

Elective Home Education Policy

ACE team

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Contents

Page

Table of Contents

1. Status of this document	3
2. Introduction	3
3. The law relating to Elective Home Education	4
4. Local Authorities Responsibilities	4
5. Special Educational Needs and Disabilities (SEND)	6
6. Locally agreed roles and responsibility of the Local Authority and schools in relation to EHE.....	7
7. Safeguarding and Child Protection	7

1. Status of this document

This document is the policy that the Children's Services will follow regarding elective home education (EHE).

The policy clarifies how Hammersmith and Fulham local authority (LA) will carry out their duties in respect of children who receive their education at home from their parents/carers or from tutors employed by them.

Parents/carers who have chosen to, or are considering, educating their child/ren outside the school system may find it useful to read this policy but it is primarily the EHE '*Guidance for parents*' document that is intended to provide information and advice to parents/carers on how to proceed, what to consider and who to contact for further support and advice.

In the majority of cases, the ACE team carries out the LA duties regarding EHE. Contact details for the ACE team are:

ACE Team
Children's Services,
3rd Floor, 145 King Street
London W6 9XY
Telephone number: 020 8753 6797.

However, if your child has a completed Education, Health and Care Plan (EHCP) then you will be supported by Special Educational Needs and Disabilities (SEND) team: address as above, and the telephone number is 0208 753 1021.

2. Introduction

Elective home education is the term used to describe parents/carers' decision to provide education for their children at home, instead of sending them to school. This is different to home tuition provided by the local authority or education provided by the local authority other than at school.

The purpose of this policy is to support LA officers in carrying out their statutory responsibilities and to encourage good practice by setting out the legislative position and the roles and responsibilities of LAs and parents/carers in relation to children educated at home.

The LA recognises that there are many approaches to elective home education and parents/carers education provision will reflect a diversity of approaches which will be respected.

3. The law relating to Elective Home Education

Section 7 of the Education Act 1996 states

- The responsibility for a child's education rests with their parents/carers. In England, education is compulsory, but school is not.

“The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable:

(a) to his age, ability and aptitude, and

(b) to any special educational needs he may have, either by regular attendance at school or otherwise.”

An “**efficient**” and “**suitable**” education is not defined in the Education Act 1996 but “efficient” has been broadly described in case law¹ as *education that “achieves that which it sets out to achieve”*, and a “suitable” education is one that *“primarily equips a child for life within the community of which he 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.”*

There is no legal definition of “full-time”. Children normally attend school for between 22 and 25 hours a week for 38 weeks of the year, which many parents/carers who are EHE find a useful guide, but there is no set amount of hours that EHE has to take place.

4. Local Authorities Responsibilities

- The LA should have a designated senior officer with responsibility for EHE policy and procedures who is familiar with home education law, policies and practices.
- The LA has a duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to establish the identities, so far as it is possible to do so, of the children in their area who are not receiving a suitable education.
- This duty applies in relation to children of compulsory school age who are not on a school roll and when the LA does not know if a child is receiving a suitable education otherwise than being at school. The parents/carers of all children identified as such will receive a letter from the LA, outlining the LA's procedures in relation to EHE.
- Under Section 437 (1) of the Education Act 1996 the LA will intervene *if it appears that a child is not receiving* a suitable education but prior to initiating any legal

¹ . Mr Justice Woolf in the case of R v Secretary of State for Education and Science, ex parte Talmud Torah Machzkei Hadass School Trust (12 April 1985)

interventions the LA will endeavour to work with parents/carers and will seek to gather any relevant information that will assist the LA in reaching an informed judgement on whether the education being provided is suitable or not.

- Information may include a report from a child's school (if they have been at one) prior to a decision to EHE or a report from a member of the ACE team, if the parents/carers are prepared to discuss their reasons for EHE or to provide any relevant contextual information.
- In addition, to minimise the possibility of any unnecessary legal action, there is a Home Education Adviser (HEA) who will usually arrange to see all EHE families within 90 school days of the LA being informed that a child is being EHE. This allows sufficient time for parents/carers to establish their preferred method of teaching and learning, although it is accepted that they may change their approach over time.
- Following any contact with parents/carers, the LA will write to them stating whether the LA has any concerns about the education provision and specifying what the concerns are. Parents/carers will be given the opportunity to address any concerns that the LA has.
- Where concerns about the suitability of the education have been identified, more frequent contact between the LA and parents/carers may be arranged while the concerns are being addressed. The timing of contact will be discussed and agreed with parents/carers. If there are no concerns annual contact will be offered.
- The HEA will discuss provision with parents/carers and can offer advice on providing a suitable education that meets the best interests of the child but will not stipulate a type of learning or curriculum.
- The HEA may ask to make a home visit in order to discuss the education provision - parents/carers are not required to grant access to their home so a meeting can be arranged at an alternative venue.
- Parent/carers who would not wish to meet with the HEA are able to provide an endorsement from professional(s) involved in the delivery of the programme who would be able to confirm that the education provided, in their view, is suitable.
- If, after all reasonable steps have been taken to consider the situation, the LA believes that there is insufficient evidence that a suitable education is being provided by the parents/carers, and a Notice (which gives no less than 15 days to respond) has been served, the LA may serve a **School Attendance Order under Section 437 (3) of the Education Act 1996**.
"If –
- *a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and*

- *in the opinion of the local authority it is expedient that the child should attend school, the authority shall serve an order (referred to in this Act as a “school attendance order”), in such a form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order”*

At any stage after a School Attendance Order (SAO) has been issued a parent can present information to show suitable education is being provided, the SAO can be revoked.

