



Department  
for Education

# **Understanding the use of unregistered alternative provision**

**Call for Evidence**

**Launch date 11 JULY 2022**

**Respond by 30 SEPTEMBER 2022**

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## Introduction

The [SEND and Alternative Provision Green Paper](#) sets out the Government's vision to ensure every child and young person receives the right support, in the right place, and at the right time. To achieve this, we propose a new national vision for alternative provision that supports a more inclusive mainstream school system in England. This includes improved partnership working between local authorities and schools to plan and deliver an alternative provision service focussed on early intervention.

Most alternative provision is delivered through Pupil Referral Units (PRUs), AP academies, registered independent schools and general hospital schools, all of which are regulated as schools. However, some alternative provision education is delivered in unregistered settings which fall outside any existing designation as a "school"<sup>1</sup>. These include a wide range of providers, from dedicated tutoring companies and online providers to bespoke vocational training and therapeutic support. This provision, commonly known as unregistered alternative provision, is highly valued by some commissioners. When used under the right circumstances it can potentially offer a crucial 'hook' back into learning for children and young people with complex needs who require bespoke packages of education, training, and support.

The use of unregistered alternative provision requires very careful planning and oversight. In some places, however, a lack of planning for sufficient specialist provision can result in unregistered provision being used as a substitute for high-quality specialist school places. Moreover, we understand that not all schools or local authorities commissioning unregistered alternative provision undertake suitable or consistent checks on its quality or safety, or on whether the placements are appropriate for each child or young person's needs. Efforts to conduct effective commissioning of unregistered alternative provision can also be hampered by a lack of local oversight and transparency about how the placements are managed. Together this can mean that children and young people become less visible across the system which puts their education at risk.

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<sup>1</sup> A school is an educational institution that is not a further education or higher education setting and is an institution for providing full-time education for children and young people aged (approximately) 5 to 18, or part-time education for children aged 2 to 5. Schools providing 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 and which is not maintained by a local authority or a non-maintained special school, must register as an independent school.

We need your expertise and experience to help us find the right solution, so that these problems are addressed effectively and proportionately. This call for evidence seeks your views about how unregistered provision is used, the needs that it meets that cannot be met in a school, and how it can best be integrated into a new SEND and Alternative Provision delivery model.

We also seek your views on whether the use of unregistered settings should be restricted to part-time or time-limited placements, as a re-engagement tool to complement education in mainstream or specialist schools; and on who should be responsible for ensuring that the children and young people who are placed in unregistered alternative provision receive a safe, high quality full-time education.

Responses can be submitted online at: [Understanding the use of unregistered alternative provision](#) or returned via email at the address included in Appendix A.

# About this Call for Evidence

## What areas will this Call for Evidence cover?

Local authorities and schools commission alternative provision from unregistered settings which fall outside any existing designation as a “school”. This provision has no legal definition but is commonly referred to as unregistered alternative provision. It is for children of compulsory school age and takes place during the school day. The placement routes into unregistered alternative provision are varied and include:

- Where local authorities are using their section 19 duty<sup>2</sup> to provide suitable education for children or young people who would not otherwise receive it because of a permanent exclusion, illness or any other reason;
- Where local authorities have specified full-time education in an unregistered alternative provision<sup>3</sup> setting in section F of a pupil’s Education, Health and Care (EHC) plan (for example under section 61 of the Children and Families Act 2014: “education otherwise than in a school”);
- Where local authorities have specified part-time education in an unregistered provision in a pupil’s EHC plan, alongside a placement in a school;
- Where local authorities are supplementing provision provided by parents who have chosen to electively home educate their child or young person;
- Where schools have directed a pupil off-site (and not to another school) to improve their behaviour<sup>4</sup> or have arranged alternative provision outside the school for a pupil who is suspended<sup>5</sup>;
- Where schools consider that a pupil with an EHC plan requires additional support to achieve their expected outcomes, but where the unregistered setting is not named on their plan.

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<sup>2</sup> Section 19 of the Education Act 1996, as amended by section 3A of the Children, Schools and Families Act 2010. This refers to education arranged by local authorities for children of compulsory school age who, because of exclusion, illness, new to an area without a school place or other reasons, would not otherwise receive suitable education.

