

BURY COUNCIL
EDUCATION OTHERWISE THAN AT SCHOOL
(EOTAS)

Linked Policies and Guidance

Bury Council CME Policy, 2023
Bury Council EHE Policy, 2023
Bury Council Alternative Provision Directory
Bury Council Alternative Provision Guidance for commissioners
Department of Education Alternative Provision, Statutory Guidance, 2025
Bury Council Section 19 Policy 2023
Bury Council Personal Budget Policy
DfE Working Together to Safeguard Children 2023
DfE Keeping Children Safe in Education 2023
DfE Working Together to Improve School Attendance 2023
SEND Code of Practice

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Introduction

Bury Council is committed to ensuring that it fulfils its duties and responsibilities relating to the provision of education with a view to promoting high standards, ensuring fair access to educational opportunity, and supporting all children and young people to achieve their full potential. We aim to continue promoting collaborative working with children, young people and their families, taking into account their views and aspirations.

Bury Council is strongly committed to the principle that almost all children and young people should receive education by being in a school, educated by teachers and supported by social networks within the school community. Bury Council believes it is vital that children and young people are part of a setting that is inspected by Ofsted and has Quality Assurance measures in place, and only in exceptional circumstances would any other setting be considered.

The local authority recognises, that where it is agreed that a young person does require EOTAS, this will be because of exceptional circumstances and that the young person and family are likely to have experienced significant challenges regarding their education. In view of this the council is committed to working collaboratively with young people and their families to ensure that appropriate provision is made which addresses their needs as detailed in their education health and care plan and enable them to progress with their education.

What is EOTAS?

EOTAS means Education otherwise than at school. It can only be agreed in conjunction with the Local Authority via an Education Health Care (EHC) needs assessment, a reassessment of needs or at an annual review where it is proven that it would be inappropriate for provision to be made at school, a post 16 institution or an early years setting.

If it is agreed that a child or young person meets the legal threshold for EOTAS, they would not be on roll at a school or post 16 institution and the special educational provision would be provided through an EOTAS package.

An EOTAS package may include, but is not restricted to:

- Online schooling or Home tuition
- Other tuition centres
- Alternative Provision

What is EHE? (Elective Home Education)

Elective Home Education (EHE) is when a parent chooses not to send their child to school full-time but assumes responsibility for making sure their child receives a full-time education other than at school. EHE requires parents to take full responsibility for their child's education (including special education provision) including all associated costs (such as exam fees). When a young person becomes EHE, all funding from the local authority will cease. EHE is not the same as EOTAS.

What is Section 19?

Section 19 of the Education Act 1996 requires local authorities to make arrangements to provide “suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them”.

In such circumstances the Education Health and Care plan would not be amended as provision is likely to be short-term and temporary with a view to reintegration to school. Full details can be found in Bury Councils Section 19 policy.

This is different from EOTAS as it is a temporary measure and a response to a specific circumstance.

Bury Councils Section 19 Process

Where the Section 19 duty is met due to a permanent exclusion being reported, the local authority will make provision from the sixth day. For secondary age young people provision will be made through the Pupil Referral Unit whilst for Primary Age young people, provision will be made through Alternative Provision.

Where a young person is unable to attend school for the foreseeable future due to medical or “otherwise” the local authority would look for education provision to be made by the school, wherever possible, in order to ensure continuity for the young person.

However, it is recognised that in some circumstances that is not possible and referrals for such cases will be considered by the Section 19 multi-agency panel on an individual basis to determine if the referral can be considered as part of the Local Authorities Section 19 Duty or whether the school, with support, should be required to meet the child's needs

Where a young person is unable to attend school for medical reasons and their need cannot be met by the school, the local authority will work alongside schools, health professionals and parents to provide an alternative provision. Full details of Bury Councils Section 19 process can be found in the Section 19 Policy.

Where a young person has an EHCP, and provision is made under Section 19 it is not necessary to review the EHCP if it is clear the need is short-term (for example a broken leg or planned operation).

Where there is a realistic expectation that the young person will return to school, the LA should review the plan to establish whether there is a change needed in need and provision, which is to be implemented, when the child starts a gradual return to school.

If the review determines that child needs a longer-term alternative, other provisions may need to be considered.

The Legal Framework for EOTAS

Section 61 of the Children and Families (CFA) Act 2014 sets out when a local authority can decide that a child or young person's special education provision can be made otherwise than at school. A local authority can only do this in consultation with parents or young people if it is satisfied that it would be inappropriate for provision to be made at a school, post 16 or early years setting.

This is not a temporary or short-term solution to a specific circumstance, but a decision after an Education, Health and Care Needs Assessment (EHNA) or annual review, based on the current and foreseeable needs of the child or young person.

