

# Education, Health, and Care Plans and Education Otherwise Than at School (EOTAS) in London Borough of Hounslow (LBH)

## The Law and our Process

### Introduction

The Education Act (1996) outlines the local authorities (LAs) duty to ensure all compulsory school aged children are provided with a suitable education. Suitable education for the majority of children and young people takes place in a school.

LBH believes that the majority of the children and young people should receive their education in a school so that they receive education by teachers alongside their peers within the school community. Education other than at a school (EOTAS) should only be agreed in exceptional circumstances where attendance at a school is inappropriate or where an education setting is being sought.

It is important that EOTAS should **not be confused** with Elective Home Education (EHE). While both EOTAS and EHE may have the same result in that the child will be educated at home, they each place completely different obligations on local authorities. EHE is when a parent chooses to provide education for their child at home instead of sending them to school full time. Elective Home Education (EHE) is outlined in a separate policy.

### What is EOTAS

As determined EOTAS means the child or young person will receive their education and special educational provision outside of a formal/traditional education setting. This cannot take place without permission from the Local Authority and following an Education Health Care (EHC) needs assessment, a reassessment of needs or at an annual review. Under [Section 42 of the Children and Families Act 2014](#), a local authority is placed under an **absolute legal obligation** to make sure a child or young person receives all of the provision contained in Section F of their EHCP, unless the circumstances in Section 42(5) are met. **Section 42(5)** says the obligation is on the LA to provide the EHCP provision unless *“the child’s parents or the young person has made suitable alternative arrangements”*.

Having education and provision through an EOTAS package means that 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 another setting, which is not a registered educational setting.

Under an EOTAS package of provision, the EOTAS provision is correctly written into an EHC Plan, and LBH LA will remain responsible for the child or young person's education generally. It will remain under an obligation to ensure all the provision in Section F is provided and funded.

Some examples of EOTAS are as follows:

- Online schooling
- Tuition at home or a local venue
- Other tuition centres



This guidance outlines the London Borough of Hounslow (LBH) LA position statement on the conditions and arrangements on using EOTAS provision for those children and young people with an Education, Health and Care Plan (EHCP).

## Considering whether EOTAS is appropriate

In considering whether attendance at a school is “inappropriate” the LBH LA refers to the caselaw for [TM v London Borough of Hounslow](#), (2008). This confirmed that the full effect of the word “inappropriate” must be considered, and that the LBH LA must determine whether a school setting would “not be suitable” or “not be proper”. The LBH LA must take into account all the circumstances.

It is only in exceptional circumstances where all other options have been considered that the LBH LA may agree to educating the child or young person via an EOTAS provision. This will be on the basis until a suitable long-term provision is secured. EOTAS is the legal mechanism whereby a child or young person with an EHC Plan can receive special educational provision despite being unable to attend an educational setting.

In agreeing to the EOTAS education the LBH LA must also refer to the caselaw for [East Sussex County Council v TW](#) (2016). If the LBH LA considers that no school or other institution (or type of either) would be appropriate for the child, they do not have to name one in an EHC Plan.

Therefore, the following criteria must be met:

- The child or the young person has an EHCP or a draft EHCP has been agreed following an EHC needs assessment
- LBH LA is satisfied that ‘it would be inappropriate for any special educational provision that it has decided is necessary for the child or the young person to be made in any school and inappropriate for any part of the provision to be made in any school’

The LBH LA is required to consider the following when deciding if EOTAS is appropriate:

- The child or young person’s history and medical history
- The education and special educational needs of the child or young person
- The facilities and support that can be provided by a school
- The facilities and support that could be provided other than at school
- The comparative cost of the possible alternatives to the child’s educational provisions, either at school or elsewhere
- The parent’s and young person views and wishes
- Any other circumstances that apply to a particular child or the young person

If the LBH LA does not agree that education via an EOTAS is appropriate and name a setting in section I and finalise the EHCP, parents’ carers and the young person have the right of appeal through the SENDIST third tier tribunal.

## Arrangements for EOTAS Packages of Education

Where the LBH LA agrees that the legal threshold for an EOTAS package is reached, the LBH LA will develop an EOTAS package in partnership with the child's parents' carers and the young person. An EOTAS package needs to:

- Support the child/young person's aspirations, ensuring the child or young person's views and wishes are central
- Ensure the EOTAS provision supports progress and meets the educational outcomes of the EHCP
- Provide the child/young person with a broad and balanced curriculum, including core subjects for children and young people
- Prepares the young person for transition to post-16, including the opportunity to achieve appropriate accreditation and qualifications
- Consider preparation for adulthood for young people from age 14 years old and where appropriate sooner
- Ensure provision for pastoral support for the child or young person
- Focus on helping to address and overcome the barriers which are preventing them from accessing school and facilitate integration into a long-term setting wherever possible
- Educate in accordance with wishes of parents' carers and young person, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure

Whilst all children and young people are entitled to a full-time suitable education. The law does not define 'full-time' but the DfE states that if a child or young person receives one to one tuition, the hours of provision could be fewer as this is more concentrated than being in a school setting.

