or carers, to determine whether children and young people with SEND will be able to have their needs met at home, and be safer there than attending an educational setting.

The risk assessment should incorporate the views of the child or young person. Where a child or young person with an EHC plan has a social worker, the social worker should also be involved in the risk assessment, along with the local authority virtual school head if the child is in care. Local authorities and

educational settings should decide together who is best placed to undertake the risk assessment, noting that the duty to secure provision remains with the local authority.

Where the risk assessment determines a child or young person with an EHC plan will be safer at home, we recommend they stay at home. Where the risk assessment determines a child or young person with an EHC plan will be as safe or safer at an educational setting, we recommend they attend the educational setting.

We recognise that some local authorities and educational settings will have already undertaken risk assessments for many vulnerable children and young people and taken decisions on appropriate provision. There is no need to re-do these because this guidance has been issued. Some local authorities and educational settings will have done provisional risk assessments and will want to revisit those to check whether the decisions made initially will remain suitable over time. We trust local authorities, having consulted with educational settings, the parents or carers, and the child or young person, to make these decisions, recognising that school and college leaders and staff will have a sound understanding of an individual child or young person's needs.

A risk assessment for a child or young person will need to balance a number of different risks, including:

- the potential health risks to the individual from coronavirus, bearing in mind any underlying health conditions
- the risk to the individual if some or all elements of their EHC plan cannot be delivered for the time being and the risk if they cannot be delivered in the normal manner or in the usual setting and the opportunities to meet needs in a different way temporarily, for example, in the home or online
- the ability of the individual's parents or carers or home to ensure their health and care needs can be met safely week-round or for multiple weeks, bearing in mind the family's access to respite
- the potential impact to the individual's wellbeing of changes to routine or the way in which provision is delivered
- any safeguarding risks for children with a social worker if not in school and the need to support care placements for looked-after children (see the vulnerable children guidance (<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>) for further information on school attendance for children with a social worker)
- any other out-of-school/college risk or vulnerability, for example, a child or young person becoming involved in dangerous behaviour or situations (including the risk of exploitation)

Risk assessments should consider which children and young people with EHC plans may benefit more from remaining at school or college than at home.

This is most likely to be the case where:

- a child or young person is receiving personal care or healthcare at their school or college which cannot be replicated at home (for example, many pupils and students in residential settings)
- it is not sustainable for parents or carers to meet their child's needs full-time for an extended period (for example, those attending day settings whose parents/carers meet their personal care, mobility or other needs in evenings and weekends, but where this would not be sustainable full-time)
- the child or young person would face other risks out of school or college (for example, if it is more feasible for them to follow social distancing and good hygiene practices within the routine and familiarity of their school or college day, or where their behaviour would put them at other risks out of school or college)
- children and young people whose condition prevents or inhibits self-regulation and whose behaviours cannot be supported or managed by parents or carers at home; or where this would place a risk to other siblings or family members

In these or similar circumstances, the risk assessment might determine that the benefits to the child or young person from continuing to attend their educational setting are greater than being at home.

Many other children and young people with EHC plans can safely be supported at home. This could be for various reasons, including because:

- they do not need irreplaceable care or health provision
- the services they most need can be moved from their educational setting into their home
- their parents can meet their needs full-time
- they are able to follow hygiene and social distancing practices at home
- due to their health vulnerabilities, they are safer in the more stringent social distancing environment of their home

Local authorities, educational settings and parents will want to consider, as part of any risk assessment, whether moving either equipment or services into a child or young person's home would enable them to be supported there rather than staying at school or college, particularly where this offers a medically vulnerable child or young person a way to have their needs met with fewer contacts than might be inevitable at school or college. This may be a more feasible solution for day settings than residential settings, and may include:

- physiotherapy equipment
- sensory equipment
- online sessions with different types of therapists
- phone support for parents in delivering interventions
- in-person services, where necessary

These decisions will often be difficult and finely balanced but local authorities, schools and college leaders and parents and carers, working collaboratively, are well placed to make these decisions.

Questions and answers

Does school or college provision have to be delivered as it usually is for children with EHC plans?

