

# **Elective Home Education Policy and Procedure**

**July 2019**

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## **1.0 Introduction**

- 1.1 This policy aims to inform RBWM LA officers, schools, parents, carers and guardians and other related agencies about the policy and procedures to be followed where parents, legal carers or guardians make the choice to educate their children otherwise than at school, usually at home. This practice is known as Elective Home Education (EHE). The term “parent” is used throughout this policy to include all those with parental responsibility.
- 1.2 The policy does not apply to children receiving alternative educational provision from the Local Authority because they are not attending school as a result of illness, exclusion or any other reason.

## **2.0 Policy Statement**

The DfE ‘Elective Home Education Departmental guidelines for Local Authorities, published in November 2007, emphasises the importance of local authorities building “effective relationships with home educators that function to safeguard the educational interests of children and young people: relationships that are rooted in genuine mutual understanding, trust and respect.”

## **3.0 The Law relating to Elective Home Education**

- 3.1 The definition within section 7 of the Education Act 1996 provides that

***“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.”***

This gives parents considerable freedom in determining the scope of education provided.

- 3.2 For EHE children there is no legal definition of what constitutes a “full-time” education, although children in school usually spend between 22 and 25 hours working each week for 38 weeks of the year. Measurement of “contact time” in this way is not relevant in the context of elective home education, where the child often has continuous one to one contact with the educator and the types of educational activity which the child follows may be varied and flexible.
- 3.3 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 birthday).

A child continues to be of compulsory school age until the last Friday of June in the school year that they reach sixteen. As part of “Raising participation age” from 2015 all young people are required to continue in education, which might be through employment and/or training until their 18<sup>th</sup> birthday.

## **4.0 Parental Rights and Responsibilities**

- 4.1 Parents have a legal right to educate their child at home and are not required to have any qualifications or training to provide their children with a suitable education. The 1996 Education Act makes clear that it is a parent's duty to ensure his/her child receives a suitable education. In addition, the Act provides that, generally, children are to be educated in accordance with the wishes of their parents.
- 4.2 There is no legal obligation on parents to provide notification, either in writing, or otherwise, to the local authority, of their intention to home educate. However, it should be noted that until a child is removed from a school roll, the parent is at risk of prosecution for not securing attendance at the school, even if suitable home education is being provided. This means it is in the parent's interest to notify the school in writing of withdrawal for home education.
- 4.3 If a child is enrolled in a special school under arrangements made by the local authority, then consent from the LA is required before they can be removed from roll.
- 4.4 Parents are responsible for writing to the Head Teacher of the child's school informing him/her that they elect to home educate, unless the child is in a special school in which case they are required to seek approval from the LA first.
- 4.5 The type of educational activity can be varied and flexible. Parents are not required to:
- teach the National Curriculum
  - provide a broad and balanced education
  - have a timetable
  - have premises equipped to any particular standard
  - set hours during which education will take place
  - have any specific qualifications
  - make detailed plans in advance
  - observe school hours, days or terms
  - give formal lessons
  - mark work completed by their child
  - formally assess progress or set development objectives
  - reproduce school type peer group socialisation
  - match school-based, age-specific standards
- 4.6 Parents may choose to employ other people to educate their child, though they themselves continue to be responsible for the education provided.

It is recommended that parents ensure that such people are qualified and suitable, including Disclosure and Barring Service (DBS) checks.

- 4.7 Parents assume full financial responsibility for their child's education, including the costs of private tuition, courses and public examinations. However, colleges of FE can claim the cost of course fees on an individual basis for home educated young people aged 14-16 years

## 5.0 The Local Authority's Responsibilities

Article 2 of Protocol 1 of the European Convention on Human Rights states that:

***"No person shall be denied the right to an education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical conviction."***

- 5.1 Local Authorities have a duty under the Education Act 1996 (Section 436A) to identify, as far as is possible, children who are not receiving a suitable education otherwise than being at school (for example at home, privately, or in alternative provision). The Local Authority will therefore make enquiries in all cases where parents are home educating in order to satisfy itself that the child(ren) concerned are in receipt of suitable education; this responsibility is carried out primarily by RBWM's Elective Home Education officer.
- 5.2 A further statutory duty exists, which requires the LA to serve a formal notice under section 437 of the Education Act 1996 if it appears that a child of compulsory school age is not receiving a suitable education. The formal notice requires the parent to satisfy the LA that the child is, in fact, receiving suitable education. If the authority does not accept the evidence it has the power to issue a school Attendance Order requiring the parent to register the child at a named school.