<sup>3</sup> Where a pupil of compulsory school age with an EHC plan is placed full-time in an unregistered setting, it is likely that the Department would consider it to be an unregistered independent school. It is an offence under section 96 of the Education and Skills Act 2008 to conduct such a setting unless it is registered with the Secretary of State. Ofsted may inspect without notice any setting believed to be operating in breach of section 96. Those responsible for settings which are found to be operating unlawfully, without registration, may face prosecution in line with our [published policy on prosecuting unregistered independent schools](#).

<sup>4</sup> See section 29A of the Education Act 2002, introduced by the Education and Skills Act 2008.

<sup>5</sup> Section 100 of the Education and Inspections Act 2006.

## **What areas will this Call for Evidence not cover?**

The Call for Evidence is not intended to cover how schools or local authorities use of registered independent schools to provide alternative provision, nor the criteria for registering as an Independent School.

In May 2022, the Department published its consultation response [Regulating independent educational institutions – GOV.UK \(www.gov.uk\)](#). This response has informed the [Schools Bill](#) which includes legislation to broaden the registration requirement so that more settings providing all, or the majority of full-time education to children of compulsory school age must be registered and inspected. These measures will bring settings providing full-time education to five or more children of compulsory school age (or one or more such child with an EHC Plan or is “looked after” by a local authority) - but which do not meet the current definition of an ‘independent school’ – into the registration requirement so that they are effectively regulated by the Department for Education.

The Call for Evidence also does not cover:

- Placements arranged by schools which are not for the alternative provision purposes as described above. For example: where schools make use of extra-curricular placements or provision for activities which take place during the school day, like offsite swimming or music classes;
- Education and activities arranged by parents or carers are also not included in this Call for Evidence. For example: where parents or carers arrange religious education, home tuition, sports clubs or any provision outside school hours; or where they have chosen elective home education (EHE), making use of tutoring or other provision during or out of school hours
- Education arranged in settings outside of England.

## **Who is this Call for Evidence for?**

The following list is not exhaustive:

### **People who work in schools (including mainstream, independent, special and alternative provision schools) who arrange or make decisions about alternative provision:**

- Headteachers or those in other leadership positions (such as Designated Safeguarding Leads)
- Teachers
- School governors
- Support staff (including teaching assistants, pastoral care and family liaison officers, SENCos)

### **People who work in local authorities who arrange or make decisions about unregistered alternative provision:**

- Directors of Children's Services
- Relevant local authority leads (including attendance, inclusion, admissions, children missing education, SEND)
- Virtual School Teams
- Social workers and early help workers

### **People who operate or work in unregistered alternative providers**

- Those in leadership roles in unregistered alternative provisions settings
- Those employed by unregistered alternative provision settings
- Organised bodies representing or collectively overseeing individual settings or groups of settings which may provide unregistered alternative provision

### **Other professional parties with experience of supporting commissioners or working with unregistered alternative provision providers**

- Sector Bodies
- Union Representatives
- Think tanks

This Call for Evidence is focused on understanding how commissioners and providers organise, operate, and oversee the use of unregistered alternative provision. As such, parents and carers, and children and young people are not the intended audience for this Call for Evidence. We plan to use different routes to seek and better understand their views and experiences. If individuals from these groups do wish to provide a written response to this call for evidence, then we recommend responding to question **18** only with a free form written answer.

## About you

**1. What is your name?**

**2. Do you consent for the Department for Education to contact you via email about your response?**

Yes

No

*(If yes, please provide your email address below)*

**3. Would you like us to keep your response confidential?**

Please avoid including personal or identifiable information, such as children or young people's names, when responding to the questions in this Call for Evidence.

Information provided in response to Calls for Evidence, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000, the Data Protection Act 2018 or the Environmental Information Regulations 2004.

