



# SERVICES TO HOME EDUCATORS Procedures

Should you wish to contact the team, please email the EHE Business Support Officers at [EHE@norfolk.gov.uk](mailto:EHE@norfolk.gov.uk)

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 2021.



## Contents

Introduction .....	3
Principles.....	4
The Law relating to Elective Home Education.....	5
Parental Rights & Responsibilities .....	6
Responsibilities of schools in Norfolk .....	8
Local Authorities' Responsibilities .....	10
Children with Special Educational Needs.....	14
Safeguarding Children.....	15
Monitoring & Data Collection.....	17
Norfolk County Council's EHE Procedures .....	17
Policy Review.....	19
Contacts/useful addresses .....	19

# Elective Home Education

## Introduction

- 1.1 The purpose of this document is to outline the legal position and Norfolk County Council's (NCC) procedures relating to elective home education of children/young people of compulsory school age. 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 These procedures have been drafted within the context of the following:

Children Act 1989

<https://www.legislation.gov.uk/ukpga/1989/41/contents>

Education Act 1996

<https://www.legislation.gov.uk/ukpga/1996/56/contents>

Education Act 2002

<https://www.legislation.gov.uk/ukpga/2002/32/contents>

Elective Home Education: Departmental Guidelines for Local Authorities (DfE updated April 2019)

<https://www.gov.uk/government/publications/elective-home-education>

Working Together to Safeguard Children (updated December 2020)

<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

Information and Policies of other Local Authorities including Suffolk County Council and Kent County Council

Children Missing Education: Statutory guidance for local authorities (DfE, updated September 2016)

<https://www.gov.uk/government/publications/children-missing-education>

'Support for Home Education', House of Commons Education Select Committee Report (Dec. 2012), Volumes I and II

<https://publications.parliament.uk/pa/cm201213/cmselect/cmeduc/559/559.pdf>

Children and Families Act 2014

<https://www.legislation.gov.uk/ukpga/2014/6/contents/enacted>

Special educational needs and disability code of practice: 0 to 25 years (updated DfE April 2020)

<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>

OFSTED Inspection Handbook (updated July 2021)

<https://www.gov.uk/government/publications/education-inspection-framework>

1.4 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, Norfolk County Council's Services to Home Educators team aims to work closely with and support parents in their choice.

## 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]

Section 7 of the Education Act 1996 requires that all parents have an equal duty to secure an appropriate full-time education for their children that is suitable for their child's age, ability, and aptitude, and to any special educational needs they may have. Parents can do this either by their child's regular attendance at school or 'otherwise'. Some parents choose to do this by educating their child at home.

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 an education 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 adulthood.

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

## The Law relating to Elective Home Education

3.1 The responsibility for a child's education rests with their parents. In England, education is compulsory, but school is not. The vast majority of parents meet their statutory duty by sending their children to school. A relatively small number of parents exercise their right to educate their children at home.

In education law 'parent' is defined in Section 576 of the Education Act 1996 as:

- all natural (biological) parents, whether they have parental responsibility or not;
- any person who, although not a natural parent, has parental responsibility for a child (this could be a step-parent, guardian or other relative);
- any person who, although not a natural parent, has care of a child. This is where they are a person with whom the child lives and who looks after the child, irrespective of what their relationship is with the child.

Section 7 of the [Education Act 1996](#) provides that:

"The parent of every child of compulsory school age shall cause him to receive efficient fulltime 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 Compulsory school age begins on the next prescribed day following a child's fifth birthday (or on their fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March, and 31 August each year. A child continues to be of compulsory school age until the last Friday of June in the school year that they reach the age of sixteen.

3.3 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."

3.4 Elective home education must contain some element of supervision, and case law has confirmed that, unless there are clear reasons why it is not possible for that child, for example due a medical condition or disability, it is essential that it must include the child gaining the abilities of reading, writing and arithmetic (also known as 'functional literacy and numeracy').

