

COVID-19, School re-opening and SEN provision

Abu Bakr Boys School is now fully open and all pupils are expected to be in school full-time. In relation to SEND provision Abu Bakr have had to make changes to the way they deliver education to ensure the education environment is as safe as possible from the risk of coronavirus, their **statutory duties** for children and young people with SEND remain the same. This means using best endeavors to secure that the special educational provision called for by the pupil's or students special educational needs is made. They must have regard to the **SEN and Disability Code of Practice 2015**.

We have notified all parents of their individual re-opening plans (although these may be subject to ongoing changes, as government guidance changes).

A school's **duties under the Equality Act 2010** still apply – including when amending and applying a behaviour policy (some of which will have been amended for re-opening).

Where pupils need to self-isolate, or there is a local lockdown requiring pupils to remain at home, the school will offer immediate, high-quality remote education and will have planned for what this will be. Schools will need to offer paper materials where access to online learning is not available.

For pupils with SEND, the guidance states that schools should work with parents where the pupil can't access learning without adult support to develop “a broad and ambitious curriculum”. Therefore, Abu Bakr might need to think of bespoke and creative ways to support children with SEND remotely.

What provision will Abu Bakr make to help a child/young person with SEN catch up from September?

This is going to be something to discuss within the setting, involving all staff. It may be necessary for more detailed discussions to take place in the autumn term – as Abu Bakr Boys School will be undertaking reviews of our students at the beginning of the autumn term to try to identify gaps in learning and barriers to learning arising from their prolonged periods of absence.

The government has stated that, with regards to children with “complex needs” it: *“strongly encourage[s] settings to spend this funding on catch up support to address their individual needs, including speech and language therapy, travel training, education psychologist time, or other small group and individual interventions. This could be either direct (i.e. the specialist spending time with the pupil) or indirect (i.e. the specialist spending time with school staff to design an intervention that the teacher/teaching assistant then delivers regularly)”*

What about face coverings?

We at Abu Bakr are aware that there are **exemptions**, in any event, from wearing a face covering. The govt guidance uses the example of pupils who cannot put on, wear or remove a face covering because of a physical or mental illness or impairment, or disability, or if staffs are speaking to or providing assistance to someone who relies on lip reading, clear sound or facial expression to communicate.

The controls are similar to those set out for reopening schools and colleges and include:

- preventing pupils/staff/drivers/escorts with COVID-19 symptoms (or who have a household member with symptoms) from using dedicated transport;
- cleaning hands frequently and supporting good respiratory hygiene (or planning for an inability for this to happen, e.g. where a child has complex needs);
- ensuring good ventilation on dedicated transport where possible;
- minimising contact and mixing through the use of “bubbles” where possible;
- Wearing face masks when travelling on dedicated transport, for those aged 11 and above (unless **exempt**).

In relation to eligible children with SEND, the guidance state that in deciding what is appropriate for autumn 2020, local authorities should take account of the particular needs of the children using the transport and the views of the parents and school. This will be relevant in considering whether the transport is suitable for the purposes of the duty under the Education Act 1996.

Is it possible to ask for my child to continue receiving education at home now schools are fully re-open?

We at Abu Bakr Boys School recognise that if a child has an EHC plan and, for whatever reason, parents feel their child would actually be better off remaining at home for the longer term, there are two options: **elective home education or education otherwise than in a setting (“EOTAS”)**.

- If parents choose to electively home educate, your LA is likely to conclude that they are making their own arrangements for the child’s education, and so the school will no longer be obliged to make any of the provision in the child’s EHC plan.
- The alternative is asking for the child’s EHC plan to be amended to set out EOTAS rather than naming a school. If parents were to want this they can ask for the EHC plan to be amended during any ongoing or upcoming annual review process or seek an **early review**. If the LA did not agree, you could **appeal to the SEND Tribunal**. However, EOTAS can only be set out in an EHC plan where it can be demonstrated that it would be “*inappropriate*” for the provision to be made in a school (s. 61 Children and Families Act 2014).

EHC needs assessments and EHC plans at Abu Bakr Boys School

- The **Coronavirus Act 2020** temporarily amended the absolute duty to make the provision in an EHC plan (section 42 of the **Children and Families Act 2014**) to a ‘reasonable endeavors’ duty. This meant that during the specified period of **notices made under the Act** (1 May to 31 July 2020) LAs needed to do whatever they reasonably could to put provision in place, but if they could not do so they would not necessarily be breaching the law.
- The duties under s.42 and s.43 Children and Families Act 2014 are in full force at this time. This means that LA’s have an absolute duty to secure the special educational provision specified in an EHC plan and settings named in EHC plans that are not wholly independent must admit the child/young person.
- In IPSEA’s view it would not be acceptable for an LA to refuse to assess due to the fact the child or young person has been out of school. The current situation may in fact make it more, rather than less, likely that a child or young person may require support through an EHC plan.
- However, the deadlines which previously applied to LAs when considering EHC needs assessment requests were relaxed from 1 May 2020 to 24 September 2020. Where it is not reasonably practicable or it is impractical for an LA or other body to meet certain deadlines “*for a reason relating to the incidence or transmission of coronavirus (COVID-19)*”, they must instead complete that step as soon as it is practicable for them to do so.
- These changes are included in the **Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020** (the ‘Amendment Regulations’), which amend the timescales in the **SEN and Disability Regulations 2014**. The changes were in force until **25 September 2020** so **do not apply** to deadlines that fell on or after 25 September. Remember, they do **not** apply where the deadline had already passed before **1 May 2020** – because the Amendment Regulations can only be relied on for the period since they came into force.
- The **guidance** has been updated to reflect the fact that from 25 September 2020 the relaxations cease to apply and “any case that is in progress after that date to which the coronavirus exception has previously been applied will become subject to the usual statutory timescales (such as 6 weeks for needs assessments, 6 weeks for the provision of advice or information and 20 weeks for issue of a final plan)”.