

# ALTERNATIVE PROVISION GUIDANCE 2023

Education Participation and Skills Service



## Planning and Commissioning Alternative Provision

This guidance is based upon Section 19(1) of the Education Act 1996, which defines the exceptional provision of education in pupil referral units or elsewhere, such as Alternative Provision providers. It follows the [Alternative Provision Statutory Guidance](#), which provides a set of guiding principles that Plymouth schools and local authorities should follow to ensure that children and young people benefit from high quality provision, which is safe, secure and appropriate to their individual needs.

### What is Alternative Provision?

Alternative Provision is defined as ‘education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour’ (DfE 2013). Schools can use such provision to try to prevent exclusions, or to re-engage pupils in their education. Pupil referral units are themselves a form of alternative provision, but many pupils who are on the roll of a pupil referral unit also attend additional forms of alternative provision off site.

There are two types of alternative provision – registered and unregistered. Alternative Education Provision (AEP) is a registered school and subject to a formal school inspection framework.

Unregistered Alternative Provision (UAP) is not a registered school and is not subject to a school inspection framework. Any provider of education should be registered as an independent school if it meets the criteria – that it provides full-time education to five or more pupils of compulsory school age, or one such pupil who is looked-after or has an Education Health and Care Plan.

All Alternative Provision Academies and Alternative Provision Free Schools must be registered as schools whether or not they are full-time or part-time.

### Who is the guidance for?

It is expected that this guidance will be used by any school, academy or local authority officer who commissions Alternative Provision for Children and Young People who are: -

- At risk of exclusion from school; or
- Excluded from school on a fixed term basis; or
- At risk of disengaging from mainstream education and/or; or
- Require additional support during a move between mainstream schools; or
- Otherwise require Alternative Education provision to meet their educational entitlement, for instance:
  - children with long term medical needs; or
  - children with short term medical needs; or
  - a child missing education with no school place; or
  - in line with provision set out in an Education, Health and Care Plan; or
  - is a Looked After Child with no school place.

### Alternative Provision Framework

Plymouth City Council, in partnership with schools, has developed an [Alternative Provision Framework](#). The directory is not an approved list of providers, but a list of unregistered providers who

have met the minimum standards of a contract framework for the safety and legality of operation. Commissioners of alternative provision can use the Alternative Provision Framework as a starting point when considering the needs of a young person. However, school leaders must complete their own due diligence before deciding to place.

### **What is Good Alternative Provision?**

Good alternative provision is that which appropriately meets the needs of pupils which require its use and enables them to achieve good educational attainment on par with their mainstream peers. All pupils must receive a good education, regardless of their circumstances or the settings in which they attend. Provision will differ from pupil to pupil, but there are some common elements that alternative provision should aim to achieve, including:

- good academic attainment on par with mainstream schools – particularly in English, maths and science (including IT) – with appropriate accreditation and qualifications;
- that the specific personal, social and academic needs of pupils are properly identified and met in order to help them to overcome any barriers to attainment;
- improved pupil motivation and self-confidence, attendance and engagement with education; and
- clearly defined objectives, including the next steps following the placement such as reintegration into mainstream education, further education, training or employment. (DfE 2013)

### **What commissioners of alternative provision should know**

Responsibility for the alternative provision used rests with the organisation commissioning the placement. Commissioning organisations should carefully consider what providers are available that can meet the needs of the individual pupil, including the quality and safety of the provision, costs and value for money.

The organisation commissioning the placement should maintain on-going contact with the provider, pupil, and their parents/carers; with clear procedures in place to exchange information, monitor progress and provide support.

Where the pupil is on the roll of a school, responsibilities of the commissioner and school in respect of monitoring the progress and ensuring the safety of a pupil attending an alternative unregistered provider must set out in the service level agreement.

The organisation commissioning the placement 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's own assessment of their placement.

It is the commissioning organisation's responsibility to make arrangements for payments to providers.

