

Education Act 1996, Section 19 statement of duties - Kirklees Council

April 2025

Introduction and national context

Kirklees Council will consider national legislation and latest guidance when determining how to discharge its duties with the aim of best supporting our children and young people to achieve their maximum potential and realise their ambitions.

Section 19 of the Education Act 1996 (as amended):

“Each local authority 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.”

Education Act 1996 (legislation.gov.uk)

The Section 19 duty defines suitable education as an efficient education suitable to a child's age, ability, and aptitude and to any special educational needs they may have. Section 19 applies to any situation in which a child cannot attend school. Rules relating to excluded children and guidance relating to children with special educational needs and disabilities are covered below. It is for a Local Authority to determine that a child will not receive a suitable education unless arrangements are made for them.

Each Local Authority must also consider its wider duties and responsibilities, including those in relation to the SEND Code of Practice and Working Together to Improve School Attendance Statutory Guidance.

The Department for Education Statutory Guidance - 'Working Together to Improve School Attendance August 2024'

“Improving attendance is everyone's business. The barriers to accessing education are wide and complex, both within and beyond the school gates, and are often specific to individual pupils and families. Good attendance begins with school being somewhere pupils want to be and therefore the foundation of securing good attendance is that school is a calm, orderly, safe, and supportive environment where all pupils are keen and ready to learn.

Where parents decide to have their child registered at school, they have an additional legal duty to ensure their child attends that school regularly. This means their child must attend every day that the school is open, except in a small number of allowable circumstances such as being too ill to attend or being given permission for an absence in advance from the school.”

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Working together to improve school attendance

Where a child or young person is disengaged from learning or not attending, including for reasons related to their mental health and wellbeing, the Local Authority has a responsibility to ensure that reasonable adjustments and support are in place to address the underlying reasons before considering whether alternative provision is appropriate.

Section 19: Alternative Provision by Illness

Children and young people who have additional health needs are, by the nature of their difficulties, at risk of failing to reach their true potential within an educational context. This is particularly the case for children and young people whose health needs prevent them from attending school for an extended period, or for those who are restricted by their health needs to attending school on a part time or sporadic basis.

The type of provision that maybe required for a child who is too deemed too ill to attend school is for the Local Authority to decide after considering medical advice and information provided by parents and schools. This would be applicable to pupils unable to attend school due to health reasons where it is clear that the pupil will be away from school for 15 days or more, whether consecutive or cumulative

Securing Alternative Provision for children who are too ill to attend school falls within the Section 19 duty. The Local Authority will consider the Department for Education Statutory guidance 'Education for children with health needs who cannot attend school December 2023.'

Kirklees Council has a commissioned provider for medical tuition which is Great Heights Academy Trust. Further information can be seen at the link below including how to access via the Kirklees Inclusion Multi Agency Panel.

Kirklees Council and Greater Heights Medical Tuition Policy outlines the support available. This includes details of when and how provision may be arranged if required, and the respective roles and responsibilities of the local authority, schools, parent/carers, service providers and other agencies.

[Education for young people who are too ill to attend school \(Medical Tuition\) | Education for those who cannot attend school \(Alternative Provision - AP\) | Kirklees SEND Local Offer](#)

Section 19: Alternative Provision by Exclusion

If a pupil is considered to be at risk of exclusion, it is an expectation that schools should consider support available to maintain a pupil's placement in school and work in collaboration with partner agencies to best support inclusive practices.

Suspension or Permanent Exclusion should, therefore, 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.

Advice and support for schools regarding appropriate strategies to maintain a pupil's placement at school is available through referrals made to the Inclusion Multi Agency Panel. Information and guidance is available on the Local Offer, from Exclusions Managers, the Kirklees Specialist Outreach Team, and Educational Psychology.

[Exclusions advice for schools | Exclusions | Kirklees SEND Local Offer](#)

For permanent exclusions, the local authority must arrange suitable full-time education for the pupil to begin no later than the sixth school day of the exclusion. Arranging alternative provision for permanently excluded pupils falls within the Section 19 duty; Kirklees Council discharges this duty through various commissioned providers, suitably registered providers.

