



SERVICES TO HOME EDUCATORS Procedures

This document has been produced to clarify the Local Authority's statutory duty regarding children who are educated other than at school.

This document needs to be considered in conjunction with the DfE guidance ['Elective Home Education: Guidelines for Local Authorities'](#) as amended in 2019, Norfolk County Council's Children Missing Education procedures and relevant Norfolk Safeguarding Children Board policies.

This document will be published on the Norfolk County Council website for consultation to members of the elective home education community in Norfolk in December 2014.



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Elective Home Education

Introduction

- 1.1 This document applies to those children whose parents have chosen to educate their children at home. The document sets out parents rights and responsibilities to educate their children at home, the current legal position and outlines Norfolk County Council's procedures in respect of these matters.
- 1.2 Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe the education provided by parents or carers at home, rather than providing education for their children by sending them to school. This is different to home tuition provided by a Local Authority or education provided by a local authority other than in school.
- 1.3 Home education is an option that any family may consider for their child. The reasons for deciding on this approach are varied, as are the styles of education undertaken. For some families it is a decision based on their philosophical, spiritual or religious outlook, for others it is to meet the specific needs of a child or children. It may be because of dissatisfaction with 'the system' or used as a short-term measure for a particular reason. Whatever the circumstances, the Local Authority aims to work closely with and support parents in their choice.
- 1.4 In compiling this document the Local Authority has drawn heavily on the information and guidance provided by the DfE and other local authorities, specifically that of Staffordshire County Council. The responses to a consultation to be undertaken in 2014 will be used to inform the final version of this document.

Principles

- 2.1 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.

Furthermore respect is only due to convictions on the part of the parents which do not conflict with the fundamental right of a child to education.

[B.N and S.N v Sweden No 17678/91]

- 2.2 The aim of Norfolk County Council is to work in partnership with parents who electively home educate to develop effective and supportive partnerships based on the following principles:
 - Every child has the right to education that is suitable to their age, ability, aptitude and any special educational needs they may have.
 - Parents/carers who home educate their child have the responsibility to ensure their child is suitably educated; this is one that primarily equips a child for life within the community of which s/he is a part of and one which prepares them for life in a modern civilised society, enables them to achieve their full potential and be prepared for independence in adulthood¹.
- 2.3 In order to achieve this Norfolk County Council seeks to ensure that its procedures on Elective Home Education are clear, consistent and non-intrusive. We have named

¹ Harrison & Harrison v Stephenson (1981)

officers within our Services to Home Educators Team who have responsibility for implementing these procedures.

Elective Home Education and the Law – a ‘suitable’ education:

3.1 The responsibility for a child's education rests with his or her parents. In England, education is compulsory, but school is not and parents have a right to educate their children at home. Parents are not required to register or seek approval from the LA to educate their children at home but they must ensure that their children receive suitable full-time education for the duration of home education. 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."

3.2 An "efficient" and "suitable" education is not defined in the Education Act 1996 but "efficient" has been broadly described in case law as an 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.*"² Full-time does not mean being bound by school hours and terms, as this measurement of contact time is not relevant to home education where there is often almost continuous one-to-one contact.

Parental Rights & Responsibilities

4.1 Parents may decide to exercise their right to home educate their child from a very early age and so the child may not have been previously enrolled at school. They may also elect to home educate at any other stage up to the end of compulsory school age.

4.2 Where a child has been registered at school, parents are required to notify the school in writing when withdrawing a child for the purposes of elective home education. This is to confirm that provision is being made for the child's education otherwise than at school and requesting removal from the school's roll (see Section 5 for more detail).

4.3 Parents are not required to register or seek approval from the local authority to educate their children at home. However, parents must obtain the consent of the local authority to de-register pupils placed at a special school under arrangements made by a local authority. Where a child is registered at a school as a result of a school attendance order parents must ask the local authority to revoke the order.

