

Cabinet

14 November 2024

Section 19 of Education Act 1996, Warwickshire's policy and processes.

Recommendation

That Cabinet approves Warwickshire's policy for 'Supporting children who are unable to attend their education setting under Section 19 of the Education Act 1996', attached at **Appendix 1 and 2**.

1. Executive Summary

- 1.1 [Section 19 of the Education Act 1996](#) places a duty on Local Authorities (LA) to *'Make arrangements for the provision of suitable education at school or otherwise than at school for those children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not for any period receive a suitable education unless such arrangements are made for them.'* This applies to all such children who are resident in the area, whether they are on the roll of a school, and whatever type of school they attend.
- 1.2 This means that where a child cannot attend their educational setting because of a physical or mental health need, or due to an exclusion, or for any other legitimate reason, the local authority is responsible for arranging suitable provision.
- 1.3 The legal duty applies to children of compulsory school age (5-16 years) who would normally attend schools, including academies; free schools; special schools; alternative provision and independent schools. The legal duty does not apply to children and young people under and over compulsory school age.
- 1.4 All local authorities should have a written, publicly accessible policy statement on their arrangements for complying with the Section 19 duty.
- 1.5 Warwickshire County Council ("WCC") has existing guidance documents and separate policies related to Section 19, the purpose of this new policy is to bring together in one document all the processes for three categories under the Section 19 Duty (permanent exclusion, ill health and otherwise). There are no material changes, the benefits from introducing this new policy are providing greater clarity to schools and parents/carers as to when the duty should apply, and confirmation regarding the approach WCC will undertake.

- 1.6 The Policy (Appendix A) sets out WCC's approach to meeting the needs of children of compulsory school age for whom it has a legal responsibility to provide an education, but who for reasons relating to illness, exclusion from school or other reasons experience barriers to accessing a full and suitable education offer. In such circumstances we would expect schools to have fulfilled their legal obligations and followed statutory guidance, such as the graduated response set out in the SEND Code of Practice, and to have made reasonable adjustments required under the Equality Act 2010.
- 1.7 Outcomes may include, but are not limited to:
- the Council advising and supporting schools to make reasonable adjustments if it considers that the child/young person could be appropriately supported to attend school,
 - on-line learning or face to face provision via WCC's Flexible Learning Team,
 - securing Alternative Provision via the Council's provision framework.

2. Financial Implications

- 2.1 When the Council has determined that Section 19 applies, alternative provision for children with medical needs and children who have been permanently excluded is funded from local authorities' Dedicated Schools Grant budget (DSG).
- 2.2 When the Council has determined that Section 19 applies, and where a child is on roll at a school, a proportionate amount of pupil funding (Age Weighted Pupil Unit, AWPU) will be reclaimed from the host school for the period that Section 19 applies, to support with funding the provision, as agreed by Warwickshire's Schools Forum. This arrangement ceases when the child is reintegrated back to their home school or are no longer on the roll of the home school.
- 2.3 When a child permanently leaves the roll of their home school and is admitted to another school or alternative provision, a mandatory funding adjustment is made by the local authority. Details of these adjustments are set out in the 'Redetermination of budgets' sections of the 'Schools operational guide' on (www.gov.uk)
- 2.4 This new policy is not proposing any savings; however, it is providing more clarity and robust decision making. This is being managed as part of the Dedicated Schools Grant (DSG) High Needs budget through the Flexible Learning Team and Education Entitlements Team.
- 2.5 The two main areas of spend are supporting children permanently excluded from school, and children unable to attend school due to health needs. Both are funded from the Dedicated Schools Grant, High Needs Block.

