

Access to Education Policy

Section 19 Education Act 1996

Approved by:

Date: June 2023

Date of reviews:

	Contents	Page
1	Vision	3
2	Legal context	3
3	Statutory Guidance	3
4	School and Local Authority Responsibilities	3
4.1	Suspension and Permanent exclusion	4
4.2	Medical Conditions	4
4.3	Children not in receipt of suitable education for other reasons	4
5	Section 19 – decision making process	5
6	Review process	5
	Appendices	
1	Triage process for referrals	6
2	Panel consideration process	6
3	Commissioned provider consideration process	7

1. Vision

- 1.1. Our vision is that all children and young people in the borough, whatever their age, ability, background or setting, will receive outstanding education. This vision is part of the wider Wigan Deal 2030 to ensure the best start in life for all children and young people.
- 1.2. Our aim is that all children and young people with medical needs in Wigan will have equal and timely access to quality provision that meets their needs.
- 1.3. This policy describes how Wigan Council ('the Local Authority') will achieve its commitment and meet its duties under relevant legislation and guidance.

2. Legal context

- 2.1. Section 7 of the Education Act 1996 states that 'parents must ensure that children of compulsory school age receive efficient full-time education suitable to:
 - a) their age, ability, and aptitude
 - b) to any special educational needs, they may have,either by regular attendance at school or otherwise'.
- 2.2. Councils have a range of powers and duties under the Education Act 1996 where there is a failure by parents to meet this duty. This includes issuing Penalty Notices, Attendance Orders, Education Supervision Orders, and the power to take action to enforce a parent's legal duty.
- 2.3. Section 19 of the Education Act 1996 ('Section 19') requires local authorities to make arrangements to provide '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 suitable education unless such arrangements are made for them'. 'Suitable education' is defined as efficient education suitable to the age, ability, aptitude and to any special educational needs, the child (or young person) may have.
- 2.4. The education provided must be equivalent to full time unless it is determined that it would not be in the best interests of the child or young person, for reasons that relate to their mental or physical health.

3. Statutory guidance

This policy meets the standards as set out in the following DfE guidance:

- Supporting pupils at school with medical conditions (2015) ¹
 - Ensuring a good education for children who cannot attend school because of health needs (2013) ²
 - Summary of responsibilities where a mental health issue is affecting attendance (2023) ³
 - Alternative Provision statutory guidance for Local authorities (2013) ⁴
- 3.1. Local Authorities have a duty to provide education for pupils of compulsory school age resident in the local authority area, whether or not they are on the roll of a school, and whatever type of school they attend. Full-time education for suspended or permanently excluded pupils must begin no later than the sixth day of the exclusion.

'Local authorities are responsible for arranging suitable education for permanently excluded pupils, and for other pupils who – because of illness or other reasons – would not receive suitable education without such arrangements being made.'
Alternative Provision Statutory Guidance, DfE 2013.
 - 3.2. Suitable alternative provision is that which appropriately meets the needs of pupils which require its use and enables them to achieve good educational attainment on a par with their mainstream peers.
 - 3.3. The Department for Education statutory guidance 'Ensuring a good education for children who cannot attend school because of health needs' (2013) requires local authorities to provide education for children who cannot attend education because of their medical condition. ⁵
 - 3.4. The Equality Act 2010 states: 'Some complex and/or long-term health issues may be considered disabilities under equality legislation. This legislation provides that local authorities must not discriminate against disabled children and are under a duty to eliminate discrimination, foster equality of opportunity for disabled children and foster good relations between disabled and non-disabled children.'

4. School and local authority responsibilities.

¹ [Supporting pupils at school with medical conditions \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/424247/Supporting_pupils_at_school_with_medical_conditions.pdf)

² [Additional health needs guidance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/424247/Additional_health_needs_guidance.pdf)

³ [Summary of responsibilities where a mental health issue is affecting attendance \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/424247/Summary_of_responsibilities_where_a_mental_health_issue_is_affecting_attendance.pdf)

⁴ [Alternative provision - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/424247/Alternative_provision_-_GOV.UK.pdf)

⁵ For the purpose of this policy, the term 'medical condition' also refers to mental health conditions.