4.4 Parents are required to provide an efficient, full-time education suitable to the age, ability and aptitude of the child. There is currently no legal definition of "full-time".

4.5 The type of educational activity can be varied and flexible. It is recognised that home-educating parents are not required to:

- teach the National Curriculum
- provide a broad and balanced curriculum
- have a timetable
- have premises equipped to any particular standard
- set hours during which education will take place
- have any specific qualifications

² Mr Justice Woolf in the case of R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust (12 April 1985)

- make detailed plans in advance
- observe school hours, days or terms
- give formal lessons
- mark work done by their child
- formally assess progress or set development objectives
- reproduce school type peer group socialisation
- match school-based, age-specific standards
- Undertake work experience

4.6 Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the cost of any public examinations.

4.7 Further Education Provision Funding; from September 2013 the Government have allocated funding for home educated young people aged 14-16 for full and part-time accredited courses.

Withdrawal from school to home educate

5.1 First contact between the local authority and home educators often occurs when parents decide to home educate and approach the school (at which the child is registered) and/or the authority to seek guidance about withdrawing their child from school. Parents should be made aware that school should not encourage them to choose home education due to poor school attendance or the risk of exclusion. It is important that this initial contact is constructive and positive. Whilst parents must inform the school in writing of their decision, they are not legally required to inform the local authority about their intentions unless they wish to remove a child from a special school or the child is subject to a School Attendance Order or Education Supervision Order.

5.2 The Education (Pupil Registration) Regulations (2006) place a duty on Headteacher's to inform the Local Authority of any pupil who is going to be deleted from the admission register where they have been taken out of school by their parents and are being educated at home. In accordance with the Regulations, this return to the Local Authority should be made 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.

5.3 Schools can only delete a pupil's name from the admission register when a parent has confirmed to them in writing that it is their wish now educate their child at home. When the letter has been received, schools should notify the LA by completing both a [CME1](#) form in line with LA procedures *and* the [Services to Home Educators Referral Form](#). The school should also provide Services to Home Educators with a copy of the letter received from the parents outlining their intention to home educate.

5.4 If a child is registered at a school as a result of a school attendance order the parents must get the order revoked by the local authority on the ground that arrangements have been made for the child to receive suitable education otherwise than at school, before the child can be deleted from the school's register and educated at home. Any decision in respect of the revocation of a school attendance order shall only be made after suitable enquiries by the allocated Attendance Improvement Officer and the Lead Teacher, Services to Home Educators to establish that suitable arrangements are in place.

5.5 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 statutory guidance. If the pupil has a poor attendance record, the school must seek to address the issues behind the absenteeism and use the other remedies available to them. Any concerns regarding school practices in relation to these matters will be raised with the Headteacher of the school and taken forward as appropriate.

5.6 “Flexi-schooling” or “flexible school attendance” is an arrangement between the parent and the school where the child is registered at school and attends the school only part of the time; the rest of the time the child is home educated. This is a matter for schools rather than the local authority to negotiate with parents. Children who are flexi-schooled will remain on roll at school and monitoring of these arrangements will not form part of the remit of Services to Home Educators. [The LA Guidance](#) on flexi-schooling provides further guidance on these arrangements.

Local Authorities’ Responsibilities:

- 6.1 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 Norfolk County Council’s Services to Home Educators.
- 6.2 When the local authority first becomes aware that parents have elected for home education, initial contact will be made in writing by Services to Home Educators in order to establish what provision is being made. A meeting will then be offered to discuss the education being provided in more detail. Many people find a home visit helpful, but parents may wish to meet at another venue, with or without their child. Alternatively they could write a brief report to let the authority know the provision that they are making. A Proposal Form is available to help with this which forms part of the welcome pack sent to families. Services to Home Educators accepts that in the early stages, parents may not yet be in a position to respond fully to enquiries. In such cases a reasonable timescale for responding will be agreed with the parents.
- 6.3 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 Services to Home Educators officers are available to provide more frequent support and advice if required.
- 6.4 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.
- 6.6 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.
- 6.7 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. If it appears to the local authority that a child is

not receiving a suitable education it will make informal enquiries about the child's education. Contact will normally be made in writing to parents to request further information. 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 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).

