

Alternative Provision Consultation Response 2024

PAGE UPDATED SEPTEMBER 2025. In 2024 shortly before the general election was announced, the Department for Education launched a consultation on the use of alternative provision and EOTAS. The new government updated [the consultation page](#) on September 1st 2025, **click on the link below for further information**

Unregistered Alternative Provision New Rules

Summary At the time of writing in March 2026 it is important to be clear that there is no new law for alternative provision. At the end of August 2025 the government said that only SOME of the proposals would be taken forward and these ONLY WHEN PARLIAMENTARY TIME ALLOWS. "In its response to its ... [Continue reading](#)



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The consultation closed in July 2024. I have reproduced my consultation response below.

23 Do you agree or disagree that short-term time-limited placements in unregistered alternative provision should be 12 weeks or less, and for up to five days a week, with agreed plans for all pupils to return to their schools at the end of that period? Please explain if you disagree:

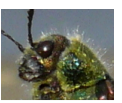
I have checked Don't Know. I understand and accept the rationale that pupils directed offsite should not be kept away for long periods. However, I do have concerns where pupils are receiving section 19 provision because they are unable to attend due to illness or otherwise. The Ombudsman notes that otherwise is a broad category which includes severe anxiety and depression where it is not reasonably possible for a child to take advantage of any existing suitable schooling. I have supported a number of parents to take cases to the Ombudsman where the local authority has stipulated that a child unable to attend school must attend an alternative setting which is not necessarily a viable option. I do have a concern that these proposals if enacted would support the "*AP must be in a setting*" line and I would argue strongly that one size fits all may be inappropriate. Similarly I have a concern that it may morph into "*AP is only allowed for 12 weeks*".

24 Do you agree or disagree that longer term time-limited placements in unregistered alternative provision (for over 12 weeks) should only be part-time, for up to 2 days or 4 sessions per week, with the pupils spending the rest of their time attending school? Please explain if you disagree:

I have checked Don't Know. I have concerns where pupils are receiving section 19 provision because they are unable to attend due to illness or otherwise, especially in cases of severe anxiety and depression. The Ombudsman notes that otherwise is a broad category which includes severe anxiety where it is not reasonably possible for a child to take advantage of any existing suitable schooling. I have supported a number of parents to take cases to the Ombudsman where the local authority has imposed inflexible arrangements or restrictive criteria for AP. My concern would be that this proposal if enacted could translate as "*only get AP after x weeks if agree to reintegration with x days in school*" and that if this proved impossible, it would lead to children being offrolled with the perverse consequence of parents having to opt out of school for home education. There should not be a one-size fits all policy; there will always be some exceptions and I would urge this to be made clear in guidance so that parents have something to point to.

25 Do you agree or disagree that local authorities should no longer be able to place children who are not on a school admission register in unregistered alternative provision in order to meet their section 19 duties?

I have checked Don't Know. I have concerns about how this would play out where pupils are receiving section 19



section 19 provision unless on roll.” Perhaps guidance could include non-exhaustive examples of how this situation might be managed in order to dispel misguided assumptions.

26 Do you agree or disagree that all unregistered alternative provision offering time-limited interventions should be required to comply with new national regulatory standards?

Yes, I agree

27 Do you agree or disagree that local authorities should be responsible for quality assuring all unregistered alternative providers offering time-limited interventions in their areas?

Yes, I agree

28 Do you agree or disagree that commissioners from schools and other local authorities should not be required to carry out their own checks (for example on suitability of staff) on any unregistered alternative provision setting that is included in a local authorities’ approved lists?

Yes, I agree

29 Do you agree or disagree that all local authorities should be required to compile, publish, and make available to commissioners, up to date lists of approved unregistered alternative providers, with core information about each provider?

Yes, I agree

30 Do you agree or disagree that schools should be required to inform local authorities about any time-limited interventions they have commissioned in unregistered alternative provision?

Yes, I agree

31 Do you agree or disagree that the proposals in this chapter should be applicable to children with EOTAS special educational provision who appear on school admissions registers?

I don’t know. I have concerns about how this would play out where pupils with an EHCP are receiving section 19 provision because they are unable to attend school due to mental health reasons, for example autism-related anxiety. The question is slightly unclear.

32 Do you agree or disagree that children should be able to receive any special educational provision specified under EOTAS arrangements from a single unregistered alternative provider?

I have checked Don’t Know because although I think local authorities SHOULD be able to arrange EOTAS with a single provider and that registration as a school should NOT be required in order for this to happen, I would not want it to be the default or only option. I do have concerns that it could effectively become a monopoly or one-size-fits-all with local authorities channelling all their EOTAS special educational provision through a designated provider and

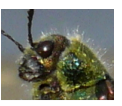
making it (even) harder to get a bespoke package via personal budgets and direct payments. It would be extremely helpful if guidance could highlight that personal budgets remain a viable alternative, also that families using a personal budget to put together a bespoke package would NOT be restricted to using providers from an approved list (because parents would not be commissioners in the same way as local authorities)

34 What are the barriers which might currently impede local authorities’ ability to arrange all of a child’s EOTAS special educational provision (i.e. section 61 EOTAS arrangements) in a single unregistered setting?

