



Essex County Council

Section 19 'Otherwise'
Guidance

January 2025

Section1: Overview

1. Most children's educational needs are best met in school, but for some children, at specific times, an education either in an alternative venue or at home may be appropriate.
2. Children out of school/education are a vulnerable cohort. Essex County Council is committed to working in partnership with schools and families to address educational and social disadvantage to overcome barriers to achievement.

Section 2: Legal position

3. Section 7 Education Act 1996 places a duty on parents to ensure that their child receives a suitable full-time education, which usually means registering them in a school and ensuring regular attendance.
4. Section 19 of the Education Act 1996 (and as amended by The Children School and Families Act 2010) places a duty on Local Authorities to 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.
5. Children are of compulsory school age from the school term after a child's 5th birthday, until last Friday in June of the school year in which they turn 16.
6. This duty applies to all Essex children of compulsory school age, irrespective of whether they are on roll at a school and regardless of the type of school at which they are enrolled or where the school is situated.
7. This guidance only applies to Essex County Council's Section 19 duty to consider education otherwise than at school. Education otherwise than at school (EOTAS), under section 61 of the Children and Families Act 2014 does not fall into the remit of this guidance.

Section 3: Early identification & support

8. Partnership working between schools and families is essential to ensuring regular attendance at school.
9. Schools and families should work together to provide reasonable adjustments, support, and intervention to maintain a child's school placement. Where there is limited evidence of impact, further changes and new approaches should be offered to support the child.

10. Schools are expected to engage with the Essex Early Help offer and Inclusion Strategy to ensure the best outcomes for children.
11. Where difficulties arise with school attendance, professionals should take a 'support first' approach. Early intervention to unpick barriers to attendance, including regular reviews, should support in reducing the need for statutory intervention.

Section 4: Commissioning teams

The Education Access Team

12. The Education Access team is responsible for arranging suitable education for Essex children:
 - Who have been permanently excluded from school.
 - Who are medically too unwell to attend school, including both physical and mental health.
 - Who are unable to attend school due to emotionally based school avoidance.
 - Who are not in school due to other exceptional circumstances.
13. The Education Access team will determine whether the Section 19 threshold has been met.

SEND Operations Team

14. The SEND Operations team hold responsibility for those children with an Education Health and Care plan (EHCP) from age 0-25.
15. The SEND Operations team support the Education Health and Care (EHC) processes for children and young people in need of an EHC plan. This would include:
 - Administration of the 20-week statutory needs assessment process
 - Annual review of EHCPs.
 - Arranging of provision and placements.
 - Supporting transitions for children and young people with EHCPs.
 - Working in partnership with settings, schools, families, social care and health services during EHC processes.
16. The SEND Operations team is responsible for Essex County Council's Section 19 duty for children resident in Essex with an EHCP.
17. The SEND Operations team will determine whether the Section 19 threshold has been met.

Essex Virtual School

18. Essex Virtual School helps Children in Care (CIC), previously looked-after children, those subject to a kinship arrangement, and children with a social worker (CHWSW) to become successful learners.
19. Essex Virtual School provides advice and support to help raise aspirations and improve the educational outcomes of children and young people.
20. Essex Virtual School will consider Essex County Council's Section 19 statutory duty to provide suitable education for Children in Care who are awaiting a school place.
21. The Virtual School will determine whether the Section 19 threshold has been met.

Section 5: Reduced educational provision

22. The decision to implement a reduced education offer should always be made during a one-planning cycle and must always be taken in the best interests of the child.
23. The decision must be made with the understanding, approval, and written agreement of parent/carer, or in the case of a Child in Care, the allocated social worker.
24. A reduced educational offer should only occur in exceptional circumstances and where every other avenue to ensure a child receives their full-time education has been exhausted.
25. Essex County Council recognises that in very exceptional circumstances, and where it is in the child's best interests, there may be a need for a temporary part-time timetable to meet a child's individual needs.
26. Exceptional circumstances may include, but are not limited, to:
 - A planned re-integration following an extended period out of school.
 - A short-term, closely monitored intervention.
 - Where a medical condition prevents a child from attending school full-time, and a part-time timetable is used to help the child access as much education as possible.
27. Essex County Council must be able to report on all Essex children who are of statutory school age, and who are not in receipt of full-time education.
28. Schools are requested to notify Essex County Council of any Essex child who is subject to a part-time timetable via a half-termly data return. N.B. Where an Essex child is on roll to an out-of-county school, the school is requested to follow Essex County Council's reporting procedures.

