

### 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 |           |
| 4       | July 2026      | Children's Scrutiny Board                                                                                  |           |
| 5       | August 2026    | Full review of Section 19 Statement & Removal of Flowchart in addition to an update to formatting          |           |

### Guidance & Legal Framework:

- [Children and Families Act 2014, section 61,](#)
- [Education Act 1996,](#)
- [SEND Regulations 2014,](#)
- [SEND Code of Practice,](#)
- [Keeping Children Safe in Education,](#)
- [Working Together to Safeguard Children 2026,](#)
- [Supporting pupils with medical conditions at school - GOV.UK](#)
- [Working together to improve school attendance - GOV.UK](#)
- [Allergy safety in schools - GOV.UK](#)
- [School suspensions and permanent exclusions - GOV.UK](#)
- [Keeping children safe in education - GOV.UK](#)
- [Alternative provision - GOV.UK](#)
- [Children missing education - GOV.UK](#)
- [Mental health issues affecting a pupil's attendance: guidance for schools - GOV.UK](#)
- [Inclusion bases in schools - GOV.UK](#)
- [Identifying and supporting the needs of children with SEND in mainstream settings - GOV.UK](#)
- [SEND reform: education otherwise than at school – what parents and carers of children and young people need to know - GOV.UK](#)
- [Equality Act 2010: guidance - GOV.UK](#)

- [Arranging Education for Children Who Cannot Attend School Because of Health Needs \(DfE, 2023\).](#)

## 1. Introduction

**1.1** 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.

**1.3 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.

**1.4 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.

**1.5 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.

**1.6** 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.

**1.7** 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.

**1.8** 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.

## **2. Policy Statement: Section 19 Duty**

### **2.1 Statutory Duty and Core Principles**

**2.1.1** West Berkshire Council is committed to ensuring that all children of compulsory school age who cannot attend school because of illness, exclusion, or otherwise receive suitable education in accordance with Section 19 of the Education Act 1996. The Council recognises that its duty under Section 19 is a statutory responsibility which cannot be delegated and that decisions must be made on the individual circumstances of each child.

### **2.2 School-Led Identification and Graduated Response**

**2.2.1** The Council recognises that schools are ordinarily best placed to identify needs at an early stage and to implement support that enables children and young people to access education within their school community wherever possible. Schools are expected to follow relevant statutory guidance, including the SEND Code of Practice and *Supporting Pupils at School with Medical Conditions (DfE, 2015)*, to understand, assess and respond to barriers to attendance and participation.

**2.2.2** This may include:

- gathering evidence through school-based assessment, records of strategies used and professional advice;
- implementing reasonable adjustments to the timetable, curriculum, environment or method of delivery;
- working with health professionals to understand the impact of a child's needs on attendance and learning;
- developing and reviewing an Individual Healthcare Plan (IHP) or other agreed multi-agency support plan;
- engaging with parents, carers and the child or young person to co-produce support arrangements; and
- recording interventions, attendance patterns, progress and outcomes.

**2.2.3** Evidence of a school's graduated response may inform the Local Authority's assessment. However, the Local Authority will independently determine whether a child is unable to access suitable education and whether its statutory duties under Section 19 are engaged. The absence of a completed graduated response, Individual Healthcare Plan, school support process or other internal school procedure will not prevent the Local Authority from considering or discharging its statutory duties.

### **2.3 Individual Assessment and Intended Outcomes**

**2.3.1** The Council will consider each case on its individual merits, taking account of all relevant information from schools, parents, carers, health professionals and other agencies.

**2.3.2** This approach aims to:

- support children and young people to remain engaged with their school community wherever appropriate;
- ensure education continues in the setting best able to meet the child's needs;
- promote early intervention and coordinated support;
- ensure that alternative provision is considered promptly where a child is unable to access suitable education through their existing placement.