## 6.0 Responsibilities of Schools in RBWM

- 6.1 There is no legal requirement for parents to discuss home education with the school, but if a parent does approach the school to discuss the possibility of home educating, the LA expects the school to respond positively and constructively. If parents are considering home education because of a dispute with the school, the LA expects the school to take all necessary steps to resolve the issue. The school should signpost the parent to the Education Welfare Service for further advice and guidance to enable them to make an informed choice.
- 6.2 The DfE EHE guidelines for LAs 2019 make it explicit that:  
***"Schools must not seek to persuade parents to educate their children at home as a way of avoiding an exclusion or because the child has a poor attendance record. In the case of exclusion, they must follow the relevant legislation and have regard to the statutory guidance.  
If the pupil has a poor attendance record, the school and, if appropriate, the LA should seek to address the issues behind the absenteeism and use the other remedies available to them."***
- 6.3 When a school receives formal written notice from a parent that a child is being withdrawn from school in order to be home educated and the child has ceased to attend the school; the Head teacher should ensure that the pupil's name is removed promptly from the admissions register in accordance with Section 8(1) (d) of the Education (Pupil Registration) (England) Regulations 2006.

- 6.4 Regulation 12 (3) of the Education (Pupil Registration)(England) Regulations 2006 states that  
***“the proprietor” (Headteacher) of the school must make a return to the LA for every such pupil giving the full name of the pupil, the address of any parent with whom the pupil normally resides and the ground upon which their name is to be deleted from the admission register as soon as the ground for deletion is met in relation to that pupil, and in any event no later than deleting the pupil's name from the register”.***
- 6.5 The school must inform the LA immediately when a child is removed from the school roll by sending a copy of the letter written by parents to the allocated EWO for the school. If there is no allocated EWO then the notification needs to be sent to EWS Manager, RBWM, Town Hall, St Ives Road, Maidenhead SL6 1RF
- 6.6 If there is an existing or previous referral to SPA/MASH it is the school’s responsibility to inform RBWM EWS.
- 6.7 The school must retain the child’s school file.

## **7.0 Elective Home Education and Safeguarding**

- 7.1 The welfare and protection of all children, both those who attend school and those who are educated at home, is of paramount concern and the responsibility of the whole community. Section 175 of the Education Act 2002 imposes a duty on the LA to make arrangements for ensuring that the functions conferred on them are exercised with a view to safeguarding and promoting the welfare of children. Similarly, section 10 of the Children Act 2004 describes the importance of promoting cooperation between departments to improve children’s wellbeing and section 11 places a statutory duty on key people and bodies to make arrangements to safeguard and promote the welfare of children.
- 7.2 The EWS and RBWM School Support Service follow RBWM’s Safeguarding procedures regarding any child being educated at home who may be in danger of abuse, neglect or exploitation. RBWM liaise with outgoing/previous school staff to ensure there are no current or historical safeguarding concerns. Any concerns regarding child protection will immediately be referred through the SPA process for an assessment.
- 7.3 During the annual visit or at any other time, cases of suspected or identified abuse, including physical injury, neglect, emotional neglect, continued ill treatment or sexual abuse will be immediately referred to SPA .
- 7.4 Unsuitable or inadequate education can impair a child’s intellectual, emotional, social or behavioural development. Under safeguarding law, if the education being delivered at home is deemed to be a risk to a child’s welfare, then appropriate steps will be followed.

## **8.0 Support, guidance and resources provided by the Local Authority**

8.1 Support, if required, is provided in the form of:

- Discussing the implications of EHE with parents before they make the decision to leave or enter the school system;
- Signposting parents to resources and services
- Publishing written information about EHE that is clear, accurate and sets out the legal position, roles and responsibilities of both the LA and parents;
- Referring to other agencies, such as Early Help Hub (Early Intervention Hub), for support;
- Promoting positive relationships with elective home education families based on mutual understanding, respect and trust in order to safeguard the educational interest of children.

8.2 RBWM embraces diversity and respects individual choice. We recognise that parents of all educational, social, racial, religious and ethnic backgrounds successfully educate children outside the school setting.

## **9.0 RBWM Council's EHE Procedures**

9.1 When the Education Welfare Service receives an enquiry from a parent or carer who is considering home education, they will discuss the reasons for considering EHE to see if any additional support can be put in place. Parents will be given additional information including a section on useful contacts. A direct line will also be given so the parent has a direct point of contact.

