

Children's Services

LOCAL AUTHORITY GUIDANCE SECTION 19 (s.19) OF THE EDUCATION ACT 1996 – HOW HERTFORDSHIRE FULFILLS ITS DUTIES


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Introduction and National Context

Hertfordshire County Council will follow national legislation and guidance when determining how to discharge its duties.

Section 19 of the Education Act 1996 (as amended):

“Each local authority shall 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](#)

Improving attendance is everyone’s business. The barriers to accessing education are wide and complex, both within and beyond the school gates, and are often specific to individual pupils and families.

Where parents decide to have their child registered at school, they have an additional legal duty to ensure their child attends that school regularly. This means their child must attend every day that the school is open, except in a small number of allowable circumstances such as being too ill to attend or being given permission for an absence in advance from the school.

For the most vulnerable pupils, regular attendance is also an important protective factor and the best opportunity for needs to be identified and support provided. Research has shown associations between regular absence from school and a number of extrafamilial harms, including crime (the proportion of children that had been cautioned or sentenced for any offence that had ever been persistently absent was 81% and for serious violence offence was 85%). (add link as a footnote [Education, children’s social care and offending: local authority level dashboard](#))

The section defines suitable education as an efficient education suitable to a child’s age, ability, and aptitude and to any special educational needs they may have.

Section 19 applies to any situation in which a child cannot attend school. Legislation relating to excluded children and guidance relating to children with special educational needs and disabilities are covered below.

It is for a Local Authority to determine that a child will not receive a suitable education unless arrangements are made for them. Each Local Authority must also consider its wider duties and responsibilities, including those in the SEND Code of Practice 2015 and DfE Attendance Guidance known as ‘Working together to improve school attendance’ (August 2024).

[Special educational needs and disability code of practice: 0 to 25 years, January 2015](#)

[Working together to improve school attendance, August 2024](#)

The DfE Attendance Guidance – Working together to improve school attendance:

“Improving attendance is everyone’s business. The barriers to accessing education are wide and complex, both within and beyond the school gates, and are often specific to individual pupils and families. The foundation of securing good attendance is that school is a calm, orderly, safe, and supportive environment where all pupils want to be and are keen and ready to learn.

Where parents decide to have their child registered at school, they have an additional legal duty to ensure their child attends that school regularly. This means their child must attend every day that the school is open, except in a small number of allowable circumstances such as being too ill to attend or being given permission for an absence in advance from the school”. Working together to improve school attendance – [Working together to improve school attendance, August 2024](#)

Where a child or young person is disengaged from learning or not attending, including for reasons related to their mental health and wellbeing, the Local Authority has a responsibility to ensure that reasonable adjustments and support are in place at school to address the underlying reasons before considering whether alternative provision is appropriate.

Section 19: Alternative Provision by Reason of Illness

Children and young people who have additional health needs are, by the nature of their difficulties, at risk of failing to reach their true potential within an educational context. This is particularly the case for children and young people whose health needs prevent them from attending school for an extended period, or for those who are restricted by their health needs to attending school on a reduced timetable. [HfL Grid-HCC Reduced timetable guidance, April 2024](#)

What provision is required for a child who is too ill to attend school is ultimately for the Local Authority to decide after considering medical advice and information provided by parents and schools.

Securing alternative provision for children who are too ill to attend school falls within the Section 19 duty. The Local Authority also must consider the statutory guidance [‘Arranging education for children who cannot attend school because of health needs, December 2023.’](#)

Hertfordshire County Council fulfils its responsibilities under Section 19 of the Education Act through the ESMA Teaching Service. This service ensures that children who are unable to attend school due to medical reasons receive a suitable education. ESMA provides teaching for English, Maths, Science, PSHE, and Study Support lessons, while the school continues to provide access to the wider curriculum. The ESMA Teaching Service offers temporary support, aiming to identify the barriers to school attendance and collaboratively find solutions with all stakeholders to reintegrate the child back into school. ESMA works with schools, families, children, and health professionals to create a support plan that facilitates

this reintegration. By providing tailored educational support to meet the individual needs of each student, ESMA ensures continuity in their learning and helps them achieve their full potential.

