

# Section 19 Policy

**Policy for children who, by reason of illness, exclusion from school or otherwise, may not receive suitable education unless arrangements are made for them, under Section 19 of the Education Act 1996.**

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# 1. Context

1.1 This policy sets out how Worcestershire County Council, in collaboration with relevant partners and stakeholders, delivers its duties under Section 19 of the [Education Act 1996](#), which states:

*'Each local authority in England 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.'*

1.2 Related content:

- Section 19 of the [Education Act 1996](#)
- Section 100 of the [Children and Families Act 2014](#) - The appropriate authority for a school to which this section applies must make arrangements for supporting pupils at the school with medical conditions.
- DfE guidance [Arranging education for children who cannot attend school because of health needs](#)
- DfE guidance [Supporting pupils with medical conditions at school](#)
- DfE guidance on ['Working together to improve school attendance'](#)
- WCF's [Inclusion in Educational Settings](#) webpages

1.3 Worcestershire County Council recognises that there is a shared responsibility between the Local Authority, schools/settings and other partners and stakeholders to successfully implement this policy and promote high quality integrated service provision to support positive outcomes for children who cannot attend school.

## 2. Principles

2.1 The provision for children who cannot attend school will ensure:

- A child centred, collaborative approach.
- A peer-led system of support and challenge for schools.
- Support based on an understanding of individual pupil needs.
- Consistency, equity, transparency and timeliness of decision making.
- Positive outcomes for pupils, making good progress in their education.
- Disruption to learning is minimised and there is a continuity of education provision within the school curriculum.
- Where appropriate, pupils reintegrate successfully back into school as soon as they are able.

## 3. The Statutory Framework

3.1 Section 19 of the [Education Act 1996](#) states that, 'local authorities must arrange suitable and (normally) full-time education for children of compulsory school age who, because of exclusion, illness or other reasons, would not receive suitable education without such provision being arranged'.

3.2 Additionally, [Arranging education for children who cannot attend school because of health needs](#) clarifies that, for children with medical conditions who can attend school, 'The local authority does not need to become involved in such arrangements unless it has reason to believe that the education being provided by the school is unsuitable' (or unsustainable).

3.3 The Section 19 duty placed on Local Authorities relates to those of compulsory school age – Children and Young People aged 5 to 16 (from school term after a child's 5th birthday, until the last Friday in June of the school year they turn 16).

3.4 Worcestershire LA defines suitable education as the following:

- 1) Efficient education suitable to the age, ability, aptitude and to any special educational needs (having regard to the primary / secondary curriculum). (Education Act 1996, section 19(6)).
- 2) Primarily equips a child for life within the community of which he/she is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so and to be capable of living on an autonomous basis as far as he or she chooses to do so. (Judicial review 1985).

3.5 The Local Authority where a child resides (wholly or mainly) is responsible for education under Section 19. If a child resides between different addresses in a split family, the decision is made on where the child spends most of their time and this LA has the Section 19 responsibilities (clarified upon notification). If the child ordinarily resides 50/50 in 2 LAs, then both Local Authorities can discuss and agree sharing the responsibilities for Section 19 provision. If an agreement cannot be reached, then the Local Authorities can write to the Secretary of State for a decision.

3.5a For children with an Education, Health and Care Plan (EHCP), the Local Authority who is responsible for maintaining the EHCP is responsible for maintaining their provision; this includes Section 19 provision. Even if a school in another local authority is named, the Local Authority responsible for maintaining the EHCP is responsible for the Section 19 provision.

3.5b With regard to children who are looked after (in the care of a Local Authority) with an EHCP, Section 19 of the High Needs Operational Guidance states that:

*'When a local authority places a looked after child with an EHC plan in another local authority's area (for example, with foster parents), the local authority where the looked after child lives (is wholly or mainly resident) becomes responsible for maintaining their EHC plan (including paying any top-up funding), in the same way as any child or young person who moves from one local authority's area to another.'*

3.6 For children who are [Electively Home Educated](#), in the great majority of cases home education is a positive experience, provides suitable education and supports the lifestyle choices of the family. In such cases, Section 19 duties do not apply.

However, under s.437(1) of the Education Act 1996, Local Authorities must act if it appears that parents are *not* providing a suitable education. This section states that:

*'If it appears to a local authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.'*

Section 437(2) of the Act provides that the period specified for a response shall not be less than 15 days beginning with the day on which the notice is served.