6.8 In the instance outlined above, some parents may welcome the opportunity to discuss the provision that they are making for the child's education during a home visit but parents are not legally required to give the local authority access to their home. They may choose to meet a Services to Home Educators representative at a mutually convenient and neutral location instead, with or without the child being present, or choose not to meet at all. Where a parent elects not to allow access to their home or their child, this does not of itself constitute grounds for concern about the education provision being made. Where we are unable to visit homes, we should, in the vast majority of cases, be able to discuss and evaluate the parents' educational provision by alternative means. If they choose not to meet, parents may be asked to provide evidence that they are providing a suitable education. Parents might prefer, for example, to write a report, provide samples of work, or provide evidence in some other appropriate form.

6.9 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.

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.

6.10 Should the local authority have cause to take this action, Services to Home Educators will complete a Children Missing Education form and refer the matter to Children's Service attendance staff for further action.

6.11 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.

Children with Special Educational Needs

7.1 Parents' right to educate their child at home applies equally where a child has special educational needs (SEN). This right is irrespective of whether the child has an Education Health Care Plan or not. Parents need only provide an efficient, full-time education suitable to the age, ability and aptitude and to any special educational needs the child may have as defined in Section 7 of the Education Act 1996.

7.2 Local authorities do not have a duty under section 22 of the Children and Families Act 2014 to assess every home educated child to see whether or not they have SEN. The high needs block of the Dedicated Schools Grant is intended to fund provision for all relevant children and young people in the authority's area, including home educated children. Local authorities should fund the SEN needs of home educated children where it is appropriate to do so. Guidance is available to local authorities from the Department of Education on funding provision for home educated children.

7.3 In cases where local authorities and parents agree that home education is the right provision for a child or young person with an EHC plan, the plan should make clear that the child or young person will be educated at home. If it does then the local authority, under Section 42(2) of the Children and Families Act 2014, must arrange the special education provision set out in the plan, working with the parents. Under Section 19 of the Act, a local authority must have regard to the views, wishes and feelings of the child and his or her parents, or the young person.

7.4 For a child with an Education Health Care Plan who is registered at a mainstream school, the school will remove the pupil from roll in the same way as for children who are not the subject of a statement of special educational needs, following receipt of written confirmation from the parent that educational provision is being made otherwise than at school.

7.5 If a child is registered at a special school under arrangements made by the local authority the parent cannot de-register them to be home educated without the consent of the local authority.

7.6 Where a child has an Education Health Care Plan (EHCP) and is home educated, it remains the local authority's duty to work in partnership with parents to ensure that the child's needs are met. It is the authority's duty to arrange the provision specified in the EHC plan, unless the child's parent has made suitable provision, for as long as a plan is maintained. The LA remains under a duty to maintain the EHC plan and review it annually. There will need to be consultation with parents to ensure that the needs identified in the plan are being met. Further information and guidance may be found in the '*Special educational needs and disability code of practice: 0 to 25 years*', 2014 (paragraphs 10.30-10.38).

7.7 In cases where local authorities and parents agree that home education is the right provision for a child or young person with an EHC plan, the plan should make clear that the child or young person will be educated at home. If it does then the local authority, under Section 42(2) of the Children and Families Act 2014, must arrange the special educational provision set out in the plan, working with the parents. Under Section 19 of

the Act, a local authority must have regard to the views, wishes and feelings of the child and his or her parents, or the young person.

7.8 In some cases a local authority will conclude that, even after considering its power to provide support to home educating parents, the provision that is or could be made for a child or young person with an EHC plan does not meet the child or young person's needs. The local authority is required to intervene through the school attendance order framework 'if it appears...that a child of compulsory school age is not receiving suitable education'. The serving of a school attendance order is a last resort if all attempts to improve provision are unsuccessful. 'Suitable education' means efficient full-time education suitable to the child or young person's age, ability and aptitude and to any SEN he or she may have.

