



17 June 2024

REPORT OF THE SERVICE DIRECTOR, EDUCATION, LEARNING AND INCLUSION

DIRECTLY DELIVERED OR COMMISSIONED EDUCATION OTHER THAN AT SCHOOL POLICY

Purpose of the Report

1. To seek approval of a revised Nottinghamshire County Council Policy for the Delivery or Commissioning of Learning for Children and Young People through Education Other Than at School (EOTAS) 2024-2028, attached as **Appendix 1**, that clarifies under which exceptional circumstances Local Authority teams working with vulnerable pupils can seek approval to commission Education Other than at School.
2. This is a Key Decision because it will have significant effects on two or more electoral divisions.

Information

3. There are three key Acts of Parliament that impact upon local authorities' responsibility to directly commission education other than at school.
 - Section 19 of the Education Act 1996 requires local authorities to make arrangements to provide "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". Suitable education is defined as "efficient education suitable to the age, ability, aptitude and to any special educational needs", the child (or young person) may have. This does not apply to young people who are within six weeks of the statutory school leaving age and are not entered for any examinations.
 - Section 61 of the Children and Families Act 2014 states that 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 at school or post 16 institution or a place at which early years education is provided. An authority may only do so if satisfied that it would be inappropriate for the provision to be made in

school or at such a place and before doing so the authority must consult the child's parents or the young person.

- The Education and Inspections Act 2006 requires the Local Authority to provide full-time education for all permanently excluded pupils who are resident within the county of Nottinghamshire. From the sixth school day of a permanent exclusion, the Local Authority is statutorily responsible for ensuring that suitable full-time education is provided (unless there is evidence that the pupil is unable to access full-time learning at that time). Many local authorities have Pupil Referral Units (PRUs) to provide education for permanently excluded pupils but the Nottinghamshire PRUs were closed in 2014. Consequently the Local Authority is required to commission suitable education other than at school for all permanently excluded pupils unless an alternative mainstream school roll can be identified within the six day period.
4. There are other ways in which education other than at school can be delivered or commissioned that do not involve the Local Authority in directly making those arrangements.
 5. The majority of children and young people who need to access a period of education other than at school because of physical or mental health needs or as a result of their special educational needs or disabilities will do so by accessing provision arranged and monitored by the school at which they are on roll. This may be in the form of tutoring, alternative provision and/or online learning. The Local Authority has specialist staff and funding streams that schools can seek to access if they believe that a personalized EOTAS education is required that they need additional support to arrange.
 6. Parents have the right to decide that they wish to electively home educate their children. Elective Home Education is a form of education other than at school but is organised, arranged, and often delivered by the parents. The Local Authority has no role in arranging elective home education but does have a responsibility to ensure the children and young people who are electively home educated in Nottinghamshire are receiving an education that is appropriate and suitable for their age and ability.
 7. There are children and young people who have special educational needs or disabilities who have an Education, Health and Care Plan and where it has been agreed between the parents, the agencies involved and the Local Authority that the child or young person's needs will best be met through the parental management of a personal budget.
 8. Nottinghamshire County Council formally consulted upon a draft EOTAS Policy on the public website from 17 January to 23 February 2024. The consultation responses have informed amendments which are now contained in the proposed revised policy. The consultation responses are summarised in **Appendix 2**.
 9. In summary 76% of respondents agreed that the policy should focus upon pupils who are in the care of a Local Authority, those who qualify for Fair Access and/or are Children Missing Education, those who have been permanently excluded and those who have physical or mental health needs that prevent access to their mainstream provision where schools have not had time to put suitable education in place. There was a request that the policy should also make reference to pupils with Special Educational Needs and Disabilities (SEND) and to include reference to education other than at school

arrangements made under Section 61 of the Children and Families Act 2014. These requested amendments have been incorporated.

10. 79% of respondents believed that EOTAS provision should be full-time unless the physical or mental health needs of the pupil were such that reduced access was necessary for a period of time. Whilst still positive over all, respondents had greater reservations about the importance of maintaining a close link between the curriculum of any existing school roll and the identified EOTAS provision. In practice this situation will only apply to those children and young people accessing EOTAS as a result of their physical or mental health needs, and any decisions about the curriculum to be followed would be agreed between the school, the EOTAS provider and the family. Most pupils accessing EOTAS commissioned directly by the Local Authority will not be on a school roll.
11. 50% of respondents agreed that that it was reasonable to commission placements based on the criteria that the provision is the nearest provision to the pupil's place of residence, that can meet need, at a cost-effective rate. A key concern raised by those who disagreed was that they felt that the key placement priority should be needs based. Pupils are to be placed in EOTAS placements that can meet need. Where there is a choice of placement that can meet needs, distance from home will be a criteria as it is important that children have the opportunity to be educated within their local community wherever possible.
12. Only 8.8% of respondents did not agree that it was right for the Local Authority to fund a team of Monitoring Officers to liaise with, and support, the families of pupils accessing commissioned EOTAS provision so this support has been retained within the proposed policy to ensure that the Local Authority has oversight of the pupils directly placed on EOTAS. Concerns were primarily that the Monitoring Officers may prove intrusive on family matters.
13. Respondents did not believe that the policy made it clear when the Local Authority would consider the need to directly commission EOTAS. Consequently, the proposed policy more strongly clarifies that most children and young people educated other than at school do so through alternative provision or tutoring arranged by schools, through elective home education arranged by parents, or in some cases through EOTAS arranged through Education, Health and Care Plan Personal Budgets.

Other Options Considered

14. The Local Authority could have opted to not update the Policy but that would not have provided clarity for professionals or families about the processes followed by Nottinghamshire County Council in relation to Directly Commissioned EOTAS.

Reason/s for Recommendation/s

15. Professionals and families require clarity about the exceptional situations in which the Local Authority will consider delivering or commissioning Education Other than at School.

Statutory and Policy Implications

16. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance finance, human resources, human

rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Financial Implications

17. The budget to fund Commissioned EOTAS is agreed annually with the Early Years and Schools Forum and is funded from the High Needs Block element of the Dedicated Schools Grant.
18. The proposed revised Policy clarifies existing practice and there are no additional costs identified.

Consultation

19. A consultation took place on the Nottinghamshire County Council Public Website and is available as a Background Paper.

RECOMMENDATION

- 1) That the revised Nottinghamshire County Council Policy for the Delivery or Commissioning of Learning for Children and Young People through Education Other Than at School 2024-2028, attached as **Appendix 1**, be approved.

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Constitutional Comments (CM 21/05/2024)

20. The recommendations fall within the remit of the Cabinet Member, Education and Special Educational Needs and Disabilities, through that cabinet member's terms of reference.

Financial Comments (SS 03/06/24)

21. The budget to fund Commissioned EOTAS is agreed annually with the Early Years and Schools Forum and is funded from the High Needs Block element of the Dedicated Schools Grant. The proposed revised Policy clarifies existing practice and there are no additional costs identified.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

The Education Act 1996

The Education and Inspections Act 2006

The Children and Families Act 2014

Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England 2023 – Department for Education

Arranging Education for Children who cannot attend school because of Health Needs 2023 – Department for Education

Nottinghamshire County Council Education Other Than At School Policy 2012

[SEND and alternative provision improvement plan - 2023](#)

[Education other than at school - Nottinghamshire County Council - Citizen Space](#)

Responses to the Education Other Than At School consultation

Electoral Division(s) and Member(s) Affected

All.

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