5. Special Educational Needs and Disabilities (SEND)

- Under Section 7 of the Education Act 1996 parents have the right to educate children, including children with SEND, at home. Home education **must** be suitable to the child’s age, ability, aptitude and SEND.
- The LA will have regard to the statutory guidance contained within Special Educational Needs and Disability Code of Practice 2015 (s10.30) which emphasises the importance of LAs and other providers working in partnership with parents. Further information in relation to children and young people with SEN who are home educated can be found in s10.30 –s10.38 of the code of practice.2
- Parents/carers right to EHE applies equally where a child or young person has an Education Health Care (EHC) plan and the LA has a duty to ensure that the provision being made is deemed suitable, in most cases this will involve a meeting with an Educational Psychologist.
- When a child has a EHC plan, it is the local authority's duty to ensure that the educational provision specified in the plan is made available to the child - but only if the child’s parents have not arranged for the child to receive a suitable education in some other way. Therefore if home education is deemed as suitable, the local authority has no duty to arrange any special educational provision for the child; the plan will simply set out the type of special educational provision that the authority thinks the child requires but will state in Section I of the child/young person’s EHC Plan that parents have made their own arrangements under Section 7 of the Education Act 1996.
- However, if the EHC plan gives the name of a school or type of school where the child will be educated and the parents decide to educate at home, the LA is not under a duty to make the special educational provision set out in the plan provided it is satisfied that the arrangements made by the parents are suitable. The LA must review the plan annually to assure itself the provision is appropriate and meeting the child’s needs.
- If the child/young person is attending a special school, the LA must give consent for the child or young person’s name to be removed from the admissions register. In deciding whether to give consent the LA will consider whether the home education to be provided would meet the special educational needs of the child, and if it would, will give consent. There is no equivalent requirement for children of young people with an EHC Plan who attend a mainstream school; the parents of a child may withdraw him or her without the LA’s consent, although parents should be encouraged to engage with the LA before doing so, whenever possible. Parents

should also note that there is no provision in law for a "trial period" of home education.

- The LA will not assume that because the provision being made by parents is different from that which was being made or would have been made in the school that the provision is necessarily unsuitable. The LA should also consider using their power to help parents make suitable provision.
- Young people may also be educated at home in order to meet the requirements to participate in education and training until the age of 18.

6. Locally agreed roles and responsibility of the Local Authority (LA) and schools in relation to EHE

- There will be a designated senior officer from within the LA who is familiar with the law and responsible for the policy and practice relating to EHE education; they will advise other colleagues with whom they work on relevant policy and practice.
- If notification is received by the LA that a child or children are being EHE, a letter will be sent to parents/carers outlining the LA's agreed procedures.
- The head teacher of a school is required to immediately inform the LA of any child on their school roll whose parents/carers have confirmed their intention to EHE² and they will normally be asked to complete a brief report providing details of the child, their previous education history etc.
- The child's name should not be removed from the school roll until the school have received written confirmation of the parent's intention to EHE: this should be forwarded to the LA.
- School staff are advised not to seek to persuade parents to EHE as a way of avoiding exclusion or because a child may have a poor attendance record. Referral to the '*Questions for professionals to consider*' guidance is strongly recommended.
- School staff must complete the mandatory Starters and Leavers Return to School Admission Department, in the usual way, in cases where a child's name is being removed from the school roll.

7. Safeguarding and Child Protection

- The LA has a duty under the section 175 (1) of the Education Act 2002 to safeguard and promote the welfare of children. This section states:

"A local authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local authority are exercised with a view to safeguarding and promoting the welfare of children"

² The Education (Pupil Registration) Regulations 2006

- Although S175 (1) does not give the LA powers to enter the homes of or otherwise see, children for the purposes of monitoring the provision of EHE, S10 and S11 of the Children Act 2004 gives powers to allow LAs to insist on seeing children in order to enquire about their welfare where there are grounds for concern (sections 17 and 47 of the Children Act 1989)
- Although there is no obligation on the LA to ascertain the child's wishes and feelings about EHE in particular, S 53 of the Children Act 2004 sets out the duty on LAs to, where reasonably practicable, take into account the child's wishes and feelings
- The safeguarding, wellbeing, welfare and protection of children are of paramount importance and a shared responsibility between key professionals and the community as a whole. If any officer of the LA becomes aware or has information that indicates a child is at risk or that their wellbeing is being impaired, consultation and a referral will be made in accordance with agreed Safeguarding and Child Protection Procedures.