



# **Educated Other Than At School – (EOTAS)**

**May 2024**



# Introduction

Surrey County Council believes that its purpose is to ensure that children and young people are seen and heard, feel safe and can grow, and that everyone benefits from education in Surrey. Every child should have the best possible start in life through high-quality education, which supports them to achieve their full potential.

Occasionally there are circumstances when children/young people with special educational needs and/or disabilities (SEND) need to be educated outside of traditional education settings such as schools or colleges.

To ensure that all children/young people can receive an efficient and effective education, the Children and Families Act 2014 allows for education outside of traditional education settings.

## Enabling Legislation

This guidance has been written with full regard to the following Acts:

- Children and Families Act 2014
- Education Act 1996
- Equality Act 2010

The Children and Families Act 2014 outlines the main provisions around SEND and education settings. Under Section 42 of the Act, local authorities have an “absolute legal obligation” to ensure that children/young people receive the special educational provision contained in section F of their Education, Health & Care Plans (EHCP), unless the “child’s parent(s)/carer(s) or the young person has made suitable alternative arrangements.”

## What is EOTAS (Educated Other Than At School)?

EOTAS means education otherwise than at school (including post 16 settings). It is education arrangements that meet the needs of children/young people who, for whatever reason, are unable to attend any mainstream or specialist education setting. Children/young people with SEND and an EHCP should have the same opportunities as others the same age. Surrey County Council and education settings have shared, legal duties to explore the removal of any incompatibilities that prevent children/young people with EHCPs from attending education settings. When despite best endeavours that is not possible, the Council – in consideration with parent(s)/carer(s) and young people – may decide that EOTAS can be arranged to deliver the education and special educational provisions in section F of EHCPs.

EOTAS is only available to children/young people with an EHCP, in specific and exceptional circumstances. EOTAS will only be considered after the Council has exhausted all options to support a child/young person’s needs in an education setting. EOTAS is funded by Surrey County Council and is typically for short-term periods with the intention of supporting the child/young person’s full-time return to an education setting at the earliest suitable opportunity. Section 61 of the Children and Families Act 2014 states that:

- (1) A local authority may arrange for any special educational provision that it has decided is necessary for a child/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 place at which relevant early years education is provided
- (3) Before doing so, the authority must consult the child's parent(s)/carer(s) or the young person.

## **When is EOTAS appropriate?**

The local authority will always endeavour to support children/young people to be educated within education settings. There is a wide body of research that supports the inclusion of children/young people in education settings. They provide children/young people opportunities to build confidence and social skills; be members of a learning community; access a broad and balanced curriculum; be taught by skilled teachers; and benefit from the same opportunities as others the same age.

When EOTAS arrangements are being considered, local authorities should consider all the circumstances that may contribute to the appropriateness of attending an education setting such as:

- The child/young person's background and medical history
- The educational needs of the child/ young person
- The facilities that can be provided by an education setting
- The facilities that could be provided other than in a school
- The comparative cost of the possible alternatives to the child/young person education and special educational provisions
- The child/young person's reaction to education provisions, either at a school or elsewhere
- Parent(s)/carer(s) wishes, engagement and support in developing individual EOTAS packages are important and will contribute to the decision making to arranging a suitable education made by the Council.

## **Process for considering if EOTAS is appropriate**

If a consensus is reached between involved professionals and a family that EOTAS arrangements may be required, Surrey County Council will work with the family to establish what the EOTAS arrangements may look like. Where a complex arrangement of education and special educational provision is suggested, it will usually be necessary for professionals and the family to meet and agree the details of the EOTAS arrangements. This is intended to ensure that those arrangements support the child/young person to make educational progress, have the opportunity to learn the skills to return to learning in an education setting, and achieve the outcomes in their EHCP.

Recommendations for EOTAS arrangements will be considered by one of the four multi-agency Education Governance Boards in the area of Surrey where the family lives. The Education Governance Board's decision will be confirmed to the family in writing, usually alongside the issuance of a final or amended final EHCP. No EOTAS arrangements may begin without this approval. If a child is not receiving an education provision, parents are encouraged to contact their SEND Case Officer and not to make their own arrangements. Surrey County Council will not be financially responsible for any education arrangements made by parents for their child.

Any agreed EOTAS arrangements such as the education and special educational provisions required will be set out in section F of the child/young person's EHCP. Section I of the EHCP, which usually names the education setting or type of setting the child/young person would attend, will remain blank in accordance with clarifying guidance from the Department for Education and the First Tier and Upper Tier Tribunals – SEND. If a Personal Budget has been requested, it will usually be detailed in section J of the EHCP.