If you want all, or any part, of a response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The [Department for Education will process your personal data](#) (name and address and any other identifying material) in accordance with the UK General Data Protection Regulation (GDPR) and Data Protection Act 2018, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Yes

No

*(If yes, please provide a reason)*

**4. In what capacity are you responding to this Call for Evidence?**  
*(Please select all that apply)*

- As a representative of a school / academy:  
(Including mainstream, special, independent or AP schools)
  - A Headteacher or other leadership position
  - A teacher
  - A member of school support staff
  - A school governor
  - A Special Educational Needs Co-ordinator
  - Other (*Please specify below*)
  
- As a representative of a local authority:
  - A Director of Children's Services
  - A department lead or officer in a team that commissions unregistered alternative provision (such as SEND or in year admissions team)
  - A member of the Virtual Schools Team
  - A social worker or early help worker
  - Other (*please specify below*)
  
- As someone who delivers unregistered alternative provision (including tuition providers, online learning or non-school or other off-site settings):
  - In a leadership role in an unregistered alternative provision setting
  - An employee of an unregistered alternative provision setting
  - An organised body which represents or collectively oversees individual settings or groups of settings which provide unregistered alternative provision
  - Other (*please specify below*)
  
- Other professional party with experience of supporting commissioners or working with unregistered alternative provision providers (*please specify below*)

**5. What is the name of your organisation/school/representative body and in which local authority area is it located?**  
*(Please specify below)*

**If applicable, please also provide us with your school's Unique Reference Number.**  
*(Please specify below)*

Prefer not to say

Not applicable

**6. If you are responding on behalf of a school or college, please specify below:**  
*(Please select all that apply)*

Mainstream school

Alternative provision school

Special school

Independent school that provides alternative provision

Independent special school

Further education college

Other

*(If Other, please specify below)*

Primary

Secondary

All through school

## The use and role of unregistered alternative provision within the SEND and AP system

### 7. Why is unregistered alternative provision used in your local area? *(Please select all that apply)*

- The setting addresses the needs of the young people in ways which cannot be met in a school
- Not enough alternative provision school places
- Not enough special school places
- Other (*please specify below*)
- Don't Know / Not Sure

*(Optional)* Please provide a written response with any further information or detail you feel is relevant to your answer (*max 250 words*)

### 8. What are the primary placement types that you arrange or deliver within an unregistered alternative provision setting? *(Please select all that apply)*

- Provision for permanently excluded and/or suspended pupils
- Provision for medical conditions (mental health need)
- Provision for medical conditions (physical health need)
- Early, preventative support for behavioural needs
- Provision for a special educational need
- Provision for new arrivals to the local authority
- I don't currently, or have never, commissioned or provided unregistered alternative provision
- Other (*please specify below*)

*(Optional)* Please provide a written response with any further information or detail you feel is relevant to your answer (*max 250 words*)

**9. Thinking about the local area you work in, which children and young people's needs do unregistered alternative provision settings support which cannot be met through existing local school provisions? (Please consider mainstream, special and AP or other independent schools)**  
*(Please select all that apply)*

- Academic provision
- Vocational and/or practical learning in a work-based environment
- Wellbeing and mental health needs
- Special educational needs and disabilities
- Behavioural support
- Prolonged physical illness
- Other *(please specify below)*
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**10. In your experience, how well do you feel unregistered provision meets the needs of children and young people in the following areas:**

	<b>Very Well</b>	<b>Moderately Well</b>	<b>Not Well</b>	<b>Not Well At All</b>
<b>Academic</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Vocational</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Wellbeing and mental health</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Special educational needs and disabilities</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Behavioural support</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>Prolonged physical illness</b>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**11.** Under the [Equality Act 2010](#), the Public Sector Equality Duty requires public authorities to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The ‘protected characteristics’ for the purpose of this duty are:

- Age (although a statutory exemption applies for school policy)
- Disability
- Gender Reassignment
- Marriage and Civil Partnership (although this is only relevant in relation to eliminating unlawful discrimination, harassment and victimisation)
- Pregnancy and Maternity
- Race (including ethnicity)
- Religion or belief
- Sex
- Sexual orientation

**Do you think that the system in use for commissioning and operating unregistered alternative provision advantages or disadvantages children or young people with any protected characteristic/s?**  
*(Please select one answer)*

