

Divisions Affected – All

CABINET 21 January 2025

Draft EOTAS Policy (Education other than at School) Report of Education and Young People Overview & Scrutiny Committee

RECOMMENDATION

1. The Cabinet is **RECOMMENDED** to —
 - a) Note the recommendations contained in the body of this report and to consider and determine its response to the Education and Young People Overview and Scrutiny Committee, and
 - b) Agree that, once Cabinet has responded, relevant officers will continue to provide each meeting of the Education and Young People Overview & Scrutiny Committee with a brief written update on progress made against actions committed to in response to the recommendations for 12 months, or until they are completed (if earlier).

REQUIREMENT TO RESPOND

2. In accordance with section 9FE of the Local Government Act 2000, the Education and Young People Overview & Scrutiny Committee requires that, within two months of the consideration of this report, the Cabinet publish a response to this report and any recommendations.

INTRODUCTION AND OVERVIEW

3. The Education and Young People Overview and Scrutiny Committee considered a report on the draft EOTAS (Education other than at school) Policy at its meeting on 22 November 2024. The report set out that feedback was sought on the policy with the intention being to then present it to Cabinet in January 2025.
4. The Committee would like to thank Cllr John Howson, Cabinet Member for Children, Education and Young People's Services, Cllr Kate Gregory, Cabinet Member for SEND Improvement, Stephen Chandler, Executive Director of

People and Deputy Chief Executive, Kate Reynolds, Deputy Director for Education, Joanna Goodey, Education Inclusion Manager, and Alex Potts, Lead Officer: Tribunals, Resolutions, and Compliance, for attending to present the report and to answer the Committee's questions.

5. The Committee would also like to record its thanks to Jules Francis-Sinclair, Co-Chair of the Oxfordshire Parent Carer Forum (OxPCF), who accepted the Committee's invitation to attend to address it and to answer its questions.

SUMMARY

6. The Cabinet member for SEND Improvement began by acknowledging the need to engage more with parents and carers before the policy was submitted to Cabinet and the Deputy Director apologised for the length of time it had taken to develop the policy and the distress it had caused. The Deputy Director confirmed that the intention was to work with the co-production team to look again at the draft policy as well as the accompanying guidance before it moved on.
7. The Committee was assured that there was a strong commitment on the Council's part to develop a policy that families currently receiving EOTAS were content with but one that was sustainable and appropriate for the future too. Discussion focused on co-production and consultation.
8. The Committee makes two recommendations to Cabinet both of which are inter-related: firstly, that the EOTAS policy should be swiftly redeveloped using co-production and external experts in addition to Council offers and that, secondly, a new Alternative Provision policy should also be written and that should be done in conjunction with the revision of the EOTAS policy.

RECOMMENDATIONS

9. The Committee is clear in its understanding EOTAS is not the same as Elective Home Education. EOTAS is also not Alternative Provision which is education arranged by the Local Authority for those who remain on the roll of a school but are unable to attend. EOTAS is the mechanism for providing education to those whose Education Health and Care Plan sets out that it would be inappropriate for the child or young person to receive some or all of their education at school or post-16 setting. The Council has not previously had a formal policy and it is seeking to adopt one.
10. The numbers of families receiving EOTAS packages are not high but are increasing and the Committee was told that numbers had risen from 42 to 52 in November 2024. The Committee was also told that £2.1million was being spent on EOTAS. The Committee agrees with the intention of having a policy setting out the Council's responsibilities and what is or is not possible as part of that policy.
11. As stated in paragraph 10, there are currently 52 families receiving EOTAS. The Committee received a letter signed by approximately 50% of them and

was addressed by several at the meeting itself. It was clear to the Committee, and to all present, that there were strong concerns on the part of some of those families about some aspects of the draft policy. Some members shared some of those concerns.

12. The fundamental concern of the Committee with the draft policy, though, was that it had taken so long to produce and that it had not been produced with sufficient engagement with relevant stakeholders, including families and their representatives.
13. The Committee was pleased to hear the directorate's apology at the outset of the item's consideration both for the time it had taken and for the distress it had caused. The Committee noted that the Deputy Director was happy to work with the co-production team to look again at the policy and the guidance. The Committee was pleased, too, that the Cabinet Member for SEND Improvement recognised the need to engage more with parents and carers before the policy was submitted to Cabinet for approval.
14. It is worth noting that, after publication of the Committee's agenda, the Committee was asked by the Cabinet member to consider deferring consideration of the draft policy once the level of disquiet had been registered. The Committee declined to do so on the basis that the agenda had been published, families were concerned, and it was considered preferable for the Committee to engage at this stage – even though it was clear that revision would be forthcoming.
15. The Committee clearly recognises that the Council faces significant financial challenges and that the delivery of EOTAS is expensive. It recognises, too, that the Council is bound by legal requirements and that there can be very good reasons for implementing policies which might not be to everyone's satisfaction. However, clarity and communication so that all stakeholders understand the constraints the Council is operating under is key. The Priority Action Plan is peppered with references to the importance of co-production and co-production is frequently referenced. The Committee would like to be assured that work surrounding this policy will, going forward, be co-produced and that stakeholders will be engaged with properly.
16. The Committee was, to an extent, assured by the Cabinet Member for SEND Improvement that she was committed to co-production. The Committee welcomed her offer of a meeting with officers, parents, and the Oxfordshire Parent Carer Forum as well as the SEND Youth Forum to consider the current draft in detail and to understand their concerns and to engage with them. The Committee fully recognises the point made by officers that there are limits to what can be co-produced and that legal duties are simply legal duties and must be followed and that legal restrictions are in place where things cannot be considered. However, a policy can be co-produced that takes account of such limits.
17. The Committee also recognises that the draft policy was amended in the light of advice from some stakeholders and that it was, of course, not intended to

cause distress. However, the Committee is strongly of the view that the policy and the accompanying guidance should be produced together with key stakeholders. The Council should ensure that there is strong and valuable co-production and avoid the temptation of mere consultation.

Recommendation 1: That the Council should re-write the draft EOTAS policy by no later than the end of February 2025 and that it, as well as the accompanying guidance, should be co-produced and that external experts should be invited to participate in that process.

18. The Committee heard that the Council had begun discussions with OxPCF about organising a listening event on alternative provision in early 2025. The Committee recognises that alternative provision is related to EOTAS, insofar as some alternative provision providers provide EOTAS packages, but distinct from it. It was reported that there has been some work undertaken by the Department for Education around alternative provision which also included consideration of EOTAS. Given the interplay would suggest there was merit in the Council involving alternative provision providers in the development of the policy. The Committee also recommends that the Council consider if it would be appropriate to develop a formal policy at this stage.

Recommendation 2: That the Council, in tandem with re-writing its draft EOTAS policy, should also write a co-produced Alternative Provision policy

FURTHER CONSIDERATION

19. The Committee intends to consider the EOTAS policy again during this municipal year once it is revised.

LEGAL IMPLICATIONS

20. Under Part 6.2 (13) (a) of the Constitution Scrutiny has the following power: 'Once a Scrutiny Committee has completed its deliberations on any matter a formal report may be prepared on behalf of the Committee and when agreed by them the Proper Officer will normally refer it to the Cabinet for consideration.
21. Under Part 4.2 of the Constitution, the Cabinet Procedure Rules, s 2 (3) iv) the Cabinet will consider any reports from Scrutiny Committees.

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Annex: Pro-forma Response Template

Background papers: None

Other Documents: None

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