When Surrey County Council agrees to EOTAS arrangements, some of the special educational provisions in section F of the EHCP may not be possible to arrange in the same way as if the child/young person were attending an education setting. In these instances, the Council will take advice from the professionals who recommended the special educational provision or its own professionals and consider if any should be adjusted to be able to provide a suitable provision for the child/young person.

Some examples include:

- 'Small group work' may not be possible for a child/young person receiving individual tutoring in a community setting or at home through EOTAS arrangements. Though it may be possible for them to access small groups via online learning
- Being 'supported in the classroom by a Teaching Assistant' would usually not be required. This special educational provision is usually recommended in the context of the child/young person being educated in a class of up to 30 other children, where additional adult support is sometimes needed to ensure the efficient education of other children and/or to directly support the child/young person when the Teacher is attending to others. A Teaching Assistant would not, therefore, be necessary for a child/young person being taught individually, outside of a classroom.

Families/young people aged 16+ will have a right of appeal to the First Tier Tribunal – SEND upon receiving their child/young person's final or amended final EHCP.

EOTAS arrangements will be regularly reviewed, and no later than the next Annual Review of the EHCP. Annual Reviews of EHCPs where EOTAS arrangements are being made will always consider if EOTAS continues to be the only suitable way to arrange a child/young person's education and special educational provisions. As part of the Annual Review process and having considered a child's readiness to access a school placement with the child and family, Surrey County Council, may consult with education settings and reconsider if the legal tests that originally concluded that EOTAS was necessary still apply.

The process for considering, agreeing and arranging EOTAS is described in more detail in the following table:

<b>What happens</b>	<b>Factors for consideration</b>
A child/young person is awarded an EHCP for the first time or an Annual Review of EHCP takes place and recommends changes to the EHCP	Surrey County Council must secure suitable, full-time education compatible with the child/young person's age, ability, aptitude and special educational needs, and secure the special educational provisions in section F of the EHCP (SEND Code of Practice, various paragraphs)
The Council consults with education settings to secure an offer of placement and the special educational provisions in the EHCP	<p>Consulted education settings include:</p> <ul style="list-style-type: none"> <li>• the current education setting</li> <li>• parent(s)/carer(s) preferred education setting(s)</li> <li>• any others the local authority considers may be suitable</li> </ul>
Education settings return their consultation responses to the Council within 15 working days	Education setting(s) may suggest any reasonable adjustments or reasonable steps considered necessary to make the education setting compatible (SEND Code of Practice, paragraph 9.91 – 9.94; and in accordance with the Equality Act, 2010) to pre-empt and remove so, far as is reasonable and with the Council's assistance if necessary, any incompatibilities that make the setting unsuitable. Education settings may not treat children/young people with disabilities less favourably
The Council considers education settings' consultation responses	State-funded education settings have a statutory duty to use their 'best endeavours' to make sure that a child with SEND gets the support they need – this means doing everything they can to meet children and young people's SEND (Children & Families Act, 2014: section 66)
The Council applies prescribed legal tests to determine the education setting or other	The Council will strive to balance professionals' recommendations and families' preferences in consideration of the following:

<p>arrangements it will name in section I of the EHCP</p>	<ul style="list-style-type: none"> <li>• The parent(s)/carer(s) preferences for the type of education setting (mainstream or specialist) and the actual preferred education setting</li> <li>• The duty to ensure the education setting is (or can be made) compatible with the child/young person’s age, ability, aptitude, and special educational needs, as suggested by any reasonable adjustments or reasonable steps</li> <li>• The duty to ensure that the child/young person’s placement is compatible with the efficient education of other children/young people of the same age</li> <li>• The duty to ensure that the child/young person’s placement is compatible with the efficient use of the Council’s resources</li> </ul>
<p>Consideration of EOTAS</p>	<p>If reasonable adjustments and reasonable steps cannot be made in accordance with these duties, and despite ‘best endeavours’ the incompatibilities cannot be removed from any potentially suitable education setting such that the legal tests are met, EOTAS may be considered as the most appropriate means to securing suitable, full-time education for the child/young person</p>

# Funding & Arranging EOTAS

Surrey County Council will be responsible for funding the education arrangements and special educational provisions in section F in its children/young people's EHCPs during EOTAS arrangements. The budget will be sufficient to provide adequate education and special educational provisions only, comparable in quality to that provided to children/young people in its state funded education settings. Surrey County Council will ensure that there is efficient use of resources and therefore any EOTAS provision set out in an EHCP will be delivered in the most efficient way possible. Only special educational needs provision specifically detailed in the EHCP will be funded. An EHCP cannot be delivered by parents so Surrey County Council will not provide payments for parent(s)/carer(s) time. The locality's Integrated Care Board of the NHS will remain responsible for arranging and/or paying for any health provisions in section G of EHCPs.