3.5 There is currently no legal definition of what '*full-time*' education is. The DfE notes that children in mainstream schools normally receive between 4.5 -5.0 hrs per day for approximately 190 days per year. The Local authority accepts that EHE can be varied and flexible, but education which is not occupying a significant proportion of the child's life (making allowance for holidays) will probably not be sufficient. Therefore, the LA would expect parents to be able to provide an indication of the number of hours per week and weeks per year of the education being provided. This information will be used by the LA to help establish if the education being provided is full time and suitable.

## 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 (the last Friday of June in the school year that they reach the age of sixteen).

Parents are not required to register or seek approval from the LA to educate their children at home, unless

- a) the child has an Education Health and Care Plan (EHCP) which names a special school as the required placement, or
- b) where there is a school attendance order requiring the child to be educated in a named school.

However, before deciding to commence elective home education, Norfolk County Council does encourage parents to contact the NCC Services to Home Educators team for a discussion on what is involved (see NCC EHE Procedures section for contact details).

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 to request removal from the school roll (see Section 5 for more details).

4.3 Where a child or young person is a registered pupil at a special school and the parent decides to home educate, before the child's name can be removed from the school roll, the Norfolk County Council must give consent for the child's name to be removed. The DfE guidance notes this should not be a lengthy or complex process, but this does not remove the need for the Local authority to be satisfied that the parent's proposed EHE is suitable for the child's SEN (more details on this are in the section on children with SEN below).

4.4 Where a child is registered at a school as a result of a School Attendance Order (SAO) parents must ask the local authority to revoke the order before the child can be removed from the school roll.

4.5 Parents 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 their child receives suitable full-time education in accordance with section 74. In addition, the Act provides that, generally, children are to be educated in accordance with the wishes of their parents.

4.6 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". Norfolk County Council NCCthe NCC Services to Home Educators team

4.7 Although parents must provide education in accordance with section 7 of the Education Act 1996, the type of educational activity can be varied and flexible.

Recommendations parents may like to consider, but are not required to, include:

- 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
- 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

Parents may arrange for other people to tutor their child, though parents 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.

4.8 In line with the most recent government guidance (April 2019), NCC would expect parents' provision of education at home to include the following characteristics:

- consistent involvement of parents or other significant carers
- access to functional literacy and numeracy
- recognition of the child's needs, attitudes, and aspirations
- opportunities for the child to be stimulated by his or her learning experiences
- access to resources/materials required to provide home education for the child.

4.9 Parents may arrange for other people to tutor their child, though parents 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.

4.10 NCC recognises that there are many equally valid approaches to educational provision. What is suitable for one child may not be for another, but all children should be involved in a learning process. Therefore, NCC will focus on the expected outcomes of the learning process as an indication of the suitability of education being provided.

4.11 In some cases parents disagree as to whether home education is desirable or being provided properly. This is a private matter between the parents. The local authority cannot take the side of any parent, unless there is a Family Court Order which limits the duties and/or responsibilities of a particular parent in respect of their child's education. However, this dispute would not remove the local authority's duties towards the child to ensure they are receiving a full-time suitable education. Therefore, if the parents cannot sort out the dispute between themselves, then the recommendation would be for the parents to seek independent legal advice.

4.12 Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the costs of private tuition, courses, and public examinations.

4.13 Further Education Provision Funding; from September 2013, the Government have

allocated funding for home educated young people aged 14-16 for specific full and part-time accredited courses. These individual arrangements are not brokered through the Local authority but directly between parents and those colleges/providers.

- 4.14 “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.
- 4.15 NCC accepts that in the early stages, parents may not yet be able to respond fully to enquiries. In such cases, a reasonable timescale for responding will be agreed with the parents.

