

Briefing Note for Children and Young People Scrutiny Commission

Produced for:	<i>Children and Young People Scrutiny Commission</i>
Requested by:	Members
Portfolio Member:	Councillor Heather Codling
Service Director:	Ashley Millum
Date Prepared:	22 July 2026
Briefing Author:	Melissa Perry & Emma Ferrey

1 Purpose of the Briefing

- 1.1 This briefing provides Members with the Local Authority's position in relation to recent representations concerning the draft Policy Statement for Section 19, Medical Tuition and Education Otherwise Than At School (EOTAS) and Educational Neglect policies; the wider national context relating to SEND reform and the Department for Education's EOTAS consultation; an overview of West Berkshire's inclusion strategy and statutory responsibilities; and assurance regarding the Council's approach to mainstream education, alternative provision and Education Otherwise Than at School (EOTAS).
- 1.2 The briefing should be read in the context of national SEND reform proposals, the live Department for Education consultation on Education Otherwise Than At School and the Council's commitment to inclusion, early intervention and evidence-based decision making.

2 Background

- 2.1 West Berkshire Council is committed to ensuring that every child receives a suitable education, achieves positive outcomes and has access to the right provision at the right time. The Council's strategic direction is aligned to national SEND reform proposals, which place inclusion, early intervention and strengthened mainstream capacity at the heart of future educational provision.
- 2.2 The Council's starting position is that children should be educated within their local communities and mainstream schools wherever this is appropriate to meet their needs. At the same time, the Council recognises that a small number of children and young people have needs that cannot appropriately be met within a school environment. In these circumstances the Council will continue to meet its statutory duties through specialist placements, alternative provision or EOTAS arrangements where required by law and supported by evidence.

- 2.3 In July 2026, the Department for Education launched a dedicated consultation on EOTAS. The consultation seeks views on improving support, clarifying responsibilities, improving quality assurance, strengthening oversight and accountability, improving outcomes and supporting progression and, where appropriate, reintegration. The consultation recognises that many families accessing EOTAS have experienced difficult educational journeys involving placement breakdowns, unmet need and significant challenges before appropriate support was secured.

3 Current Status

- 3.1 West Berkshire's ambition aligns with the Children and Families Act 2014, the SEND Code of Practice and national reform proposals. The Council believes that mainstream schools should, wherever possible, be supported to successfully include children with additional needs. This is a mainstream first approach, not a mainstream only approach.
- 3.2 The Council's policy framework emphasises graduated responses, reasonable adjustments, early intervention, multi-agency support, educational psychology involvement, therapeutic and EBSA support, Inclusion and Reintegration services and SEND advisory support. Before consideration of alternative provision, schools are expected to evidence the support, interventions and reasonable adjustments that have been implemented to meet need.
- 3.3 National and international evidence indicates that many children with SEND achieve better long-term outcomes when educated in inclusive mainstream settings that are appropriately resourced and supported, including benefits in attainment, social inclusion, peer relationships, employment opportunities, preparation for independent living and participation in community life. However, reintegration is not appropriate in every case, and where evidence demonstrates that education within a school environment is inappropriate for a child's needs, the Council recognises its duty to consider alternative arrangements, including EOTAS where the legal threshold is met.
- 3.4 The draft EOTAS policy states that EOTAS will only be used where the Council is satisfied, under Section 61 of the Children and Families Act 2014, that education within a school or specialist setting is inappropriate for the child concerned. EOTAS is statutory, needs-led, exceptional rather than routine, evidence based and focused on individual circumstances. It must never be used because of capacity pressures or placement shortages.
- 3.5 The Council also recognises its statutory duty under Section 19 of the Education Act 1996 to arrange suitable education for children who cannot attend school because of illness, exclusion or other reasons. The draft Section 19 policy makes clear that schools retain primary responsibility for pupils on roll, should undertake graduated support processes, should use medical evidence to inform decision making and should utilise Individual Healthcare Plans where appropriate. Local Authority intervention occurs where suitable education can no longer reasonably be delivered by the school.

4 Implications and Impact

- 4.1 The current policy discussions should be viewed within the wider national context. Government is actively consulting on the future of EOTAS, SEND provision and inclusion, recognising both the growth in demand and the need for greater consistency

nationally. The Department for Education has made clear that its ambition is both to improve support for children receiving EOTAS and to create a more inclusive mainstream system capable of meeting needs earlier and more effectively.

- 4.2 The Educational Neglect Policy is fundamentally a safeguarding document rather than a SEND policy. Its purpose is to identify educational neglect, establish safeguarding thresholds, support professional decision making, encourage early intervention and strengthen multi-agency working. It adopts a support first approach and recognises that barriers to education are often complex and require individual assessment and coordinated intervention.
- 4.3 The Educational Neglect Policy also recognises that thresholds support multi-agency understanding and do not replace individual assessment, including SEND considerations, medical factors and the child's lived experience. It further recognises that organisational and professional actions can impair access to education and requires agencies to consider these factors as part of assessment and planning. This is an important safeguard against an overly simplistic interpretation of attendance concerns.

5 Next Steps

- 5.1 Officers have reviewed the concerns raised through correspondence and acknowledge that some wording within the draft documents may benefit from clarification. However, the Council's core position remains that policies cannot override statute, individual decisions must be based on legislation and evidence, safeguarding responsibilities apply regardless of educational placement, SEND status does not remove safeguarding responsibilities, EOTAS decisions remain subject to statutory EHCP processes and existing complaints, tribunal and Ombudsman routes provide accountability mechanisms regarding Local Authority actions.
- 5.2 Officers have reviewed the flowchart and acknowledge that it did not accurately represent the content or processes within the policy statement. Due to the level of need and complexity associated with EOTAS, it has become practically impossible to create a meaningful flowchart that accurately reflects the necessary individualised, evidence-led decision-making process. The EOTAS flowchart has therefore been removed entirely. The Section 19 flowchart has been corrected and retained in Appendix C.
- 5.3 Officers have refined wording within the draft Policy Statement document where clarification supports understanding and reduces the scope for alternative interpretations. Any refinements have been framed as clarification rather than changes to statutory duties. See Appendix A for new draft Policy Statement with strengthened information. There have been no changes to the Educational Neglect Policy.

6 Conclusion

- 6.1 The Council's ambition is inclusion. Most children achieve best outcomes when their needs can be successfully met within mainstream schools, supported by early intervention, reasonable adjustments and specialist services. EOTAS remains an important statutory provision for children whose needs cannot be met within any school setting. West Berkshire's approach aligns with the direction of national SEND reform, which seeks both stronger inclusion and improved support for children educated

otherwise than at school. The Council remains committed to delivering the right education, in the right place, at the right time, for every child and young person.

6.2 Key Messages for Members

- The Council's ambition is inclusion. Most children achieve best outcomes when their needs can be successfully met within mainstream schools.
- Mainstream education remains the preferred option wherever appropriate, supported by early intervention, reasonable adjustments and specialist services.
- EOTAS remains an exceptional provision requiring robust evidence and SEND Panel agreement.
- Policy refinement should be viewed as clarification rather than a change in statutory duties.
- West Berkshire's approach aligns with the direction of national SEND reform, which seeks both stronger inclusion and improved support for children educated otherwise than at school.
- The Council remains committed to delivering the right education, in the right place, at the right time, for every child and young person.