If the Elective Home Education being provided is not deemed suitable then the child will be regarded as a Child Missing Education [Attendance and CME | Worcestershire County Council](#).

3.7 Where the Local Authority offers suitable, reasonably practicable education for a child, but the child/family do not engage with this, the Local Authority is not under a duty to provide any further alternative educational provision. Parents should be aware that it is their duty under Section 7 of the Education Act 1996 to secure an education for children of compulsory school age which, in the circumstances outlined above, is available.

3.8 The law does not define full-time education. The number of hours of education will be considered on a case-by-case basis and will be tailored to the child's age, aptitude, ability and individual needs (for example, health, social and emotional needs, special educational needs or disabilities).

[Arranging 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, where possible, which is equivalent to the education they would receive in a mainstream school. If, for example, a child receives one-to-one tuition, the hours of face-to-face provision could be fewer as the education may be more intensive. Where full-time education would not be in a child's best interests for reasons relating to their physical or mental health, local authorities must arrange part-time education on whatever basis they consider to be in the child's best interests. Full and part-time education should still aim to achieve good academic attainment particularly in English, maths and science. Any part-time education should be reviewed regularly, with the aim of eventually increasing the number of hours up to full-time as soon as the child's health allows.'*

3.9 Education provision models:

Education may be delivered in one or more of the following ways, dependent on individual needs and circumstances, and may evolve over time:

- Within the home setting, overseen by staff from the child's school or a commissioned tutor or through a supervised online education provision.
- Within an identified community setting, overseen by a tutor commissioned by the school or Local Authority, or through a supervised online education provision.
- Within an NHS hospital setting in Worcestershire, overseen by the home school, which may choose to commission support from the Medical Education Team [Medical Education Team | Worcestershire County Council](#).
- Within an NHS hospital setting in another Local Authority and in accordance with local arrangements.
- Where a child has a mental health condition that requires treatment in a specialist centre that is commissioned through NHS England, the Local Authority may commission the hospital school to provide education or may arrange for education to be provided by the home school or by a tutor commissioned by the Local Authority or through an online education provision.

**NB** – under the Working Together to Improve Attendance guidance (September 2024), schools can only 'B' code the attendance of the young person where *'the activity is supervised by a person considered by the school to have the appropriate skills, training, experience and knowledge to ensure that the activity takes place safely and fulfils the educational purpose for which the pupil's attendance has been approved. Supervision means the pupil is physically supervised by someone who meets this definition.'*

### 3.10 Attendance coding:

- Where the Local Authority has arranged education for a young person, the Local Authority will track the attendance and progress of that young person (either through the Children's Services Portal, directly with the provider or in conjunction with school). Where this is the case, pupils should be coded as 'K' on the school register for the sessions when the provision is being provided, because the Local Authority is providing the education for the pupil. It should not be a blanket code 'K' and should only be for the sessions when the pupil should be at the provision.
- Remote education (including on-line and AV1 robot) should always be recorded as an authorised absence such as code 'C' or 'I'.
- If a pupil is receiving support from the Medical Education Team, this should be coded as 'B', even if recommended by CCAS panel.

## 4. Identification and Referral

4.1 There are a number of routes by which a child may be referred to the Local Authority for support under this policy, this would include notification of permanent exclusions through the Children's Services Portal (or directly to the Inclusion Team), notification of non-attendance (including 10 days consecutive absence, 15 days of consecutive or cumulative illness and irregular attendance) or unsuitable education through the Children's Services Portal; or direct contact from professionals, parents, other LAs or non-Worcestershire schools to the responsible Education Engagement team.

4.2 In each case, the initial notification will be assessed and triaged by WCC's Education Absence Monitoring Officers. If the notification presents as requiring a Section 19 decision to be made, it will be added to the agenda for the next weekly term-time Children Who Cannot Attend School (CCAS) panel meeting for consideration. There will be one of four outcomes from this meeting:

- Section 19 duty met – provision/support to be made by the LA based on CCAS panel decision (e.g. tuition, AV1 Robot, CCAS Education Engagement Officer to support re-engagement / return to school, transport, assessments etc.)
- Further information required to evidence whether the specific situation meets the criteria for Section 19 (to return to CCAS panel as soon as possible).
- The educational needs of the child are currently being met appropriately. The Education Engagement Team will continue to monitor. School to update on any changes. Can return to CCAS panel if the educational provision becomes unsuitable/unsustainable.
- Section 19 duty not met - clear evidence that the case does not meet the threshold for Section 19. Signposted/referred to other services, as appropriate.