4.1. Suspensions and permanent exclusions

- 4.1.1. It is important that pupils continue to have access to learning during their suspension or permanent exclusion so that they continue to make progress and achieve.
- 4.1.2. For a suspension of more than five school days, the governing board/academy trustees must arrange suitable full-time education for any pupil of compulsory school age from the 6th day of suspension.
- 4.1.3. For permanent exclusions, the Local Authority must arrange suitable full-time education for the pupil to begin from the sixth school day after the first day of permanent exclusion. The education arranged must be full-time or as close to full-time as is in the child's best interests because of their health needs.
- 4.1.4. When notifying parents about a suspension or permanent exclusion, the school should set out what arrangements have been made to enable the pupil to continue their education prior to the start of any alternative provision or the pupil's return to school, in line with legal requirements and guidance.
- 4.1.5. It is important for schools to help minimise the disruption that suspension or permanent exclusion can cause to a pupil's education. Whilst the statutory duty on governing boards/academy trustees or local authorities is to arrange full-time education from the sixth day of a suspension or permanent exclusion, there is an obvious benefit to the pupil in starting this provision as soon as possible. Where it is not possible, or not appropriate, to arrange alternative provision during the first five school days of a suspension or permanent exclusion, the school should take reasonable steps to set and mark work for the pupil.
- 4.1.6. Parents and carers are responsible for ensuring that their children are supervised during school hours on these days and complete the work which has been set. This will ensure that they will have the best chance to keep up with their learning and be less at risk of becoming involved in anti-social activities.
- 4.1.7. If a pupil has been permanently excluded and the governing board/academy trustees uphold the exclusion, they do not return to their school and, in line with the local authority's statutory duties, will receive their education from an alternative provision provider. The alternative provision provider will provide a suitable education. Wherever possible, following a period of intervention, pupils will return quickly to mainstream schools. However, the alternative education provider will continue to provide education for a longer period where needed.

4.2. Medical conditions

- 4.2.1. Schools must provide support for their pupils with medical needs under their statutory duties as set out in 'Supporting pupils with medical conditions at school' (Department for Education, 2015). Shorter term illnesses or chronic conditions are usually best met by school support and resources. Such conditions that might meet this definition include short term post-operative support and periods of reduced immunity.
- 4.2.2. The Local Authority's response is outlined in our 'Policy for the education of children with medical needs'⁶
- 4.2.3. Where a pupil is unable to attend school for medical reasons, the Local Authority will work alongside schools, parents, health and other professionals to provide an alternative education provision to meet a pupil's individual needs to enable them to thrive and prosper in the education system.
- 4.2.4. Wherever possible the local authority will look at education provision being provided by school to ensure continuity for pupils. However, it is recognised that in some circumstances that may not be possible and provision for such cases may require additional advice and/or support from the Local Authority.
- 4.2.5. Schools have a duty to make reasonable adjustments to allow the pupil to access a suitable full-time education (or as much as the child's health condition can manage) in line with statutory guidance. This may include arrangements for schoolwork being sent home for short periods of absence, a part-time timetable or remote/virtual learning.
- 4.2.6. Every effort will be made to minimise disruption to the child's education.
- 4.2.7. Where an absence is planned e.g., hospital admission or recurrent stay in hospital, educational provision should begin as soon as the child is well enough. Teachers in the hospital settings will liaise with the child's home school and work with them to minimise any disruption to their education.
- 4.2.8. Where a pupil is, or likely to be, absent for a period of 15 days due to a medical condition, schools are required to notify the Local Authority.
- 4.2.9. Once notified by schools that a child will be absent for 15 days or more, the Local Authority will work alongside schools, health, and other professionals (where appropriate) to identify whether the duty under section 19 has arisen in the circumstances. If it is determined that the Local Authority's duty under Section 19 has arisen, steps will be taken to ensure that suitable education is made available for the pupil. If it is determined that the Section 19 duty has not arisen in the circumstances, the Local Authority may take steps, where appropriate, to support the school in ensuring the pupil is being adequately educated.
- 4.2.10. It has been established by case law that for a pupil to be deemed as unable to access education by reason of a medical condition, it must be 'nearly impossible' for them to attend any school. Therefore, in determining whether the duty under Section 19 has arisen, the Local Authority will consider all information available in light of relevant case law.

4.3. Children not in receipt of suitable education for other reasons

⁶ [Education of pupils with medical needs \(wigan.gov.uk\)](http://wigan.gov.uk)

4.3.1. Where children are unable to attend school for any other reason the Local Authority will consider the individual circumstances of each child, considering all available evidence, to inform our decision making and any action required by the Local Authority. Case law has established that the Local Authority's Section 19 duty will only arise when a pupil is unable to access education for other reasons where it is 'not reasonably possible' for them to take up any existing suitable schooling.

4.3.2. The decision-making process is described below.

5. Section 19 - decision making process.

5.1. Alternative provision panel

5.1.1. The local authority has established a process for making informed decisions as to whether Section 19 duties apply. The Alternative Provision Panel (AP Panel) is the usual forum for the making and recording of such decisions. This panel of education professionals meets fortnightly to avoid drift and delay in decision making and ensures that agreed actions are implemented.