Whilst EOTAS is being considered, the school will continue to have responsibility to provide an education to the child/young person and deliver the current EHCP. They will remain on the roll of the school until the EHCP is finalised with EOTAS education.

Where the LBH agrees EOTAS, the special educational provision should be set out in Section F and Section I should be left blank, however LBH LA will include the following wording to outline why section I is blank "As xxx is currently in receipt of education under s.61 of the Children and Families Act 2014, this section is left intentionally blank", as there is no setting to be attended and the provision regarding the package is set out in Section F of the plan. [Derbyshire CC v EM and DM \(SEN\) \[2019\] UKUT 240 \(AAC\)](#).

LBH LA will be responsible for the child or young person's education via the EOTAS education, and the child/young person will not be required to be on the roll of an educational setting.

Provision will be delivered by the Alternative Provision Service or LEAD Tuition who will monitor the providers on an annual basis to ensure the providers continue to meet the required standards for the provision of education/training and safeguarding.

## Funding

The EOTAS education plan will be agreed by the LBH and costed, ensuring the outcomes identified within the EHCP are being met. Anything that is not outlined in the EHCP will not be funded; for example, LBH LA do not fund:

- Household Bills
- Subscriptions
- Extra-Curricular Activities
- Capital developments
- Independent Alternative Provision, where LBH LA has provision that can meet need.

## Monitoring and Review of EOTAS Packages

The Alternative Provision Service or LEAD Tuition will hold monitoring meetings every half term during the academic year. One of these meetings will be an annual review of the EHCP. The monitoring review meetings should include:

- Parents/carers
- The child or the young person using person centred approaches
- Health professionals (where appropriate)
- EHC Case Officer and representative from LEAD Hounslow
- Providers delivering elements of the education provision
- Children's Social Care (where appropriate)

The purpose of the half termly meeting is to review:

- The Individual Learning Plan
- Whether the alternative education remains suitable and meets the child or young person's evolving needs
- What progress has been made to secure a long-term placement for the child or young person and how integration will be supported. The annual review, will review the child or young person's progress towards the outcomes in the EHCP

The annual review must take place yearly and should be completed within 12 months of the initial EHCP being finalised or within 12 months of the previous review. There is the same duty on Local Authorities to conduct an annual review when a child is educated otherwise than at school. All timescales and obligations remain the same throughout the annual review process however, the Local Authority may want to see ongoing evidence that it is still inappropriate for the child or young person to be educated in an educational setting.

Arrangements and facilitation of the annual review will be led by the EHC Officer.

Where attendance and engagement are poor, an early EHCP annual review meeting will be called following the statutory annual review process, to establish if the provision is appropriate.



Before the end of each term, the allocated EHC Officer must confirm with LEAD Hounslow if an educational placement has been secured or if the tuition is required the following term (to include any tuition continuing at the start of the next academic year, end of summer term before start of the new autumn term).

## **SEN Personal Budget as Direct Payments**

Parents' carers and young people can request a direct payment (DP) through a personal budget if they wish to take responsibility for the delivery and oversight of a specific aspect of the agreed tuition and provision. This request must take place during a statutory annual review of an existing EHC plan. Where the LBH LA can provide what the parent is requesting through their own resources, then the request may be refused.

In certain circumstances, LBH LA can refuse to identify a personal budget. This may be when the special educational provision is being provided as part of a larger budget (for example, a contract with the NHS to provide all speech and language therapy or occupational therapy) and the LA cannot separate out or 'disaggregate' the personal budget from that overall larger budget.

LBH LA can also refuse to make a direct payment if they do not believe the person receiving the payments would be capable of managing the money, or if they do not believe it would be used in an appropriate way. They can also refuse where it would negatively impact other services provided, or if it would not be an efficient use of resources.

Where a direct payment is agreed, parents' carers are responsible for commissioning the providers and LBH LA will not have any contractual basis to monitor the provision, nor be party to the contract. However, the Direct Payment Regulations place a statutory duty upon LBH LA to monitor the use of the DP. This must be done at least once within the first three months and when conducting an Annual Review or reassessment. Parents/carers will be required to provide evidence that payments have been made appropriately.

If the DP is not being used appropriately, SEN Regulations allows LBH LA to stop the payment if the recipient is not using the funds for the provision, or the provision can no longer be secured by that means. Likewise, if the recipient fails to abide by the conditions in the regulations or the agreement, LBH LA can stop the payments, giving clear reasons to the recipient why this has happened.

## **Travel assistance**

Tuition is usually provided at the child or young person's home or a local venue, therefore it is unlikely that travel assistance support will be required.

## **Review Date**

This position statement will be reviewed in September 2026 unless there is an updated guidance from the Department for Education, whichever is sooner.