- Yes it advantages those with any protected characteristic/s
- No it disadvantages those with any protected characteristic/s
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

## Planning, commissioning, and monitoring placements into unregistered alternative provision

12. Chapter 2 of the SEND and Alternative Provision Green Paper proposes that new local SEND partnerships should produce strategic inclusion delivery plans to inform the local SEND and alternative provision offer. The plans should set out the provision and services that should be commissioned in each area and take into account local issues that impact on the commissioning.

a. Is there joint strategic planning of how unregistered AP is commissioned in your local area, for example between local schools and the local authority?  
*(Please select one answer)*

- Yes
- No
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

b. If you answered yes to the previous question, which of the following organisations participate in the strategic planning and commissioning process?

*(Please select all that apply)*

- Local Authorities
- Mainstream schools
- Special schools
- Alternative provision schools
- Unregistered alternative provision provider
- Don't Know / Not Sure
- Other *(please specify below)*

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**c. How effective, if at all, do you think this joint strategic planning and commissioning process is in meeting local needs that cannot be met in a school? Please provide any supporting information if possible.**

*(Please select one answer)*

- Very effective
- Moderately effective
- Somewhat effective
- A little bit effective
- Not effective at all
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**d. Do any other institutions or organisations (e.g. schools) commission unregistered alternative provision outside of these joint planning commissioning arrangements?**

*(Please select one answer)*

- Yes
- No
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**13. Chapter 4 of the SEND and Alternative Provision Green Paper proposes a statutory framework for all pupil movements around the school system, including into and out of alternative provision. This will draw on existing good practice, including local placement panels and Fair Access Protocols, to ensure that placements are needs-based and appropriately overseen.**

**a. Thinking about your local area, is there any form of locally organised process which has oversight of and/or scrutiny of decisions about individual placements into and out of unregistered alternative provision settings?**

*(Please select one answer)*

- Yes
- No
- Don't Know / Not Sure

**b. If yes, please describe this process and who maintains it. Otherwise, please outline any personal priorities you consider important for overseeing placements into and out of unregistered alternative provision settings?**  
*(Please specify below)*

**c. Based on your experience, which organisation or body do you think is best placed to oversee individual placement decisions into and out of unregistered alternative provision settings?**  
*(Please select one answer)*

- The commissioner
- Local specialist school
- Local placement panel
- Fair access panel
- Other *(please specify below)*
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**d. Should you feel some or all placements into unregistered alternative provision settings be decided by a multi-agency panel. Do you feel this is only necessary for certain types of placements?**  
*(Please select one answer)*

- All
- Some (for example, part time or time limited placements)
- None
- Don't Know / Not Sure

**e. If you answered 'some', what type of placements should be decided by panel?**  
*(Please specify below)*

**14. Many local areas already use quality assurance frameworks to monitor the quality of unregistered alternative provision settings.**

**a. Does your local area use a quality assurance framework?**

*(Please select one answer)*

Yes

No

Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**b. If you select 'no' or 'don't know / not sure', please include what other measures, if any, that you know of that are being used to monitor the quality of unregistered alternative provision?**

*(Please specify below)*

**c. Thinking about your local area, are there any standards or metrics used to measure whether unregistered alternative providers are meeting the needs of the children and young people?**

*(Please select one answer)*

Yes

No

Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**d. Thinking about your local area, how effective, if at all, are the arrangements for assuring the quality of unregistered alternative provision?**

*(Please select one answer)*

Very effective

Moderately effective

Somewhat effective

A little bit effective

Not effective at all

Don't Know / Not sure

There are no quality assurance arrangements for unregistered AP in my area

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**e. Thinking about your local unregistered alternative provision offer, which standards or metrics are the most helpful to you when thinking about the quality of the offer provided by an unregistered alternative provider?**  
*(Please specify below)*

**f. To what extent do you agree or disagree that unregistered alternative provision settings should only be commissioned from a list of locally approved providers agreed at panel by the local authority and other institutions?**