7 Appendices

Appendix A – Revised Policy Statement for Section 19, Medical Tuition Service & EOTAS

Appendix B – Previous Version of Policy Statement for Section 19, Medical Tuition Service & EOTAS

Appendix C – New Flowchart in line with the Policy Statement - corrections

Appendix D - Educational Neglect Policy

Appendix E – Officer Responses to Questions Raised by Ms Brown

Appendix A – Revised Policy Statement for Section 19, Medical Tuition Service & EOTAS

Document Control

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Change History

Version	Date	Description	Change ID
1	Dec 2026	New Policy Statement	
2	April 2026	Additional Flowchart added on request of Corporate Board	
3	June/July 2026	Individual Member Decision – complaints raised and corrections made to flowchart & reference to section 61. Included an Introduction section and legal framework	
4	July 2026	Children’s Scrutiny Board	

Legal Framework:

- Children and Families Act 2014.
- SEND Regulations 2014.
- SEND Code of Practice: 0-25 Years.
- Keeping Children Safe in Education (current edition).
- Working Together to Safeguard Children (current edition).
- Supporting Pupils at School with Medical Conditions (DfE, 2015).

Additional Guidance relevant:

- Education and Inspections Act 2006
- Suspension and Permanent Exclusion from Maintained Schools, Academies and Pupil Referral Units in England (DfE)
- Alternative Provision Statutory Guidance (DfE)
- Arranging Alternative Provision: A Guide for Local Authorities and Schools (DfE, 2025)
- Education Act 1996, Section 19.
- Elective Home Education Guidance for Local Authorities (DfE)

- Education Act 1996, Section 7
- Elective Home Education Guidance for Parents (DfE)
- Equality Act 2010
- Supporting Pupils at School with Medical Conditions (DfE, 2015)
- Arranging Education for Children Who Cannot Attend School Because of Health Needs (DfE, 2023).

Introduction

West Berkshire Council has developed three separate policy statements to support consistent understanding and application of its statutory responsibilities relating to children who are unable to access education through conventional school attendance. While these policy areas frequently intersect in practice, they arise from different legal duties, serve different purposes and apply to distinct groups of children and young people.

It is important that these frameworks are not conflated.

Policy Statement 1: Section 19 Duty relates to the Local Authority's statutory duty under Section 19 of the Education Act 1996 to arrange suitable education for children of compulsory school age who cannot attend school because of illness, exclusion or otherwise. Section 19 is concerned with ensuring continuity of education where a child is unable to access their school placement and focuses on the Local Authority's duty to secure suitable educational provision.

Policy Statement 2: Medical Tuition Service (MTS) describes the operational arrangements through which West Berkshire discharges aspects of its Section 19 duty for children whose medical or health needs temporarily prevent attendance at school. The Medical Tuition Service is a service delivery model rather than a separate legal framework and is intended to provide short-term educational support whilst maintaining the child's connection to their school and supporting reintegration wherever appropriate.

Policy Statement 3: Education Otherwise Than At School (EOTAS) arises from a separate legislative framework under Section 61 of the Children and Families Act 2014. EOTAS is not an attendance intervention, alternative provision arrangement or Section 19 provision. It applies where an Education, Health and Care Plan (EHCP) specifies that a child's special educational provision should be delivered otherwise than in a school because attendance at any school has been determined to be inappropriate for that child's needs.

Whilst there may be circumstances where a child moves between these pathways over time, each framework has its own statutory threshold, decision-making process, review arrangements and legal considerations. Decisions relating to one framework do not automatically determine entitlement under another.

Across all three policy areas, West Berkshire Council remains committed to ensuring that children and young people receive suitable education, appropriate support and timely intervention based on their individual needs and circumstances. The Council's overarching ambition reflects both national policy and local inclusion priorities: wherever possible, children should be supported to access education within their local community and school environment, whilst ensuring that alternative

arrangements are available and accessible when a child's needs cannot appropriately be met within a school setting.

The following policy statements should therefore be read as complementary but distinct documents, each designed to support the Council in discharging specific statutory duties and ensuring that children receive the right support, in the right place, at the right time

1. Policy Statement: Section 19 Education Duty

West Berkshire Council is committed to ensuring that all children of compulsory school age who cannot attend school—due to illness, exclusion, or otherwise —receive suitable full-time education, in line with Section 19 of the Education Act 1996.

The Council recognises that the term “meeting the child’s needs” can be perceived as ambiguous; however, there are already well-established statutory processes within schools designed to understand, assess, and respond to a child’s needs **before** any consideration of Section 19 provision.

All schools are required to follow a graduated response, in line with the SEND Code of Practice and *Supporting Pupils at School with Medical Conditions* (DfE, 2015). This includes, but is not limited to:

- gathering evidence through school-based assessment, records of strategies used, and professional input;
- implementing reasonable adjustments, including adaptations to timetable, environment, curriculum, or delivery model;
- working with medical professionals to secure clear guidance on the impact of the child’s health on attendance and learning;
- developing and reviewing an Individual Healthcare Plan (IHP) or other agreed multi-agency plan;
- engaging with parents and carers to co-produce support and ensure shared understanding of the child’s needs;
- documenting progress, barriers, attendance patterns, and the child’s response to interventions.

Only where a school can clearly evidence that it has exhausted these graduated processes, and that suitable education cannot reasonably be delivered within the school environment, will the Local Authority consider its Section 19 duty to be engaged.

This ensures that:

- the pupil remains integrated within their school community wherever possible;
- education continues in the setting best placed to deliver continuity and curriculum progression;
- Section 19 provision is reserved for cases where school-based solutions have been fully explored and are evidenced as not reasonably practicable.

In fulfilling its Section 19 duty, the Local Authority will ensure:

A. Delegation and School Responsibility

- Schools maintain responsibility for their pupils, including attendance monitoring, welfare checks, curriculum continuity, and the creation of Individual Healthcare Plans (IHPs) where required.
- Schools are expected to work collaboratively with healthcare professionals and families to design and deliver support in line with *Supporting Pupils at School with Medical Conditions*

(DfE, 2015), including reasonable adjustments, reduced timetables, online learning, or in-school adaptations.

- Schools must demonstrate they have exhausted reasonable strategies to maintain attendance and learning before the LA assumes responsibility.

B. LA Duty and Provision

- When schools have demonstrated that they are no longer able to provide suitable education, the LA will step in to commission or deliver an appropriate programme.
- Multiagency decision-making through the Internal Complex Case Panel (ICCP) will ensure transparent, equitable decisions.
- The LA will continue to promote reintegration as the default pathway unless evidence shows it would not be appropriate.
- Requests made directly by parents or carers where the pupil is on roll at a school will **not** automatically trigger a Section 19 assessment or the arrangement of provision. In most cases parents will be directed back to the child's school, which holds the primary responsibility for assessing need, coordinating medical evidence, implementing reasonable adjustments, and ensuring suitable education in line with statutory guidance.
- Where a parent is dissatisfied with the education being arranged by the school, the expectation is that they follow the school's published complaints procedure. Only in exceptional circumstances—such as where safeguarding concerns or legal duties clearly require Local Authority intervention—will the LA consider stepping in without a school-led referral.