### **DfE Registration Requirements**

Schools should be aware of any organisations operating outside of the registration processes for schools, and should inform Ofsted and the LA if they consider a provider to be operating as an unregistered school:

Any provider of education should be registered as an independent school if it meets the criteria – that it provides full-time education to five or more pupils of compulsory school age, or one such pupil who is looked-after or has an Education Health and Care Plan. All AP Academies and AP Free Schools must be registered as schools whether or not they are full-time or part-time. [Independent School Registration](#).

If an establishment falls outside the definition of an independent school given above, it cannot be registered with the department as an independent school. However, Plymouth City Council will need to be satisfied that children of compulsory school age who are attending the establishment are receiving full-time education suitable to their age, ability, aptitude and any special educational needs they may have, including any provision being made in parallel to that in the establishment.

## Unregistered schools

Ofsted may receive information regarding possible unregistered schools. If there is a possibility of any education provider operating illegally, Ofsted will conduct inspections at reasonable notice.

**If you suspect that a provider is potentially operating as an unregistered independent school, please contact [educationwelfare@plymouth.gov.uk](mailto:educationwelfare@plymouth.gov.uk) to discuss further.**

## Definition of full-time provision

“Full-time education” is not defined in law but the DfE consider an institution to be providing full-time education if it is intended to provide, or does provide, all, or substantially all, of a child’s education. Relevant factors in determining whether education is full-time include:

- a) the number of hours per week that is provided - including breaks and independent study time;
- b) the number of weeks in the academic term/year the education is provided;
- c) the time of day it is provided;
- d) whether the education provision in practice precludes the possibility that full-time education could be provided elsewhere.

Generally, the DfE 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 in which it can be reasonably expected a child can be educated, and therefore indicates that the education provided is the main source of education for that child. Inspectors from Ofsted may inspect any premises if they have reasonable cause to believe that an unregistered independent school is being conducted there. At such inspections, inspectors will assess whether the setting meets the definition of an independent school, which will include assessing whether or not the setting is intending to provide, or is providing, all or substantially all of a child’s education.

More information can be found [here](#). All pupils must receive full-time provision in total, whether in one setting or more, unless a pupil’s medical condition makes full-time provision inappropriate, pupils with medical needs must be supported to access as much education as their health needs allow.

## Compulsory school age

A child begins to be of compulsory school age if he or she attains five years of age on one of the prescribed days, or on the next prescribed day following his or her fifth birthday. The prescribed days are currently 31st August, 31st December and 31st March. A child ceases to be of compulsory school age on the school leaving date for any calendar year if he or she attains the age of 16 on (or will do so by) that date, or will do so after that date but before the beginning of the next school year. The school leaving date is currently set as the last Friday in June. Raising the participation age does not affect the compulsory school age. However, its effect is that a young person who has ceased to be of compulsory school age but has not yet reached the age of 18 (and has not attained a level 3 qualification), is under a duty to participate in education or training.

## Off-site Direction

Off-site direction can be used in exceptional cases when a governing board of a maintained school requires a pupil to attend another education setting to improve their behaviour<sup>1</sup>. Whilst the legislation does not apply to academies, they can arrange off-site provision for such purposes under their general powers. Where interventions or targeted support have not been successful in improving a pupil's behaviour, off-site direction should be used to arrange time-limited placements at an Alternative Provision or another mainstream school.

## Key points for consideration before commissioning Alternative Provision

- Have the pupil, parents and relevant teachers been spoken to before a decision about alternative provision has been made?
- What other considerations are there, such as transport arrangements?
- What does the pupil want, or need, to get out of the provision?
- How long should the provision be for?
- Is it part time or full time?
- How will it fit with the pupil's mainstream curriculum?
- What will success look like at the end of the provision?
- What outcomes do you hope to achieve – particularly in the areas of attendance, attitude, attainment, behaviour and positive destination?

