

Education Other Than at School Policy (EOTAS)

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Introduction

Our vision is that Children and young people in Leicestershire are safe and living in families where they can achieve their full potential.

In Leicestershire, we believe that learners come first. We want our children and young people to enjoy learning, make good progress, and achieve high standards.

To do this, we want to ensure that there is good choice and diversity in our schools, enabling excellent opportunities for all learners, provided in the most appropriate, local and well maintained settings.

Enabling Legislation

This policy has been written with full regard to the following Acts:

- Children and Families Act 2014
- Education Act 1996
- Equality Act 2010

What is Educated Otherwise Than At School?

Parents have a duty to ensure their children receive a suitable, full-time education. Most do this by sending their children to school. (Education Act 1996, section 7).

However, councils must “make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them.”

(Education Act 1996, section 19(1)) Suitable education means efficient education suitable to a child’s age, ability and aptitude and to any special educational needs he may have. (Education Act 1996, section 19(6)) The education provided by the council must be full-time unless the council determines that full-time education would not be in the child’s best interests for reasons of the child’s physical or mental health. (Education Act 1996, section 3A and 3AA)

Further information is provided on the County Council’s website;

<https://www.leicestershire.gov.uk/education-and-children/schools-colleges-and-academies/inclusion-service>

Children/young people with SEND and an EHCP

Our vision in Leicestershire for children with special educational needs and disabilities is the same as for all children and young people – for them to achieve well in their education, to be cared for in safe and supportive families, participate and be involved in their communities and lead happy, safe and fulfilled lives.

Occasionally there are circumstances when children/young people with special educational needs and/or disabilities (SEND) need to be educated outside of traditional education settings such as schools or colleges.

To ensure that all children/young people can receive an efficient and effective education, the Children and Families Act 2014 allows for education outside of traditional education settings where it is inappropriate for provision to be made in those settings.

Section 61 of the Children and Families Act 2014 states that:

(1) A local authority may arrange for any special educational provision that it has decided is necessary for a child/young person for whom it is responsible to be made otherwise than in a school or post 16 institution or a place at which relevant early years education is provided

(2) An authority may do so only if satisfied that it would be inappropriate for the provision to be made in a school or post-16 institution or place at which relevant early years education is provided

(3) Before doing so, the authority must consult the child's parent(s)/carer(s) or the young person.

Inappropriate means “any” school or post 16 institution, not just that it is inappropriate for the LA proposed placement to make the provision.

Children/young people with SEND and an EHCP should have the same opportunities as others the same age. Leicestershire County Council and education settings have shared, legal duties to explore the removal of any incompatibilities that prevent children/young people with EHCPs from attending education settings. When despite best endeavours that is not possible, the Council – in consideration with parent(s)/carer(s) and young people – may decide that EOTAS can be arranged to deliver the education and special educational provisions in section F of EHCPs.

Therefore, EOTAS question arises after the question of what special educational needs provision is necessary to meet the child or young person's SEN.

EOTAS is only available to children/young people with an EHCP, in specific and exceptional circumstances. EOTAS will only be considered after the Council has exhausted all options to support a child/young person's needs in an education setting.

EOTAS is funded by Leicestershire County Council and is typically for short-term periods with the intention of supporting the child/young person's full-time return to an education setting at the earliest suitable opportunity.

When is EOTAS appropriate?

The local authority will always endeavour to support children/young people to be educated within education settings. There is a wide body of research that supports the inclusion of children/young people in education settings. They provide children/young people opportunities to build confidence and social skills;

be members of a learning community; access a broad and balanced curriculum;

be taught by skilled teachers; and benefit from the same opportunities as others the same age.

When EOTAS arrangements are being considered, local authorities should consider all the circumstances that may contribute to the appropriateness of attending an education setting such as:

- The child/young person's background and medical history
- The educational needs of the child/ young person
- The facilities that can be provided by an education setting
- The facilities that could be provided other than in a school
- The comparative cost of the possible alternatives to the child/young person education and special educational provisions
- The child/young person's reaction to education provisions, either at a school or elsewhere
- Parent(s)/carer(s) wishes, engagement and support in developing individual EOTAS packages are important and will contribute to the decision making to arranging a suitable education made by the Council.

Process for considering if EOTAS is appropriate

If a consensus is reached between involved professionals and a family that EOTAS arrangements may be required, Leicestershire County Council will work with the family to establish what the EOTAS arrangements may look like. Where a complex arrangement of education and special educational provision is suggested, it will usually be necessary for professionals and the family to meet and agree the details of the EOTAS arrangements. This is intended to ensure that those arrangements support the child/young person to make educational progress, have the opportunity to learn the skills to return to learning in an education setting, and achieve the outcomes in their EHCP.