[Provision and reduced timetables | Essex Schools Infolink](#)

29. As part of Essex County Council's triage process, it will identify those children who are not showing sufficient progression towards a full-time education.
30. Commissioning teams will be routinely notified of:
- Children who have been on a reduced educational offer for more than one term.
 - Children who are receiving less than 6 hours education per week.
31. Commissioning teams must review all children who are not showing progress towards a full-time educational offer and all children whose educational offer is so reduced that it may cause disadvantage. Commissioning teams must engage with the referring school to explore the circumstances that led to the reduced educational offer and should be satisfied that there is a robust, time-limited plan in place for the child to return to full-time education in line with the published guidance to schools. Commissioning teams should also be satisfied that the reduced educational offer is being regularly reviewed and overseen by a senior member of school staff, and that the parent/carer is fully involved and in agreement to the plan around their child. If the child is open to social care, the child's social worker should be involved.
32. Where there is limited evidence to suggest that the child is progressing towards a full-time educational offer, commissioning teams must consider whether statutory support, under Section 19 'otherwise' is appropriate, and advise the referring school of the referral process.
33. Where commissioning teams are concerned that children are not progressing towards a full-time education offer, and a Section 19 'otherwise' referral has not been received, commissioning teams should refer the case to the multi-disciplinary panel for review.
34. Further guidance on reduced education provision can be found [here](#).

Section 6: Notification

35. To ensure the efficient sharing of information, and to support an evidence-based decision, schools should work in partnership with parents/carers and all professionals involved with the child when completing a Section 19 'otherwise' referral.
36. Essex County Council will consider parental requests for support under Section 19 'otherwise' as it is acknowledged that in some circumstances, parents/carers may not feel able to consult with their child's school.
37. Referrals from partner agencies will also be considered, including Essex County Council teams.
38. All Section 19 'otherwise' referrals should be sent to (designated mailbox). Referrals will be recorded and shared with the relevant commissioning team for consideration. Commissioning teams must determine the rationale for their decision in line with the threshold criteria outlined in Section 7.

Section 7: Threshold

39. Section 19 'otherwise' is a broad category which covers circumstances other than illness or exclusion in which it is not reasonably possible for a child to take advantage of any existing suitable schooling.
40. Section 19 'otherwise' referrals will be considered for all children, irrespective of school roll status.
41. When considering a Section 19 'otherwise' referral, Essex County Council will:
- Consider the individual circumstances of each child, irrespective of the reported reason for absence.
 - Consult with all professionals involved with the child's education and welfare and will consider all available evidence prior to determining a referral to ensure an informed decision is reached.
 - Take action that is in the best interests of the child.
42. Essex County Council will not delay its decision making where limited evidence is available.
43. In determining whether the Section 19 'otherwise' threshold has been met, each commissioning team must assess the following:
- Is the child of compulsory school age?
 - Would the child receive suitable education without statutory intervention?
 - Is the child currently attending school?
 - Is it practicable for the child to attend school with reasonable adjustments?
 - Is the child unable to attend school, but able to access education?
 - Is there any identified risk to a child attending alternative education- consideration must be given to the likelihood that this will be on compressed hours.
 - What evidence is available and what is this suggesting?
 - What is the longer-term plan for the child and how does alternative education support this?
 - What are the views of the child and their family?
 - What are the views of the wider professional network?
44. Where Essex County Council has taken the decision not to pursue legal proceedings against the parents, a Section 19 'otherwise' referral should be considered if a child is not attending school.
45. Where commissioning teams are unclear as to whether the Section 19 'otherwise' threshold has been triggered, referrals will be shared with at a multi-disciplinary panel for review.

46. Where it has been determined that the threshold for Section 19 ‘otherwise’ has not been met, a rationale for the decision will be shared with the referrer.
Recommendations may be provided to support a way forward to promote regular attendance, including signposting to other services.

Section 8: Delay in securing a school placement.

47. Where there is an unavoidable delay in securing a school place for an Essex child, who is not on roll to a registered setting, Essex County Council can exercise their discretion in line with this guidance to determine whether the criteria for support under Section 19 ‘otherwise’ has been met.
48. Essex County Council will consider interim provision where 15 school days have passed from the identification of the barrier to securing a school placement.
49. For children in these circumstances, who are not supported by an EHCP, a referral can be made to the Education Access Team for an interim placement with the Essex Online School.
50. Interim provision arrangements for children with an EHCP, who are awaiting a school place, will be determined by the SEND Operations teams.
51. Interim provision arrangements for Children in Care, who are awaiting a school place, will be determined by Essex Virtual School.

Section 9: Alternative Provision

52. Where a Section 19 ‘otherwise’ referral has been agreed, Essex County Council will commission interim alternative education, suitable to the child’s age, ability, aptitude, and any SEN that they may have.
53. Essex County Council will consider all available information to determine the most appropriate provision.
54. Essex County Council commissions services from both registered and unregistered alternative education settings to meet its Section 19 statutory responsibilities.

