

ELECTIVE HOME EDUCATION POLICY

NEWCASTLE UPON TYNE CITY COUNCIL

1. Introduction

- 1.1. Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe the access to education provided by parents¹ at home, rather than being accessed at a school. This is different to home tuition provided by a local authority or education provided by a local authority other than in school. In those cases, the local authority retains responsibility for providing the education; when parents chooses to home educate, the responsibility for the provision of education to their children, including full financial responsibility, passes to them.
- 1.2. Parents may choose EHE for a variety of reasons including distance or access, religious, cultural or ideological beliefs, dissatisfaction with the formal education system, bullying or a child's unwillingness/inability to attend school, a short term intervention or for reasons of their child's SEN or because they have not been allocated their school of choice via the admissions process. However, the LA's concern will be that the child receives a suitable education, not the parents' motivation in choosing to home educate.
- 1.3. The purpose of the document is to set out the legal framework, the policies and procedures to be followed, the monitoring systems in place, issues of special concern and the paperwork to be completed. It has been written taking account of the legal framework, case law, statutory guidance². Links to the guidance and other useful documents are set out in the Appendix 1.

2. The law relating to EHE

2.1. Responsibility of parents and carers

- 2.1.1 The responsibility for a child's education rests with their parents. Section 7 of the Education Act 1996 provides:

"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**."

- 2.1.2 Compulsory school age is defined as beginning from the start of the first term commencing after the child's fifth birthday (or on the fifth

¹ The term "parent(s)" shall include all natural parents married or not, carers, those with PR and those having care of the child – section 576 Education Act 1996

² Elective Home Education (DfCSF) – Guidelines for Local Authorities 2007 and the SEN and Disability Code of Practice: 0-25 years.

birthday) and continues until the last Friday of June in the school year when they turn 16.

2.1.3 Parents/carers have a responsibility to ensure their child is provided with an education which is efficient, full time and suitable.

2.1.4 There are no statutory definitions of “efficient” or “suitable”. Efficient education has been described in case law³ as one that “achieves what it sets out to achieve”. A suitable education has been described as one that “primarily equips a child for life within the community in which he is a member, rather than the way of life in a wider society 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”.

2.1.5 The parents’ duty to ensure the provision to their child of a suitable efficient education coexists with the LA’s duty to intervene if it appears that any child is not receiving a suitable education (see 2.2 below) and the procedures to oversee EHE (see 3 below).

2.1.6 If parents decide to educate their child at home, they may do so at any time and are not required to seek approval from the LA. However, they should cooperate with the LA to enable it to satisfy itself as to the quality of home education being provided (see below).

2.1.7 Any parent deciding to educate their child at home, must assume full financial responsibility for the costs of doing so, including the costs of any public exams. There may also be consequential costs of EHE that affect entitlement to receipt of benefits or entitlement to higher education in respect of which parents are recommended to seek advice from the appropriate sources.

2.2 Responsibilities and Duties of the Local Authority

2.2.1 As set out above, it is the parents’ duty to ensure that their child is provided with an efficient, suitable, full-time education.

2.2.2 Following on from that is the statutory duty⁴ on the LA to establish the identities of children in their area who are not receiving a suitable education and who are not on a school roll. Guidance on this is unclear, but current advice suggests that the LA does not have a statutory duty to evaluate the quality of education provided for home educated children.

³ Mr Justice Woolf in R v Secretary of State for Education and Science ex parte Talmud Machzikei School Trust 12 April 2005

⁴ Section 436A Education Act 1996 (inserted by section 4 Education and Inspections Act 2006)

- 2.2.3 However, the LA has a further duty to intervene where it believes that a child is not receiving a suitable education, either at school or *otherwise*-by beginning procedures for issuing a School Attendance Order (see below). This does extend to children who are home educated.
- 2.2.4 This requires the LA to make enquiries of parents choosing to home educate their children about the educational provision that they are providing. Whilst parents are under no statutory duty to respond or to permit the LA to enter their home, case law has established that it is sensible for them to do so. The LA does however have a duty to safeguard and promote the welfare of children can however enter a home without express permission of the parents where it has a safeguarding concern about the health and welfare of the child.
- 2.2.5 Given the lack of clarity in this area, the LA will endeavour to seek the agreement of parents electing to home educate their children to engage with the LA on a monitoring system that will enable it to comply with its statutory duties whilst respecting the parents' decision to provide for their children's education themselves. The LA's procedures in relation to EHE are set out in Appendix 3.

