

Free School Meals (FSM), Equivalent Food Provision (EFP), and Children in receipt of Education Otherwise than at School (EOTAS).

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DOCUMENT CONTROL**Changes History**

Issue no.	Date	Amended by	Summary of changes
1.0	28.05.2024	Lucy Nicholas	Draft version updated to official version

Authorisation (Responsible Owner)

Role	Name	Approval date
Resource Manager	Lucy Nicholas	28.05.2024

Approval (Accountable Owner)

Role	Name	Approval date
Assistant Director – Education, Skills and Learning	Adrian Orr	20.06.2024

Reviewers (Consulted)

Role and review responsibilities	Name	Approval
Review	Admissions Management Team	
Review	Adrian Orr	
Review	Ros Somerville, Inclusion	

Distribution List – once authorized (informed)

Name	Organisation
All Staff - CYP	SCC Children and Young People's Service

Review Period

Date Policy to be reviewed	By whom
1 September 2024	Lucy Nicholas

Legislation

Section 512 of the Education Act 1996, as amended, places a duty on maintained schools, academies and free schools to provide free school meals (FSM) to disadvantaged pupils who are aged between 5 and 16 years old who meet the benefits-related criteria.

Guidance for Free School Meals

In addition to the legislation, the Department of Education (DfE) issued non-statutory guidance on FSM "*Free school meals: guidance for schools and local authorities*", which was first issued in March 2018 and updated in March 2024 to include guidance on children receiving education otherwise than at school (EOTAS) and reasonable adjustments for disabled children.

A pupil is only eligible to receive a free school meal when a claim for the meal has been made on their behalf and their eligibility, or protected status, has been verified by the school where they are enrolled or by the local authority.

The updated guidance advises that:

Under section 61 of the Children and Families Act 2014, local authorities can arrange for 'any special educational provision' for children and young people otherwise than in school in circumstances where it would be 'inappropriate' for the provision to be made in school – referred to as 'EOTAS'. These packages of support are put in place by local authorities, typically as part of a child's Education, Health and Care plan (EHCP).

No specific provision is made in legislation for FSM to be provided to children who are in receipt of EOTAS. Whilst it is not a statutory requirement, the DfE expects local authorities to consider making equivalent food provision (EFP) for children with an EHCP, receiving EOTAS under section 61 of the Children and Families Act 2014 and have no provision named in section I of their final EHCP and meet the following criteria:

- the child would meet the benefits-related criteria for FSM if they were in a state-funded school (for more information see pages 5-8 of the guidance [here](#)); and
- the meals would be provided in conjunction with education and would, in line with the aim of FSM provision, be for the purpose of enabling the child to benefit fully from the education being provided.

Once this consideration has been made, the DfE advises that local authorities should then assess the individual circumstances of the child to decide whether and how such provision can be made. In considering the approach to making food provision for relevant children, and in making decisions on particular cases, local authorities should act in accordance with the Human Rights Act and the European Convention on Human Rights and comply with the public sector equality duties.

Equivalent Food Provision

The FSM non-statutory guidance is clear that the law has not changed, and that FSM are only available for eligible children who are registered and attending a school. Therefore, to differentiate from FSM, it instead uses the description of “equivalent food provision” (EFP) for children receiving EOTAS under Section 61 of the Children and Families Act 2014.

In response to the updated FSM non-statutory guidance, Suffolk County Council will provide EFP in the form of a supermarket voucher to children between 5 and 16 years of age who meet the following criteria:

- the child would meet the benefits-related criteria for free school meals if they were on roll at a school.
- have a finalised EHCP.
- are receiving EOTAS under section 61 of the Children and Families Act 2014 and has no provision named in section I of their EHCP.

The EFP (in the form of a voucher) will be:

- provided in advance of each half term as per SCC’s published term dates for maintained schools. [School term and holiday dates - Suffolk County Council](#);
- for the value of £15 per week per child;
- for term time only (equal to 190 days per school year);
- administratively reviewed each half term by SCC to confirm EOTAS status;
- protected until the roll out of Universal Credit (currently extended to March 2025);
- assessed at the end of the transitional protection period to determine current eligibility for income-related FSM and future provision of vouchers.

Funding

The DfE guidance states that local authorities may draw upon the Dedicated Schools Grant (DSG) in order to fund such food provision.

SCC will fund the EFP from the High Needs Funding (HNF) as this supports provision for pupils and students with SEND from early years to 25 years old.

Children who were in receipt of a finalised EHCP naming EOTAS and met the income related FSM criteria on the date the DfE updated the FSM guidance will receive EFP from 25 March 2024.

All subsequent EFP will be provided from the date that a child’s EHCP is finalised and eligibility for FSM has been confirmed.

SCC will not provide any retrospective payments for children who met the criteria prior to 25 March 2024. There is no statutory duty for SCC to provide EFP and the payments are discretionary in line with the DfE non statutory guidance.

Applications

If a parent / carer believes that a child meets the eligibility criteria for EFP, they should contact efp.eotas@suffolk.gov.uk

Complaints

Any parent / carer who wishes to challenge a decision made by CYP not to provide EFP, will be directed to the SCC complaints process via the customer rights team.

Email customerrights@suffolk.gov.uk or call **0345 266 1821**.

Address: Suffolk County Council Complaints Team, Constantine House, 5 Constantine Road, Ipswich, IP1 2BX.

Sources of further information

[Free school meals \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

[Universal infant free school meals \(UIFSM\): 2023 to 2024 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

[Free meals in further education funded institutions guide 2023 to 2024 academic year - GOV.UK \(www.gov.uk\)](https://www.gov.uk)