Local Authority Duty to Consider Alternative Provision under Section 19

Requests for Section 19 provision *should* come from schools, not directly from parents. Where a parent expresses concern that their child's needs are not being met:

- The school must engage in dialogue, work through the graduated response, relevant SEN processes and follow their own complaints procedure if required.
- Schools are expected to provide relevant evidence of the interventions, support and reasonable adjustments undertaken to facilitate attendance and access to education. The Local Authority will consider this alongside all other available information when determining whether its Section 19 duty is engaged and whether alternative provision should be arranged

The Local Authority will assess all school submitted Section 19 requests via the Internal Complex Case Panel (ICCP) which reviews:

- evidence of need,
- medical input,
- safeguarding considerations,
- the school's graduated response,
- reasonable adjustments already attempted,
- and the child's response to interventions.

Depending on the circumstances, provision may be delivered by:

- the Medical Tuition Service (MTS),
- commissioned AP,
- or iCollege (PRU).

2. Policy Statement: Medical Tuition Service (MTS)

The Medical Tuition Service exists to ensure continuity of education for children who are temporarily unable to attend school due to medical conditions. MTS operates on the principle that school remains the most appropriate educational setting and the pupil should remain part of their school community wherever possible.

The service is guided by DfE Supporting Pupils at School with Medical Conditions (2015), which emphasises:

- the importance of medical professionals providing clear, specific advice on the impact of a child's health condition on education;
- the requirement that schools and health professionals work with families to develop an Individual Healthcare Plan;
- the expectation of multi-agency coordination, shared responsibilities, and regular review.

The Local Authority and MTS will ensure:

A. School-Led Planning

- The home school retains responsibility for setting work, sharing curriculum plans, contributing to risk assessments, and attending MTS review meetings.
- Wherever medically possible, schools must continue to provide reasonable adjustments or partial attendance opportunities to maintain connection with peers and school life.

B. MTS Provision

- MTS provides short-term, specialist intervention, including face-to-face tuition, virtual learning, AV1 robotics, and community-based sessions.
- Provision is based on appropriate medical evidence, regularly reviewed, and planned jointly with schools and health professionals.
- A reintegration plan is developed from the outset, with MTS supporting a structured, safe return to school when appropriate.

C. Safeguarding, Quality and Capacity

- MTS tutors must have appropriate training to support pupils with complex needs, trauma, neurodiversity, and emotional regulation difficulties.
- The LA will ensure provision is delivered in safe, quality-assured environments and regularly monitored.

3. Policy Statement: Education Otherwise Than at School (EOTAS)

Education Otherwise Than at School (EOTAS) is an exceptional arrangement available under Section 61 of the Children and Families Act 2014. Before agreeing EOTAS, the Local Authority must be satisfied that it would be **inappropriate for the child's special educational provision to be made in any school or other educational institution**.

The key question is not whether education outside of school would be preferable or more desirable, but whether the child's special educational provision can appropriately be delivered within any educational setting. EOTAS should only be considered where there is robust evidence that education within a school environment is inappropriate for the individual child or young person.

In considering whether the Section 61 test has been met, the Local Authority will have regard to:

- the views of the child or young person and their parents or carers;

- evidence from the current or previous educational setting;
- attendance, engagement and progress information;
- advice from relevant health professionals;
- educational psychology advice and other specialist assessments;
- evidence of reasonable adjustments, SEND support and graduated response activity already undertaken;
- whether mainstream, specialist, resource-base and alternative educational placements have been fully explored and considered.

The Local Authority will expect clear multi-agency evidence demonstrating that suitable provision cannot appropriately be delivered within a school setting. EOTAS will not normally be agreed solely because:

- a child is unwilling or reluctant to attend school;
- a child experiences anxiety without evidence that education in school is inappropriate;
- there are delays in securing a preferred placement;
- there are capacity issues within local schools;
- there is disagreement between parents and a school;
- parents would prefer education to be delivered at home.

The SEND Panel will apply the following decision-making question:

"Is there robust multi-agency evidence that it would be inappropriate for the child's special educational provision to be made in any school setting, in accordance with Section 61 of the Children and Families Act 2014?"

Where EOTAS is agreed:

- the provision must be clearly specified and quantified in Section F of the EHCP;
- Section I may be left blank where appropriate because education is being arranged otherwise than at school;
- the Local Authority will be responsible for arranging the specified provision;
- arrangements will be subject to regular review to determine whether EOTAS remains necessary and appropriate.
- Any decision to change provision will be made using the statutory processes embedded in SEND Code of Conduct

Overview:

A. Relationship with School Responsibilities

- Before EOTAS is considered, schools must demonstrate they have:
 - implemented high quality SEND support,
 - followed advice from health and education professionals,
 - collaborated on an Individual Healthcare Plan where relevant,
 - trialled reasonable adjustments and alternative on-site or blended provision.
- The LA will consider EOTAS when evidence shows that all appropriate school-based options are unsuitable.

B. Decision-Making and Medical Evidence

- Schools, families, medical professionals, and specialist teams must contribute to evidence—including clinical advice, educational assessments, attendance data, and behaviour or risk information.

- The SEND Panel¹ will scrutinise multi-agency evidence and determine whether EOTAS is required.
- For pupils with an EHCP, all EOTAS arrangements must be explicitly specified in Section F, with Section I left blank, where applicable.

C. Provision and Review

- EOTAS packages may include tutoring, therapeutic interventions, online learning, community provision, or specialist programmes.
- Provision will be reviewed every six weeks and formally through the EHCP process after two academic terms.
- Reintegration into a school setting remains the preferred long-term goal unless it is demonstrated to be inappropriate.

4. Alternative Provision (AP) and Additional Needs

Children and young people with additional needs may require alternative provision (AP) on a short-term or exceptional basis. In West Berkshire:

- AP is considered only after schools have evidenced a clear graduated response, including all reasonable adjustments, appropriate interventions, and multi-agency involvement.
- AP must be needs-led, time-limited, purposeful, and designed to support progress and return to sustained education in the most appropriate setting.

West Berkshire's Local Offer and specialist services provide support to help schools maintain placements and address barriers to attendance and engagement.

Where a child is at risk of requiring AP or Section 19 provision, teams such as:

- Education Attendance Service
- Inclusion & Reintegration Team
- Educational Psychology Service
- EBSA support, Therapeutic Thinking and Early Help
- SEND Advisory Services
- iCollege (PRU) as commissioned AP

will collaborate with schools to identify underlying needs and implement appropriate interventions.

5. Children with EHCPs and Alternative Provision

For pupils with an EHCP, schools must:

- utilise SEND resources and support available via the Local Offer,
- collaborate with the child's SEN Case Officer,
- ensure appropriate reviews and amendments to Section F where required,
- call an Interim Review when placement concerns emerge, so all professionals can jointly assess needs and determine whether adaptations or temporary AP arrangements are required.