## Suggested Commissioning Checklist

- Check the registration status of each provider and whether they should be registered if they are not. Never use provision which contravenes the registration regulations.
- Check provider's policies and procedures:
- The written behaviour policy setting out amongst other matters the sanctions to be adopted in the event of pupil misbehaviour
- Detailed curriculum plans and schemes of work, and student assessment procedures
- 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
- Anti-bullying policy

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<sup>1</sup> Section 29A Education Act 2002

- Health and safety policy
- Complaints procedure
- Quality of accommodation
- Qualifications and experience of staff
- Arrangements for administering First Aid
- Fire risk assessment and procedures
- Recruitment and vetting checks for staff and management
- Give providers information in writing about social networking, the use of social media and e-safety, making the school's expectations clear.
- Give providers information in writing about the school's expectations for child protection and procedures they should follow if they have a concern about a pupil.
- Support providers to access appropriate safeguarding training and information
- Give providers information in writing about how the school should be informed of attendance and agree the subsequent follow up of absence.
- Ensure that the provider is transparent with costs and that the service you are commissioning is value for money and appropriate to the needs of the child/young person.

## Health and Safety

The [Health and Safety at Work Act 1974](#) places a duty on employers, including alternative education providers to ensure, so far as is reasonably practicable, the health, safety and welfare at work of its employees, and others who are affected by their activities such as young people on educational placements. Under the [Management of Health and Safety at Work Regulations 1999](#), employers have a responsibility to ensure that young people at work (including those attending alternative provision) are not exposed to risk due to lack of experience, being unaware of existing or potential risks and/or lack of maturity, physical capability etc. Plymouth City Council follows the current guidance by the [Health and Safety Executive](#) (HSE). This information should be referred to in conjunction with this guidance.

### Key points:

- The alternative provision (employer) has primary responsibility for health and safety of the pupil and should be managing any significant risks. Commissioning organisations and schools should take reasonable steps to satisfy themselves that providers are doing this.
- Those commissioning and organising alternative education provision must be competent and ensure it is appropriate for a pupil concerned. Provision must be age appropriate and take into consideration any pupil who might be at greater risk, for example due to health conditions or special educational needs, so this can be taken into account when planning the placement. This should include details of any medical or behavioural circumstances as well.
- Commissioning organisations should discuss with the provider what the pupil will be doing during the placement, noting any relevant precautions. The alternative provision can include specific factors for young people into their existing risk assessment as appropriate.
- Alternative providers must inform parents/carers of any significant health and safety risks to their child on placement and how they are being controlled. Providers must also inform the school.
- When commissioning alternative provision, relevant health and safety information should be obtained to assess the suitability of the provider. The government's Crown Commercial Service Standardised Pre-Qualification Questionnaire includes information on health and safety which should be considered as part of the process when commissioning alternative education provision.

The Institution of Occupational Safety and Health (IOSH) have also produced a Public Service procurement health and safety checklist which can be used to consider key health and safety issues. These lists are not exhaustive and schools should ensure that adequate health and safety information is obtained.

- It is the responsibility of commissioning organisations to decide the extent of checks that are carried out when commissioning provision. This will be based on the type of environment and potential risks involved within the placement. Checks should be kept in proportion to the risks involved.
- In lower risk environments, information gained may be relatively straight forward and limited, whilst in environments with less familiar risks or for those in higher risk environments, such as construction, agriculture, manufacturing or motor vehicle repairs, as well as workshop/machinery environments etc.; the checks will need to be more robust.
- Commissioning organisations should satisfy themselves that adequate health and safety arrangements are in place and the work the pupil will be doing is being effectively managed to ensure their health and safety. This will need to consider induction, training, supervision, site familiarisation and any protective equipment that might be needed etc. In addition, pupils should know how and who to raise health and safety concerns.
- Commissioning organisations should also check that the provider understands about the specific factors relevant to young people at work, including certain industry specific prohibitions and limitations.
- For all environments, Plymouth City Council strongly recommend that a physical check of the provider and placement is carried out by a competent person. A competent person is somebody who has suitable training, skills, experience and knowledge. Physical checks should look at the general suitability of workplace conditions, housekeeping, toilets and washing facilities, fire precautions, guarding of machines, provision of any necessary protective equipment etc. This list is not exhaustive and there may be other important aspects to consider dependent upon the type of environment and risks involved.
- There should also be agreement on key points of contact between the provider and commissioning organisation during the placement to discuss any issues or concerns. This includes the reporting of any serious accidents or incidents to the school who should follow their own employer's accident reporting procedure. – not clear
- Commissioning organisations should carry out appropriate monitoring throughout the placement to satisfy them that providers are continuing to manage the health and safety of pupils on placement. This could be undertaken as part of a general quality assurance visit to assess the overall effectiveness of the provision. Health and safety checks should be undertaken by a competent person and be kept in proportion to the environment and risks involved. Checks should be recorded.
- Providers should complete the Statement of Significant Risks & Control Measures Form. For further information and advice, schools should contact their health and safety advice provider. For more information on health and safety competent advice, refer to: [hse.gov.uk](http://hse.gov.uk)

