

SNAP Webinar – Back to School

Should all children/young people (C/YP), including those with SEND, be back at school?

Yes – Government guidance from the 30 March 2021 explains that all pupils (but not those shielding or self-isolating) should be back in school, as of the 8 March 2021. This followed the Government's announcement on 22 February 2021. Schools need to use 'best endeavours' (S66 CFA 2014) to provide special educational provision for pupils with SEND i.e. including those without an EHCP. From 1 April 2021, pupils who are classed as clinically extremely vulnerable should attend their placement, unless medical advice says otherwise.

If a C/YP also has an EHCP, then what does that mean for their support/provision at school?

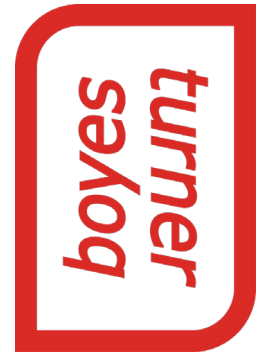
Since 31 July 2020 the law has remained unchanged in that local authorities have an absolute duty to deliver the special educational provision set out in Section F of an EHCP (under S42 CFA 2014). At the time of writing, this remains in place. However, there is a difference in what Government guidance, 30 March 2021, says: "There may be circumstances in which...schools...cannot offer your child their usual on-site provision...they will seek to resume as close as possible to your child's usual provision...Any decisions taken should be regularly reviewed." On balance, the law tumps guidance, but if a school is struggling to deliver all the Section F provision speak with them to see why first, and you may also need to raise this formally with the LA.

If a C/YP's EHCP requires external therapists to come into school, is this allowed?

Yes – DfE guidance previously noted (and at the time of writing, this remains in place) that professionals can come into school where reasonably necessary, so this would include delivering therapy/other provision, factoring in taking the necessary precautions/use of PPE.

What if a C/YP with an EHCP has not been able to attend school for most of last year due to lockdowns – can they have additional support now?

It depends on the individual needs of the C/YP, and what provision they received during lockdown. If needs be, an early review of the EHCP could be requested to determine if the needs have changed during lockdown/being out of school. Additional support for the transition back into the school environment may also be necessary, such as a remote transition. Any changes to the C/YP's needs/provision required in the EHCP would need to be evidenced.



When will a C/YP's Annual Review for their EHCP need to take place, if they have missed school for most of the past year

The law is clear that Annual Reviews must happen within one year of the date of the previous review (S44(1) CFA 2014). There is no change to this/guidance to account for pupils having been out of school/had reduced provision during lockdowns. Annual Reviews can be held remotely if needed. Speak with the school/college ahead of this, and evidence should be gathered from the professionals involved with the C/YP as needed. Also, consider if there has been an impact on therapy provision then does that mean additional provision/ is needed going forward? This also affects whether the C/YP has made progress towards/met their Section E outcomes. There may be an argument, depending on the particular facts, for the C/YP to either repeat a year/be educated out of year due to COVID/lockdowns. This would depend on the evidence.

ALL INFORMATION CORRECT AS OF THE DATE OF PUBLICATION (01 APRIL 2021)

If you have any questions or require advice, please contact the Special Educational Needs team on **0118 467 6547** or senexpertsolicitors@boyesturner.com. Appeals to the Tribunal can be extremely difficult and expert advice should always be considered.

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