5.1.2. Each referral goes through three stages before acceptance for a place in alternative provision. This allows scrutiny of decision making and offers alternatives to support pupils to remain in mainstream education where it is appropriate to do so. Interim measures will be addressed in agreement with the school, whilst applications are assessed.

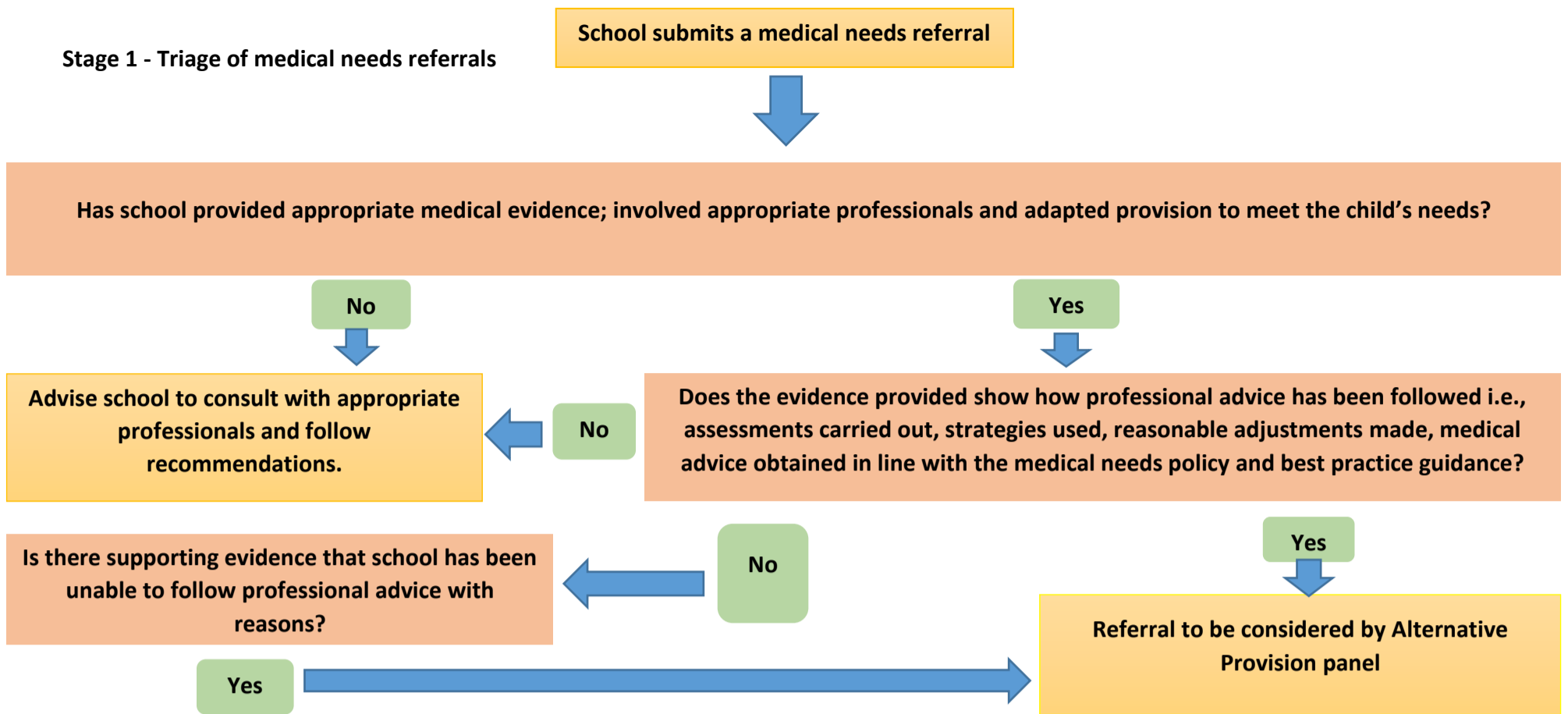
5.1.3. The AP Panel considers all the available information and determines if the case should be considered as part of the local authority Section 19 duty or whether an alternative intervention route or legal enforcement is recommended. If the AP Panel determines that the Section 19 duty does apply, they will work with the school to arrange for suitable education provision to be put in place where appropriate. The Early Help format will be used with the aim of the child returning to their school as soon as possible. The child's voice, parent/carer and professionals' views are considered in determining the provision offer.