Hertfordshire County Council's [Education support for medical absence guidance](#) outlines the support available for children of statutory school age. This includes details of when and how provision may be arranged if required, and the respective roles and responsibilities of the local authority, schools, parent/carers, service providers and other agencies.

This service is provided when pupils are likely to miss more than 15 days of school due to health needs. Within Hertfordshire, the process requires the child's school to make the referral to the ESMA Teaching Service. ESMA support is provided in addition to the educational package already in place at the school. Our goal is to help the child return to school.

Section 19: Alternative Provision by Reason of Exclusion

If a pupil is at risk of exclusion, it is Hertfordshire County Council's expectation that schools should consider support available to maintain a pupil's placement in school.

Suspension or Permanent Exclusion should, therefore, be used as a last resort and only as a protective consequence, in response to serious or persistent breaches of a school's behaviour policy and where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil and others in the school.

For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin no later than the sixth school day of the exclusion. This will be the pupil's 'home authority' in cases where the school is maintained by (or located within) a different local authority.

Arranging alternative provision for permanently excluded pupils falls within the Section 19 duty; Hertfordshire County Council discharges this duty through the County's Pupil Referral Units (PRUs) known as Education Support Centres (ESCs)/Alternative Provision Academy or Primary Behaviour Services (PBSs). Each of the DSPL areas of Hertfordshire has a designated ESC/AP Academy and PBS for both Primary and Secondary children. For suspensions, this responsibility falls to the school's governing board in accordance with s.100 Education and Inspections Act 2006 (as amended).

[Education and Inspections Act 2006](#)

Advice and support for schools regarding appropriate strategies to maintain a pupil's placement at school is available through the Local Offer or from the local behaviour services located at ESCs/AP Academy/PBSs.

Exclusion Advice Line: 01992 555911 (Monday to Friday 9.30am - 4.30pm, term time only) or Email: Statutoryschoolsexclusionduty@hertfordshire.gov.uk.

Section 19: Children and young people with an Education Health and Care Plan (EHCP) and receiving Education Other Than at School (“EOTAS”)

The Special Educational Needs and Disability (“SEND”) Code of Practice sets out the presumption in law of mainstream education. “1.26 As part of its commitments under articles 7 and 24 of the United Nations Convention of the Rights of Persons with Disabilities, the UK Government is committed to inclusive education of disabled children and young people and the progressive removal of barriers to learning and participation in mainstream education. The Children and Families Act 2014 secures the general presumption in law of mainstream education in relation to decisions about where children and young people with SEN should be educated and the Equality Act 2010 provides protection from discrimination for disabled people”.

Where a child or young person with SEND is experiencing a barrier to learning or participation, including around their mental health and wellbeing, the Local Authority has a responsibility to ensure that reasonable adjustments and support are in place to overcome those barriers before putting alternative provision in place. However, section 61 of the Children and Families Act 2014 states:

1. A local authority in England may arrange for any special educational provision that it has decided is necessary for a child or 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 at such a place.
3. Before doing so, the authority must consult the child's parent or the young person.

Considering that EOTAS forms part of the Section 19 duty, the Council fulfils its obligation to provide the tuition through Hertfordshire’s SEND Interim Provision Team. However, before a request for EOTAS educational provision is transferred to this team, it must first be approved by the Hertfordshire Provision Panel. As indicated above, a local authority may arrange for special educational provision to be made outside of a school or post-16 institution only if it is satisfied that it would be inappropriate for the provision to be made in such settings. The authority must also consult the child's parent or the young person before making this decision.