4.3 For Further Information about the Children Who Cannot Attend School Panel, please refer to [Children who Cannot Attend School \(CCAS\) | Worcestershire County Council](#).

4.4 The Attendance & CME Team [Attendance and CME | Worcestershire County Council](#) monitor all pupils who are Children Missing from education; that is those who are not registered pupils at a school. These pupils may be in receipt of other provision, such as tuition, whilst being placed in a school.

**4.5 Children Looked After.** Where a child looked after by the Local Authority is at risk of exclusion, requires support due to medical needs or is likely to be placed in alternative provision, the

Designated Teacher (DT) should contact the local authority's Virtual School as soon as possible [school should also complete the relevant notification through the Children's Services Portal as well]. Worcestershire Virtual School works with partners and stakeholders to ensure that the Local Authority's statutory duty is fulfilled to promote the education of children and young people in care, previously in care and with a social worker in order that they have the highest aspirations and the best possible educational experience and outcomes. The team support Children Looked After/ Previously Looked After aged 2 years to 18 years and children subject to a Child In Need Plan/ Child Protection Plan aged 0 to 18, across all education settings. [The Virtual School | Worcestershire County Council](#)

#### **4.6 Children with an Education Health and Care Plan (EHCP):**

- **4.6a EOTAS**

- When a pupil with an EHCP is not receiving appropriate provision, if it is inappropriate for the provision outlined in the EHCP plan to be made in a school (or as part of the Electively Home Educated offer), the SEND Team may arrange and provide for a child an EOTAS (Education Other Than at School) package under S61 of the 2014 Children and Families Act.
- Worcestershire may only arrange EOTAS provision where the legal test is met whereby if it is satisfied that it would be inappropriate for provision outlined in a child's EHCP Plan to be made in school (or as part of the Electively Home Educated offer), in consultation with a child's parent or no provider is identified as being able to meet need. To determine whether it would be inappropriate for provision to be made in a school, the SEND Team will take account of the circumstances of the case, which would include:
  - the child's background and medical history,
  - the particular educational needs of the child,
  - facilities that can be provided by a school and otherwise than at a school,
  - the parents' and child and young persons wishes
  - and any other particular circumstances that might apply.

- **4.6b Interim Provision**

Where children and young people with an EHCP move into Worcestershire Local Authority area (including returning from EHE) and a suitable school place is not immediately available, support will be provided under the Local Authority's section 19 responsibilities. This will usually be through the provision of tuition.

## **5. Permanent Exclusion**

5.1 Suspension or Permanent Exclusion should only be used as a last resort, 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. For further guidance on alternatives to Permanent Exclusion and advice on processes, please see Worcestershire's [Exclusions and fair access | Worcestershire County Council](#) pages including the Graduated Response to Preventing Exclusions.

5.2 Arrangements and procedures for children who have been permanently excluded from school can be found at [Exclusions and fair access | Worcestershire County Council](#). The Inclusion Team works with partners to prevent permanent exclusions and to ensure that those children and young

people who are permanently excluded from school receive an alternative education within 6 days. The Fair Access Protocol ensures that children and young people who meet the 'Hard to Place' criteria are admitted as quickly as possible to the right school/setting.

5.3 'If a child has been permanently excluded from school, the council must arrange alternative education from the sixth school day following the exclusion, although it may start sooner.' Local Government and Social Care Ombudsman 'Out of School, Out of Sight?' 2022.

5.4 The Local Authority maintains responsibility for arranging a suitable education from the sixth day of a permanent exclusion, however the school has the responsibility to inform the parent of such arrangements. Therefore any school issuing a permanent exclusion needs to submit a leavers notification form to the Children's Services Portal. The Inclusion Team will then make contact with parents/carers to inform them of next steps.

5.5 A range of registered and unregistered Alternative Provision providers are commissioned by Worcestershire Local Authority to provide a suitable education, tailored to the individual needs of each pupil ([SEND and Alternative Provision Directories | Worcestershire County Council](#)). It is thus critical that excluding schools provide AP settings with detailed information about the needs of the pupil, safeguarding information and the support that has already been put in place. This will promote successful transition to Alternative Provision.