¹ A SEND panel moderates and scrutinises evidence from education, health and social care to support LA decisions about whether to carry out an EHC needs assessment, whether to issue, amend or cease an EHCP, what provision should be specified in Section F, Placement decisions, including where education in school is deemed inappropriate. It ensures decisions are: evidence-based, proportionate, consistent across cases, compliant with statutory duties under the Children and Families Act 2014 and the SEND Code of Practice.

If alternative provision is required to deliver the child's EHCP, this must follow statutory review processes and be formally agreed through SEND decision-making pathways.

6. Pupils at Risk of Exclusion

West Berkshire Council expects schools to consider all available support to maintain the pupil's placement and avoid exclusion wherever possible.

Suspension or permanent exclusion must be used only as a last resort, and only where:

- there has been a serious or persistent breach of the behaviour policy; and
- allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others.

The Council provides support through:

- the Local Offer,
- the Inclusion & Reintegration Team,
- iCollege (PRU) and wider AP,
- Education Psychology,
- targeted behaviour and attendance interventions.

Exclusion Duties

- For permanent exclusions, West Berkshire (as the home authority) must arrange suitable full-time education from the sixth school day, discharged through iCollege under the Section 19 duty.
- For suspensions (fixed-period exclusions), the duty to arrange provision from day 6 lies with the school's governing board, as per the Education and Inspections Act 2006.

7. Elective Home Education (EHE)

Elective Home Education is a parental choice, not an alternative to Section 19. When parents choose EHE:

- they assume full responsibility for providing education, including financial,
- the LA's role is limited to assessing whether the education is "suitable",
- EHE does not trigger Section 19 provision.

Parents who are dissatisfied with school provision must address concerns through the school's complaint process, not by requesting EHE or Section 19 provision.

8. Summary of West Berkshire's Section 19 Position

- Schools are ordinarily the best and first place to meet a child's needs.
- School-based solutions should be fully explored before alternative arrangements are considered.
- Decisions are evidence-led, multi-agency and subject to panel scrutiny.
- Reintegration into school remains the preferred outcome wherever appropriate.
- EOTAS remains exceptional and requires SEND Panel agreement supported by robust evidence.
- The policy aims to ensure legal compliance, educational continuity and equitable decision-making for all children and young people.

- Exclusion duties are met promptly through iCollege and supported by multi-agency intervention.
- EHE is a parental choice and not a route into Section 19 provision.

This framework ensures that West Berkshire fulfils its statutory duties, protects children's educational rights, and promotes consistent, equitable decision-making across all settings

Appendix B – Previous Policy Statement for Section 19, Medical Tuition Service & EOTAS

1. Policy Statement: Section 19 Education Duty

West Berkshire Council is committed to ensuring that all children of compulsory school age who cannot attend school—due to illness, exclusion, or other reasons—receive suitable full-time education, in line with Section 19 of the Education Act 1996.

The Council recognises that the term “meeting the child’s needs” can be perceived as ambiguous; however, there are already well-established statutory processes within schools designed to understand, assess, and respond to a child’s needs **before** any consideration of Section 19 provision.

All schools are required to follow a graduated response, in line with the SEND Code of Practice and *Supporting Pupils at School with Medical Conditions (DfE, 2015)*. This includes, but is not limited to:

- gathering evidence through school-based assessment, records of strategies used, and professional input;
- implementing reasonable adjustments, including adaptations to timetable, environment, curriculum, or delivery model;
- working with medical professionals to secure clear guidance on the impact of the child’s health on attendance and learning;
- developing and reviewing an Individual Healthcare Plan (IHP) or other agreed multi-agency plan;
- engaging with parents and carers to co-produce support and ensure shared understanding of the child’s needs;
- documenting progress, barriers, attendance patterns, and the child’s response to interventions.

Only where a school can clearly evidence that it has exhausted these graduated processes, and that suitable education cannot reasonably be delivered within the school environment, will the Local Authority consider its Section 19 duty to be engaged.

This ensures that:

- the pupil remains integrated within their school community wherever possible;
- education continues in the setting best placed to deliver continuity and curriculum progression;
- Section 19 provision is reserved for cases where school-based solutions have been fully explored and are evidenced as not reasonably practicable.

In fulfilling its Section 19 duty, the Local Authority will ensure:

A. Delegation and School Responsibility

- Schools maintain responsibility for their pupils, including attendance monitoring, welfare checks, curriculum continuity, and the creation of Individual Healthcare Plans (IHPs) where required.
- Schools are expected to work collaboratively with healthcare professionals and families to design and deliver support in line with *Supporting Pupils at School with Medical Conditions (DfE, 2015)*, including reasonable adjustments, reduced timetables, online learning, or in-school adaptations.

- Schools must demonstrate they have exhausted reasonable strategies to maintain attendance and learning before the LA assumes responsibility.

B. LA Duty and Provision

- When schools have demonstrated that they are no longer able to provide suitable education, the LA will step in to commission or deliver an appropriate programme.
- Multiagency decision-making through the Internal Complex Case Panel (ICCP) will ensure transparent, equitable decisions.
- The LA will continue to promote reintegration as the default pathway unless evidence shows it would not be appropriate.
- Requests made directly by parents or carers where the pupil is on roll at a school will **not** automatically trigger a Section 19 assessment or the arrangement of provision. In most cases parents will be directed back to the child's school, which holds the primary responsibility for assessing need, coordinating medical evidence, implementing reasonable adjustments, and ensuring suitable education in line with statutory guidance.
- Where a parent is dissatisfied with the education being arranged by the school, the expectation is that they follow the school's published complaints procedure. Only in exceptional circumstances—such as where safeguarding concerns or legal duties clearly require Local Authority intervention—will the LA consider stepping in without a school-led referral.

2. Policy Statement: Medical Tuition Service (MTS)

The Medical Tuition Service exists to ensure continuity of education for children who are temporarily unable to attend school due to medical conditions. MTS operates on the principle that school remains the most appropriate educational setting and the pupil should remain part of their school community wherever possible.

The service is guided by DfE Supporting Pupils at School with Medical Conditions (2015), which emphasises:

- the importance of medical professionals providing clear, specific advice on the impact of a child's health condition on education;
- the requirement that schools and health professionals work with families to develop an Individual Healthcare Plan;
- the expectation of multi-agency coordination, shared responsibilities, and regular review.

The Local Authority and MTS will ensure:

A. School-Led Planning

- The home school retains responsibility for setting work, sharing curriculum plans, contributing to risk assessments, and attending MTS review meetings.
- Wherever medically possible, schools must continue to provide reasonable adjustments or partial attendance opportunities to maintain connection with peers and school life.

B. MTS Provision

- MTS provides short-term, specialist intervention, including face-to-face tuition, virtual learning, AV1 robotics, and community-based sessions.
- Provision is based on appropriate medical evidence, regularly reviewed, and planned jointly with schools and health professionals.

- A reintegration plan is developed from the outset, with MTS supporting a structured, safe return to school when appropriate.