In order to enable the EOTAS Decisions Panel to reach an informed decision a range of evidence may be requested, this could include but is not limited to:

- Expert reports, e.g., from school, educational psychologists, therapists, CAMHS or other involved professionals
- Details of the needs which mean it would be inappropriate for provision to be delivered at a school or setting
- Specific and quantified recommendations as to the provision considered to be needed
- Any proposed provision and plans considered relevant
- Short and long-term outcomes
- Proposed costings based on provision
- Views of the child or young person
- Any other relevant evidence that it is inappropriate for the provision to be made at a school or setting
- Trajectory for the child or young person in terms of steps to prepare for return to an educational placement, possible timescales and support required to prepare
- Views of parents/carers and young person

Recommendations for EOTAS arrangements will be considered by a multi-agency Panel. The Panel's decision will be confirmed to the family in writing, usually alongside the issuance of a final or amended final EHCP. No EOTAS arrangements may begin without this approval. If a child is not receiving an education provision, parents are encouraged to contact their SEND Case Officer and not to make their own arrangements. Leicestershire County Council will not be financially responsible for any education arrangements made by parents for their child.

Any agreed EOTAS arrangements such as the education and special educational provisions required will be set out in section F of the child/young person's EHCP. Section I of the EHCP, which usually names the education setting or type of setting the child/young person would attend, will remain blank in accordance with clarifying guidance from the Department for Education and the First Tier and Upper Tier Tribunals – SEND.

If a Personal Budget has been requested, it will usually be detailed in section J of the EHCP.

When Leicestershire County Council agrees to EOTAS arrangements, some of the special educational provisions in section F of the EHCP may not be possible to arrange in the same way as if the child/young person were attending an education setting. In these instances, the Council will take advice from the professionals who recommended the special educational provision or its own professionals and consider if any should be adjusted to be able to provide a suitable provision for the child/young person.

Some examples include:

- 'Small group work' may not be possible for a child/young person receiving individual

tutoring in a community setting or at home through EOTAS arrangements. Though it may

be possible for them to access small groups via online learning

- Being 'supported in the classroom by a Teaching Assistant' would usually not be required. This special educational provision is usually recommended in the context of the child/young person being educated in a class of up to 30 other children, where additional adult support is sometimes needed to ensure the efficient education of other children and/or to directly support the child/young person when the Teacher is attending to others.

A Teaching Assistant would not, therefore, be necessary for a child/young person being taught individually, outside of a classroom.

Families/young people aged 16+ will have a right of appeal to the First Tier Tribunal – SEND upon receiving their child/young person's final or amended final EHCP.

EOTAS arrangements will be regularly reviewed, and no later than the next Annual Review of the EHCP. Annual Reviews of EHCPs where EOTAS arrangements are being made will always consider if EOTAS continues to be the only suitable way to arrange a child/young person's education and special educational provisions. As part of the Annual Review process and having considered a child's readiness to access a school placement with the child and family, Leicestershire County Council, may consult with education settings and reconsider if the legal tests that originally concluded that EOTAS was necessary still apply.

Funding & Arranging EOTAS

Leicestershire County Council will be responsible for funding the education arrangements and special educational provisions in section F in its children/young people's EHCPs during EOTAS arrangements. The budget will be sufficient to provide adequate education and special educational provisions only, comparable in quality to that provided to children/young people in its state funded education settings. Leicestershire County Council will ensure that there is efficient use of resources and therefore any EOTAS provision set out in an EHCP will be delivered in the most efficient way possible. Only special educational needs provision specifically detailed in the EHCP will be funded. An EHCP cannot be delivered by parents so Leicestershire County Council will not provide payments for parent(s)/carer(s) time. The locality's Integrated Care Board of the NHS will remain responsible for arranging and/or paying for any health provisions in section G of EHCPs.

Personal Budgets

EOTAS can be arranged either by the Council or by families. Families choosing to arrange their child/young person's EOTAS arrangements may be eligible to receive a direct payment to spend on directly purchasing the education and special educational provisions in their child/young person's EHCP. Agreeing to receive a direct payment comes with responsibilities for families, such as contracting with or employing staff, arranging pre-contracting checks with professional bodies and by the Disclosure & Barring Service (DBS), arranging testing of any specialist equipment, providing regular financial returns to the Council to demonstrate appropriate spending, and ensuring the quality of the service provided.

Personal Budgets is a budget agreed between the LA and parent to meet the provision identified in a child's EHCP. Provision can then be commissioned by the LA or by parents via a Direct Payment. Personal Budgets are arranged in one of three ways:

- By the Council. This is called a 'notional' personal budget, where the budget to secure the education and special educational provisions in section F of the EHCP is held and spent by the local authority
- By the parent(s)/carer(s). This may include Leicestershire County Council making a 'direct payment' to the parent(s)/carer(s) for them to arrange the education and special educational provisions in section F of the EHCP
- By a combination of the above.