“(1)A local authority may arrange for any special educational provision to be made that it has been decided is necessary for a child or young person for whom it is responsible to be made otherwise than in a school or post-16 institution or a place at which relevant early years education is provided. (2) An

authority may do so only if satisfied that it would be inappropriate for the provision to be made in a school or post-16 institution or at such a place. (3) Before doing so, the authority, must consult the child's parent or the young person."

The CFA 2014 does not define "inappropriate", however the courts such as in the case of NN v Cheshire East Council (SEN) [2021] UKUT 220 have stated that a local authority is obliged to ask whether provision of education at school would not be "suitable and proper".

In doing so the local authority should have regard to all the circumstances of the individual case including but not limited to:

- the child's background and medical history;
- the particular educational needs of the child;
- the facilities that can be provided by a school;
- the facilities that could be provided other than in a school;
- the comparative cost of the possible alternatives to the child's educational provisions, either at school or elsewhere;
- the parents' wishes (although they are not generally determinative); and
- any other particular circumstances that apply to a particular child (TM v London Borough of Hounslow)

Bury Councils EOTAS Process

The child's parent or the young person themselves may request for the Local Authority to consider exercising its power to arrange EOTAS under Section 61 of the Children and Families Act 2014 either during an EHCP needs assessment, re-assessment or during an annual review of the EHCP.

There must be clear evidence as to why the child or young person, if they are over statutory school age, cannot attend any educational establishment of any type, including evidence from key professionals such as medical professionals or educational psychologist who have seen the child. For those children open to an Early Help or Social work team, their allocated workers views will be sought.

Once a request has been made, this will be reviewed and considered at the LA Section 19 Multi-Disciplinary Panel with input from a range of professionals including health, social care and educational psychology within four weeks of the request. The local authority may request a reassessment where it is deemed that the young person's needs have changed.

EOTAS will only be provided if the following criteria has been met:

- The child/young person has an EHCP
- Bury Council is satisfied that 'it would be inappropriate for any special educational provision that it has decided is necessary for the CYP to be made in any school and inappropriate for any part of the provision to be made in any school.'

Following guidance from NN v Cheshire East Council (SEN) [2021], UKUT 220(AAC)

If the request for EOTAS is agreed, Bury Council will be responsible for arranging the package, and/ or agreeing a personal budget to make provision, and ensuring the provision is being delivered in accordance with section F of the EHC Plan. Section I (placement) will be left blank.

If the request does not meet the legal threshold for EOTAS, the EHCP will be finalised to describe a type of suitable school giving parents their legal right to appeal.

Arranging EOTAS Packages

Once EOTAS has been agreed, the local Authority will develop an appropriate package in partnership with the child/young person and family and is responsible for the delivery of the package and for securing the Special Educational Provision (SEP). Where a range of agencies are involved in supporting the family a multi-disciplinary approach will be taken to planning the package.

Under an EOTAS package, Bury Council is responsible for the child/young person's education and the child/young person will not be required to be on the roll of an educational setting.

Where Alternative Provision or Tutoring is required, providers will be used who have been through the local authority's quality assurance process and these are listed in the Bury Alternative Provision Directory.

A parent or young person may request a personal budget. If the local authority agrees to this, the parent or young person would commission the provision directly and the local authority is not responsible for securing the SEP.

All EOTAS packages, whether delivered by the LA or through a personal budget need to:

- Support the child/young person's aspirations, ensuring the child's voice is central.
- Be bespoke and flexible in order to meet the needs of the young person as identified in their EHCP and taking into account education, health, social and emotional needs. Provisions will be in place to support a young person's personal, social and emotional development and where possible the package should include an appropriate level of, literacy and numeracy support.
- Provide opportunities for young people to access qualifications and accreditation where appropriate.
- Prepare for transition to the next phase or setting and consider preparation for adulthood.
- Educate in accordance with the wishes of parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.

Each aspect of the EOTAS package should be clearly linked to the outcomes identified in the EHCP and it should be clear in the planning, as to how the particular provision is able to lead to this outcome. The EHCP outcomes should be broken down into SMART targets in order monitor the progress.

Education will be provided for 190 days of the year, up to the equivalent of a full-time education which can be delivered flexibly in accordance with the young persons needs.¹

An EOTAS package will only fund the provision outlined in Section F of the EHCP, which may include Social Care and Health provision which educates and trains. There may be other personal budgets provided in conjunction with the EHCP.

Any resource budget, such as ICT, will be considered on an individual case basis and based upon what is reasonably required based on professional recommendations and the requirements of the plan.