C. Safeguarding, Quality and Capacity

- MTS tutors must have appropriate training to support pupils with complex needs, trauma, neurodiversity, and emotional regulation difficulties.
- The LA will ensure provision is delivered in safe, quality-assured environments and regularly monitored.

3. Policy Statement: Education Otherwise Than at School (EOTAS)

West Berkshire Council will provide Education Otherwise Than at School (EOTAS) only when it is satisfied, in accordance with Section 61 of the Children and Families Act 2014, that it is inappropriate for the child to be educated in any school or specialist setting.

EOTAS is an *exceptional, needs-led* provision. It will not be used because of school capacity issues, school refusal without supporting evidence, or delays in securing placements.

A. Relationship with School Responsibilities

- Before EOTAS is considered, schools must demonstrate they have:
 - implemented high quality SEND support,
 - followed advice from health and education professionals,
 - collaborated on an Individual Healthcare Plan where relevant,
 - trialled reasonable adjustments and alternative on-site or blended provision.
- The LA will only agree EOTAS when evidence shows that all appropriate school-based options are unsuitable.

B. Decision-Making and Medical Evidence

- Schools, families, medical professionals, and specialist teams must contribute to evidence—including clinical advice, educational assessments, attendance data, and behaviour or risk information.
- The SEND Panel² will scrutinise multi-agency evidence and determine whether EOTAS is required.
- For pupils with an EHCP, all EOTAS arrangements must be explicitly specified in Section F, with Section I left blank, where applicable.

C. Provision and Review

- EOTAS packages may include tutoring, therapeutic interventions, online learning, community provision, or specialist programmes.
- Provision will be reviewed every six weeks and formally through the EHCP process after two academic terms.
- Reintegration into a school setting remains the preferred long-term goal unless it is demonstrated to be inappropriate.

² A SEND panel moderates and scrutinises evidence from education, health and social care to support LA decisions about whether to carry out an EHC needs assessment, whether to issue, amend or cease an EHCP, what provision should be specified in Section F, Placement decisions, including where education in school is deemed inappropriate. It ensures decisions are: evidence-based, proportionate, consistent across cases, compliant with statutory duties under the Children and Families Act 2014 and the SEND Code of Practice.

4. Alternative Provision (AP) and Additional Needs

Children and young people with additional needs may require alternative provision (AP) on a short-term or exceptional basis. In West Berkshire:

- AP is considered only after schools have evidenced a clear graduated response, including all reasonable adjustments, appropriate interventions, and multi-agency involvement.
- AP must be needs-led, time-limited, purposeful, and designed to support progress and return to sustained education in the most appropriate setting.

West Berkshire's Local Offer and specialist services provide support to help schools maintain placements and address barriers to attendance and engagement.

Where a child is at risk of requiring AP or Section 19 provision, teams such as:

- Education Attendance Service
- Inclusion & Reintegration Team
- Educational Psychology Service
- EBSA support, Therapeutic Thinking and Early Help
- SEND Advisory Services
- iCollege (PRU) as commissioned AP

will collaborate with schools to identify underlying needs and implement appropriate interventions.

5. Local Authority Duty to Consider Alternative Provision under Section 19

Requests for Section 19 provision should come from schools, not directly from parents.

Where a parent expresses concern that their child's needs are not being met:

- The school must engage in dialogue, work through the graduated response, relevant SEN processes and follow their own complaints procedure if required.
- The LA will only intervene where a school can demonstrate that they cannot, despite exhaustive statutory processes, provide suitable education.

The Local Authority will assess all school submitted Section 19 requests via the Internal Complex Case Panel (ICCP) which reviews:

- evidence of need,
- medical input,
- safeguarding considerations,
- the school's graduated response,
- reasonable adjustments already attempted,
- and the child's response to interventions.

Depending on the circumstances, provision may be delivered by:

- the Medical Tuition Service (MTS),
- the Inclusion & Reintegration Team,
- commissioned AP,
- or iCollege (PRU).

6. Children with EHCPs and Alternative Provision

For pupils with an EHCP, schools must:

- utilise SEND resources and support available via the Local Offer,
- collaborate with the child's SEN Case Officer,
- ensure appropriate reviews and amendments to Section F where required,
- call an Interim Review when placement concerns emerge, so all professionals can jointly assess needs and determine whether adaptations or temporary AP arrangements are required.

If alternative provision is required to deliver the child's EHCP, this must follow statutory review processes and be formally agreed through SEND decision-making pathways.

7. Pupils at Risk of Exclusion

West Berkshire Council expects schools to consider all available support to maintain the pupil's placement and avoid exclusion wherever possible.

Suspension or permanent exclusion must be used only as a last resort, and only where:

- there has been a serious or persistent breach of the behaviour policy; and
- allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others.

The Council provides support through:

- the Local Offer,
- the Inclusion & Reintegration Team,
- iCollege (PRU) and wider AP,
- Education Psychology,
- targeted behaviour and attendance interventions.

Exclusion Duties

- For permanent exclusions, West Berkshire (as the home authority) must arrange suitable full-time education from the sixth school day, discharged through iCollege under the Section 19 duty.
- For suspensions (fixed-period exclusions), the duty to arrange provision from day 6 lies with the school's governing board, as per the Education and Inspections Act 2006.

8. Elective Home Education (EHE)

Elective Home Education is a parental choice, not an alternative to Section 19.

When parents choose EHE:

- they assume full responsibility for providing education, including financial,
- the LA's role is limited to assessing whether the education is "suitable",
- EHE does not trigger Section 19 provision.