[Alternative Provision \(for school professionals\) | Alternative Provision | Kirklees SEND Local Offer](#)

Section 19: Children and young people with an Education, Health and Care Plan and Education Other Than at School ('EOTAS')

The Special Educational Needs and Disability (SEND) Code of Practice sets out the presumption in law of mainstream education.

"1.26 As part of its commitments under articles 7 and 24 of the United Nations Convention of the Rights of Persons with Disabilities, the UK Government is committed to inclusive education of disabled children and young people and the progressive removal of barriers to learning and participation in mainstream education. The Children and Families Act 2014 secures the general presumption in law of mainstream education in relation to decisions about where children and young people with SEN should be educated and the Equality Act 2010 provides protection from discrimination for disabled people".

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

Where a child or young person with SEND is experiencing a barrier to learning or participation, including around their mental health and wellbeing, the Local Authority has a responsibility to ensure that reasonable adjustments and support are in place to overcome those barriers before putting alternative provision in place.

However, section 61 of the Children and Families Act 2014 states:

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 parent or the young person.

Further Information regarding EOTAS in Kirklees can be found at the link on the Local Offer or by contacting the EHCP Team.

[EOTAS - Education other than at school | Education | Kirklees SEND Local Offer.](#)

Section 19: Children Missing Education (CME)

Children missing education (CME) are children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school.

Children missing education are at significant risk of underachieving, being victims of harm, exploitation, or radicalisation, and becoming NEET (not in education, employment, or training) later in life.

All local authorities should have clear policies, processes and named contacts that supports the identification of children who are not registered at a school. These can be seen below.

[Education Safeguarding Resources | Kirklees Business Solutions](#)

Section 19: Elective Home Education (EHE)

Elective Home Education (EHE) is the term used by the Department for Education to describe the education provided by parents at home, rather than providing education for their children by sending them to school.

This is different to Alternative Provision provided by Kirklees Council for instance home tuition or medical tuition. Kirklees Council believes all children whatever their age, ability, background, or faith are entitled to be able to realise their ambitions, to access a range of opportunities and learn from and relate to their peers.

Section 19 places on all local authorities the responsibility to identify any child not receiving a suitable full-time education, this includes children being electively home educated. The EHE Policy sets out respective rights and responsibilities for families and Kirklees Council as well as key procedural information.

[Elective home education | Kirklees Council](#)

Section 19: Children and young people with additional needs requiring Alternative Provision

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Kirklees Council has a strong commitment to inclusion and in empowering our children to meet their aspirations and potential. As a system we believe in the importance of breaking down barriers to learning and attendance to ensure that all pupils can be supported in their local community regardless of their individual needs or specific circumstances and can attend a local school.

Considering a request for Alternative Provision for other reasons is also part of the Local Authority's duty under Section 19. As this often involves a parent/carer concern that their child's needs are not being met, Kirklees Council has in place an Inclusion Multi Agency Panel (IMAP).

This partnership panel works with the education setting, child or young person and their family to assess any underlying needs, recommend reasonable adjustments and provision to meet those needs and if applicable consider if appropriate Alternative Provision. Parents are able to request support directly through the panel.

Further information about the Inclusion Multi Agency Panel can be found at the links below [Kirklees Inclusion Multi Agency Panel \(IMAP\) | Kirklees Business Solutions](#)

[SENDCO & Professional information and resources | Kirklees SEND Local Offer](#)

Appendix 1: Documentation referred to.National guidance and resources

Working together to improve school attendance - GOV.UK (www.gov.uk)

Education Act 1996 (as amended) (legislation.gov.uk)

Education and Inspections Act 2006 (legislation.gov.uk)

Education for children with health needs who cannot attend school - GOV.UK.
(www.gov.uk)

School suspensions and permanent exclusions - GOV.UK (www.gov.uk)

SEND code of practice: 0 to 25 years - GOV.UK (www.gov.uk)