

# What alternative education is a child experiencing EBSA entitled to?

The Local Authority (LA) has an absolute legal duty to secure suitable, full-time alternative education for those children of compulsory school age who, by reason of illness, exclusion or otherwise, may not for any period receive suitable education unless such arrangements are made for them. This applies whether or not your child has an EHC Plan. They cannot choose not to provide this support, and they cannot use arguments of lack of resources to justify a failure to do so. LAs have a power (not a duty) to arrange education provision, where not already available, for pupils aged 16-18. [Section 19 Education Act 1996](#) & [case law](#)

## What should the alternative provision look like?

- LAs should liaise with appropriate medical professionals to ensure minimal delay in arranging appropriate provision for the child.
- It must be suitable to the child's age, ability, aptitude and any special educational needs.
- "Full-time education" is not defined in law, however the guidance states that it should "equates to what the pupil would normally have in school – for example, for pupils in Key Stage 4 this would usually be 25 hours a week." Unless, 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.
- It is unlawful to withhold or reduce the provision, or type of provision, for a child because of how much it will cost. Therefore, LAs must not have policies that limit a child's education to a specified number of hours per week due to cost or availability.
- LAs should have regard to the statutory guidance '[Ensuring a good education for children who cannot attend school because of health needs](#)'. "Health needs" can include anxiety and other mental health needs. As well as the DfE guidance on [Alternative provision](#)

## When should this be put in place?

**Exclusions:** from the sixth school day after the exclusion

**Health needs/anxiety:** as soon as it is clear that the child will be away from school for 15 days or more, whether consecutive or cumulative, and at the latest by the sixth day of the absence

**Children with no school place:** immediately

## How to request alternative education

Write to the Director of Children's Services at your LA and request that they provide suitable alternative full-time education for your child whilst he or she is out of school. In your letter or email, you should include:

- your child's name, age and school
- details of the circumstances which have led to your request
- the date by which the LA will have a duty to provide full-time education for your child
- copies of any supporting evidence (e.g. an exclusion letter from the head teacher, or a letter from your GP or other medical or mental health practitioner)
- details of your child's SEN and of the provision that will be required in order for the alternative education provision to be suitable

Keep a copy of your letter so that you have a record of your contact with the LA.

## What should I do if alternative arrangements

**are not being made?** If, despite a request to do so, the LA has not made any suitable arrangements for alternative education for a child who cannot attend school, they will be in breach of their statutory duties and you could consider [making a complaint](#). The Local Government and Social Care Ombudsman has issued [a report explaining the duty to provide alternative education](#).

## What if my child has an Education Health and Care Plan (EHCP)?

Attach a copy of the EHCP to your letter and ask for details of how the LA will ensure that the special educational provision continues to be delivered while he or she is out of school in accordance with [section 42, Children and Families Act 2014](#).

The Local Authority has to see if a school would "not be suitable" in order to consider whether or not education in a school is 'inappropriate'. To do that, the LA has to take into account all the circumstances. This might include 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
- any other particular circumstances that apply to a particular child [Case Law](#)

Where a child or young person requires 'education otherwise than in school' (EOTAS), the special educational provision should be set out in Section F and Section I should be left blank, as there is no setting to be attended. [Case Law](#)

If you need further advice, please feel free to [contact SENDIASS here](#)