

**Advice for Schools and Education Settings For Commissioning External Alternative Learning Provision**

This document is based on statutory guidance and provides a set of guiding principles that Bath and North East Somerset (B&NES) schools and external commissioners should follow to ensure that children and young people benefit from high quality provision.

**What is alternative provision?**

Alternative provision (AP) refers to something in which a learner participates, as part of their regular timetable, generally away from the site of the school and not led by school staff or by parents.

Good alternative provision meets the needs of learners and allows them to reach good educational attainment. The provision will be bespoke to each learner, but the Department for Education (DfE) guidance states that provision should:

* have a clear purpose with a focus on education and achievement as well as meeting the learner’s needs and rigorous assessment of progress.
* offer appropriate and challenging teaching in English, mathematics, and science (including IT) on par with mainstream education - unless this is being provided elsewhere within a package of provision.
* suit the learner’s capabilities.
* give learners the opportunity to take appropriate qualifications.
* involve suitably qualified staff who can help learners make excellent progress.
* have good arrangements for working with other relevant agencies.

**What schools and education settings should be aware of**

In this guidance commissioners refers to education settings or parents of a learner and/or learner who has been granted a personal budget to meet the outcomes detailed in the learner’s Education, Health and Care Plan (EHCP). These are external commissioners.

Responsibility for the alternative provision sits with the education setting or parent commissioning the placement. Commissioners should carefully consider what providers are available and how they will meet the needs of their learner. Commissioners should use the B&NES approved provider list.

A personalised plan for intervention should be detailed by the commissioner setting clear objectives for improvement, progress and attainment, clear timeframes for the intervention, arrangements for assessment and monitoring, and a baseline of the current position against which to measure progress. Plans should be linked to other relevant information or activities such as EHCPs for children with Special Education Needs and Disabilities (SEND), Child Protection (CP) or Child in Need (CIN) plans or Personal Education Plans (PEPS) for children who are looked after. It is the responsibility of the placement to provider regular updates around these objectives to the commissioner and parent or carer.

The commissioner should maintain a full record of all placements they make, including a pupil’s progress, achievements and destination following the placement. This should also include the pupil voice and their reflections on the impact of the placement on their learning.

A clear service level agreement should be in place between the provider and the commissioner, an exemplar for this is available on our website.

**DFE registration requirements for alternative provision**

Every provider of education that is not a maintained school or academy must be registered as an ‘independent school’ if it provides full-time education to:

• five or more pupils of compulsory school age, or

• one such pupil who is looked-after, or

• one such pupil with an Education Health & Care Plan.

It is an offence to operate an unregistered independent school. The DfE also state they will consider any institution that is operating during the day for more than 18 hours per week to be providing full time education. This is because the education being provided is taking up the substantial part of the week and therefore indicates that this provider is the main source of education for that child.

If a provider does not the criteria for registration with the DfE as listed above, so for example by only offering part- time education, there is no need for the provider to register. Bath and North East Somerset Council publish a directory of providers. All providers on the list have been through the local authority’s due diligence checks and are visited regularly by the local authority to ensure they are delivering quality provision.

The quality assurance work carried out by Bath and North East Somerset Council is there to guide the decisions around placement but not replace responsibility for the alternative provision.

**Definition of efficient and suitable full-time education**

School aged children are entitled, under the Education Act 1996 to receive efficient full-time education suitable to age, ability, aptitude, and special needs. “Efficient” and “suitable” education are not defined in the Education Act 1996 but

• “efficient” has been described in case law as an education that “achieves that which it sets out to achieve,” and

• “suitable” education is one that “primarily equips a child for life within the community of which he/she is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child’s options in later years to adopt some other form of life if he wishes to do so and to be capable of living on an autonomous basis as far as he or she chooses to do so.”

There is no legal definition of what constitutes “full-time” education, either at school or in the home. While ‘full-time’ is not defined in law, learners in alternative provision should receive the same amount of education as they would receive in a maintained school, unless the learner’s health means that full-time education would not be in his or her best interests. AP Statutory Guidance (DfE 2013)

Full time education can be made up of two or more part-time provisions.