## Responsibilities of schools in Norfolk

- 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. If parents inform schools that they are considering home education, it is important that schools and parents are fully apprised of the expectations and implications of home educating before committing to making this important decision. NCC would expect the school to respond positively and constructively and to **signpost the parent to the Services to Home Educators team** for further advice and guidance to enable them to make an informed choice. Information can be found at: <https://www.norfolk.gov.uk/education-and-learning/home-education>
- 5.2 The departmental guidance for local authorities April 2019 (10.4) makes it explicit that: ‘Schools should 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, local authority should seek to address the issues behind the absenteeism and use the other remedies available to them.’

The Local authority will contact electively home-educating parents who remove their child from a school roll. If it is found that a parent has been ‘encouraged’ by a school to remove their child from roll for the purposes of elective home education, this will be challenged, and the child reinstated on roll when appropriate with parental consent, whether the vacant place has been filled or not.

When a parent reports that they have been encouraged to remove their child from roll for the purposes of elective home education and then finds that they are unable to cope with the commitment, the expectation is that the Fair Access Panel will name the previous school for placement. This does not negate the parents right to apply and appeal for a place of their preference alongside this process, where a parent considers the relationship with the ‘home school’ has broken down.

- 5.3 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.

- 5.4 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 Headteacher should ensure that the pupil's name is removed promptly from the admissions register in accordance with Education (Pupil Registration) (England) (Amendment) Regulations 2016. Section 5, paragraph 6.
- 5.5 The Education (Pupil Registration) Regulations (2006) place a duty on Headteachers 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.
- 5.6 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 to 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.
- 5.7 If a child is registered at a school as a result of a school attendance order, the parents must get the order revoked by Norfolk County Council 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 EHE Adviser to establish that suitable arrangements are in place.
- 5.8 "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.

## **Parental Rights, Responsibilities and Considerations**

- 6.1 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 it clear that it is a parent's duty to ensure their child receives suitable education in accordance with section 74. In addition, the Act states that, generally, children are to be educated in accordance with the wishes of their parents. Parents are not required to inform NCC that they intend to elect or have elected to home educate. They are not required to seek approval from the Local authority, unless the child has an Education, Health and Care Plan (EHCP) and attends a special school.

Parents whose child possesses an EHCP and is enrolled at a school, are advised to write to the Headteacher to inform them that they elect to home educate, unless:

- a) the school is a special school named on the child's Education, Health & Care Plan, in which case parents are required to seek approval from NCC first
- b) where a child is enrolled at a school in accordance with a school attendance order (SAO) whereby the authority must revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll.

Parents whose child is not enrolled at a school have no obligation to inform NCC that they are home educating their child, however the Local authority encourages contact with all home educating families and may make enquiries with the parents.

Parents who elect to home-educate assume full financial responsibility for their child's education, including the costs of private tuition, courses and public examinations. However, colleges 4 Section 7 of the 1996 Act requires parents to provide an efficient, full time education suitable to the age, ability and aptitude of the child and any special educational needs which the child may have 5 can claim the cost of course fees directly from the Education Skills Funding Agency on an individual basis for home educated young people under 16, when parents and colleges are able to reach suitable individual arrangements. These individual arrangements are not brokered through the Local authority but directly between parents and colleges.

## **Local Authorities' Responsibilities**

- 7.1 Norfolk County Council is supportive of parents who opt to educate their child at home. Ultimately it wishes to see every child reach their full potential and be available for parents who share this aim and have chosen to approach it through home education.

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.*

- 7.2 Norfolk County Council has 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.

- 7.3 When the local authority first becomes aware that parents have elected to home educate, initial contact will be made in writing by Services to Home Educators to offer support and highlight key contacts. A phone call is made and a letter giving information and officer details in order to establish what provision is being made and offer support at a later point. A meeting may then be offered to discuss the education being provided in more detail.

An information form is available as part of the welcome pack sent to families to help with this. 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 they are making. 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.

7.4 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. The local authority's Services to Home Educators officers are available to provide more frequent support and advice as required, including procedures to 'check in' with families across the year as a point of reference for contact and support.

