



Section 19 of the Education Act 1996: How Surrey County Council discharges its duties



SURREY
COUNTY COUNCIL

Introduction and national context

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

Section 19 of the education act 1996 (as amended):

“Each local authority shall make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive suitable education unless such arrangements are made for them”. [Education Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

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

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

It is for a Local Authority to determine that a child will not receive a suitable education unless arrangements are made for them. Each Local Authority must also consider its wider duties and responsibilities, including those in the SEND Code of Practice 2015 and DfE Attendance Guidance.

The DfE Attendance Guidance:

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

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

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

Section 19: alternative provision by reason of illness

Children and young people who have additional health needs are, by the nature of their difficulties, at risk of failing to reach their true potential within an educational context. This is particularly the case for children and young people whose health needs prevent them from attending school for an extended period, or for those who are restricted by their health needs to attending school on a part time or sporadic basis.

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

Securing alternative provision for children who are too ill to attend school falls within the Section 19 duty. The Local Authority also has to consider the statutory guidance 'Education for children with health needs who cannot attend school'; the Local Authority discharges its duty through our Access 2 Education (A2E) service.

Surrey County Council's Medical Policy outlines the support available within Surrey from A2E and our wider medical provision for children and young people with additional health needs. This includes details of when and how provision may be arranged if required, and the respective roles and responsibilities of the local authority, schools, parent/carers, service providers and other agencies.

[SENCO and practitioners' resources | Surrey Local Offer](#)

Section 19: alternative provision by reason of exclusion

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

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

Advice and support for schools regarding appropriate strategies to maintain a pupils placement at school is available through the Local Offer or from the Specialist Teachers for Inclusive Practice Team (STIPS) or their Area Pupil Referral Unit (PRU)

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

Arranging alternative provision for permanently excluded pupils falls within the

Section 19 duty; Surrey County Council discharges this duty through the County's Pupil Referral Units. Each of the 4 areas of Surrey has a designated Pupil Referral Unit for both Primary and Secondary children. For fixed period exclusions, known as suspensions, this responsibility falls to the school's governing board in accordance with s.100 Education and Inspections Act 2006 (as amended).

[Permanent exclusion and suspension from school - Surrey County Council \(surreycc.gov.uk\)](https://www.surreycc.gov.uk)

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

The Special Educational Needs and Disability (“SEND”) Code of Practice sets out the presumption in law of mainstream education. “1.26 As part of its commitments under articles 7 and 24 of the United Nations Convention of the Rights of Persons with Disabilities, the UK Government is committed to inclusive education of disabled children and young people and the progressive removal of barriers to learning and participation in mainstream education. The Children and Families Act 2014 secures the general presumption in law of mainstream education in relation to decisions about where children and young people with SEN should be educated and the Equality Act 2010 provides protection from discrimination for disabled people”. [SEND code of practice: 0 to 25 years - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

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

1. A local authority in England may arrange for any special educational provision that it has decided is necessary for a child or young person for whom it is responsible to be made otherwise than in a school or post-16 institution or a place at which relevant early years education is provided.
2. An authority may do so only if satisfied that it would be inappropriate for the provision to be made in a school or post-16 institution or at such a place.
3. Before doing so, the authority must consult the child's parent or the young person.

Considering EOTAS forms part of the Section 19 duty, and the Council discharges this duty through Surrey's SEND Service. The EHCP Governance Board is a decision-making panel

that sits weekly. The Board is made up of representatives from Education, Health and Social Care and consider EOTAS requests and the support required within an individual package of support.

[Education Other than at School \(EOTAS\) | Surrey Local Offer](#)

Section 19: Children Missing Education (CME)

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

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

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

[Improving school attendance - the role of the Inclusion Service - Surrey County Council \(surreycc.gov.uk\)](#)

Section 19: Elective Home Education (EHE)

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

We believe education in Surrey should enable all children whatever their age, ability, background, or faith to be able to realise their ambitions, to access a range of opportunities and learn from and relate to their peers.

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

[Educating your child at home - Surrey County Council \(surreycc.gov.uk\)](#)

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

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

Considering a request for alternative provision for other reasons is also part of the Local Authority's duty under Section 19. As this often involves a parent/carer concern that their child's needs are not being met, the Surrey County Council discharges this duty through the Area Education Teams. These teams work with the education setting, child or young person and their family to assess any underlying needs and recommend reasonable adjustments and provision to meet those needs.

This includes the Team Around the School and Setting (TAS), the Specialist Teaching Team for Inclusive Practice (STIPS), Access to Education Team (A2E), Inclusion Service, Speech and Language Team and the Educational Psychology Service (EPS).

Depending on the circumstances around the request provision could be made by the A2E Service or PRU

For children with an EHCP who might require alternative provision, schools should consider the support available to them via the Local Offer and where necessary consult with the child's SEN Case Officer. If it is clear that an alternative provision is required then schools should call an Interim Review to enable professionals working with the family to come together. The review will look at the support required by the pupil to be able to successfully access education and provide recommendations for any adaptation their EHCP.

[Ordinarily available provision \(schools\) | Surrey Local Offer](#)

[About the Annual Review of the Education, Health and Care \(EHC\) plan | Surrey Local Offer](#)

Appendix 1: Documentation referred to in the SCC Section 19 policy

National guidance and resources

[Working together to improve school attendance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/working-together-to-improve-school-attendance)

[Education Act 1996 \(as amended\) \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/56)

[Education and Inspections Act 2006 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2006/24)

[Education for children with health needs who cannot attend school - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/education-for-children-with-health-needs-who-cannot-attend-school)

[School suspensions and permanent exclusions - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/school-suspensions-and-permanent-exclusions)

[SEND code of practice: 0 to 25 years - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/send-code-of-practice-0-to-25-years)