## **Safeguarding**

Safeguarding and promoting the welfare of children and young people is everyone's responsibility. Everyone who comes into contact with children and their families has a role to play. In order to fulfil this responsibility effectively, all providers should make sure their approach is child-centred. This means that they should consider, at all times, what is in the best interests of the child/young person. Safeguarding and promoting the welfare of children (all young people under the age of 18) is defined for the purposes of this guidance as:

- protecting children from maltreatment;
- preventing impairment of children’s mental and physical health or development;
- ensuring that children grow up in circumstances consistent with the provision of safe and effective care; and
- taking action to enable all children to have the best outcomes.

All staff have a responsibility to provide a safe environment in which children can learn.

Commissioning organisations and schools must satisfy themselves that providers are compliant with the statutory guidance [Keeping Children Safe in Education 2022](#). A key part of this process should be school staff ensuring that staff at the registered alternative provision had appropriate checks, for example Disclosure and Barring Service (DBS) Checks.

Schools and commissioners should also ensure:

- providers have good quality information in writing about the commissioner and school’s expectations for child protection and procedures they should follow if they have a concern about a pupil. Alternative providers should be sign-posted to access safeguarding CPD.
- good quality risk assessments are undertaken jointly with the provider, covering both the activity itself and the pupil in the context of the activity. Check that health and safety measures are securely in place.
- other relevant information is shared with providers, including any information on special educational needs, literacy, behaviours that challenge, strategies that have worked in the past, aptitudes and interests.
- arrangements are in place for working with other relevant services such as social care, educational psychology, drug support services. When a learner has an EHC plan, liaise with the Local Authority.

## **Commissioner and school responsibilities**

Once a placement has been agreed, the commissioning organisation maintains overarching responsibility for the pupil. This is discharged through the day-to-day monitoring and assurance work carried out by the school to which the pupil is on roll. In order to discharge this duty schools will monitor and provide reports to the commissioner, as set out in the SLA, regarding:

- Pupil welfare: safeguarding, child protection and ensuring parents and pupil are aware of the arrangements;
- Attendance monitoring and follow-up of absences using a secure on-line attendance and absence reporting system;
- Meeting the needs identified within a child’s Education Health and Care plan;
- Transport arrangements;
- Where a pupil is eligible for free school meals, this will need communicating to the provider and suitable arrangements made;
- Sanctioning a fixed term or permanent exclusion; pupils are legally on the roll of a school and therefore only the pupil’s home school can sanction these. However, if a pupil has breached a Provider’s code of conduct or poses a health and safety risk to others, the Provider may use their internal procedures to suspend the Pupil from attendance at their provision. Providers should always discuss the use of such a sanction with the pupil’s school and agree arrangements during the period of suspension before any action takes place. The provider should notify the school if the placement cannot continue detailing reasons.

- Pupil outcomes – commissioners must ensure the alternative provision meets the child’s educational and personal needs;
- Maintaining primary contact with parents, unless it has been agreed with the provider that this is delegated;
- Ensuring the child remains a member of the school community, such as involvement with extra-curricular activities, social events, parents’ evenings, letters to parents or child, and rewards.
- Careers guidance, schools to ensure pupils receive their full entitlement to careers information, advice and guidance;
- Post 16 destinations, to prevent young people becoming NEET.
- Frequently reviewing pupils’ placements so that they have a better understanding of how well pupils are doing and whether or not the placement continues to meet pupils’ evolving needs.