9.2 When the Education Welfare Service receives formal confirmation from a school or directly from a parent that a child is being home educated, a letter will be sent to the parents / carers with the above information along with an education proposal form for parents to complete, outlining their proposed education plan. An information gathering sheet will also be sent to the previous school, if applicable, to ensure all relevant and up to date information is obtained.

9.3 The following teams will be contacted for relevant current or historic information, if any, and professionals involved will be informed of the parents' decision to educate at home:

- Children's Social Care
- Special Education Needs Team (CYPDS)  
Early Help Hub  
SPA Team

Any siblings and their current education placement will also be recorded.

9.4 Within 2 weeks, the EWS will notify the RBWM EHE officer by email of the parents' intent, including details of the child to be EHE, and the EHE checklist which details the checks done and correspondence to parents. Any further correspondence received

from parents will be forwarded to the EHE officer. The child will then be added to the EHE database.

- 9.5 The RBWM EHE officer will contact parents to introduce themselves. A visit from an EHE Advisory Teacher will be offered to discuss the child's education at home and to offer the parent support and advice.

Copies of all correspondence and reports are placed on the pupil's EHE file.

- 9.6 The frequency and format of contact will be determined by factors such as the Advisory Teacher or parent identifying concerns about the child's progress and education. Where education is deemed suitable contact will be made annually.

- 9.7 Although the Local Authority has no statutory duty to monitor the quality of home education on a routine basis, contact will be made with parents on an annual basis to request up-to-date information on the education being provided. However, parents are under no duty to respond to this request. The Local Authority's Home Education officers are available to provide more frequent support and advice if required.

- 9.10 The information required of parents who are home educating is not specified in the legislation but it is the perspective of the Local Authority that parents should be able to provide sufficient information within a reasonable period of time that would, on the balance of probabilities, convince a reasonable person that a suitable education is being provided.

- 9.11 The Department for Education guidance for Local Authorities states that, in their consideration of parents' provision of education at home, local authorities may reasonably expect the provision to include the following characteristics:

- Consistent involvement of parents or other significant carers - it is expected that parents or significant carers would play a substantial role, although not necessarily constantly or actively involved in providing education;
- Recognition of the child's needs, attitudes and aspirations;
- Opportunities for the child to be stimulated by their learning experiences;
- Access to resources/materials required to provide home education for the child - such as paper and pens, books and libraries, arts and crafts materials, physical activity, ICT and the opportunity for appropriate interaction with other children and other adults.

- 9.12 Section 6.12 of the government guidelines for LAs states:

***“Information provided by parents should demonstrate that the education actually being provided is suitable and address issues such as progression expected and (unless the home education has only just started) achieved. It should not be simply a statement of intent about what will be provided or a description of the pedagogical approach taken.”***

- 9.13 Parents may exercise their right not to allow the LA access to the home, the child or the child's work. The duty on local authorities to intervene under section 437(1) of the

Education Act 1996 only applies if it appears that parents are not providing a suitable education at home.

Elective Home Education Guidance for Local Authorities (DCSF-2019) Section 6.5 states:

***“Parents are under no duty to respond to such enquiries, but if a parent does not respond, or responds without providing any information about the child’s education, then it will normally be justifiable for the authority to conclude that the child does not appear to be receiving suitable education and it should not hesitate to take the necessary consequent steps.”***

Section 6.10 states:

***“Current case law means that a refusal by parents to provide any information in response to informal enquiries will in most cases mean that the authority has a duty to serve a notice under s.437 where no other information suggests that the child is being suitably educated, and where the parents have refused to answer, the only conclusion which an authority can reasonably come to, if it has no information about the home education provision being made, is that the home education does not appear to be suitable.”***

9.13i **Timeline of informal enquiries made throughout each academic year:**

- **September** – A letter, stating our duty as a Local Authority, and containing an education proposal form for parents to complete and return, will be sent out. Within this, parents will be offered the opportunity to submit their own, alternative proposal report outlining the education being provided if they so wish. Once received, and information provided is sufficient, demonstrating that parents are satisfied that the education being provided is suitable, next contact will be scheduled for the following September.
- **January** – If no response from initial contact was received, a follow up phone call will be made. At this time, a home visit will be offered to discuss the education being provided and to assist with completion of the education proposal form.
- **March** – If contact remains unsuccessful, or if parents refuse to engage with enquiries, and the authority cannot be satisfied that suitable education is being provided, it may have no choice but to serve written notice to the parents.

9.14 **Where formal notice is required:**

The Local Authority acknowledges that home education may provide a challenge to many parents at some stages of providing home education and therefore recognises it is important to build an active dialogue between home educators and the Local Authority to ensure such challenges are addressed.

