



Education Other Than In School (EOTAS)

There are some circumstances where some children and young people with special educational needs cannot be educated in a formal educational setting. It may be that the placement has broken down, is at risk of breaking down due to complexity of needs or the provision they need cannot be provided within a setting.

The SEND Code of Practice at para 10.39 states that *'Local authorities must make arrangements where, for any reason, a child of compulsory school age would not otherwise receive suitable education. Suitable education means efficient education suitable to a child or young person's age, ability and aptitude and to any SEN he or she may have. This education must be full time, unless the local authority determines that, for reasons relating to the physical or mental health of the child, a reduced level of education would be in the child's best interests'*.

You can read more about Local Authorities' duties to provide Alternative Provision [here](#) and refer to your Local Offer within your Authority for further details of how this is provided in your area.

If your child or young person is struggling to access their setting and you are have an EHC plan in place or are in the process of securing one, you may also wish to consider an EOTAS request to secure provision in the plan, which may need to be delivered somewhere other than in a school.

What is EOTAS?

Education other than at school (EOTAS) means the education or special educational provision of children or young people outside of a formal educational setting. It can be only be agreed in conjunction with the Local Authority via an EHC needs assessment, a reassessment of needs or at your EHCP annual review.

It means the child or young person would not be on roll at a school or post 16 institution and the special educational provision could happen at home or could be at another setting, which is not a registered educational setting.

Some examples of EOTAS are as follows:

- Online schooling
- Home tuition
- Other tuition centres
- Hospital schooling
- Therapies such as Speech and Language, Occupational Therapy and Physio Therapy.

These or any other provision, which educates or trains a child or young person should be treated as special educational provision and detailed in Section F of the EHCP which it is then the duty of the LA to secure and fund the provision.

Is this the same as Elective Home Education?

No, EOTAS is not the same as elective home education. If you choose to home educate, parents are responsible for making their own suitable arrangements for the child's educational (including any special educational) provision. Therefore, if you have an EHCP, the Local Authority does not have a

duty to provide the provision detailed in Section F. To find out more about Home Education please see our resource [HERE](#)

How can I request EOTAS?

Firstly, you will need to be in the process of getting an EHCP or already have one in place. You can then request an EOTAS package as part of the initial EHC process, ask for one within a reassessment of an EHCP or ask for this at an annual review of the plan.

The request should be considered in conjunction with the parent or carer, the young person if appropriate and the Local Authority. The Local Authority must consider your parental wishes but importantly will need to establish whether the evidence that EOTAS is necessary has been established.

The legal test for the Local Authority to consider when a parent or young person makes a request for an EOTAS package is as follows:

Section 61 CAFA 2014 (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 parents or the young person.

The Local Authority must therefore be satisfied that it would be inappropriate for the provision to be made in an educational setting such as a school or post 16 institution.

What makes an educational setting inappropriate?

This has been considered in the case of **TM v London Borough of Hounslow**, which confirmed that the full effect of the word "inappropriate" must be considered, and that the LA must determine whether a school setting would "not be suitable" or "not be proper". The LA would have to take into account all the circumstances:

These circumstances might include, without giving any exhaustive list, (which must depend on the facts of the case) consideration of the following matters:

- 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
- the child's reaction to education provisions, either at a school or elsewhere
- the parents' wishes

If an EOTAS package is agreed what should go in the EHCP?

If an EOTAS package is agreed then case law has determined that Section I of the plan should be left blank, your child will not be on roll at a formal educational setting and the provision in regards to the EOTAS package should be set out in Section F of the EHCP. The provision required should be specific and quantify the provision that is to be provided. Examples of what provision could be in place in section F are given on page 1.

What if my child cannot attend school due to their health needs?

If your child has a health need, which means they are medically unfit to attend their educational setting, there are additional specific duties on the Local Authority to provide alternative education. This is detailed in the statutory guidance for Local Authorities '[Ensuring a good education for children who cannot attend school because of health needs](#)'. This sets out that if a child or young person is going to be absent for more than 15 days due to health needs, the school have a duty to notify the LA who should ensure there is suitable education put into place. This should be a full time education but is based on the child's needs and what is suitable for them.

Do you still have an annual review when you have an EOTAS package in place and who holds this?

Yes, an annual review must take place yearly and should be completed within 12 months of the initial EHC plan being finalised or within 12 months of the previous review. There is the same duty on the Local Authorities to conduct an annual review when a child is educated otherwise than at school. All timescales and obligations will remain the same throughout the annual review process however, the Local Authority may want to see ongoing evidence that it is still inappropriate for your child to be educated in an educational setting so you may wish to consider this evidence before the annual review takes place.

What happens if I request an EOTAS package but this is not agreed?

You have a right of appeal in the following circumstances that may apply here:

1. A final plan is issued after the initial EHC needs assessment
2. A final amended EHCP after an annual review has been issued
3. A final amended EHCP is issued after reassessment.
4. A refusal to reassess
5. A refusal to amend an EHCP after annual review
6. Appealing against a plan being ceased.

If you are appealing based on situation 1,2 or 3 above, then you could directly appeal against the content and placement of the EHCP this being Sections B (needs), F (provision) and I (placement). The onus would be on you as a parent to provide evidence that it would be inappropriate for your child to attend an educational setting. This will be determined on a case-by-case basis having regard to the case law quoted above.

If appealing in the situations 4-56 above you would firstly need to appeal the refusal to reassess or amend and then this would give rise to an appeal against content and placement once an amended EHCP is issued if still not agreed at this stage.

If you have any further questions or would like support please contact our support line on 0117 989 7725 or email support@sendandyou.org.uk

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