

Education Otherwise (Than at School) – EOTAS:

Before reading this factsheet, it may be helpful to read the following factsheets:

- Elective Home Education (EHE)
- Education, Health and Care Plans (EHCPs)

What is EOTAS?

EOTAS is education provision that meets the specific needs of children and young people who, for whatever reason, cannot attend a mainstream or specialist school.

In some cases, the child or young person may have had exclusions, or they may have mental health issues that affect their ability to attend a school, or the school settings they have attended have not been able to meet their specific needs.



Background:

It is not essential for a child to be educated within a school setting. For some children or young people, school or college may not be suitable, and they may need to be educated at home or elsewhere.

Parents can choose to home educate their child. This can be a positive step if it is right for the child and the family. The SEND Code of Practice (the “Code”) acknowledges this, stating in paragraph 10.35 that:



“Local authorities should not assume that because the provision being made by parents is different from that which was being made [...] in school that the provision is necessarily unsuitable. Local authorities should also consider using their power to help parents make suitable provision.”

If the child has an EHC plan, choosing to electively home educate means that the LA **no longer has a legal duty** to secure any special educational provision which was specified in the child’s EHC plan, because the parents are deemed to be making their own suitable alternative arrangements.

If the current educational placement is not working, however, it may be better to amend the EHC plan to set out different special educational provision and/or name a different school rather than attempting to take on home education without support.

If school or college is not appropriate for the child or young person, the LA can arrange for any special educational provision which the child or young person requires to be delivered somewhere other than in a school, college or early years setting.

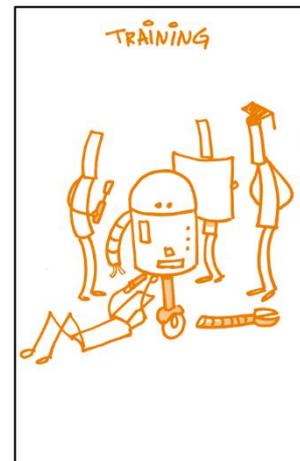
This is often known as ‘**education otherwise than at school**’. The LA would then be responsible for continuing to secure and fund that provision.

This could include therapies which are classed as educational provision, such as speech and language therapy.

What are some examples of EOTAS?

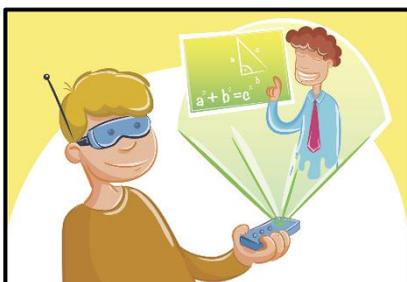
- Online schooling
- Home tuition
- Other tuition centres
- Hospital schooling

It is also worth remembering that anything which educates or trains a child or young person is to be treated as special educational provision. For a young person in particular, such education or training could take place in a non-educational setting.



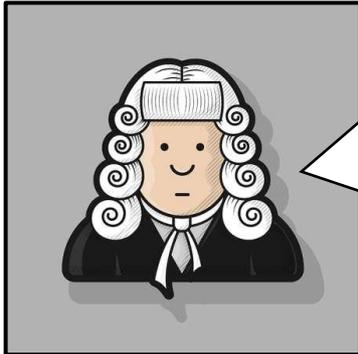
How does the LA decide that EOTAS is relevant?

1. They must decide that it is necessary to make special educational provision that is **not** in a school, post-16 institution (such as a college), or an early years setting.
2. They do this if they are satisfied that a school, post-16 institution, or early years setting would be **inappropriate** for the child or young person.
3. The LA must consult with the parent or young person.



What makes an educational setting “inappropriate”?

This has been considered in the case of **TM v London Borough of Hounslow**, which confirmed that the full effect of the word “inappropriate” must be considered, and that the LA must determine whether a school setting would “not be suitable” or “not be proper”. The LA would have to take into account all the circumstances:



These circumstances might include, without giving any exhaustive list, (which must depend on the facts of the case) consideration of the following matters:

- the child’s background and medical history
- the particular educational needs of the child
- the facilities that can be provided by a school
- the facilities that could be provided other than in a school
- the comparative cost of the possible alternatives to the child’s educational provisions
- the child’s reaction to education provisions, either at a school or elsewhere
- the parents’ wishes

EHCPs:

It is essential that Section F (the provision for the child or young person) of the EHCP *specifies* the package which will be delivered.

There remains a lack of clarity over what is to be specified in Section I (the setting). This is because the **Children and Families Act 2014** states that the LA must specify the name of the school or other institute the child or young person will attend (or the **type** of school or institute to be attended).

As a result of this, parents/young people will need to argue that the reference to EOTAS should be specified in section F *as well as* what the package contains.

Does EOTAS apply to children and young people who do not have EHCPs?

If a child or young person with SEN (but without an EHC plan) is home educated, the LA **does not** have any duties to provide special educational provision.

The Code states, however, that LAs should fund the SEN needs of home-educated children *where it is appropriate* to do so (paragraph 10.30).

If a child or young person is in a situation where their school or college placement is in danger or breakdown, or is unsuitable, it may be worth asking the LA for an **EHC needs assessment**.

This is an opportunity to fully identify all of the child or young person's needs and work out what educational support they may need. It may be that, with the right support, the child or young person can continue in their educational placement. Alternatively, they may require special educational provision which could be provided other than at school.



Key Law:

The law that underpins EOTAS is contained within the Education Act 1996, and the Children and Families Act 2014:

Section 7 of the EA contains the parental duty to ensure that their child receives a suitable full-time education, by regular attendance or otherwise.

Section 9 of the EA confirms the principle that children should be educated in accordance with their parents' wishes (subject to that being compatible with the efficient instruction and training and the avoidance of unreasonable public expenditure).

Section 19 of the EA places a duty on an LA to make provision for alternative education for pupils who cannot attend school for some reason (including exclusion, health needs, medical conditions or some other reason).

Section 61 of the CAFA confirms that if it deems it inappropriate for a child or young person to have special education provision made for them in a school or other educational setting, then the LA can arrange for that special educational provision to be made for them "otherwise than in such a setting".

Section 319 of the EA contains a similar power in respect of the special educational provision for a child with a Statement.