## **2.4 Nature and Extent of Provision**

**2.4.1** Provision arranged under Section 19 will normally amount to full-time education. Where medical advice or individual circumstances indicate that full-time provision would not be in the child's best interests, the Local Authority may arrange part-time provision and will keep this under regular review with a view to increasing provision where appropriate.

## **2.5 School Responsibilities**

**2.5.1** Schools retain responsibility for pupils on roll and are expected to:

- monitor attendance, welfare and educational progress;
- maintain regular contact with children and families during periods of absence;
- provide work, curriculum access and appropriate support where possible;
- develop and review Individual Healthcare Plans or other support plans where appropriate;
- work collaboratively with families, health professionals and relevant agencies;
- implement reasonable adjustments and other appropriate interventions to support attendance and learning; and
- notify the Local Authority where there are concerns that a child may not be receiving suitable education or may require consideration under Section 19.

## **2.6 Local Authority Responsibilities**

**2.6.1** In fulfilling its duties under Section 19, West Berkshire Council will:

- consider all relevant information in determining whether a child is receiving, or can access, suitable education;
- assess referrals and notifications in a timely and proportionate manner;
- consider information received from schools, parents, carers, health professionals and other agencies;
- ensure that internal decision-making processes support, rather than delay, the discharge of statutory duties;
- arrange suitable provision where it is determined that the Council's Section 19 duty is engaged; and
- promote and support reintegration into school wherever this is appropriate and, in the child's best interest.

## **2.7 Parental Responsibilities**

**2.7.1** Parents and carers have a legal duty under Section 7 of the Education Act 1996 to ensure that their child of compulsory school age receives an efficient, full-time education suitable to the child's age, ability, aptitude and any special educational needs, either by regular attendance at school or otherwise.

**2.7.2** West Berkshire Council recognises that parents and carers are key partners in ensuring children and young people can access education and achieve positive outcomes. Parents and carers are expected to:

- promote and encourage regular attendance and engagement in education wherever reasonably possible;
- work collaboratively with schools, the Local Authority and relevant professionals to identify and address barriers to attendance and learning;
- share relevant information regarding their child's health, wellbeing and educational needs to support appropriate assessment and planning;
- engage with support, interventions and review arrangements designed to secure suitable education for their child;
- provide medical evidence or facilitate engagement with health professionals where this is reasonably required to inform decision-making;

- participate in the development and review of Individual Healthcare Plans (IHPs), Education Health and Care Plans (EHCPs) and other multi-agency support arrangements where applicable;
- notify the school and/or Local Authority where they believe their child is not receiving suitable education or where circumstances have changed significantly; and
- ensure that any education provided otherwise than at school remains suitable where they have elected to make such arrangements themselves.

**2.7.3** The Council acknowledges that families may experience complex circumstances which affect school attendance. Parents and carers will be offered appropriate advice, support and signposting wherever possible, and concerns about attendance or access to education will be addressed collaboratively and proportionately.

**2.7.4** Engagement by parents and carers with schools and support services will normally assist the Local Authority in understanding a child's needs and determining what educational arrangements may be required. However, a lack of parental engagement will not prevent the Local Authority from considering and discharging any statutory duties owed to the child under Section 19 of the Education Act 1996.

## **2.8 Trigger, Referral and Complaints**

**2.8.1** Where it becomes apparent that a child is likely to be absent from school for 15 school days or more, whether consecutive or cumulative, the Local Authority will consider whether its Section 19 duties are engaged and, where applicable, will arrange suitable provision as soon as reasonably practicable. The 15-school-day threshold is not a requirement to delay intervention. The Local Authority will consider whether its duties arise as soon as it becomes aware that a child may be unable to access suitable education, regardless of whether 15 days' absence have elapsed.

**2.8.2** Referrals will usually be made through schools as they are generally best placed to provide evidence regarding attendance, support already implemented and the child's educational needs. However, information and concerns raised directly by parents, carers, young people, professionals or partner agencies will also be considered where there is reason to believe that a child may not be receiving suitable education.