Local authorities will say they cannot name somewhere if it is not full time. For their part, settings keep their hours below full time because they feel independent schools standards are inappropriate. Meanwhile I note that the question makes reference to provision “in a setting”, rather than “via a provider” suggesting that the child or young person is routinely expected to attend the setting. Would this mean the setting’s being named in Section I and if so, how this would fit with Regulation 12 of the SEND Regulations 2014. Currently [Regulation 12](#) refers to “school or other institution to be attended by the child or young person”. Case law has established that where it is inappropriate for any provision to be made in a school then Section I of the EHCP must be left blank. I won a case at the Upper Tribunal on this point several years ago <https://edyourself.org/eotas-case-law-leaving-section-i-blank/> Would these new registered settings be classed as “institutions”?

35 Do you agree or disagree that any unregistered alternative providers delivering EOTAS special educational provision for children not on school admission registers should be required to register with the Department?

I have checked Don’t Know because I think it is complicated. Please see answer to the preceding question in respect



providers of unregistered alternative provision?

I have checked Don't Know because I think it is complicated. Please see answer to previous question in respect of EOTAS personal budgets and direct payments.

40 Do you agree or disagree with the five themes of the proposed standards?

Yes, I agree

If you disagree with the inclusion of this theme please explain why:

Yes, I agree

If you disagree with the inclusion of this theme please explain why:

Yes, I agree

quality of education standards

I have checked Don't Know because I think it is complicated. Please see answer to previous question in respect of EOTAS personal budgets and direct payments.

The outcomes of children:

I have checked Don't Know because I think it is complicated. Please see answer to previous question in respect of EOTAS personal budgets and direct payments.

41 Do you have any views on the content of the proposed individual standards to be included in each theme?

views on safeguarding standards:

views on health and safety:

views on Admissions, guidance and support standards:

views on the quality of education standards:

Please see answer to previous question in respect of EOTAS personal budgets and direct payments.

The outcomes of children:

Please see answer to previous question in respect of EOTAS personal budgets and direct payments.

42 Do you agree or disagree that the proposed standards are sufficiently proportionate to enable smaller organisations to comply?

I don't know

43 Are there any other types of providers that would not be able to comply with the proposed standards?

I don't know

44 The next questions are specific to the experiences of different types of commissioner or provider of unregistered alternative provision. Please indicate again in which capacity you are responding to this consultation

As a representative of a parent or a child who is or has received unregistered alternative provision

Equalities Impact Assessment

50 Do you think the regulatory arrangements and national standards for unregistered alternative provision proposed in this consultation would have an impact on children with the following protected characteristics?

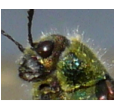
Disability:

Negative Impact

51 How could the Department support providers and commissioners to transition to the new standards and regulatory arrangements proposed in this consultation if they were to be implemented?

52 Thank you for your responses to this consultation. Please use this space to provide any additional views on any of our proposals.

The consultation document suggested there would be a free text box for comments on the Equalities Impact Assessment but I don't seem to find one on the form. I checked possible negative for disability because the proposals as currently formulated could have a negative impact on children and young people in need of section 19 alternative provision because of mental health, such as severe anxiety and depression. I have supported a number of parents to take cases to the Ombudsman where the local authority has imposed inflexible arrangements or restrictive criteria for AP. I think it could lead to children being offrolled ie parents having to opt for home education in order not to be pressured to attend an AP setting or to attend school part time after x weeks AP. I am also worried about unintended consequences, for example "can't access section 19 provision unless on roll." It may be that I am worrying unnecessarily, but at present it is not clear.



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Ofsted Alternative Provision

Alternative provision remains a largely uninspected and unregulated sector. There is no requirement for the majority of alternative providers to register with any official body and no formal arrangements to evaluate their quality. Alternative providers that offer only part-time education do not have to be registered. Ofsted says this remains a concern and means that ... [Continue reading](#)



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Unregistered Schools

Independent Schools Regulation Schools only have to register if they provide full time education for children of compulsory school age to 5 or more pupils or 1 or more with an EHCP. The GOV.UK page on independent school registration is here <https://www.gov.uk/government/publications/independent-school-registration> The GOV.UK page on regulating independent schools can be found here <https://www.gov.uk/government/publications/regulating-independent-schools> There ... [Continue reading](#)



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EOTAS

Education Otherwise Than At School – or EOTAS – or alternative provision – is where the local authority [LA] is responsible for the provision of education when a child age 5 – 16 does not attend school. It comes under section 19 of the Education Act 1996. Ultimately it is the local council that has ... [Continue reading](#)



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EOTAS Case Law Leaving Section I Blank

NN V Cheshire East is a case I won at the Upper Tribunal in 2021. It provides guidance on section 61 of the Children and Families Act 2014 related to Education Otherwise Than At School [EOTAS] arranged by the local authority where it is inappropriate for provision to be made in a school. (In this particular case it was ... [Continue reading](#)



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