Coronavirus may make it more difficult for a local authority or health commissioning body to secure or arrange all the elements of the specified special educational and health provision in an EHC plan as required by section 42 of the Children and Families Act 2014. For example, the following of 'social distancing' guidelines may disrupt educational settings' normal programmes and make certain interventions impractical. In addition, the resources and services needed to secure provision may be reduced, due to the need to direct staff to respond to the pressures generated by coronavirus.

Due to the unprecedented circumstances presented by coronavirus, the section 42 duty has been temporarily modified so that local authorities and health commissioning bodies must use their 'reasonable endeavours' to discharge this duty. This means that local authorities and health bodies must consider what they need to provide for each individual child or young person with an EHC plan during the period that the modified section 42 duty is in force. For some children and young people, the provision specific in their plan will continue to be delivered, but for others, the provision may need temporarily to be different to that which is set out in their EHC plan.

More information is available in the guidance on changes to the law on education, health and care needs assessments and plans due to coronavirus (<https://www.gov.uk/government/publications/changes-to-the-law-on-education-health-and-care-needs-assessments-and-plans-due-to-coronavirus>).

How can I conduct a risk assessment for all the children and young people with EHC plans in my school, college or local area?

Risk assessments should be proportionate. In both assessing risks and meeting needs, local authorities and educational settings should concentrate their resources on those children and young people with the most complex needs.

Local authorities and educational settings should work together to decide who is best placed to carry out risk assessments for individual children and young people.

Who needs to be involved in making the risk assessment?

The key risk assessors should be local authorities and educational settings, taking into account the needs and views of the child/young person, their parents/carers and social workers and virtual school heads where appropriate.

Where an educational setting makes a decision without being able to involve the local authority, for instance where circumstances are changing too rapidly, they should inform the local authority of that decision immediately.

Where a risk assessment determines that a child or young person will be safer at home, local authorities and educational settings need to ensure the family understands the support plan that is in place for them, before a child or young person stops attending their educational setting.

If a child or young person has a diagnosis of a learning disability (such as profound and multiple learning difficulties, or a severe learning difficulty), autism or both, and behaviours that challenge or a mental health condition, the risk assessors should ensure, with the agreement of the family, that the child is identified on the NHS Clinical Commissioning Group dynamic support register (see the nasen guide improving health care: learning disabilities and autism (<https://nasen.org.uk/uploads/assets/63884f84-0ae0-4ae2-9d11722e4eeb68e9/LearningautismWEB.pdf>) for further information).

How does this guidance impact children and young people who have an EHC plan and a social worker?

There are a significant number of children and young people with an EHC plan and a social worker.

The decision on whether these children and young people should continue to attend an educational setting should be made collaboratively on an individual basis with local authorities and educational settings working with parent/carers, the child or young person and social workers to undertake a risk assessment to determine where the child or young person's needs and best interests can most safely be met.

Further information on attendance expectations for children and young people with a social worker can be found in the guidance on supporting vulnerable children and young people (<https://www.gov.uk/government/publications/coronavirus-covid-19-guidance-on-vulnerable-children-and-young-people>).

Is the government prescribing a particular form or process for the risk assessment?

No. Local authorities and educational settings will have their own arrangements in place and we trust local leaders to agree what the most appropriate and proportionate formats are.

Has the responsibility for special educational provision changed?

Responsibility for commissioning any at-home special educational provision lies with the local authority responsible for maintaining the EHC plan, though it may be possible for some of the provision to be provided by the school or college or even in a home setting. The local authority should work with the educational setting

to ensure that parents and carers are aware of the education, health and care services available to them at home.

Under the modified section 42 duty, local authorities and health commissioning bodies must use their 'reasonable endeavours' to discharge the duty to secure or arrange the provision specified in a child or young person's EHC plan. We have published detailed guidance on the changes to the law on education, health and care needs assessments and plans due to coronavirus (<https://www.gov.uk/government/publications/changes-to-the-law-on-education-health-and-care-needs-assessments-and-plans-due-to-coronavirus>), which includes some illustrative examples of the type of arrangements that might be reasonable for local authorities and health commissioning bodies to put in place.