**2.8.3** Where concerns relate to school-based provision, parents and carers may be advised to utilise the school's complaints procedure where appropriate. However, the existence of a complaint, or the absence of one, will not prevent the Local Authority from considering whether its statutory duties under Section 19 are engaged.

## **2.9 Local Authority Consideration of Alternative Provision**

**2.9.1** The Local Authority will consider whether alternative provision is required where evidence indicates that a child may be unable to access suitable full-time education by reason of illness, exclusion or otherwise.

**2.9.2** Cases may be considered through the Internal Complex Case Panel (ICCP) to support consistent and evidence-based decision-making. The Panel will review:

- evidence of educational need;
- attendance information;
- medical or professional advice;
- safeguarding considerations;
- the support and adjustments already implemented;
- the child's views and circumstances; and
- any other relevant information.

**2.9.3** Panel arrangements will not operate in a way that causes unnecessary delay where the Local Authority considers that its statutory duty under Section 19 may already

be engaged. Panels are held bi-weekly throughout the academic year. Consideration by the Internal Complex Case Panel is a quality assurance and decision-support mechanism and is not a prerequisite to the Local Authority exercising its statutory duties under Section 19. Where urgent circumstances arise, interim decisions regarding educational provision may be made outside the normal panel cycle to ensure that children are not left without suitable education.

**2.9.4** Depending on individual need and circumstances, provision may be delivered through:

- the Medical Tuition Service (MTS);
- commissioned Alternative Provision (AP);
- iCollege (PRU); or
- other suitable educational arrangements identified by the Local Authority.

### **3. Policy Statement: Medical Tuition Service (MTS)**

#### **3.1 Purpose and Principles**

**3.1.1** 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.

**3.1.2** 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.

#### **3.2 Delivery Responsibilities**

**3.2.1** The Local Authority and MTS will ensure:

##### **3.2.2 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.

##### **3.2.3 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.

##### **3.2.4 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.

## **4. Policy Statement: Education Otherwise Than at School (EOTAS)**

### **4.1 Statutory Basis and Threshold**

**4.1.1** 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.**

**4.1.2** The statutory test is whether it would be inappropriate for the child's special educational provision to be made in a school or other educational institution. The Local Authority will consider all available evidence in determining whether that test is met. The question is not whether education otherwise than at school would be preferable, but whether a school-based placement would be appropriate to deliver the provision required to meet the child's needs.

### **4.2 Evidence and Relevant Considerations**

**4.2.1** 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;
- the availability, suitability and appropriateness of school-based provision, including mainstream, specialist, resource-base and alternative educational placements where relevant to the child's circumstances.

**4.2.2** The Local Authority will expect clear and robust evidence from education, health, social care and other relevant professionals to assist in determining whether education within a school setting would be inappropriate for the child. No single piece of evidence will be determinative, and each case will be considered on its individual circumstances. 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.

**4.2.3** The Local Authority will consider all relevant evidence when determining whether it would be inappropriate for the child's special educational provision to be made in a school. Whilst evidence regarding school-based options will ordinarily assist decision-making, the exhaustion of every potential school-based option is not an inflexible prerequisite where available evidence already demonstrates that education in a school setting would be inappropriate.

### **4.3 Decision-Making Test**

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

**4.3.2** “Having considered all relevant evidence, is the Local Authority satisfied that it would be inappropriate for the child's special educational provision to be made in a school or other educational institution in accordance with Section 61 of the Children and Families Act 2014?”

#### **4.4 Arrangements Where EOTAS Is Agreed**

**4.4.1** 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

#### **4.5 Implementation Overview**

##### **4.5.1 Relationship with School Responsibilities**

- School-based provision will ordinarily be considered as part of the Local Authority's decision-making process. Evidence regarding reasonable adjustments, SEND support, placement reviews, professional advice and previous interventions may assist in determining whether the Section 61 test is met.
- However, the existence or completion of school-based processes will not, by itself, determine whether EOTAS should be considered. The Local Authority will consider all relevant evidence and will reach its own judgment as to whether it would be inappropriate for the child's special educational provision to be made in a school or other educational institution.
- The Local Authority will consider all relevant evidence when determining whether the Section 61 test is met. Whilst evidence regarding school-based provision will ordinarily assist decision-making, the exhaustion of every potential school placement or educational setting is not an inflexible prerequisite where the available evidence demonstrates that education in a school would be inappropriate.