3 Procedure

- 3.1 The LA has Named Officers who lead in matters dealing with EHE, including liaison with schools, parents, attendance officers etc. The Named Officer will be able to provide advice and support as considered appropriate from the time that EHE is first being considered through to its delivery and dealing with any issues that may occur. The Named Officer will also be able to provide assistance in relation to school admission issues if the decision is made at a later stage to readmit the child to school.
- 3.2 Whether parents are considering to home educate a child who has not yet commenced school or one that is currently in school, or they have recently moved to the area, they are advised in the first instance to inform the LA and to make an appointment with the relevant Named Officer for their location.
- 3.3 . The Local Authority has revised its policy and approach to EHE requests and existing cases to ensure it is up to date and responds to new challenges in this area of work.

These new processes are set out in Appendix 'Responding to Elective Home Education Issues (September 2015).' This document describes

the process and timescales the L.A. will seek to put in place upon request to Electively Home Educate a Child.

It recognises the rights of parents, but also ensures the L.A. can satisfy itself that educational, social and any potential safeguarding issues are fully considered.

Appendix 'Existing EHE Cases' describes a Red: Amber: Green (R.A.G.) system which ensures the L.A. can appropriately monitor, track and review all E.H.E. cases and ensure all parties are aware of the issues which might result in the L.A. seeking to review arrangements and involve other parties if this is viewed as appropriate.

These processes and new approach have been shared with Newcastle Local Authority Legal Services; consulted upon with school forums/ networks and ratified by Newcastle Safeguarding Childrens Board (NSCB).

- 3.3.1. Upon receipt of information from school or parent of a request to electively home educate, a named officer will undertake to arrange a meeting within 5 school days to clarify and confirm this request. This meeting will involve parents, school (when appropriate) and other involved agencies (if appropriate) as well as a named L.A. officer or colleague.
- 3.3.2 The meeting will establish the circumstances of the request and determine if the Local Authority is able to agree the request to home educate or consider an alternative course of action (as described in Appendix 3 : Responding to EHE issues).
- 3.3.3 This document clearly sets out the process the LA will take to ensure that EHE requests are appropriate to ensure the needs of the child are met.
- 3.3.4 If there is agreement to the request and partners confirm this, then the child will be removed from the roll of the school and placed upon the EHE register.
- 3.3.5 If the request cannot be agreed, then partners will confirm actions and further processes as required and described in the document (Appendix 2).

3.3.6 Children registered at a school as a result of a School Attendance Order cannot be removed from the roll unless it has first been revoked by the LA on the grounds that arrangements have been made for a suitable education to be provided otherwise than at school and educated at home.

3.3.7 A school should not encourage and a parent should not opt to educate a child at home as a way of avoiding an exclusion or because they have a poor attendance record.

3.4 Procedure 2 – Issues arising during EHE

- Concerns about suitability of the education being provided]

3.4.1 Whilst the LA has no duty to evaluate the quality of education being provided, it must as stated above, intervene where it believes that a suitable education is not being provided. This is a difficult balance for the LA to achieve and it is hoped that parents will cooperate with it from the outset by accessing and considering the suggestions set out in the *Information for Parents* document, on the issues to be considered when embarking on EHE. The LA will refer to this document and parental engagement with it in determining whether or not it has evidence of any failure to provide a suitable education, such as to justify intervention under section 437 Education Act 1996. **THIS DOC WILL SET OUT THE MATTERS YOU HAVE ON PAGE 2 OF YOUR POLICY**

3.4.2 If it appears to the Named Officer at any stage that the educational provision is not suitable, he/she will produce a report on the issues giving cause for concern and any reasons for concluding that the education is unsuitable and will send a copy of it to the parents.

3.4.3 The parents will then have the opportunity to consider the report and to respond to it, making suggestions for improvement as the case may be. If concerns have not been reasonably allayed, an appointment should be made for the Named Officer to visit the home within a month of any request made to do so.

3.4.4 If following that visit, the LA remains of the view that a suitable education is not being provided, and there is no reasonable prospect of that happening, then the Named Officer will refer the matter to the team who will consider whether or not to a) serve a Notice under section 437(1) Education Act 1996 and b) a School Attendance Order⁵.

See documents at Appendix 1 and appendix 2.

⁵ Add statutory reference

- Safeguarding issues
- 3.4.5 The LA respects the rights of parents to elect to educate their children at home. However, in addition to its duty with regards to identifying children who are not in receipt of a suitable education, it also has duties⁶ to safeguard and promote the welfare of children.
- 3.4.6 It is the case that a child who is educated at home is most likely not being seen on a daily basis by non-family members and no longer has regular access to trusted adults with whom to share their concerns about their welfare. Further, it cannot be discounted that parents might choose to educate their child at home in order to confine them there so as to prevent disclosure about abuse. The Named Officer through visits with the family will seek information and reassurance on matters of wellbeing in order to ensure that it is not in breach of any of its safeguarding duties and it is hoped that families will cooperate in this respect. For example, a conversation with a child can be very helpful in determining whether or not the provision of education is suitable or not and in confirming that there are no safeguarding concerns. Conversely, failure to meet with a child once a request has been made, may give cause for concern. It is hoped that children will be given the opportunity to attend any meeting that may be arranged.
- 3.4.7 Named Officers will also be able to offer advice and assistance to parents who wish to engage the services of third parties to deliver education to their children. For example, references should be sought and checked and where a DBS check is sought, this can be arranged free of charge through the LA upon request.