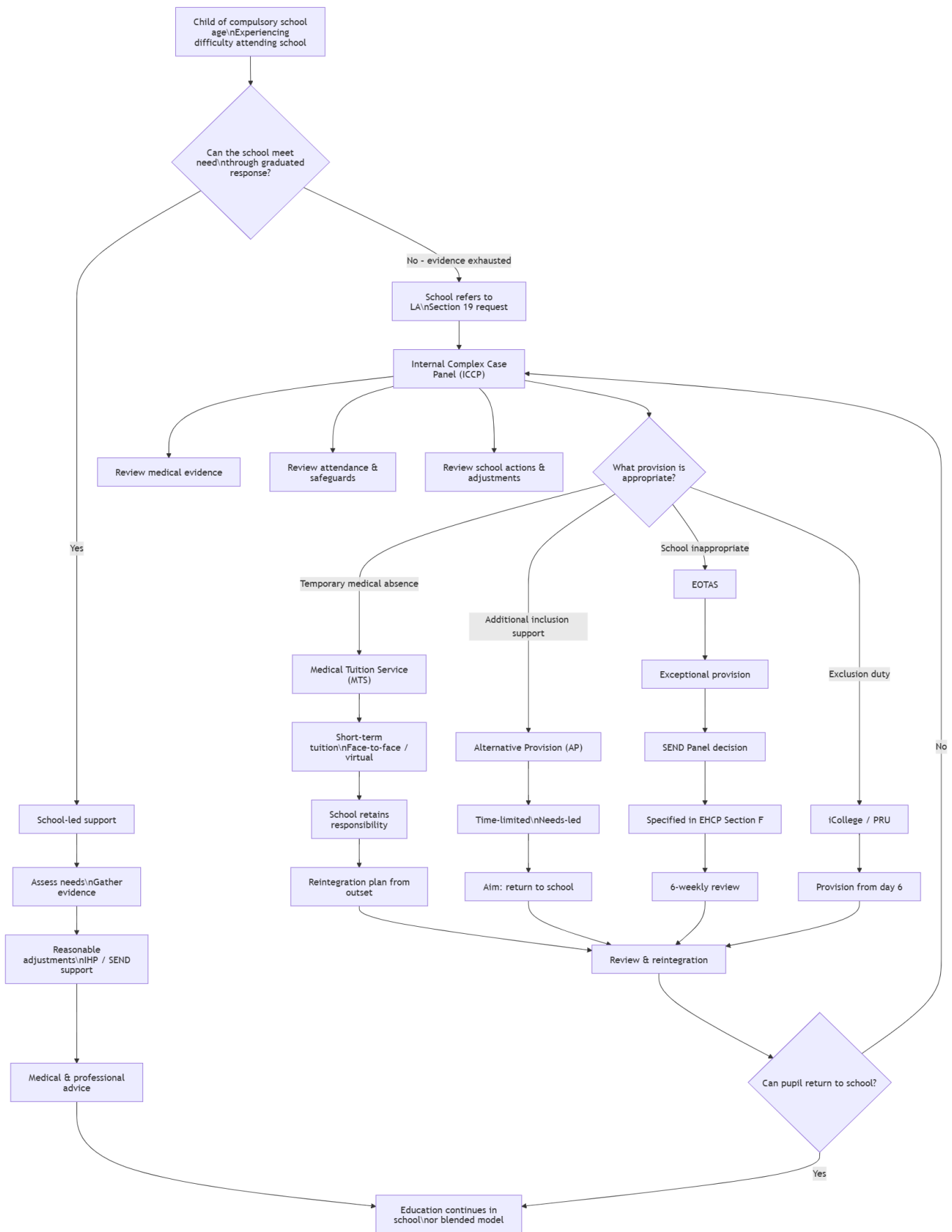
Parents who are dissatisfied with school provision must address concerns through the school's complaint process, not by requesting EHE or Section 19 provision.

9. Summary of West Berkshire's Section 19 Position

- Schools are the best and first place to meet need—this must be evidenced through a graduated response.
- The LA will only intervene when schools demonstrate they cannot reasonably provide suitable education, despite following statutory processes.
- AP and MTS are used only where appropriate, time-limited, and with a clear plan for reintegration.
- EOTAS remains an exceptional provision requiring robust evidence and Panel agreement.
- Exclusion duties are met promptly through iCollege and supported by multi-agency intervention.
- EHE is a parental choice and not a route into Section 19 provision.

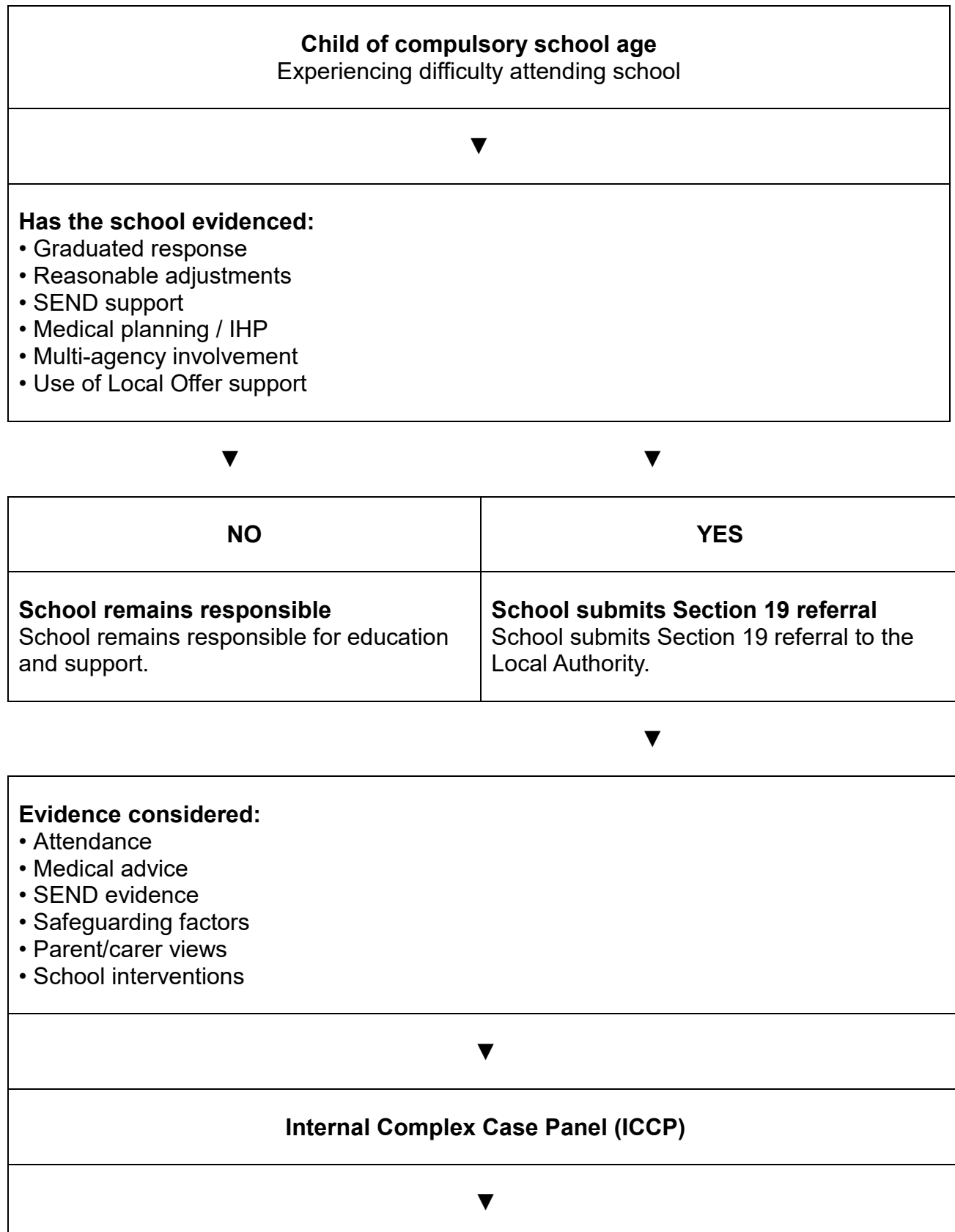
This framework ensures that West Berkshire fulfils its statutory duties, protects children's educational rights, and promotes consistent, equitable decision-making across all settings

Flowchart of Section 19 Processes



Appendix C – New Flowchart (as per policy statement)

Section 19 Decision-Making Flowchart



Is the LA Section 19 duty engaged?