As stated, whilst there are no statutory duties in relation to the routine monitoring of the quality of home education, under Section 437(1) of the Education Act 1996, local authorities shall intervene if it appears that parents are not providing a suitable education. This section states:

***“If it appears to a Local Authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or***

*otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.”*

**Section 437(2) of the 1996 Act provides that the period shall not be less than 15 days beginning with the day on which the notice is served.**

If it appears to the local authority that a child is not receiving a suitable education contact will normally be made in writing to parents requesting they satisfy the LA that their child is receiving full time education suitable to his/her age, ability and aptitude and to any special educational needs he/she may have. A written report will be made after such contact and copied to the parents stating whether the Authority has any concerns about the education provision and specifying what these are, to give the child’s parents an opportunity to address them. If it believes the arrangements to be unsuitable, the local authority will provide the parent with information, advice and guidance to assist them with addressing such concerns. This will not, however, include any financial support. The Authority may be able to suggest other services that may be useful or may suggest other contacts that can provide advice. The report will suggest timescales and arrangements for future contact to ensure progress has been made. The child will be given the opportunity, but not required, to attend any meeting that may be arranged or invited to express his or her views in some other way. Whilst parents are under no duty to respond to such a request, DfE guidelines comment that: ‘it would be sensible for them to do so’ and refers to the legal case *Phillips v Brown* (1980).

Section 437(3) of the 1996 Act provides for the serving of School Attendance Orders:  
If –

***(a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local authority, within the period specified in the notice, that the child is receiving suitable education,***

***and***

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

- 9.15 A School Attendance Order could be served after all reasonable steps have been taken to try to resolve the situation. At any stage following the issue of the Order, parents may present evidence to the LA that they are now providing an appropriate education and apply to have the Order revoked. If this is refused, parents can choose to refer the matter to the Secretary of State. If the LA prosecutes parents for not complying with the order, then it will be for a court to decide whether the education being provided is suitable and efficient. The court can revoke the Order if it is satisfied that the parent is fulfilling their duty. It can also revoke the order where it imposes an Education Supervision Order.

- 9.16 The Local Authority considers that the taking of the above measures shall be a last resort after all reasonable avenues have been explored to bring about a resolution of the situation.

At any stage following the issue of the Order, parents may present evidence to the Local Authority (or the court) that they are now providing a suitable and appropriate education and apply to have the Order revoked.

## **10.0 Elective Home Education and Special Needs**

- 10.1 Local authorities have a duty under section 22 of the Children and Families Act 2014 to try to identify all children in their areas who have SEN. This includes home educated children.
- 10.2 Parents' right to educate their child at home applies equally where a child has special education needs [Section 319 of the Education Act 1996]. Where it is known that a child has an Education, Health and Care plan, and the parent wishes to remove the child from the school roll for elective home education, the parents will be written to advising them of the process. Included in this letter will be the EHE Information Leaflet and the Useful Contacts.
- 10.3 The LA has a duty to maintain the Education, Health and Care Plan (EHCP) and review it annually, so long as it remains relevant, following the procedures set out in Chapter 9 of the Special Educational Needs Code of Practice 2014. EHC plan review meetings will be convened and chaired by the SEND Assessment Coordinator. The LA will make it clear to parents that they are welcome to attend, but are not obliged to do so.
- 10.4 If the child is on the roll of a special school, the child's name may not be removed from the school register without the LA's consent, or if the LA refuses to give its consent, at the Secretary of State's direction [Regulation 8(2) Education (Pupil Registration) (England) Regulations 2006].
- 10.5 In order to assess whether home provision meets the needs of the EHC plan parents may be asked to provide information such as lesson plans and completed work regarding the home education provision linked to the EHC plan. The LA will only be relieved of its duty to arrange the provision specified in the child's EHC plan if it is satisfied that the parents' arrangements are suitable.
- 10.6 If the LA is satisfied with the parents' arrangements it will continue to have a duty to maintain and review the EHC plan annually until: it decides to cease the EHC plan; or the EHC plan automatically lapses; or the EHC plan is transferred to another Local Authority. The LA does not have to name a school in the child's EHC plan, though it should state the type of school it considers appropriate and go on to state that "parents have made their own arrangements under section 7 of the Education Act 1996".