## Recording and Monitoring Attendance

The Local Authority has a statutory responsibility to identify and track pupils missing, or missing out on education. This includes children who are not attending school provision full time and those accessing alternative provision. The LA role includes:

- Establishing a central database of all children not accessing full-time education in the usual way, including those who are accessing alternative provision; Plymouth City Council should be notified using the Plymouth City Council [Alternative Provision Form](#).
- Monitoring the quality and amount of provision, educational and social outcomes, for all children and young people of compulsory school age who do not access education in the usual way;
- Sharing information across LA boundaries in a timely and appropriate way
- Ensuring that every child is on the role of a school, regardless of their circumstances, unless their parents have elected to home educate;
- Supporting alternative providers of education to understand and comply with legal requirements especially safeguarding and registration;
- Supporting schools to identify potential alternative providers through the Plymouth City Council [Alternative Provision Framework](#).

## Attendance and Duty of Care

Each pupil attending alternative provision must remain on a school roll and the school retains the ultimate duty of care for pre-16 pupils, wherever they are being educated. The school have the ongoing duty of care to the pupil, and the provider has an obligation and duty of care to the pupil and the school. To ensure robust safeguarding of pupils in placement, there is an expectation that schools and providers record and monitor attendance. The responsibilities for monitoring attendance on a daily basis are as follows:

- The provider is responsible for enrolling pre-16 pupils onto their course(s) and for recording, monitoring and reporting attendance and absences. This MUST be completed twice a day, am and pm. This is a legal requirement for any pre-16 group in the same way as it is for post-16 groups ([The Education Pupil Registration \(England\) Regulations 2006](#)).
- It is the schools’ responsibility to authorise and unauthorise any unexplained absences marked by the providers.

Schools and providers must adhere to the [DfE national codes](#) to record and monitor attendance and absence in a consistent way which complies with the regulations. They are also used for collecting

statistics through the School Census System. The data helps schools, local authorities and the Government to gain a greater understanding of the level of, and the reasons for, absence. Schools are legally responsible for using the correct codes and the importance of using the correct code is also a safeguarding issue. All sessions when a pupil is not expected to physically present in school should be marked appropriately using the DfE registration code as follows:

#### Code B: Off-site educational activity

This code should be used when pupils are present at an off-site educational activity that has been approved by the school. Ultimately schools are responsible for the safeguarding and welfare of pupils educated off-site. Therefore, by using code B, schools are certifying that the education is supervised and measures have been taken to safeguard pupils. This code should not be used for any unsupervised educational activity or where a pupil is at home doing school work. Schools should ensure that they have in place arrangements, whereby the provider of the alternative provision, notifies the school immediately of any absences by individual pupils. The school should record the pupil's absence using the relevant absence code.

#### Code D: Dual Registered – at another educational establishment

This code is not counted as a possible attendance in the School Census. The law allows for dual registration of pupils at more than one school. This code is used to indicate that the pupil was not expected to attend the session in question because they were scheduled to attend the other school at which they are registered. The main examples of dual registration are pupils who are attending a pupil referral unit, a hospital school or a special school on a temporary basis. It can also be used when the pupil is known to be registered at another school during the session in question. Each school should only record the pupil's attendance and absence for those sessions that the pupil is scheduled to attend their school. Schools should ensure that they have in place arrangements whereby all unexplained and unexpected absence is followed up in a timely manner.

## Quality Assurance

The responsibility for quality assurance and evaluation sits with the commissioning organisation. As a guide the following key areas for consideration when undertaking quality assurance and evaluation have been taken out of the Ofsted report published in February 2016:

- Academic progress & attainment
- Accreditation including English and maths
- Safeguarding and health and safety (including quality of accommodation)
- Personal development and well-being
- The role of governors
- Pupils' views
- Employability and skills for life – progression to post-16 destinations

Plymouth City Council would recommend a minimum of one visit per term to a provider. The scope and detail of regular reports (for example monthly) from providers will be agreed locally at the point of commissioning.