Agreeing to a direct payment cannot cause a local authority to make an inefficient use of resources or cause unreasonable public expenditure. Personal budgets for children/young people with EOTAS arrangements may often be smaller than if the child/young person was attending an education setting, as it is unnecessary to account for costs and overheads associated with running an education setting such as Teachers' national insurance and pension contributions, building maintenance and repair, lighting, heating, and cleaning etc.

Personal budgets cannot be used to pay fees for placements in non-maintained education settings (private schools) and must only be spent on the agreed education and support arrangements listed in sections F and J of EHCPs.

Combining other types of Personal Budgets

If a child/young person with EOTAS arrangements is eligible for medical treatment or therapy in section G of their EHCP, and/or social care provisions in section H of their EHCP, they may be eligible for other personal budgets for those parts too. When eligible for more than one personal budget, families may wish combine budgets to arrange the education, health, and social care provisions in their child/young person's EHCP more flexibly. This arrangement gives families the most control and creativity over those arrangements.

Leicestershire County Council may only consider parent(s)/carer(s) requests for personal (education) budgets when a draft EHCP has been published or as part of an Annual Review of an EHCP.

Requests for personal health or social care budgets may be made and considered at other times to the responsible organisations. Parent(s)/carer(s) may not appeal the Council's decisions about whether they award a direct payment or not, but they may ask to review their decisions.

More information about personal budgets is available on the Leicestershire County Council's Local Offer website:

<https://www.leicestershire.gov.uk/education-and-children/special-educational-needs-and-disability/information-and-support/personal-budgets-for-disabled-children-and-young-people>

Is EOTAS the same as Elective Home Education?

EOTAS is different from elective home education (EHE). Parents may choose to Electively Home Educate (EHE) their child.

If the child has an EHCP and is attending a special school, permission from the local authority must be sought to remove the child from the school admissions register. Further information about EHE can be found using the [link](#) to our web page, [national guidance](#) can be found through the GOV.uk web pages

Parent(s)/carer(s) may elect to home educate their children/young people, including those who have EHCPs, if that is their preference. Parent(s)/carer(s) electing to home educate become responsible for arranging and paying for their child/young person's education. If their child/young person has an EHCP, parent(s)/carer(s) also become responsible for arranging and paying for any special educational provisions in their EHCP.

EOTAS arrangements are not a means for parent(s)/carer(s) to be funded by the Council to pay for elective home education. EOTAS arrangements are only agreed to ensure a child/young person receives a suitable, full-time education when it has been demonstrated that it is not possible to arrange that in any education setting. Elective home education is a choice for parent(s)/carer(s).

Full Time Education

There is no single legal definition of 'full-time' education. Sometimes, it may not be in the child/young person's best interests to attend full-time education, or they may not be able to attend to full-time education. They might have complex medical, social, emotional, or mental health needs which impact their ability to attend to learning, for example. Factors such as these might be relevant when children/young people are being considered for EOTAS arrangements.

In these circumstances, it is permissible and may even be desirable for local authorities to arrange less than full-time education for children/young, at least temporarily.

EOTAS arrangements are always made with the intention of supporting children/young people to return to learning in an education setting.

Safeguarding

The local authority has a duty to ensure that all children and young people are safeguarded and it is acknowledged that regular attendance at a school or educational setting increases the safeguarding of children and young people.

Any person employed to work unsupervised with children or young people must have a current enhanced (less than 3 years old) DBS certificate. The Local Authority must have been given access to see this certificate for all people commissioned through an EOTAS package of educational support to work with the child or young person. The commissioned person is responsible for ensuring they have a current DBS certificate and must make this available

All agencies have a duty to help, protect, and safeguard children and young people. In the event of a child or young person being at risk, each agency should follow its own safeguarding procedures.

With the consent of the parent, a referral to Early Help services may be offered to provide support and to help resolve issues which may have arisen from experiences of bullying.

Where the parent refuses to engage with the local authority around safeguarding matters, funding of provision for an EOTAS package of education may be ceased until investigations are complete and return to a school may be implemented through escalation to Children and Families Social Care First Response Team.

A failure to provide suitable education is capable of satisfying the threshold requirement for [Section 31](#) of the Children Act (1989) that a child is “*suffering or likely to suffer significant harm*” and the local authority may need expert advice from teachers and educational psychologists and the Attendance Team when considering this.

If the local authority is not able to obtain sufficient information to determine whether the *significant harm* threshold has been met they may consider employing their powers under [Part 5](#) of the Children Act (1989) to trigger a [Section 47](#) (Children Act, 1989) investigation.

If enquiries do not yield enough information, particularly because the parent refuses access to the child or young person, the local authority has a number of options this may include applying to the court under [Section 43](#) of the Children Act (1989) for a Child Assessment Order. Resorting to the use of such orders arises very rarely.