Can the risk assessment be reviewed or changed as events change?

Yes. Local authorities will need to revisit risk assessments as circumstances change. For example, the needs of some children and young people may be able to be met at home but only for a finite amount of time.

Who might be involved in supporting learning for those children and young people who do stay at home?

We have an experienced, expert workforce of special educational needs coordinators (SENCOs), education psychologists, speech and language therapists, qualified teachers of sensory impairments, other therapists, and teaching assistants often with specialist knowledge.

Designing at-home learning and support for children and young people with EHC plans could involve any or all of these professionals, to design or adapt interventions or learning materials. For example, this might involve designing a speech and language intervention that parents can deliver at home, or adapting or selecting online learning materials.

For those children and young people with EHC plans in mainstream schools and colleges, SENCOs will typically lead on ensuring that they have access to materials they can use to learn, often drawing on other professionals to source or adapt online learning that addresses a child or young person's special educational needs. Similarly, education psychologists may play a key role in recommending the essential provision for a child or young person to receive at home.

What risk are teachers, support staff and other practitioners exposing themselves to?

Fewer children attending educational settings will mean that social mixing is reduced and the spread of coronavirus is less likely.

Settings remain safe places for children and staff.

As far as is possible, social distancing should be adhered to in all settings and class or group sizes should be kept small. Guidance on social distancing, including on which staff members should attend and should not remain at work, can be found at implementing social distancing in education and childcare settings (<https://www.gov.uk/government/publications/coronavirus-covid-19-implementing-social-distancing-in-education-and-childcare-settings/coronavirus-covid-19-implementing-social-distancing-in-education-and-childcare-settings>).

What about the risk to staff working hands-on with pupils and students who cannot adhere to strict hygiene practices?

It is recognised that some children and young people with special educational needs present behaviours that are challenging to manage in the current context, such as spitting uncontrollably.

It will be impossible to provide the care that some children and young people need without close hands-on contact.

In these circumstances, staff need to increase their level of self-protection, such as minimising close contact and having more frequent hand-washing and other hygiene measures, and regular cleaning of surfaces. We recommend that educational settings follow the Public Health England guidance on cleaning in non-healthcare settings (<https://www.gov.uk/government/publications/covid-19-decontamination-in-non-healthcare-settings/covid-19-decontamination-in-non-healthcare-settings>).

How can I keep all staff and children in my setting safe and reduce the risk of infection?

In the first instance, you should follow the coronavirus guidance for educational settings (<https://www.gov.uk/government/publications/guidance-to-educational-settings-about-covid-19/guidance-to-educational-settings-about-covid-19>). Children and staff who show symptoms of coronavirus should not attend and should instead remain at home. If a child or member of staff is not showing symptoms but someone in their household is, the child or member of staff should follow the guidance for households with possible coronavirus infection (<https://www.gov.uk/government/publications/covid-19-stay-at-home-guidance/stay-at-home-guidance-for-households-with-possible-coronavirus-covid-19-infection>) and remain at home for 14 days.

The scientific evidence shows that most staff will have no need for Personal Protective Equipment (PPE) beyond what they would normally need for their work. Educational settings should be following the principles of good hygiene and infection control. This means regular, thorough hand washing using soap and water, or alcohol gel when handwashing facilities are not available, good respiratory hygiene (the 'catch it, bin it, kill it' technique for coughs and sneezes) and cleaning arrangements. Social distancing measures should also be in place wherever feasible.

All these measures will reduce the risks of transmission of coronavirus (COVID-19).

How should daily cleaning regimes be managed?

We recommend that all educational settings follow the Public Health England guidance on cleaning for non-healthcare settings (<https://www.gov.uk/government/publications/covid-19-decontamination-in-non-healthcare-settings>).

Toys and equipment should be cleaned and disinfected regularly, using normal household detergents. Soft or cuddly toys should not be shared between pupils or students.

All children, young people and staff should wash hands on arrival at their educational setting, and more regularly throughout the day.