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09 June 2020

Dear Parent or Carer

Special Educational Needs and Disability (SEND) Update – June 2020

The purpose of this letter, which has been agreed with the Parent Carer Voice Herefordshire, is to provide you with a summary of the changes to the law with regard to Special Educational Needs and Disability (SEND) that have temporarily been put in place as a result of the situation with the COVID-19 virus and to provide some information on the return to school for children with SEND.

A link to the full guidance on the changes in law can be found here:

[EHC needs assessments and plans: guidance on temporary legislative changes relating to coronavirus \(COVID-19\)](#)

The two key changes are:

1. Provision described in a child's EHC Plan

There is a duty on Local Authorities and Clinical Commissioning groups (CCG) to secure or arrange the provision in Education, health and Care Plans (EHCPs) (Section 42 of the Children and families Act 2014).

This duty is temporarily modified to a duty to use 'reasonable endeavours' to arrange the provision.

This change is in place until the end of June 2020 but can be renewed by ministers on a month-by-month basis if they are felt to be necessary.

If children are not able to be in their school or setting and even in some circumstances when they are in school/setting, it might not be possible for the school or health service to deliver what is written within the EHC plan. Herefordshire Council and Herefordshire CCG will continue working with schools, other educational settings and health services to see what can be done to deliver the provision. Potentially, this might be delivered in a different way to previously; in some circumstances, it may not be possible to deliver all of the provision while restrictions are in place. As more children return to school from June 1st (see below regarding return to school), the position for some children with EHCPs might change. From the 15th June onwards, Herefordshire Council will be asking schools and settings to review each EHCP and to write to parents or carers on behalf of the Council to let them know what can be

delivered in the current situation. If parents or carers have questions about the provision described in the EHCP and whether it can reasonably be delivered at this time, they need to discuss what can be done with their school or educational setting in the first instance. If the school or other educational setting are unable to answer questions, parents or carers should contact the Council's SEN Team (senteam@herefordshire.gov.uk or 01432-260178).

2. Timescales for Statutory Assessment

Where children are undergoing an Education, Health and Care Assessment, the Council are required to complete the assessment within the statutory timescales. The government has made changes to the law with an exemption to the deadlines for assessments in cases where 'it is impractical' to keep to the timescale for reasons related to the COVID-19 virus, for example where professionals cannot see the child in school because of the current situation. In such cases, the Council will write to you telling you that it has to suspend the assessment for reasons related to COVID-19 and inform you that the assessment cannot be completed within the statutory timescales. However, the assessment will be resumed, as soon it is practical to do so. The Council will write to you again to confirm the new date by which it is anticipated the assessment will be completed. It is not the case that these assessments will need to be started from the beginning.

Where it is practical to do so, professionals making assessments are expected to do as much of the assessment work as possible using video calls or other means.

This change is in place from 1st May 2020 until 25th September 2020.

Other temporary amendments include:

- Timescales for the mediation process
- Timescales in relation to personal education budgets
- Timescales for the completion of annual reviews

Full details of these changes can be found in the guidance on the link above.

It is also important to stress that there are a number of important areas of the Children and Families Act 2014, which relate to SEND, that have not changed as a result of this temporary change in the law. These include:

1. **Annual Reviews** should take place at the expected time. The Council has written to school special needs co-ordinators to explain this. Reviews will be carried out differently to previously, perhaps on a video/phone call or by sharing documents via e-mail.
2. **Co-production**: It is still expected and important that EHC plans are co-produced with parents and carers. As with Annual Reviews, the way in which this is done might need to change temporarily.
3. **Admission of Pupils with EHC Plans**: Schools and settings still have a duty to admit pupils/students (to put them on roll) and should treat them as other pupils with EHC Plans attending the school. This applies even if the school or setting is closed.
4. **School/Setting Consultation Periods**: Where the Council is consulting with a school for a placement for a child with an EHC Plan, the usual timescale of 15 days still applies.

With the return to schools that started on June 1st (secondary from 15th June), each school is having to consider matters such as space to allow social distancing, the number of staff they have available, school transport and many other factors. Each school is working with the national and local guidance to ensure that pupils return safely to school. A letter for all parents and carers is attached.

For children with SEND and EHC Plans, each school will need to consider the extent to which any specific arrangements will need to be made. For those with EHC Plans, schools will need to continue to update their risk assessments to inform decisions about return to school in conjunction with information provided by parents or carers. Mainstream schools are looking to follow government guidance in relation to particular year groups. If a child's risk assessment indicates that the child is safer or as safe in school, it would be expected that they will return alongside the rest of their year group.

Special schools and specialist settings are not tied to bringing in particular year groups and are working hard to consider how or if they can bring more children back into school in a safe and sustainable way. The national guidance highlights the difficulty that some special schools/specialist settings might encounter in bringing back all pupils straight away. It is for this reason that the guidance suggests flexible approaches that could include:

- part-time timetables and attendance rotas
- blended onsite and home learning
- phased returns for individuals or groups
- children and young people being offered blocks of time on-site on a rotating basis

The full guidance can be found on the following link:

<https://www.gov.uk/government/publications/coronavirus-covid-19-send-risk-assessment-guidance>

It is recognised that for many families, the current situation is making life very difficult. In the first instance, if you have concerns, I would urge you to talk to your child's school or educational setting. The Council and Wye Valley Trust have produced a helpline e-leaflet for contacting different services that work with children with SEND. From Monday 8th June, we will be updating the information available on the Local Offer which can be found on:

https://www.herefordshire.gov.uk/info/200207/family_support/831/local_offer_-_send

or WISH:

<https://www.wisherefordshire.org/>

Herefordshire Parent Carer Voice and SENDIASS are also in a position to listen to concerns, support parents and signpost to other services that might be able to help. They also have helpful website information:-

<http://parent-carer-voice-herefordshire.co.uk/www.hwsendiass.co.uk>

Kind regards



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