The SEND Provision and Placement Panel in Hertfordshire is responsible for reviewing and making decisions on the educational placements for children and young people with special educational needs and disabilities (SEND). The panel considers the evidence presented by the EHC (Education, Health, and Care) Coordinator and other professionals to determine the most suitable educational setting for the child, whether it be a mainstream school, special school, or other educational provision. The panel ensures that the placement meets the child's needs

as outlined in their EHCP (Education, Health, and Care Plan) and supports their educational development.

The Provision Panel is a decision-making panel that sits every two weeks. The Panel is made up of representatives from Education, Health and Social Care. Further information can be found in our [HCC Local Offer](#) site.

Section 19: Children Missing Education (CME)

Children missing education (CME) are children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school.

Children missing education are at significant risk of underachieving, being victims of harm, exploitation or radicalisation, and becoming NEET (not in education, employment or training) later in life.

All local authorities should have clear policies, processes and named contacts that supports the identification of children who are not registered at a school.

[The Statutory Attendance Support team](#)

[Children missing from education - Hertfordshire Grid for Learning](#)

Section 19: Elective Home Education (EHE)

Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe the education provided by parents at home, rather than providing education for their children by sending them to school.

This is different to home tuition/Alternative Provision provided by Hertfordshire County Council. We believe education in Hertfordshire should enable all children whatever their age, ability, background, or faith to be able to realise their ambitions, to access a range of opportunities and learn from and relate to their peers.

Section 19 places on all local authorities the responsibility to identify any child not receiving a suitable full-time education, this includes children being electively home educated. The EHE Policy sets out respective rights and responsibilities for families and Hertfordshire County Council as well as key procedural information.

[EHE Policy 2024](#)

Section 19: Children and young people with additional needs requiring alternative provision.

In Hertfordshire, all our teams are committed to inclusion. Providers and services believe in the importance of working together to overcome barriers to learning and attendance, to ensure children and young people can access their entitlement to go to their local school. We want all children and young people, regardless of their individual needs and circumstances, to be well supported, have their needs met, and be included in their local community:

Considering a request for alternative provision for other reasons is also part of the Local Authority's duty under Section 19. As this often involves a parent/carer concern that their child's needs are not being met, Hertfordshire County Council discharges this duty through the SEND Implementation Support and Statutory Assessment Team. This team works with the education setting, child or young person and their family to assess any underlying needs and recommend reasonable adjustments and provision to meet those needs.

This could include a Team Around the School or Setting, the SEND Specialist Advisory Service (SENDSAS), Statutory School Attendance Service, the Behaviour Services, the ESMA Teaching Service, and the Educational Psychology Service. Depending on the circumstances around the request provision could be made for example, by ESMA for children unable to attend school for medical reasons. For children with an EHCP who might require alternative provision, schools should consider the support available to them via the Local Offer and where necessary consult with the child's EHC Co-Ordinator. If an alternative provision is required, then schools must call an 'Early Review' to enable professionals working with the family to come together. The review will look at the support required by the pupil to be able to successfully access education and provide recommendations for any adaptation to their EHCP.

[Educating your child at home | Hertfordshire County Council](#)

Appendix 1: Documentation referenced in the Hertfordshire Section 19 Policy

National Guidance and Resources

[Working together to improve school attendance, August 2024](#)

[Alternative Provision Statutory guidance for local authorities, January 2013](#)

[Education Act 1996](#)

[Special educational needs and disability code of practice: 0 to 25 years, January 2015](#)

[cs401-reduced-timetable-guidance-april-2024](#)

[Arranging education for children who cannot attend school because of health needs, December 2023.](#)

[Supporting pupils at school with medical conditions](#)

[Education support for medical absence guidance](#)

[Education and Inspections Act 2006](#)

[Suspension and permanent exclusion guidance](#)

[Hertfordshire County Council Suspension and Exclusion Guidance](#)

[EHE Policy 2024](#)

[Children Missing from Education \(CME\) Guidance](#)

[Focus report: Out of School, Out of Sight - published 2021, amended 2023](#)