*(Please select one answer)*

- Strongly Agree
- Agree
- Neither Agree nor Disagree
- Disagree
- Strongly Disagree
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**g. Which organisation or body do you feel would be best placed to set the standards for unregistered alternative provision for inclusion on the lists of locally approved providers?**

*(Please select one answer)*

- Central Government
- Local Authorities
- Other (please specify)
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

**15. Once a child or young person has been placed in an unregistered alternative provision setting how often are the individual placements reviewed?**  
*(Please select one answer)*

- More than once a term
- Once a term
- Once every six months or less
- Once in the academic year
- Only when necessary, for example when requested by the commissioner or as part the statutory annual review of an EHC Plan
- Other (*please specify below*)

Please provide a written response with any further information or details you feel are relevant to your answer (*Optional*)

## The role of unregistered alternative provision to complement education in a school.

16. Some stakeholders think that children and young people should not be placed in unregistered alternative provision on a full-time and/or long-term basis, and that instead it should be used for part-time or time-limited placements as a re-engagement tool to complement education in mainstream or specialist schools
- a. Do you agree that unregistered alternative provision should only be used on a part-time or time-limited basis as a re-engagement tool to complement education in mainstream or specialist schools?  
*(Please select one answer)*
- Strongly Agree  
 Agree  
 Neither Agree nor Disagree  
 Disagree  
 Strongly Disagree  
 Don't Know / Not Sure
- (Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)
- b. How would restricting the use of placements for children and young people in unregistered alternative provision settings to a part-time or time-limited basis impact on local commissioning practices?  
*(Please specify below)*
- c. Do you think there are some children and young people who would benefit from attending unregistered alternative provision on a full-time and/or long-term basis? Please tick the appropriate box and provide the rationale setting out which groups of children and young people would benefit from this approach?  
*(Please select one answer)*
- Yes  
 No  
 Don't Know / Not Sure
- d. If you answered yes to the previous question, what arrangements should be put in place to ensure that the children and young people are safe and are receiving a high-quality education that meets their educational and support needs?  
*(Please specify below)*

- 17. At present, schools and local authorities have the power to use a combination of multiple part-time placements in unregistered alternative provision simultaneously across a school week to create a full-time education package.**

**In such cases, some stakeholders say that using such an approach creates a risk that children and young people do not receive a full and balanced or "joined up" curriculum, and that oversight of their educational and welfare needs is lost.**

- a. To what extent do you agree or disagree with the statement above?**  
*(Please select one answer)*

- Strongly Agree
- Agree
- Neither Agree nor Disagree
- Disagree
- Strongly Disagree
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

- b. In circumstances where a combination of part-time placements in unregistered alternative provision is being used to make up a full-time placement, what measures should be in place to ensure that oversight of children and young people's educational and welfare needs is not being lost?**

*(Please specify below)*

- c. Which organisation or body do you think is best placed to oversee these placements?**

*(Please select one answer)*

- The commissioner (in this case the Local Authority)
- A local specialist school
- A local placement panel
- Other (Please specify below)
- Don't Know / Not Sure

*(Optional) Please provide a written response with any further information or detail you feel is relevant to your answer (max 250 words)*

- 18. Thinking about your local area, is there anything else that could be done to improve quality of the unregistered alternative provision available?  
(Please specify below)**

## **Appendix A:**

### **Issue date**

The Call for Evidence was issued on 11 July 2022.

### **Deadline**

The Call for Evidence closes on 30 September 2022.

### **Respond online**

To help us analyse the responses please use the online system wherever possible. Visit [Understanding the use of unregistered alternative provision](#) to submit your response.

### **Additional copies**

Visit [Understanding the use of unregistered alternative provision](#) to access additional copies of this call for evidence

### **Other ways to respond**

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may use this document as a reference and return the answers to the questions in a word document and email it or post it.

If you require further adjustments please contact us by email and we will make every effort to accommodate your needs.

#### By email

[Cfe.unregisteredAP@Education.gov.uk](mailto:Cfe.unregisteredAP@Education.gov.uk)

#### By post

Callum Armour  
Alternative Provision Policy Team  
Department for Education  
20 Great Smith Street  
London  
SW1P 3BT

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