## Provider Responsibilities

- Providers must ensure they are compliant with the most recent DfE guidance around legislation and the definition of an independent school. Any provider of education should be registered as an independent school if it meets the criteria – that it provides full-time education to five or more pupils of compulsory school age, or one such pupil who is looked-after or has an EHCP.
- All AP Academies and AP Free Schools must be registered as schools whether or not they are full-time or part-time. Please refer to Independent School Registration.
- Maintain contact with the commissioning organisation and the pupil's parent/carer, with regular updates on the pupil's progress:
- Carry out an initial assessment of educational needs for the pupil within one week of referral to confirm what level of course and support is appropriate;
- Notify the school of attendance and absence; good practice would determine this is twice daily;
- Provide relevant policies and procedures that relate to the child's welfare, education and safety for example; Safeguarding policy including the use of social media and E-safety, Health and Safety Policy and Behaviour Policy;
- Attend relevant multi-agency meetings around the pupil when required, for example: Personal Education Plan (PEP) for Children in Care, EHAT meetings, SEND review meetings and Social Care meetings;
- Have clear monitoring criteria to judge the quality of the teaching and learning, and report this to the commissioning school at agreed intervals;
- Provide a named contact for all matters pertaining to the pupils;
- Be aware of and comply with Plymouth City Council's policies, standards and procedures.
- Maintain Individual Learning Plans, these set out the targets that the pupil will achieve on programme (e.g., L1 Functional Skills English, Pass grade) as well as the wider targets (e.g., 95% attendance, behaviour). All targets must be agreed by the pupil, the Provider and the School.

## Useful documents

[Alternative Provision Statutory Guidance \(DfE 2013\)](#)

[Education Act \(DfE 1996\)](#)

[Keeping Children Safe in Education \(DfE 2022\)](#)

[Creating opportunity for all: our vision for alternative provision \(DfE 2018\)](#)

[School Attendance Guidance \(DfE 2020\)](#)

[Unregistered Independent Schools and Out of School Settings \(DfE 2018\)](#)

[Guidance of Exclusions and Suspensions \(DfE 2022\)](#)

[Opportunities for All \(DfE 2022\)](#)

[Behaviour in Schools \(DfE 2022\)](#)

## 10 Key things to know about Alternative Provision

1. A provider of alternative provision should be registered as an independent school if it caters full-time for five or more pupils of compulsory school age; or one such pupil who is a Child in Care or has an EHCP.
2. Plymouth City Council has a strong framework of unregistered alternative education providers. Providers listed in the directory are subject to minimum requirements and annual checks. It is strongly recommended that schools use the framework but schools can also commission provision from other providers.

3. All learners are entitled to a full-time education (subject to DfE Registration Requirements). Learners placed in alternative provision must continue to receive their core offer of maths and English.
4. When making a decision to place a learner into an alternative provision setting, commissioners must have regard to the [Alternative Provision Statutory Guidance \(DfE 2013\)](#).
5. Schools can arrange alternative provision by referring directly to the provider. If the school is a special school or involves a pupil with an EHC plan, the relevant local authority SEND Caseworker must be notified.
6. The commissioning organisation is responsible for all associated costs for the alternative provision for learners.
7. Some providers include transport costs but if it is not included, the commissioner must arrange and pay for the service if the child is eligible for free transport.
8. Other interventions should have been established before placing a learner into alternative provision. Agreement from all relevant parties is needed to ensure the placement is necessary, appropriate and in the best interests of the learner.
9. Learners in alternative provision require regular reviews to assess the ongoing suitability of the placement, to plan for transition back into school or to a post 16 provider. Learners are entitled to receive advice and guidance about their progression route.
10. Learners placed in alternative provision should be given clear objectives linked to outcomes. Commissioning organisations are responsible for ensuring objectives are met and outcomes are evaluated regularly throughout the placement. At the end of the placement, outcomes should be reviewed to determine the success of the intervention.
11. Where Plymouth City Council is the commissioning organisation they will work in partnership with the pupils registered school and the alternative provision to agree clearly defined objectives relating to the pupil's personal and academic development.