NO	YES
School retains responsibility	Appropriate provision required



MTS	AP
Medical evidence shows pupil cannot currently attend school	Needs-led, time-limited intervention
Medical Tuition Service • Face-to-face • Virtual • AV1	Alternative Provision
Reintegration plan from outset	Reintegration plan from outset



Regular review and progress review 6-weekly
▼
Return to school remains the preferred outcome Unless evidenced as inappropriate

Appendix D – Educational Neglect Policy

Document Control

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2			
3			

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Purpose

To set out West Berkshire Council's approach to identifying, preventing and responding to educational neglect so that all children and young people receive suitable, full-time education and are safeguarded from harm. This expanded version integrates core guidance from the Association of Education Welfare Management (AEWM) to strengthen definitions, thresholds, indicators, and practice expectations across the partnership.

Educational Neglect can have significant impact on a child's outcomes including:

- Persistent/severe absence correlates with significantly reduced attainment at KS2 and KS4;
- Pupils with lower attainment can lead to higher absence rates.
- For vulnerable pupils, regular attendance is a protective factor;
- Persistent absence is associated with increased risk of offending and serious violence.

These impacts underscore the need for early identification, sustained support, and prompt escalation where risks persist.

Applicability

This Policy applies to:

- Local authority staff working in education, safeguarding, children's social care, Early Help, and related services.
- Commissioned and partner agencies, and all education providers within West Berkshire, including maintained schools, academies, alternative provision, and post-16 providers.
- It is the responsibility of each employee and other person mentioned above to familiarise themselves with and adhere to this Policy.
- Adherence to this Policy is a condition of working for the council or using its assets.

Principals

This policy is sustained by 4 main principals as:

- 1. Child centred and rights based:** Practice is underpinned by the UN Convention on the Rights of the Child, and a child centred approach is fundamental to safeguarding (Working Together 2023; Keeping Children Safe in Education).
- 2. Right to suitable education:** Parents, schools and the local authority have statutory responsibilities to secure efficient, fulltime, suitable education accounting for age, ability, aptitude and any special educational needs/additional learning needs (Education Act 1996 s7).
- 3. Support first:** Barriers to attendance/engagement are complex and require individual assessment, collaborative work with families, and early, coordinated multiagency support.

Attendance is everyone's responsibility: A shared, collaborative culture across Early Help, schools and partners increases the chances of successful outcomes.

The Local Authority is committed to safeguarding and promoting the welfare of all children.

Educational neglect is recognised as a form of neglect that significantly impacts a child's wellbeing, development, and future life chances. The Local Authority will take a clear, structured approach to identifying, assessing, and addressing educational neglect in partnership with families, schools, and safeguarding partners.

8 Aims

The aim of this policy is to:

- Ensure all practitioners understand what educational neglect is and how to recognise it.
- Provide a clear multi-agency pathway for intervention, from early help through to statutory action.
- Embed thresholds into safeguarding procedures in line with CME (Children Missing Education) and SAO (School Attendance Order) frameworks.
- Promote timely assessment, intervention, and where necessary, enforcement, to secure a suitable education for every child.

Definition of Educational Neglect

Educational neglect involves a carer failing to:

- provide a stimulating environment,
- show an interest in the child's education (at school or otherwise),
- support their learning, or respond to any special needs,
- as well as failing to comply with state requirements regarding education and attendance.

Legal and Policy Framework

This policy is informed by the following legislation and statutory guidance:

- Children Act 1989 and 2004
- Education Act 1996
- Education and Inspections Act 2006
- Keeping Children Safe in Education (DfE, 2025)
- Working Together to Safeguard Children (Gov.uk 2025)
- Local Safeguarding Children Partnership (BWSCP) guidance
- Statutory responsibilities of the Local Authority for school attendance, safeguarding, and children missing education (CME).

Neglect is defined as the persistent failure to meet a child's basic physical and/or psychological needs, likely to result in serious impairment of health or development and includes failure to provide suitable education (Working Together to Safeguard Children, 2023).

- Significant harm is defined as assessed relative to what could reasonably be expected of a similar child; includes ill-treatment and impairment of health or development (Children Act 1989, s31).
- Four broad types of neglect to consider in assessment related to Educational Neglect are physical, educational, emotional and medical.

Thresholds (and use of professional judgement)

Thresholds support multiagency understanding and do not replace individual assessment (including medical/SEND factors and the child's lived experience).

Persistent failure (sustained over time) may be indicated where:

- Parents persistently do not consent to or fail to engage with support services/interventions (including Early Help).
- Parents persistently do not consent to or engage with specialist support (CAMHS, Educational Psychologists, Paediatrics) needed to remove barriers to attendance.
- Parents fail to attend most school/LA meetings and/or engage with support offered.
- Parents are unable to substantiate most absences; or Elective Home Education (EHE) provision is unsuitable.
- The child is not on roll and not receiving any education (CME).
- Primary & Secondary pupils: Attendance below 75% for a sustained period
- Attendance below 50% (severe absence);
- Persistent lack of parental engagement with single/multiagency support to address barriers.

A guide for concern thresholds:

- **Early Concern:** Below 90% attendance across 2 consecutive terms; unexplained absences.
- **Persistent Concern:** Attendance below 75% for a sustained period; refusal to engage with support; repeated missed meetings, education deemed unsuitable (including poor elective home education).
- **Severe Concern:** Attendance below 50% (severe absence); no education engagement; persistent refusal to cooperate; significant risk of developmental harm, child not on roll or not in receipt of education. Serious impairment of development:

Procedures & Pathways (Support-first to Statutory)

Stage 1 – Early Help / Support First

- School identifies concerns and works with the family to co-produce plans of support.
- Early Help assessment and multi-agency support offered.
- Clear action plan agreed with timescales and monitoring on a plan, do, review cycle.

Stage 2 – Formal Local Authority Involvement

- Referral made via safeguarding pathways if concerns persist.
- LA convenes case discussion with school and partners.
- Attendance Officers review case for compliance with statutory duties.
- Interventions: parenting contracts, support services, formal attendance panels.

Stage 3 – Statutory Pathways

If non-engagement persists and the child remains without suitable education:

- Penalty Notice (Education (Penalty Notices) (England) Regulations 2007).
- School Attendance Order (SAO) (s437 Education Act 1996).
- Prosecution under Education Act 1996, s444.
- Education Supervision Order (s36 Children Act 1989).

Referral to Children’s Social Care to consider an assessment under s17 or s47 where significant harm is indicated, based on local safeguarding threshold.

Multi-Agency Safeguarding Alignment

- Educational neglect is embedded within Local Safeguarding Children Partnership thresholds.
- Multi-agency assessments must consider education alongside health and development.
- Escalation to statutory safeguarding should follow the “no order principle” but be swift where neglect is persistent.
- Multi-Agency Chronologies should be maintained and shared to support concerns across the partnership.

Elective Home Education (EHE) & Children Missing Education (CME)

- Where parents elect to home educate, the LA should assess suitability, offer support, and act where education appears unsuitable.
- Children off roll and not receiving education must be identified and supported swiftly via CME procedures and, where necessary, SAO action to secure provision.