## Personal Budgets

EOTAS can be arranged either by the Council or by families. Families choosing to arrange their child/young person's EOTAS arrangements may be eligible to receive a direct payment to spend on directly purchasing the education and special educational provisions in their child/young person's EHCP. Agreeing to receive a direct payment comes with responsibilities for families, such as contracting with or employing staff, arranging pre-contracting checks with professional bodies and by the Disclosure & Barring Service (DBS), arranging testing of any specialist equipment, providing regular financial returns to the Council to demonstrate appropriate spending, and ensuring the quality of the service provided.

Personal Budgets is a budget agreed between the LA and parent to meet the provision identified in a child's EHCP. Provision can then be commissioned by the LA or by parents via a Direct Payment. Personal Budgets are arranged in one of three ways:

- By the Council. This is called a 'notional' personal budget, where the budget to secure the education and special educational provisions in section F of the EHCP is held and spent by the local authority
- By the parent(s)/carer(s). This may include Surrey County Council making a 'direct payment' to the parent(s)/carer(s) for them to arrange the education and special educational provisions in section F of the EHCP
- By a combination of the above.

Agreeing to a direct payment cannot cause a local authority to make an inefficient use of resources or cause unreasonable public expenditure. Personal budgets for children/young people with EOTAS arrangements may often be smaller than if the child/young person was attending an education setting, as it is unnecessary to account for costs and overheads associated with running an education setting such as Teachers' national insurance and pension contributions, building maintenance and repair, lighting, heating, and cleaning etc.

Personal budgets cannot be used to pay fees for placements in non-maintained education settings (private schools) and must only be spent on the agreed education and support arrangements listed in sections F and J of EHCPs.

## Combining other types of Personal Budgets

If a child/young person with EOTAS arrangements is eligible for medical treatment or therapy in section G of their EHCP, and/or social care provisions in section H of their EHCP, they may be eligible for other personal budgets for those parts too. When eligible for more than one personal budget, families may wish combine budgets to arrange the education, health, and social care provisions in their child/young person's EHCP more flexibly. This arrangement gives families the most control and creativity over those arrangements.

Surrey County Council may only consider parent(s)/carer(s) requests for personal (education) budgets when a draft EHCP has been published or as part of an Annual Review of an EHCP. Requests for personal health or social care budgets may be made and considered at other times to the responsible organisations. Parent(s)/carer(s) may not appeal the Council's decisions about whether they award a direct payment or not, but they may ask to review their decisions.

More information about personal budgets is available on the Surrey Local Offer website: [SEND personal budgets policy | Surrey Local Offer](#)

## Is EOTAS the same as Elective Home Education?

EOTAS is different from elective home education (EHE). Parent(s)/carer(s) may elect to home educate their children/young people, including those who have EHCPs, if that is their preference. Parent(s)/carer(s) electing to home educate become responsible for arranging and paying for their child/young person's education. If their child/young person has an EHCP, parent(s)/carer(s) also become responsible for arranging and paying for any special educational provisions in their EHCP. EOTAS arrangements are not a means for parent(s)/carer(s) to be funded by the Council to pay for elective home education. EOTAS arrangements are only agreed to ensure a child/young person receives a suitable, full-time education when it has been demonstrated that it is not possible to arrange that in any education setting. Elective home education is a choice for parent(s)/carer(s).

More information about elective home education is available on Surrey County Council's website: [Educating your child at home - Surrey County Council](#)

## Full Time Education

There is no single legal definition of 'full-time' education, though it is generally accepted to be around 18 hours of taught lessons per week for children of statutory school age (5 – 16 years old), and around 16 hours of taught lessons or study per week for young people in further education (16 – 19 years old).

Sometimes, it may not be in the child/young person's best interests to attend full-time education, or they may not be able to attend to full-time education. They might have complex medical, social, emotional, or mental health needs which impact their ability to attend to learning, for example. Factors such as these might be relevant when children/young people are being considered for EOTAS arrangements.



In these circumstances, it is permissible and may even be desirable for local authorities to arrange less than full-time education for children/young, at least temporarily.

EOTAS arrangements are always made with the intention of supporting children/young people to return to learning in an education setting

## More Information

Information about EOTAS, Personal Budgets and much more is available from these sources

Surrey's SEND Local Offer Website: [Surrey Local Offer](#)

Surrey SENDIASS: [SEND Advice Surrey](#)

Surrey County Council's SEND Service: [Contact us about additional learning support and SEND - Surrey County Council \(surreycc.gov.uk\)](#)