3 Children with Special Educational Needs (SEN)⁷

- 4.1 Parents' right⁸ to educate their children at home applies equally where a child has SEN and irrespective of whether or not they have a statement of SEN/EHC Plan or not. However, where the child does have either a Statement or a Plan, the LA has a duty to ensure that their special educational needs are met. Any home provision must be suitable to the child's age, ability, aptitude and SEN.
- 4.2 Where the LA agrees with the parents that home education is the right provision, it will be noted in the Statement/Plan. In this case, the LA is under a duty⁹ to arrange the SE provision set out in the plan, working

⁶ Section 11 The Children Act 2004 and section 175(1) Education Act 2002

⁷ SEN Code of Practice:0-25 Years 2014

⁸ Section 7 Education Act 1996

⁹ Section 42(2) Children and Families Act 2014

together with the parents and the LA is required¹⁰ to have regard to the views expressed by the child and the parents.

- 4.3 Where the LA has named a school or type of school in the Statement/Plan, but the parents decide to home educate, the LA is not under a duty to make the provision, although it must be satisfied that the arrangements made by the parents are suitable. The statement/Plan will record the type of school that would be suitable but also state that the parents will be making their own arrangements under section 7 Education Act 1996.
- 4.4 A child with a Statement/Plan, who is already on roll in a mainstream school, may be removed by their parents to be home educated, although the Statement/Plan will remain in place and will be subject to an annual review (see below). This will include children who attend an additionally resourced centre (ARC) attached to a mainstream school. The parents must notify the school in writing that the child is being home educated and the school must then remove the child's name from the roll.
- 4.5 A child with a Statement/Plan, who is already on the roll of a special school, may not be removed by their parents to be home educated without the consent of the LA, such consent not to be unreasonably withheld. Again, the Statement/Plan must remain in place and will be subject to an annual review.
- 4.6 The LA retains a duty to maintain the Statement/Plan and to review it at least annually, following the procedures set out in the SEN Code of Practice. The Named Officer will normally attend the annual review. If it appears that the EHE is not meeting the child's needs then the LA will make such enquiries as it considers necessary, although it does not have the right of entry to the family home to check the provision being made. It is hoped that parents will cooperate to the fullest extent possible with the LA in such circumstances, including accessing all appropriate support offered by the LA to help them make suitable provision. It may be that a combination of provision by the parents and the LA best meets the child's needs.
- 4.7 If despite the support offered by the LA, it appears that the child's needs continue not to be met, the LA is required to intervene and will consider whether or not to serve a School Attendance Order.
- 4.8 If it appears that the child's needs are being met by the home provision, without any additional support by the LA, the LA may consider ceasing to maintain the Statement/Plan. This may be done at the annual review or at any other time and parents will be invited to attend.
- 4.9 Some home educated children may have special educational needs but not have a Statement/Plan. The LA will work with parents and consider

¹⁰ Section 19 Children and Families Act 2014

whether they require any additional support into the home to ensure that suitable provision is made. Parents who home educate their children may ask the LA to carry out an assessment, or reassessment, of their needs and this will be done in accordance with the statutory timescales.

Support and Resources

The LA supports EHE through a Named Officer, senior LA staff, teaching staff, access to the Attendance Service, Connexions and the EPS.

Review of this policy

The LA has a responsibility to ensure that the Named Officer and others working in the field will receive continuous professional development opportunities.

The Named Officer will ensure that the LA policy and procedures in relation to children educated at home by their parents/carers is made as widely known as possible to all interested parties. The Policy and accompanying documentation will be available to schools and services and to parents/carers via the LA website. This Policy and accompanying documentation will be reviewed periodically. The Named Officer will endeavour to inform a wide range of “interested” groups – Attendance Officers, Connexions, Family Support, Health, schools, etc. - in order to ensure a range of professionals are aware of EHE procedures, implications, etc. but also to ensure that they can contribute to the on-going dialogue.

There is a local network of LA EHE Officers and at this time the national organisation of EHE officers (the AEHEP) is in its infancy. Newcastle is involved in both groups.

Appendices

Appendix 1

Documents relating to Elective Home Education

Appendix 2

Responding to elective Home Education issues – flow chart

Appendix 3

Existing EHE cases – RAG-rating document highlighting education, safeguarding preparation for future engagement, potential actions and level of contact.