- 10.7 If the LA is not satisfied with the parents' home provision, it will not be absolved of its responsibility to arrange the provision in the child's EHC plan. Where the child remains registered at a special school, he/she will be expected to return to that school. If they do not return the SEN Officer will consider whether to refer the matter to the Education Welfare Service for prosecution under section 444 of the Education Act 1996.
- 10.8 If the SEND Manager decides the EHC plan should remain in place, the EHC plan will be maintained and reviewed annually and amended where necessary. The annual review will be arranged by the EHCP Assessment Coordinator.
- A decision will be made at the review as to whether the educational needs, as stipulated in the EHC plan, are being met.
  - In the event that the LA is not satisfied, a second visit will be coordinated, at a mutually agreeable date, to collect agreed evidence.
  - If the evidence is not made available at the second meeting the EHCP Assessment Coordinator will then name an educational provision which can meet the needs and the parents will be informed of their duty to ensure that the young person attends.
- 10.9 Therapy provision, if stipulated in the EHC plan, should be accessed through the GP and professionals invited to contribute to the annual review.
- 10.10 A parent who is educating their child at home may ask the LA to carry out a statutory assessment of their child's special educational needs and the LA will consider the request within the same statutory timescales and in the same way as for all other requests.

#### **11.0 Elective Home Education and Gypsy, Roma and Traveller (GRT) Communities**

- 11.1 RBWM is sensitive to the distinct culture, ethos and needs of Gypsy, Roma and Traveller communities. GRT parents have the same right to educate their children at home as other families and will be treated in exactly the same way as any other families. The LA will take a broad and holistic view of the education being provided with reference to their communities' culture and lifestyle, when considering the suitability of the education.
- 11.2 The EHE officer will liaise with the School Support team to request a joint initial home visit with the GRT Advisory Teacher. This will ensure that GRT families have full access to advice and guidance on establishing suitable educational provision for their children.
- 11.3 The duty of the LA to act, if children are not receiving a suitable education, applies equally to Traveller children residing with their families on temporary or unauthorised sites and to settled travellers. RBWM seeks to positively assist Traveller families (in the same way as other families) who do not appear to be providing a suitable education for their children, before taking action.

#### **12.0 Roles, Responsibilities and Monitoring**

- 12.1 EHE Pupils and database sits within the responsibility of the EHE officer with support from The Education Welfare Service. The EHE officer and EWS may delegate responsibility for EHE visits to other colleagues within the department if additional capacity is required.
- 12.2 The role of the EHE and EWS teams is to establish and maintain contact with families educating their children at home and to offer parents appropriate advice and support in the best interests of their children.
- 12.3 Both teams must ensure that all reasonable care is taken to ensure their safety, be advised by any risk assessment information and report any concerns over health, welfare and safety issues to the MASH Team.
- 12.4 EHE / EWS and Traveller Education will meet regularly, at least quarterly to discuss and review cases. Action plans will be agreed where necessary.

### **13.0 Review and Evaluation**

This policy and procedure is reviewed annually.

Date of next review: September 2020

## References

- Children Act 2004 [www.legislation.gov.uk/ukpga/2004/31/contents](http://www.legislation.gov.uk/ukpga/2004/31/contents)
- Education Act 1996 [www.legislation.gov.uk/ukpga/1996/56/contents](http://www.legislation.gov.uk/ukpga/1996/56/contents)
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- Elective Home Education Departmental guidance for Local Authorities (April 2019) [www.education.gov.uk/schools/pupilsupport/parents/involvement/homeeducation/a0073367/elective-home-education-guidelines](http://www.education.gov.uk/schools/pupilsupport/parents/involvement/homeeducation/a0073367/elective-home-education-guidelines)
- Elective Home Education Guidelines for Local Authorities (November 2007)
- Special Educational Needs Code of Practice 2015 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/398815/SEND\\_Code\\_of\\_Practice\\_January\\_2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/398815/SEND_Code_of_Practice_January_2015.pdf)
- The Education (Pupil Registration) (England) Regulations 2006 [www.legislation.gov.uk/uksi/2006/1751/contents/made](http://www.legislation.gov.uk/uksi/2006/1751/contents/made)

## Acronyms and Glossary

<b>Term</b>	<b>Definition</b>
CYPDS	Children & Young People Disability Service
DfE	Department for Education
EHCP	Education Health Care Plan
EHH	Early Help Hub (Early Intervention Hub)
EWO	Education Welfare Officer
EWS	Education Welfare Service
FE	Further Education
GRT	Gypsy, Roma & Traveller
I(C)T	Information (and Communications) Technologies
LA	Local Authority
MASH	Multi Agency Safeguarding Hub
RBWM	Royal Borough of Windsor & Maidenhead
SEN(D)	Special Educational Needs (& Disabilities)
SPA	Single Point of Access