

Section 19 Duties

- Education Act 1996

Please note: 'child' = 'child or young person'

Section 19 of the Education Act 1996 places a duty on local authorities (LAs) to make **suitable alternative education** for children of statutory school age who are unable to attend school because of **illness, exclusion** or **otherwise**. See link here: [The duty to secure alternative education | \(IPSEA\) Independent Provider of Special Education Advice](#)

DfE guidance states that where difficulties first arise, initially the responsibility remains with the on-roll school to ensure that provision is **suitable** and **accessible**. This may be through a range of supportive interventions, adaptations, adjustments, blended packages, or other appropriate alternative arrangements. It is the LA's decision as to whether this is appropriate provision or if it is a situation which warrants making 'alternative provision' under the Section 19 duty.

Where any school decides that it is not in a position to provide a suitable education for a child, it is advised to make a referral to the Local Authority (LA) for provision under [Section 19 of the Education Act 1996](#).

Once the referral from school has been received, the LA's decision-making process around what makes a pupils need so exceptional they require alternative provision includes consulting with and gathering the views of the following (where appropriate):

- the school
- the parent / carer
- the child
- medical professionals
- other services involved with the child (for example, Specialist Advisory Teaching Services, Youth Emotional Support, Family Support, Children's Social Care, CDC, CAMHS etc.)



A review of all the information is undertaken and consideration given to the following questions as appropriate:

- Is the child of compulsory school age?
- Would the child receive **suitable** education without alternative Section 19 provision?
- Is it **reasonably possible** or **reasonably practicable** for a child to access education provided by their school (or an otherwise identified school if the child does not currently have a school roll)? (As evidenced in case law, this is an objective test with a high bar which determines that it must be almost impossible for a pupil to access their learning through their school). The decision as to whether section 19 provision is required rests with the LA
- What form of alternative educational provision is **suitable, reasonably possible, and reasonably practicable** for a child to access? (This is a factual question for the LA to determine and will depend on the specific facts of each individual case)
- What is the school able to provide and how does this differ from that which the LA would provide?
- What is the child's suitability for independent learning and what are the home circumstances? (including safeguarding considerations)
- What are the child's needs: age, ability, aptitude, and any special educational needs. What do these suggest a suitable and efficient education needs to involve?



- What assessments have been undertaken in school and what have these identified?
- Is there a medical opinion? What is the supporting medical evidence?
- What other services are involved, what evidence is available and what is this suggesting? (the mention of a child/young person being on a waiting list is also relevant information here)
- If EBSA behaviours are a feature, has the EBSA process been followed and for how long, how many cycles of the 'Assess, Plan, Do, Review' process have been completed by school?
- What is the plan for reintegrating back into school?
- Are there reasons relating to the child's physical or mental health which would suggest that, in the interests of the child, part-time education is more suitable than full-time education?
- Would remote education adversely affect the child's return to school?
- Would children with **long-term medical conditions** or any other **physical or mental health needs affecting attendance** require additional support to continue their education?
- What are the views of the child, parent(s)/carer(s), school and relevant professionals?

If, for whatever reason, a school cannot or will not make a referral to the Local Authority's Fair Access Team asking for 'statutory alternative provision' you can write to the Local Authority yourself to request the Section 19 duty is initiated.

We would suggest you use the above pointers to help explain what support and strategies have already been tried by school and how they have failed to re-engage your child due to the complexity of their needs/situation. If you are not sure of the answers to some of the points, just give as much information as you do know, as the LA will also be asking the school to provide information so this will fill any gaps. When making your case, remember that in law, it is the educational provision that should fit the child, not the child fitting with what is available.

Where appropriate, do always include the views of your child/young person as well. IPSEA have put together a [template letter 22b](#) which you may find useful.

Once completed, your letter will need to be emailed to Daniel Ruaux, Director of Children & Young People's Learning at WSCC:
directorchildrenservices@westsussex.gov.uk



You may also want to read the [West Sussex County Council Section 19 policy](#).

Please also see the [IPSEA website](#) for further guidance, including [Children out of school: your top questions answered](#)

Service Statement

The role of the SENDIAS service is to ensure all parents, children and young people have access to impartial information, advice and support so they can make informed decisions related to their situation. Any information that is shared with the service is in confidence unless permission has been obtained to share this with any individuals, services and agencies that may be able to help in the circumstances. For more detail, view our [policies and privacy notice](#) on our website.

How to contact us: Tel: 0330 222 8555 / Email: send.ias@westsussex.gov.uk or cyp.sendias@westsussex.gov.uk (up to age 25) / Website: www.westsussexsendias.org

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