

OCC

Education Otherwise Than At School (EOTAS) Policy 2024

Note: EOTAS can be referred to as Education Otherwise Than In School (EOTIS or EOTiSC)

Document Summary: This policy details the arrangements through which the LA meets the Statutory requirement to ensure that children and young people with an Education Health, Care Plan (EHCP), who are unable to be educated in school receive suitable education.

It is applicable to those seeking EOTAS packages as well as those currently in receipt of EOTAS packages.

Introduction

1. Oxfordshire County Council (OCC) is committed to ensuring that it carries out its responsibilities relating to the provision of education with the aim of promoting high standards, ensuring fair access to education and supporting all children and young people to achieve their potential. We strive to work collaboratively with children and young people, and their parents, considering their views, wishes and feelings.
2. Sometimes, children and young people with special educational needs and/or disabilities (SEND) require education outside of conventional settings such as schools or colleges. To ensure that all children/young people can receive an efficient and effective education, the Children and Families Act 2014 allows for education outside of traditional education settings.

What is Education Otherwise Than at School?

3. EOTAS stands for Education Otherwise Than At School and is education provision to meet specific needs of pupils who have an Education Health & Care Plan (EHCP) where the LA is satisfied that it would be inappropriate for some, or all, of the assessed provision to be made in a school or post-16 setting.
4. EOTAS is the legal mechanism whereby a child or young person with an EHCP can receive special educational provision when it is inappropriate for them to attend an educational setting. Under a formal EOTAS arrangement, the child or young person will not be required to be on the roll of, or in attendance at, an educational setting.
5. The child or young person will receive their education and special educational provision either at home, or in some circumstances, within an external setting that is not a registered educational setting.

The Law relating to EOTAS

6. EOTAS allows for a Local Authority (LA), under Section 61 of the Children and Families Act 2014, to devise a package of special educational provision to be delivered in a setting such as the home where it would be inappropriate for it to be made in a school, post-16 institution or place at which relevant early years education is provided. The threshold for this legal test should be noted as high, as it can only be made where it would be inappropriate for the provision to be made at any school (or post-16 institution etc), this includes specialist, or independent settings tailored to meet high levels of need.
7. There must be appropriate consultation with the child's parents or the young person before a LA can make this decision.
8. It is important to emphasise that EOTAS is not the same as a parental decision to home educate their child (as is their right under Section 7 of the Education Act 1996), Elective Home Education ("EHE").
9. *It is very important to remember that EOTAS can only be agreed if it is "inappropriate" for a child to attend school. The presumption, therefore, is that a child should attend a school setting, unless it is inappropriate for them to do so. (Special Needs Jungle)*

Vision and values

10. The council is committed to enabling all children and young people in Oxfordshire to aspire to and achieve their full potential.
11. Children and Young Peoples Services will:
 - Aim for every child and young person to achieve their aspirations, to be healthy and stay safe, to contribute successfully to their community, and to have a successful transition to adulthood through a multi-agency working together approach.
 - Provide support to vulnerable children and young people and those who have additional needs.
 - Involve children and young people, and parents and carers, in the design and delivery of services, to ensure co-production and the voice of the child or young person is central to our approach.
 - Promote working with children and young people across all organisations to develop a shared culture and ethos of inclusive practice.
 - Look to secure provision from public rather than private services wherever possible, where these meet the needs of the child. e.g. Local Swimming pools/leisure centres.
 - Ensure that a focus on preparation for adulthood is woven through the children and young person's EHCP to enable them to receive a well-balanced educational offer that enables them to reach their full potential and achieve their aspirations.

Aims

12. It is a key priority for the LA to ensure that children have appropriate learning opportunities and are effectively safeguarded.
13. EOTAS arrangements will be regularly reviewed, and no later than the next Annual Review of the EHCP. Annual Reviews of EHCPs where EOTAS arrangements are being made will always consider if EOTAS continues to be the **only** suitable way to secure a child or young person's education and special educational provision or whether it may be appropriate for the child or young person to return to an educational setting
14. As part of the Annual Review process and having considered the appropriateness of current provision with the child and family and all professionals involved, OCC may consult with education settings if it is felt that the legal test for EOTAS may no longer be met,
15. EOTAS provision in Oxfordshire is not necessarily seen as a long-term solution for most children and young people and will be robustly monitored through the annual review process.
16. OCC will seek to ensure access to full time education unless to do so would be detrimental to the health and wellbeing of the child or young person.