Multiagency working & organisational responsibilities

Effective practice requires:

- Shared multiagency understanding of educational neglect; jointly developed thresholds and pathways; inclusion in Berkshire West Safeguarding Children Partnership (BWSCP) documents; training for social workers/partners; awareness raising.
- Assessments should consider the full Assessment Triangle, barriers and promoters of attendance, and the child’s lived experience, including whether parental action/ inaction prevents access to education.
- Professional/organisational actions can also impair access; systems must ensure:
- Alternative provision is appropriate, timely, monitored and adapted to reduce impairment, reflecting individual needs/wishes.

- Robust safeguarding checks for alternative placements.
- Timely transfer/sharing of records to sustain learning and wellbeing across transitions.
- No off rolling primarily in the interests of the school rather than the pupil; where removal from roll occurs, due process and legitimate grounds must be evidenced (in accordance with The School Attendance (Pupil Registration) (England) Regulations 2024) and Ofsted definition applied locally.
- Timely action by agencies to minimise impact of known poor parental management of attendance/provision.
- The child's learning and development needs remain central to multiagency planning, with monitoring and challenge where improvement is required
- Child's views must always inform decisions- Ensure children's voices are heard in decisions affecting their education and welfare.

Training and Awareness

- All local authority staff working with children will receive safeguarding training that includes educational neglect.
- Specialist services (e.g. education attendance, social care) will access enhanced training and development.
- Schools and partners will be offered training, guidance, and resources on recognising and addressing educational neglect.

Roles and Responsibilities

- The overall responsibility for educational neglect within WBC rests with senior leadership for Children's Services, with operational leadership from Education Services.
- WBC maintains multi-agency governance (including Education Attendance, Early Help and Children's Social Care) to oversee practice, data, and procedures, and to review this Policy periodically.
- Day-to-day management sits with the Education Attendance Service working with Early Help and Children's Social Care, including maintaining procedures and providing advice and training.
- All managers are responsible for implementing this Policy within their service areas and for ensuring staff and partners comply.
- All personnel and partners have an individual responsibility to follow this Policy and related procedures.

Failure to comply with WBC Policy

This document provides staff and partners with essential information and conditions to be followed. Failure to do so may result in:

- withdrawal of access to relevant systems or services
- informal management action

- formal disciplinary action in line with WBC procedures and, where appropriate, legal action under the Education Act 1996

Glossary

- **Educational neglect:** persistent failure to ensure a child receives suitable education (e.g., failure to secure attendance; nonengagement with school/LA support; failure to pursue identified SEND/EHCP processes; failure to provide essentials for participation).
- **Significant harm:** ill treatment or impairment of health/development; assessed relative to a similar child (Children Act 1989 s31).
- **Severe absence:** attendance below 50%.
- **Off rolling:** removal from roll without formal permanent exclusion or by encouraging a parent to remove the child, when primarily in the interests of the school rather than the pupil; only lawful where in the child's best interests, due process is followed and legitimate grounds evidenced (Ofsted definition applied locally)

Resourced and Relevant Documentation

- Children Act 1989 & 2004; Education Act 1996; Education and Inspections Act 2006
- Working Together to Safeguard Children (HM Government, 2023).
- Keeping Children Safe in Education (DfE, current).
- Working Together to Improve School Attendance (DfE).
- West Berkshire policies on Attendance, Inclusion, CME.
- West Berkshire BWSCP threshold documents and procedures.

Appendix E – Officer Responses to Questions Raised by Ms Brown

8.1 Question 1: *What is the confirmed timeline for the amended policy documents to be produced and approved?*

Both policy documents have already progressed through the Council's established governance and decision-making processes. Following individual member consultation, a number of comments have been received through correspondence, member feedback and the scrutiny process. Those comments have been considered to determine whether any further clarification would assist in ensuring the documents are consistently understood and accurately reflect the existing statutory framework.

As this was not a published policy and in draft format until approved by the governance procedure, new versions and strengthened content including a corrected flowchart are available today – see Appendix A

8.2 Question 2: *Will the language regarding school-based interventions be removed from the EOTAS policy?*

The Council does not accept the assertion that the policy creates an unlawful gateway to EOTAS. The references within the draft policy to SEND support, professional advice, reasonable adjustments, graduated responses and alternative arrangements are intended to describe the evidential context that is commonly available when EOTAS is being considered. They are not intended to create mandatory preconditions or additional legal tests beyond those contained within legislation.

The Council's position remains that EOTAS decisions must be determined based on the individual child's needs, available evidence, professional advice and relevant statutory processes. Feedback regarding interpretation of this section has been received and officers have considered further clarification would improve understanding and reduce ambiguity. See Appendix A.

8.3 Question 3: Will Section 19 and Section 61 be clearly distinguished and does ICCP apply to EHCP cases?

The Council recognises that Section 19 of the Education Act 1996 and Section 61 of the Children and Families Act 2014 are separate legal frameworks serving different statutory purposes. To strengthen clarity, officers have proposed an introductory statement within the policy framework that explicitly distinguishes Section 19 duties, Medical Tuition Service arrangements and EOTAS provisions under Section 61.

In relation to the Internal Complex Case Panel (ICCP), the Council's position is that the panel does not determine statutory rights under either Section 19 or Section 61. Its function is to provide multi-agency consideration and oversight of complex cases where appropriate. The existence of an EHCP, EOTAS package, alternative provision placement or school placement does not remove safeguarding responsibilities. Safeguarding duties apply equally to all children and professional concerns must be considered in accordance with established safeguarding thresholds and procedures – See Appendix A, Appendix B and Appendix C for further clarity.

8.4 Question 4: Will an LA accountability mechanism be added to the Educational Neglect Policy?

The Educational Neglect Policy is intended as a safeguarding threshold document and not as an accountability framework for Local Authority decision-making. Its purpose is to support identification of educational neglect, assist professional decision-making, establish safeguarding thresholds and promote consistent multi-agency responses.

The Council already operates a range of established accountability and challenge mechanisms through which concerns about Local Authority actions, decisions or services can be raised and investigated. These include complaints procedures, SEND dispute resolution mechanisms, mediation, tribunal processes and Ombudsman oversight. The Educational Neglect Policy already recognises that professional and organisational actions can negatively affect children's access to education and requires these factors to be considered during assessment and planning.

8.5 Question 5: Will the Educational Neglect Policy state that it cannot be applied where a child has an EHCP and the Local Authority has not fulfilled its Section 42 duty?

The Council would not support a blanket statement of this nature. The Educational Neglect Policy is a safeguarding policy rather than a SEND policy. It does not determine entitlement to EHCPs, EOTAS, alternative provision or other educational arrangements.

The existence of an EHCP or EOTAS arrangement does not automatically remove safeguarding responsibilities. Likewise, potential concerns regarding the discharge of SEND duties do not automatically prevent professionals from considering whether safeguarding concerns may exist. Where a child has SEND, medical needs or an EHCP, these factors must be considered as part of any assessment. The policy already states that thresholds do not replace individual assessment and that SEND needs, medical circumstances, lived experience and professional actions must be considered when making decisions.

The Council's position remains that safeguarding concerns should be considered objectively based on all available evidence and individual circumstances.