- 2.6 A third area of spend is for transporting children, the majority of spend is for transporting those who have been permanently excluded.
- 2.7 In 2023/24, 196 children were permanently excluded from Warwickshire schools. The cost of alternative provision was £2.091m. We initially saw a spike in permanent exclusions post Covid pandemic, but between 2022/23 and 2023/24, the increase slowed down to 5%. If we applied a 5% increase year on year, based on the current permanently excluded pupil numbers and with consideration to the overall forecast number of pupils that will be on roll by 2029, the budget would need to increase by £0.737m from High Needs Block.
- 2.8 In 2023/24 academic year 211 children with health needs were supported by WCC Flexible Learning Team at a cost of £1.573m. Projections for this cohort size can be difficult to estimate but seeing a steady 5% increase year on year, would result in 269 pupils by 2029. Therefore the budget would need to increase by £0.434m paid for from High Needs Block.
- 2.9 Transport is funded from the Home to School Transport budget. In 2023/24 the average cost per week to transport a child to provision was £391. Applying an average based on a 10 week placement, a projection of 261 exclusions by 2029 and RPI rise in cost to £405, the transport budget would need to increase by £0.263.5m from core funding.
- 2.10 Management of the increased demand on these areas will be managed as part of the broader approach to High Needs Block overspend. Cabinet will be aware that the High Needs Block is projecting a significant cumulative budget and the statutory override is due to cease at the end of financial year 2025/26. National reform of the SEND system is required and lobbying for this remains critical.

3. Environmental Implications

- 3.1 Due to the location of alternative provision, children are often transported by taxi for short term placements. The Council endeavours to place children in provision as local as possible and secure permanent provision at the earliest opportunity.

4. Supporting Information

- 4.1 All local authorities should have a written, publicly accessible policy statement on their arrangements for complying with the Section 19 duty.

- 4.2 It is acknowledged that under the existing policies and working arrangements, there have been instances where greater clarity could have been provided regarding the role of the LA and the role of the school. Furthermore, in the last 12 months parents/carers have directly approached the LA regarding Section 19.
- 4.3 In August 2024, the Department for Education (DfE) introduced new statutory guidance for schools and LAs, 'Working Together to Improve School Attendance' the DfE also updated other relevant guidance documents including, the Suspension and Permanent Exclusions Guidance, so there was a requirement to review our approach. The policy brings together in one document the processes for the three categories under the Section 19 Duty (permanent exclusion, ill health and otherwise).
- 4.4 The policy provides clarity that Section 19 referrals for children on roll at a school will be made via a statutory sickness return which schools now have to complete if a child has been absent for 15 days, either cumulatively or continuously in an academic year. Similarly, the policy confirms the process for children not on a school roll, who to contact when Section 19 may apply.
- 4.5 The policy sets out the outcomes, which may include, but not limited to:
- the Council advising and supporting schools to make reasonable adjustments if it considers that the child/young person could be appropriately supported to attend school,
 - on-line learning or face to face provision via WCC's Flexible Learning Team,
 - securing Alternative Provision via the Council's provision framework.
- 4.6 The policy clearly sets out the complaints process in terms of what is relevant to the school or LA.
- 4.7 The policy clearly sets out that all provision under Section 19 will be regularly reviewed at a minimum level of every 6 weeks. The council will work with all parties to consider the appropriateness of the child returning to their host school wherever possible, with the child's best interests being at the heart of all decision making.
- 4.8 Outcomes, length of Section 19 support and spend will be closely monitored under the new policy.

5. Timescales associated with the decision and next steps

- 5.1 Subject to cabinet approval, the new policy will be communicated to schools and published on the WCC website, coming into effect immediately.

6. Appendices

- 6.1 Appendix 1- Draft Policy – Supporting Children who are unable to attend their education setting (Section 19 of the Education Act 1996).
- 6.2 Appendix 2- Draft Policy – Appendix A – Supporting Children who are unable to attend their education setting due to ill health.

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The report was circulated to the following members prior to publication:

Local Member(s): None – this is a countywide report.

Other members: Chair & Spokes of Children and Young People OSC (Councillors M Humphreys, Brown, Roodhouse).