Safeguarding Children

8.1 *Working Together to Safeguard Children 2013* states that, all agencies and individuals should aim proactively to safeguard and promote the welfare of children. Local authorities have a duty under section **175(1) of the Education Act 2002** to safeguard and promote the welfare of children. This section states:

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

Section 175(1) does not extend local authorities' functions. It does not, for example, give local authorities powers to enter the homes of, or otherwise see, children for the purposes of monitoring the provision of elective home education. These powers *do* however allow local authorities 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).

8.2 The local authority understands that early help is most effective in promoting the welfare of children rather than being reactive to situations. In consultation with parents and the child (where appropriate), the local authority may identify targeted services through the use of a Family Support Process which may be able to contribute to promoting the individual needs of the child.

8.3 If any child protection concerns come to light in the course of engagement with children and families, or otherwise, these concerns will immediately be referred to the Multi-Agency Safeguarding Hub (MASH) for further consideration appropriate authorities in accordance with Norfolk Safeguarding Children Board procedures

8.4 In every instance the local authority will not act without prior consent from the parents unless the local authority deems a child to be at risk of significant harm.

8.5 Parents who choose to employ other people to educate their child(ren) are also responsible for ensuring that those whom they engage are suitable persons to have access to their children. It is recommended that parents should satisfy themselves by taking up appropriate references and/or requesting a potential tutor to consent to a Disclosure and Barring Service check.

Monitoring & Data Collection

9.1 The Local Authority is responsible for recording and reporting key data relating to children who are electively home educated. This data is subject to the Data Protection Act 1998 for personal and sensitive data and the Freedom of Information Act 2002 for all other data. The Local Authority will comply with all relevant statutory and regulatory requirements

Policy Review

10.1 The local authority will review these guidelines and practice in relation to home education on a regular basis. The initial review will be within 12 months of the first date of publication, and thereafter at least every two years. Home education organisations and parents will be involved in the process of review in order to ensure the most effective practice and strengthen partnerships.

Contacts/useful addresses

11.1 Services to Home Educators is a small team that sits within the Education Exclusions Service.

11.2 The Team consists of one full-time Lead Teacher, two part-time Business Support Assistants and one full-time Services to Home Educators Officer. Enhanced DBS checks are mandatory for all SHE officers and specific training will be delivered in relation to elective home education, Safeguarding Children, Family Support Process, and Health & Safety including lone worker arrangements.

11.3 The EHE team will explore the options for access/signposting to other local authority services and facilities, within available resources, and will also seek to ensure children have appropriate access to services and facilities from other agencies such as health that would generally be delivered via school.

11.4 The role of the SHE Team is not to tell parents how to educate their children or to promote registration at school. It is to respond to families who electively home educate to establish that a child is receiving a full-time education suitable to his or her age, ability and aptitude and, where appropriate, provide support and information for parents. The team can be contacted by telephone on 01603 307733. The team can be contacted by phone during the hours of 9:30am to 5:00pm Monday to Thursday, and 9:30am to 04:30pm on Friday. Please be aware that there will only be business support staff available during school holidays. Contact can also be made by email: servicestohomeeducatorsadmin@norfolk.gov.uk and further information can also be found on the Elective Home Education page of the Norfolk County Council website.

11.5 There are many websites that provide information for anyone considering EHE – some links to such sites are provided below:

- Education Otherwise: www.educationotherwise.org/
- Staffordshire Home Education: www.staffordshire.gov.uk/education
- Ed Yourself: edyourself.org
- A Home Education: www.ahomeeducation.co.uk/
- Home Education Advisory Service: <https://www.heas.org.uk/>
- Department for Education: www.education.gov.uk
- Home Education in the UK – Special Educational Needs: www.he-special.org.uk/