**Key checks that commissioners must carry out prior to placement**

Prior to placing a learner, all commissioners of alternative provision must check:

* The registration status of each provider and whether they should be registered if they are not.
* Provider’s policies and procedures to include anti-bullying, behaviour and sanctions, child protection, business continuity plan, recruitment and selection of staff policy including DBS checks, data protection to include GDPR, training and development policy, details of safeguarding training including appropriate training for the DSL, qualifications of staff (as appropriate), equality, diversity and anti-discrimination policies, medication policy and complaints & whistle blowing policy.
* Insurance details to cover public liability, professional indemnity and employer liability.
* Assessment and monitoring procedures.
* Curriculum plans and schemes of work.
* Particulars of arrangements to safeguard and promote the welfare of pupils and how those arrangements have regard to DfE guidance: Keeping Children Safe in Education and Working Together to Safeguard Children.
* Details of how attendance is monitored and the protocol if a child is absent.
* 2 professional references.

**Responsibilities during a placement at alternative provision**

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| **The school will** | **The provider will** |
| Provide the provider with details of any additional learning needs and outcomes set (e.g. EHCP) for the student. | Provide an agreed structured programme of learning, with clear aims, objectives, and methods |
| Provide updates to the Alternative provider and risk assessment as appropriate during the students’ time at alternative provision | Provide updates to the risk assessment as appropriate during the students’ time at alternative provision |
| Visit the provision (where applicable) before completion of the Alternative Provision referral | Provide a thorough learner induction programme, including health and safety, at the start of the programme. |
| Settle invoices for the agreed payment within the specified time, as agreed. | Invoice the school for the agreed amount at the agreed intervals. |
| Seek assurance that the provider has the necessary safeguarding and health and safety arrangements in place including the relevant insurance cover. | Ensure that learners are effectively safeguarded at all times. |
| Share student safeguarding information securely and in line with safeguarding and data protection regulations with the provider. | Maintain all the student data in accordance with the General Data Protection Regulation (GDPR). |
| Maintain contact with the named person in the provision regarding attendance/progress and student wellbeing or safeguarding as it arises. | Maintain contact with the named person in school regarding attendance/progress and student wellbeing or safeguarding as it arises. |
| Notify the provider of any significant change or circumstances involving the student or school likely to affect programme delivery. | Notify the school of any significant change or circumstances involving the student or provider likely to affect programme delivery |
| Co-ordinate provision reviews at regular intervals to ensure the student is on track to return to school or if post 16, to education, training, or employment with training. | Ensure the curriculum offer/courses offered have a clear progression route back to school or if post 16, in education, training or employment with training. |

**Attendance coding whilst using AP**

D coding represents a dual placement with another DFE registered provider. It should be used to indicate that the pupil was not expected to attend the school in question because they were scheduled to attend the other school at which they are registered.

B code represents education off site. It should be used when the pupil is attending unregistered alternative provision arranged or agreed by the school and supervised by someone authorised by the school.

If you have links with a provider that you might like to work with and they are not listed on the Bath and North East Somerset Alternative Provision directory, please ask the provider to contact [EOTAS@bathnes.gov.uk](mailto:EOTAS@bathnes.gov.uk).

**New Providers and Application Process**

Providers can apply to go on the BANES AP Directory by emailing this mailbox.

Please note, BANES do not operate a formal Commissioning Framework for AP, it is an informally commissioned AP Directory consisting of an Approved Provider list.

DfE guidance on Alternative Provision

• Alternative Provision Statutory Guidance (DfE 2013)

• Creating opportunity for all: our vision for alternative provision (DfE 2018)

• Keeping Children Safe in Education (DfE 2023)

• School Attendance Guidance (DfE 2022)

• SEND Code of Practice (DfE 2015)

• Unregistered Independent Schools and Out of School Settings (DfE 2018)