Monitoring and reviewing EOTAS packages

¹ The DFE statutory guidance "Ensuring a good education for children who cannot attend school because of health needs", states that, "The law does not define full-time education but children with health needs should have provision which is equivalent to the education they would receive in school. If they receive one-to-one education, for example, the hours they receive could be fewer as the provision is more concentrated".

The 190 days of education may be delivered across the year and is not determined by school term times as young people who are EOTAS may not benefit from breaks in their provision

Monitoring and reviewing Education Other Than at School (EOTAS) packages is crucial to ensure that the educational needs of children and young people are being met effectively.

The Local Authority typically monitor a child/young person's progress on their EOTAS every 6 months, and possibly termly, where this may be appropriate. This helps in identifying any issues early and making necessary adjustments. The young person's progress regarding all elements of the EOTAS package should be monitored against the intended outcomes specified in the EHCP.

A review of the Education, Health and Care (EHC) Plan is a statutory duty and should be completed within 12 months of the initial EHC Plan being issued or the previous annual review date.

The EHC Assessment and Review Team are responsible for the review of EOTAS packages through the annual review process. Where a child or young person is approaching a key stage transition point, a view will be sought from our Educational Psychology Service, in advance of this and which will inform the review.

There is the same duty on the local authority to conduct an annual review when a child is EOTAS. All timescales and obligations remain the same throughout the this process.

Personal Budgets

Where it has been determined that a young person is EOTAS, a parent or young person may request a personal budget and direct payment to deliver the special educational provision (SEP) within the EHCP. If the local authority agrees to this, the parent or young person would commission the provision directly which would mean the Local Authority is not responsible for the securing of the SEP

The LA will consider each request for a personal budget on its merits and prepare a personal budget in every case unless the amount is part of a larger amount and separating part of the funds for the personal budget would have a detrimental impact on services provided/arranged by the LA for other EHCP recipients or where it would not be an efficient use of LA resources (for example where, a contract with the NHS to provide all speech and language therapy or occupational therapy). If this applies, the LA will explain with reasons why it cannot prepare a personal budget. The services purchased should not cost more than if provided by the local authority, unless there is provision detailed in the EHCP which the LA is unable to provide.

Full details can be found in Bury Councils Personal Budget policy.

Where a personal budget is agreed, changes to the value of the budget will only be agreed following an annual review.

Whilst the local authority is not responsible for the education package under a personal budget, Bury Council reserves the right to withhold or refuse funding for providers should it deem that they do not meet the required standards for education and safeguarding. Any provider that is not on the Bury Alternative Provision Directory will be asked to complete due diligence information.

Transport Assistance

The Local authority has a duty to provide home school transport for eligible children of compulsory school age if they:

- Attend a qualifying school
- Are receiving education under the LA's Education Act 1996 duties, or

- Have been suspended from school (but remain a registered pupil of that school) and attend a setting that is not a qualifying school and is not within the statutory walking distance of their home.

None of these scenarios will apply if a child is EOTAS. In this situation the local authority does not have a legal duty to provide transport (or help with transport costs) to the various activities and places that the child may be receiving their provision.

However, Bury Council recognises that dependant on the young person's needs and the nature of provision, within the EOTAS package it may be necessary to provide travel assistance.

This will be considered on a case-by-case basis in line with the school transport policy ([insert link](#)) with the agreed provider considered as "the school" for the purposes of considering whether travel assistance is required.

In considering whether travel assistance should be provided as part of an EOTAS packages consideration will be given to the young person's age and needs, the location of the provision/s and whether it is reasonable for the young person to travel to the provision independently.

Travel assistance would be provided based upon a mileage allowance (in line with the school and college transport policy) for one return journey per day. Where the local authority has proposed a suitable local provision as part of the package, mileage would be calculated to that provision. Where there is more than one child within the family in receipt of an EOTAS package, consideration will be given as to whether the journeys can be combined, in which case one mileage payment will be made.

Whether travel assistance is provided should be determined at the point where the package and/or personal budget is agreed.

EOTAS and Free School Meals

There is no specific provision made in legislation for free school meals to be provided for children who are in receipt of EOTAS.

However, the local authority will consider making food provision for children who are receiving EOTAS and who meet the following criteria (DFE Free School Meals guidance 2024):

- The child would meet the benefits-related criteria for free school meals if they were in a state-funded school.

and

- the meals would be provided in conjunction with education and would, in line with the aim of free school meal provision, be for the purpose of enabling the child to benefit fully from the education being provided.

The Local authority will provide free school meals vouchers for those children and young people who meet these criteria.

EOTAS, School Health Team and Connexions

As part of the EOTAS agreement and in agreement with the parent, information regarding their child will be shared with relevant services such as the School Health Team and Connexions for Careers Advice (age appropriate) who will then make contact to discuss support for their child whilst they are EOTAS.

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