##### **4.5.2 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 Panel<sup>1</sup> 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.

##### **4.5.3 Provision and Review**

- EOTAS packages may include tutoring, therapeutic interventions, online learning, community provision, or specialist programmes.

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<sup>1</sup> 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.

- EOTAS provision will be subject to regular six-weekly progress, safeguarding and quality assurance reviews to ensure ongoing oversight of provision, consideration of the child or young person's needs, and review of any educational placements that may be capable of meeting those needs. These reviews are non-statutory operational reviews and do not replace the statutory review requirements applicable to an EHCP. All EHCP reviews will be undertaken in accordance with the Children and Families Act 2014, the SEND Regulations 2014 and the SEND Code of Practice.

## **5. Alternative Provision (AP) and Additional Needs**

### **5.1 Purpose and Principles**

**5.1.1** 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.

### **5.2 Local Support and Multi-Agency Response**

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

**5.2.2** Where a child is at risk of requiring AP or Section 19 provision, the following teams will collaborate with schools to identify underlying needs and implement appropriate interventions:

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

## **6. Children with EHCPs and Alternative Provision**

### **6.1 School Responsibilities**

**6.1.1** 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.

### **6.2 Agreement and Statutory Review**

**6.2.1** If alternative provision is required to deliver Section F of 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**

### **7.1 Prevention and Last-Resort Principle**

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

**7.1.2** 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
- where allowing the pupil to remain in school would seriously harm the education or welfare of the pupil or others.

## **7.2 Council Support**

**7.2.1** The Council provides support through:

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

## **8. Exclusion Duties**

### **8.1 Provision Following Exclusion**

**8.1.1** 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.

**8.1.2** For suspensions (fixed-period exclusions), the duty to arrange provision from day six lies with the school's governing board, in accordance with the Education and Inspections Act 2006.

## **9. Elective Home Education (EHE)**

### **9.1 Nature and Consequences of EHE**

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

**9.1.2** 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.

## **10. Summary of West Berkshire's Section 19 Position**

### **10.1 Key Policy Principles**

- Schools are ordinarily the best and first place to meet a child's needs and should be supported to provide inclusive education wherever this is appropriate and in the child's best interests.
- School-based solutions and graduated responses will ordinarily be considered first. However, the Local Authority will consider alternative arrangements whenever evidence indicates that a child may be unable to access suitable education, or where statutory thresholds for Section 19 provision, Alternative Provision (AP) or EOTAS may be met.
- Decisions are evidence-led, child-centred and informed by relevant professional advice, with multi-agency oversight and quality assurance provided through established governance arrangements, including ICCP and SEND Panel processes where appropriate.
- Reintegration into school remains the preferred outcome wherever this is appropriate, achievable and in the child's best interests.
- EOTAS remains an exceptional statutory arrangement under Section 61 of the Children and Families Act 2014 and requires consideration through the SEND Panel, supported by robust multi-agency evidence demonstrating that education in a school or other educational institution would be inappropriate.

- The policy framework aims to promote legal compliance, transparency, educational continuity, safeguarding assurance and consistent, equitable decision-making for all children and young people.
- The Council fulfils its statutory duties in relation to suspensions and permanent exclusions, with provision arranged through appropriate commissioned services, including iCollege where applicable, supported by multi-agency intervention and oversight.
- Elective Home Education (EHE) is a lawful parental choice and remains distinct from the Local Authority's duties under Section 19 of the Education Act 1996. Choosing EHE does not in itself create an entitlement to Section 19 provision

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