5.6 Following permanent exclusion, AP settings, supported by the Local Authority and wider agencies, are responsible for enabling the child or young person to reintegrate back into a sustainable education place. There is an expectation that the permanently excluding school complete a Pupil Passport Form via the Children's Services Portal, which will be updated by the Alternative Provision at the point of reintegration. The excluding school and Alternative Provision will make available details of the young person at the relevant Fair Access Panel, to support the timely and appropriate reintegration back into a mainstream school.

## 6. Medical Needs

6.1 Schools should read this policy alongside the statutory guidance for 'Supporting pupils at school with medical conditions' 2015, the Children and Families Act 2014 and the SEND Code of Practice 2015, which highlight their legal duty to 'support pupils with medical conditions'. Prior to requesting that the LA considers Section 19 for a child with identified needs relating to illness, schools should refer to their own Medical Needs policy (as required by the statutory guidance) and consider seeking advice from health professionals.

6.2 Section 19 of the Education Act 1996 and section 3 of the Children, Schools and Families Act 2010, place local authorities under a duty to arrange full-time education for all children who, for reasons which relate to illness, exclusion or otherwise, would not receive suitable education unless arrangements are made for them. 'The local authority does not need to become involved in such arrangements unless it has reason to believe that the education being provided by the school is unsuitable' [or unsustainable].

6.3 The DfE Guide, 'Arranging Alternative Provision' February 2025 emphasises the role of the school:

"When a child is already attending school, there is a range of circumstances where their health needs can and should be managed by the school so that they can continue to be educated there without the need for the intervention of the local authority."



6.4 “There is no absolute legal deadline by which local authorities must start to arrange education for children with additional health needs. However, as soon as the local authority has been informed by the home school that the child will be absent for 15 days or more *[and the school is not providing educational support]* they should begin the process of arranging suitable alternative provision.” DfE; Arranging Alternative Provision; A Guide for Local Authorities and Schools; February 2025

6.5 Local Authorities should have a named officer who is responsible for the education of children with health needs and ensure parents know who the named officer is. [Arranging education for children who cannot attend school because of health needs](#) The named officer for Worcestershire Local Authority is the Medical Education Team Lead [Medical Education Team | Worcestershire County Council](#).

6.6 Further guidance on supporting young people with medical needs, including through the Local Authority’s Section 19 duties, is outlined in Worcestershire’s Medical Needs Policy, which can be found at [Children who Cannot Attend School \(CCAS\) | Worcestershire County Council](#).

## 7. Children who cannot attend school for reasons other than Medical Needs or Exclusion, i.e. ‘Otherwise’

7.1 In specific circumstances, the LA will have responsibility for arranging suitable education after day 15 for Children Missing Education (CME), i.e. they are not on roll of a school and are not Electively Home Educated. Parents/carers should read this policy for a child/young person not on a school roll alongside Worcestershire’s School Admissions Policy, which provides detail of how a parent/carer can meet their statutory duty outlined in Section 7 of the Education Act to ‘secure an education for a child of compulsory school age’. Further support or guidance can be provided by the Admissions Team. [School admissions policies | Worcestershire County Council](#)

7.2 Worcestershire Local Authority will only arrange education under the ‘Otherwise’ category if it assesses that it is not possible for a child to receive a suitable education at their current school and, where arrangements are made, the host school will be required to keep the pupil on roll and retain safeguarding responsibilities.

7.3 If the LA does arrange and provide education; the provision should be short-term, with a view to the child being re-integrated into their home school at the earliest opportunity, or for Children Missing Education, being allocated a suitable and permanent school place. Where Worcestershire does arrange alternative education for these cohorts of children and young people it may request their home school provides the pro-rata AWPU funding.

7.4 Where a child with an EHCP is awaiting a suitable permanent place in a school, suitable provision, often tuition, will be arranged by the SEND Team until such time as a suitable school place is allocated. If a package of suitable education is provided for a period when a child is not on roll at an educational provision, this will be recorded as ‘Interim Alternative Provision’.

## 8. Safeguarding

### 8.1 Where a child is on roll at a school:

- the school retains safeguarding responsibilities for each child concerned, in line with Keeping Children Safe In Education and their own safeguarding policies and procedures.

### 8.2 Where a child is not on roll at a school:

- Worcestershire LA assume safeguarding responsibility for the child.