6. Review process

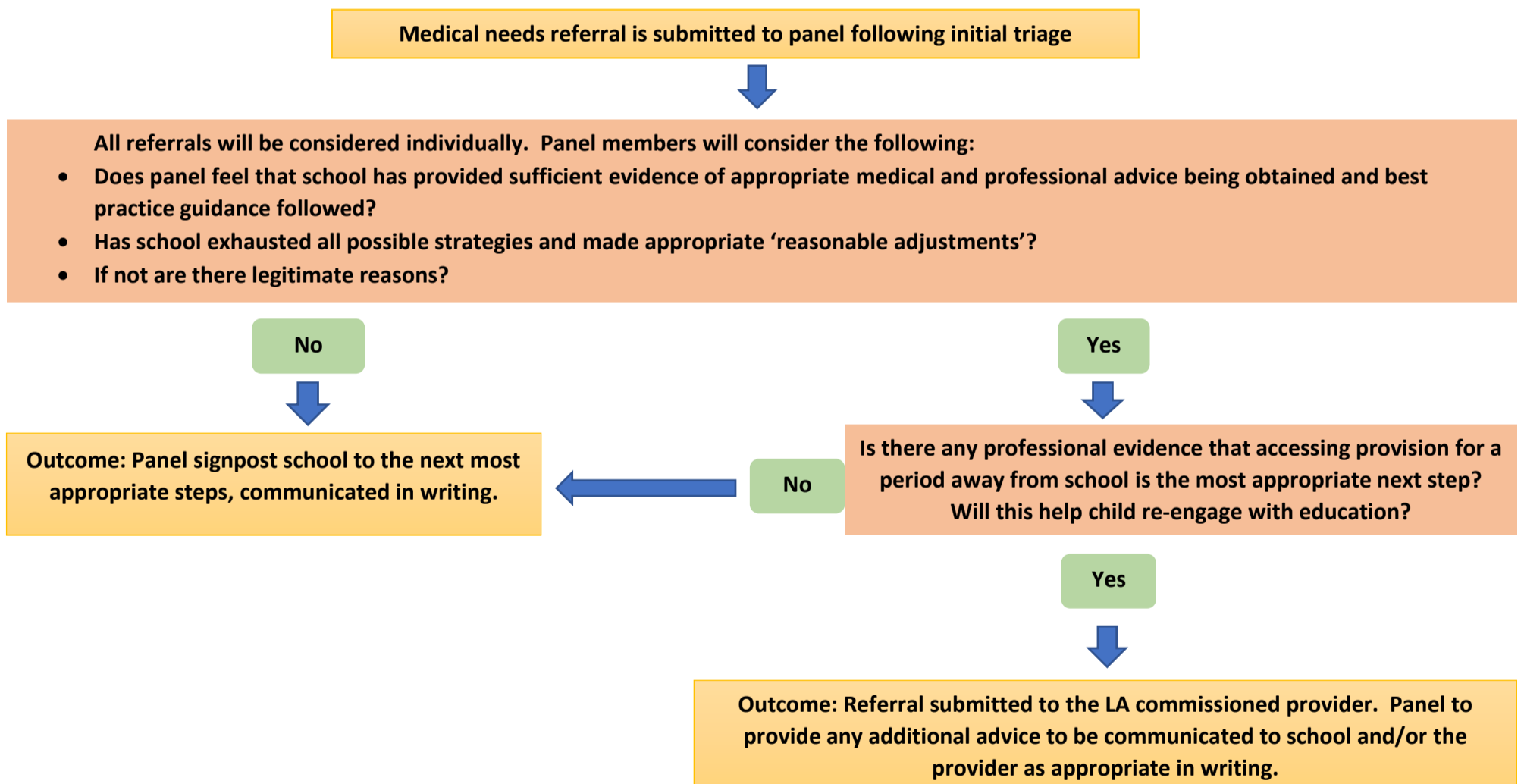
6.1. Regular reviews of education provided under Section 19 will take place with input from the parent/carer, school, and alternative provision provider if applicable. Reviews will take place at least every 6 weeks. The provision offer may be extended, changed, or ended depending on the circumstances.

Appendices - Referral consideration process

Stage 1 - Triage of medical needs referrals



Stage 2 - Panel consideration of Medical Needs Referrals



Stage 3 - Commissioned provider consideration of medical needs referrals

LA commissioned provider considers the referral and advises the Pupil Inclusion Team of the outcome in writing	
Referral Accepted	Referral Refused
Pupil Inclusion informs school. The provider contacts school to arrange a handover meeting. Following handover, a meeting is arranged with school and parent/carer and a start date is agreed.	Pupil Inclusion informs school of the reasons for refusal
School and the provider work together to plan: <ul style="list-style-type: none">• Curriculum• Maintaining links with school• 6 weekly reviews incorporating ongoing medical advice• Reintegration to school	Case is referred back to Alternative Provision Panel for consideration of next steps

Medical needs placements end when:

- The child has successfully reintegrated to school
- The child no longer has a qualifying medical need
- There is clear non-engagement with the provision offered over a period of 4 weeks