Process of identifying EOTAS

17. When a review of the EHCP is held, or during the drafting of a new EHCP, if it is identified that the provision necessary to meet a child or young person's needs cannot be delivered in an educational setting, an EOTAS package will be considered under Section 61 of the Children and Families Act 2014.

18. This process must include the views of the child or young person and their families and professionals across agencies.
19. OCC consider all proposals for EOTAS on a case-by-case basis at the Complex Case Panel, which meets virtually and fortnightly, considering the individual circumstances for each child or young person.
20. These will include:
 - a child or young person's background and medical history (including mental health needs).
 - the child or young person's Special Educational Needs and Disabilities (SEND).
 - formal consultation to educational settings and consideration of responses received.
21. If there is a setting, which the LA feels is appropriate, that can offer a placement, meet assessed need and deliver the provision as recorded in an accurate and up to date EHCP, the LA is unable to consider EOTAS.
22. If a parent/carer or young person does not agree with the decision, they have the right to appeal to Tribunal (SENDIST) and can seek advice and support from the Special Educational Needs and Disability Service (SENDIASS) who provide impartial information, advice and support to parents and carers of children with SEND, and children and young people themselves through the CHYPSS (Children and Young People's Partnership Service) element of SENDIASS.

The process that OCC will follow will be outlined in separate co-produced guidance. If EOTAS is agreed the following will apply

23. The LA will decide how the package is to be delivered and to secure the provision in the EHCP which should include a transition plan in Section F to support progression and transition into an educational setting where appropriate.
24. From the date the EHCP is finalised, OCC will have arranged all provision set out in section F, and will fund providers directly, **or** a personal budget may be agreed and paid to the parent/carer in agreed sums. This gives parents/carers greater autonomy and flexibility about what professionals are used, and how the provision in the EHC Plan is delivered (the specifics of the EHCP itself must be followed).
25. If a personal budget is agreed, it is for the parent/carer or young person to commission the provision directly using the direct payments **or**, an educational provision will be put in place which is a combination of direct funding and a personal budget. The budget will be sufficient to provide adequate education and special educational provisions only, comparable in quality to that provided to children or young people in its state funded education settings. OCC will ensure that there is efficient use of resources and therefore any EOTAS provision set out in an EHCP will be delivered in the most efficient way possible.
26. Agreeing to receive a direct payment comes with responsibilities for families, such as contracting with or employing staff, arranging pre-contracting checks with professional bodies and by the Disclosure & Barring Service (DBS), arranging testing of any specialist equipment, providing regular financial returns to the Council to demonstrate appropriate spending, and ensuring the quality of the service provided.

27. The LA is required to avoid unreasonable public expenditure. Personal budgets for children or young people with EOTAS arrangements may be smaller than if the child or young person was attending an education setting, as it is unnecessary to account for costs and overheads associated with running an education setting such as staff national insurance and pension contributions, building maintenance and repair, lighting, heating, and cleaning etc. Personal budgets cannot be used to pay fees for placements in non-maintained education settings (private schools) and must only be spent on the agreed education and support arrangements listed in sections F and J of EHCPs.
28. Once the personal budget has been agreed, a referral will be made to the Direct Payment Advice team to ensure the relevant information is shared and support can be offered.

