

# What has changed about Section 42 – Provision in EHCPs? Buckinghamshire Guidelines

Section 42 of the Children and Families Act relates to the help for Children and Young People set out in Section F of their EHC Plans. For those in Bucks, the Act places on Buckinghamshire Council and Buckinghamshire Clinical Commissioning Group an absolute duty to provide the help as set out in that Section. This means that help described in Section F must be provided, and if it is not, this law can be used to ensure it is provided.

During the last 6 weeks, we are all aware that there has been unprecedented change to our daily lives. This has impacted everyone. SEND families have already seen many changes here in Bucks as a result, including home schooling via online classes; the provision of daytime respite to replace overnight respite; Specialist teachers providing support to parents rather than teachers; and online therapy sessions. It has also required staff working for Buckinghamshire Health Trust in particular, but also other health and Council workers, to be moved from their usual roles to help with frontline nursing and the support of the elderly and vulnerable. This is at a time when person to person contact has had to be restricted for the protection of us all.

From 1st May, for at least one month, the Section 42 duty has been eased. This means that there is no absolute duty to provide the help in Section F. Instead, education providers under the direction of Buckinghamshire Council must use ‘reasonable endeavours’ to provide the help. ‘Reasonable endeavours’ means they must do what they reasonably can to provide the help – it might not be possible to provide it exactly as written in Section F. For example, it may be that it is not possible to provide face to face one to one support for children at the moment. If this is the case, educational settings will need to work closely with families to find other ways of giving support to children. Support can also be accessed via EHC Coordinators, should there be any difficulties with this.

This is likely to involve inventive and creative use of technology and staff resources. Any alterations must be specific to each Plan. In every case, authorities and settings must be able to demonstrate that they have exhausted all reasonable alternatives. There must be no blanket changes in services. Help must not simply stop without consulting families. If support in plans cannot be provided, the reasons why this cannot happen must be explained to families. The views of parents and those of children must be taken into account to make sure that the alternative help is worthwhile. The alternative help must be recorded by the educational setting, reviewed when circumstances change and will not change EHC plans.

This temporary change is not ideal and no one who has been working to improve SEND in Bucks wants this; but it is a practical way of dealing with the challenge that we face.

Most importantly, the section 19 principles remain an absolute duty: so Buckinghamshire Council will have regard to the views, wishes and feelings of children, young people and parents, accepting the importance of enabling them to participate in decisions and the need for support to enable children and young people with SEND to develop and reach the best possible outcomes.