Quadrant	Provider	Type of provision	Commissioning Team
Mid Essex	Mid Essex Cooperative Academy (MECA)	PRU	Education Access
North East	North East Essex Cooperative Academy (NEECA)	PRU	Education Access
South	Childrens Support Service South (CSS)	PRU	Education Access

West	Childrens Support Service West (CSS west)	PRU	Education Access
West	Moundwood Free School	PRU	Education Access
Countywide	Tute Education	Essex online school	Education Access
Countywide	IPES framework	Unregistered alternative provision	Education Access SEND Operations Virtual School
Countywide	No isolation	AV1 avatar (robot)	Education Access

Individual Package of Educational Support (IPES)

55. Essex County Council has an established framework for commissioning unregistered alternative education. An unregistered alternative education setting is a provision that offers alternative education but is not a registered school.
56. The framework enables Essex County Council to purchase Individual Packages of Education Support (IPES) to meet its statutory duties.
57. The IPES framework is divided into four commissioning lots:
- Lot 1- tuition services
 - Lot 2- vocational services
 - Lot 3- virtual learning
 - Lot 4- early intervention/ re-engagement services
58. Where an IPES referral has been agreed, the commissioning team will submit a request via the framework to identify a suitable education provider.
59. The bespoke nature of the IPES framework means that the education offer, in terms of number of hours will be fewer, as the provision is deemed to be more concentrated.

Pupil Referral Unit (PRU)

60. The Education Access Team commissions places with each of the above-mentioned Pupil Referral Units to meet their Section 19 statutory duties.

AV1

61. An AV1 Robot is designed to help children that are unable to attend school in person, due to illness or other circumstances. An AV1 allows them to stay connected to their classroom and peers remotely.
62. An AV1 can be used flexibly, acting as a bridge back into mainstream lessons, either from a child's home or from the school's inclusion rooms.

Essex Online School

- 63. The Education Access team has commissioned an online school to provide an immediate education offer, whilst longer term arrangements are under consideration.
- 64. The Online School delivers lessons in small groups, primarily focusing on English, maths, and science.
- 65. The expectation is that children should not be accessing this provision for longer than one academic term.

Section 10: Non-engagement

- 66. Essex County Council has a duty to determine whether the statutory threshold for a section 19 'otherwise' referral has been met.
- 67. Where the statutory threshold for Section 19 'otherwise' has been met, suitable full-time education should be arranged without delay. It is the commissioning team who will determine the most suitable provision.
- 68. Partnership working is essential to ensure that decisions are taken in the best interests of the child.
- 69. Concerns regarding Essex County Council's decision to proceed with a Section 19 'otherwise' referral should not impact or delay the appropriate support being provided to the child.
- 70. Essex County Council will provide advice to schools regarding their responsibilities to ensure children accessing alternative education are appropriately supported.
[Safeguarding, Commissioning Alternative Education](#)

Parental concerns

- 71. It is acknowledged that parents/carers may have reservations about the alternative education offer that has been made available for their child.
- 72. Essex County Council will consider any concerns that the parent/carer may have about the appropriateness of the alternative education offer in the context of its statutory duties.
- 73. Where Essex County Council determines the alternative education offer to remain suitable to the child's needs, there is an expectation that the child will engage with the alternative education offer that has been provided.
- 74. Where a child is struggling to engage with the alternative provision offer, Essex County Council will co-ordinate a review to unpick barriers to engagement and consider reasonable adjustments to support improved attendance.
- 75. Where there is limited evidence of impact, Essex County Council will consider whether parents/carers are fulfilling their legal responsibilities under section 7 of

Education Act 1996 to ensure their child is in receipt of a suitable and efficient education. Where necessary, this could involve a referral to the children missing education team or attendance compliance team for further action to be considered in line with Essex County Council's statutory duties.

Section 11: Monitor & Review

- 76. Where a Section 19 'otherwise' referral has been agreed, the commissioning team will monitor and evaluate the effectiveness of the education provision to ensure it continues to meet the child's needs, and that next steps following placement, such as reintegration into mainstream education, further education, training, or employment are clearly defined.
- 77. Review meetings should be planned every six weeks to ensure that provision remains appropriate and that placement objectives remain suitable and achievable.
- 78. Each review meeting is an opportunity to consider what's working well, along with areas of concern, or barriers, which are preventing their child from accessing their provision. This should inform decisions around reasonable adjustments.
- 79. Review meetings should be attended by parents/carers, the child (if they are able) and all partners supporting the child, to ensure all viewpoints are considered.
- 80. Where the child remains on a school roll, a link member of staff should be identified to oversee the placement. This is to ensure the child is kept in mind and continues to feel part of their school community.
- 81. Review meetings will be formally recorded, with an agreed action plan.

Section 12: Closure

- 82. The decision to cease an alternative education offer, provided through a Section 19 'otherwise' referral will rest with the commissioning team. The commissioning team will review all available information before reaching its decision and will provide a written rationale for case closure.
- 83. Case closure will only be agreed if the commissioning team is satisfied that Essex County Council does not have any further obligation under its statutory Section 19 'otherwise' duty.

Section 12: Funding

- 84. Where a child remains on a school roll, and Essex County Council has commissioned alternative education in accordance with its Section 19 'otherwise' duty, Essex

County Council will recoup a proportion of AWPU funding to ensure that the funding follows the child.

85. This arrangement would cease when the child is reintegrated back into school or is no longer on roll to the school.

86. Essex County Council reserves the right to withdraw or reclaim a child's EHCP

Banding where Essex County Council is commissioning provision under its Section 19 'otherwise' duty.