Additionally

29. Section I of the EHCP: (where a school or college should be named) Where the LA has agreed EOTAS, if a child or young person will not be attending a school or institution at all, their EHCP should clearly describe their special educational provision in section F and section I should be left intentionally blank.
30. Section J will detail the special educational needs and outcomes to be met by any agreed direct payments relating to section F.
31. Educational provision will be offered for 38 weeks per year only, any provision taking place in recognised school holidays will be the responsibility of the parent/carer unless agreed otherwise, for example, at Tribunal
32. All EOTAS packages must include Maths, English and Science education as part of the offer.
33. Post 16 packages should include English and Maths if the CYP has not yet achieved a grade 4 or equivalent in these subjects and where a young person is studying for GCSEs.
34. Any funding decisions will be made at Complex Cases panel unless further information is required- all funding decisions require the approval of the Head of Service for Special Educational Needs and Disabilities
35. Consideration will be given to proposals that include transport; however, OCC does not have a legal duty to provide transport or help with transport costs.
36. Alternative arrangements will be made for Children and Young people entitled to free school meals via the EOTAS package.
37. OCC preference will be to use providers who passed the Council's Compliance, Quality and Financial Standards under its own Alternative Education Provision requirements to deliver EOTAS packages.
38. EOTAS provision in Section F of an EHCP is legally treated the same as provision which is delivered within a school setting. The law relating to specificity applies to EOTAS just as it does to provision delivered within educational institutions. All provision should be written into the EHCP with such a level of specificity that it leaves no room for doubt regarding exactly what provision should be delivered.

Transport

39. None of the scenarios where the LA has a duty to provide home to school transport will apply if a child or young person is being educated under Section 61. EOTAS. The LA transport team does not have a legal duty to provide transport (or help with transport costs) to the various activities and places a child or young person may be receiving their provision, for example transport to swimming or gymnastics, a therapy centre or social groups.
40. Transport costs/requests for mileage will only be considered in exceptional circumstances on a case-by-case basis. Priority will be given to those children and young people eligible for free school meals and those families accessing universal credit.

Safeguarding

41. OCC are committed to the safeguarding of all children and young people. Therefore, safeguarding arrangements and expectations on all parties will be outlined as part of the EOTAS process.
42. Safeguarding arrangements will comply with DfE statutory guidance 'Keeping Children Safe in Education 2024 and Working Together to Safeguard Children 2023.

Monitoring

43. EOTAS will be monitored by the child's and young person's allocated EHCP Casework Officer with strategic oversight from the SEND Operations Manager.
44. The EOTAS package must be reviewed at least annually through the Annual Review process as with any EHCP. The LA will convene and chair this meeting. The Parent/carer or the child or young person themselves can also request an annual review.
45. OCC will seek to carry out due diligence on all personal payments made as part of an EOTAS package to support the monitoring of public funds, and, planning and amendments to the agreed package on an annual basis via the EHCP review process.

Combining other types of Personal Budgets

46. If a child or young person with EOTAS arrangements is eligible for medical treatment or therapy in section G of their EHCP, and/or social care provisions in section H of their EHCP, they may be eligible for other personal budgets for those parts too. When eligible for more than one personal budget, families may wish combine budgets to arrange the education, health, and social care provisions in their child/young person's EHCP more flexibly. This arrangement gives families the most control and creativity over those arrangements.
47. OCC may only consider parent(s)/carer(s) requests for personal (education) budgets when a draft EHCP has been issued or as part of an Annual Review of an EHCP. Requests for personal health or social care budgets may be made and considered at other times to the responsible organisations. Parent(s)/carer(s) may not appeal the Council's decisions about whether they award a direct payment or not, but they may ask to review their decisions.

EOTAS and Elective Home Education (EHE)

48. EOTAS is not a form of EHE, with EHE the parent/carer has full responsibility for the educational provision for the child or young person. Parents/carers must ensure access to a suitable education in accordance with their legal duty under section 7, Education Act 1996.
49. Suitable education: this means efficient full-time education suitable to your child's age, ability and aptitude, and to any special educational needs or disabilities he or she may have.

Further Information

Local Offer Website

Relevant legislation

Section 61 of the Children and Families Act 2014,

Section 42 of the Children and Families Act 2014

Section 7, Education Act 1996.

Keeping Children Safe in Education 2024

Working Together to Safeguard Children 2023.

Responsible officer:

Responsible Service Area:

Review Date:

To be reviewed annually.