## 9. Monitoring and Quality Assurance

### 9.1 Where a child is on roll at a school:

- Provision commissioned by the school:
  - the school remains responsible for monitoring the quality of any and all provisions they commission for the individual learner, e.g. through regular reviewing, site visits, checking safeguarding information, single central records, attendance records and progress records. Schools can and should liaise regularly with the provision to quality assure provision and progress.
- Provision commissioned by Worcestershire LA:
  - The school and Worcestershire LA share responsibility for monitoring the quality of any and all provisions they commission for the individual learner.
  - Worcestershire LA quality assures and monitors both Registered and Unregistered provisions.
    - Registered Provisions are subject to Ofsted inspections and receive ongoing monitoring from Worcestershire LA, through weekly review meetings.
    - Unregistered Provisions are required to pass a quality assurance and safeguarding audit in order to be included in Worcestershire LA's Alternative Provision Dynamic Purchasing System (commissioning framework) and receive ongoing monitoring from Worcestershire LA.

### 9.2 Where a child is not on roll at a school:

- Worcestershire LA is responsible for monitoring the quality of any and all provisions they commission for the individual learner.
- Worcestershire LA quality assures and monitors both Registered and Unregistered provisions.
  - Registered Provisions are subject to Ofsted inspections and receive ongoing monitoring from Worcestershire LA, through weekly review meetings.
  - Unregistered Provisions are required to pass a quality assurance and safeguarding audit in order to be included in Worcestershire LA's Alternative Provision Dynamic Purchasing System (commissioning framework) and receive ongoing monitoring from Worcestershire LA.

## 10. Funding

10.1 In line with DfE guidance referenced below, where the Local Authority assumes responsibility for the education of a child under Section 19, this will be funded from local authorities' high needs budgets. However, where a child remains on the roll of their school but requires a period of time with support outside of school, the local authority may request a transfer of a portion of the pupil's funding from their school. Alternatively, an agreement to fund different elements of the package between the LA and the pupil's school may be agreed. This would ensure that the funding follows the child. This arrangement would cease when the child is reintegrated back to their home school or are no longer on the roll of the home school. Funding will also cover transport and assessments where appropriate and not superseded by other policies, guidance or legislature.

### Arranging education for children who cannot attend school because of health needs (DfE Dec 2023)

*Alternative provision for children with medical needs is funded from local authorities' high needs budgets. However, where a child remains on the roll of their home school but requires a period of time in alternative provision due to their health needs, the local authority and home school may wish to consider the transfer of a portion of the school's funding associated with that child to the alternative provision. This would ensure that the funding follows the child. This arrangement would cease when the child is reintegrated back to their home school or are no longer on the roll of the home school.*

*When a child permanently leaves the roll of their home school and is admitted to another school or alternative provision, a mandatory funding adjustment is made by the local authority. Details of these adjustments are set out in the 'Redetermination of budgets' sections of the 'Schools operational guide' on the web page entitled 'Pre16 schools funding: local authority guidance' for the relevant financial year, a link to which can be found in the following web page: Local authorities: pre-16 schools funding - GOV.UK ([www.gov.uk](https://www.gov.uk)).*

*Local authorities should always ensure that alternative provision is good value for money.*

## 11. Reintegration

11.1 Worcestershire recognises that, whenever possible, pupils should receive their education within their school and the aim of any alternative provision will be to reintegrate pupils back into school at the earliest opportunity, as soon as they are able. Arrangements for reintegration will be discussed with school staff and each pupil will have a personalised reintegration plan that may include:

- Access to Alternative Provision for a period of time.
- Education provided in the home (in person or online), delivered by school staff or an external provider.
- Ongoing access to therapeutic intervention may be required and will be considered as part of a multi-agency approach.

11.2 Under equalities legislation, schools must consider whether they need to make any reasonable adjustments to provide suitable access for a child whose condition amounts to a disability.

11.3 Schools are responsible for monitoring the quality of any and all provisions they commission for the individual learner, e.g. through regular reviewing, site visits, checking safeguarding information, single central records, attendance records and progress records.

## 12. Children other than of Statutory School Age

12.1 This policy refers to the statutory duty for schools and Local Authorities for children of statutory school age. For children below or above statutory school age, the principles of identifying need and providing a planned approach apply. The Local Authority can support with advice regarding these arrangements.