7.5 There are many different "ways of educating" and it is appropriate that parents and children choose a type of education that is right for them. The role of Services to Home Educators is to respond to concerns that a child is not receiving suitable education for his or her age, ability, and aptitude and, where appropriate, to provide support and information for parents. NCC sees its role in relation to home education as part of its wider responsibilities, including safeguarding, to all the children in its area. It is not the role of Services to Home Educators to tell parents how to educate their children.

7.6 The information required of parents who are home educating is not specified in the legislation, but it is the perception of NCC 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. NCC acknowledges that parents may be faced with a range of challenges within a child's period of elective home education and therefore recognises it is important to build an active dialogue between home educators and the local authority to ensure support is given and challenges are addressed.

7.7 In 2001 the Committee on the Rights of the Child, the body of experts that monitors the implementation of the Convention, published a paper (called a General Comment) that explains and elaborates on the right to an education.

General Comment 1 - Annex 9 states: 'article 29 (1) underlines the individual and subjective right to a specific quality of education'.

Education must include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner and develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents, and other abilities which give children the tools needed to pursue their life options

(NCC acknowledge that the UN Convention of the Rights of the Child must be seen as a whole and that articles 28 and 29 should not be looked at or considered in isolation).

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

7.8 A further statutory duty exists, which requires NCC 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 Local authority that the child is in fact receiving suitable education. If NCC does not accept the evidence and is not satisfied that the child is receiving a suitable education, it has the power to commence the statutory process for the issue of a School Attendance Order ('SAO') requiring the parent to register the child at a named school.

Section 437(1) of the Education Act 1996 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 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 a suitable education, and 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.

7.9 Where it appears to the Services to Home Educators team that a suitable education is not taking place, reasonable steps will be taken by NCC before the SAO process is commenced. Contact will normally be made in writing to parents to request further information about the child's education. A written report will be made after such contact and copied to the parents stating whether NCC has any concerns about the education provision and specifying what these are, to give the child's parents an opportunity to address them.

7.10 If it believes the arrangements to be unsuitable, NCC will provide the parent with information, advice, and guidance to assist them with addressing such concerns. This will not, however, include any financial support. NCC 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).

7.11 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; they may prefer to discuss via phone or video call 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.

7.12 Where no other information suggests that the child is being suitably educated, because there is no information provided, and/or where the parents have refused to respond to NCC, the only conclusion that an authority can reasonably come to, is that home education is not suitable.

7.13 After the agreed timescales for improvement, if the education is still believed to be unsuitable, Services to Home Educators will complete an email and refer the matter to Children's Service Attendance Staff. The case will then be allocated to a CMEO (Child Missing Education Officer) or AEO (Attendance and Entitlement Officer) depending on the circumstances on the case, e.g., if provision was considered unsuitable but parent had submitted an application for a school place then the matter would be allocated to a CMEO. The case will only be allocated to an AEO if parents are not engaging in the process of applying for a school place. If the parent has already applied, it will sit with a CME officer.

If the child has an EHCP, it will normally sit with CME and not ATT (Attendance Team) as there is not always a role for an AEO for further action and to issue a School Attendance Order. Failure to comply with a SAO is a criminal offence for which the parent(s) who could be prosecuted in the Magistrates' Court.

Where formal notice is required:

Where no other information suggests that the child is being suitably educated, because there is no information provided, and where the parents have refused to respond to the LA, the only conclusion which an authority can reasonably come to, is that the home education does not appear to be suitable.

Where it appears to the EHE Officer (EHEO) / Assistant Officer (EHEAO) that a suitable education is not taking place, reasonable steps to resolve the situation will be taken by NCC before the SAO statutory process is commenced:

- A letter outlining the concerns will be sent to the parents, specifying grounds for concerns, and identifying reasons to conclude that the provision is unsuitable.
- Allow the parent the opportunity to address the identified issues and recommendations for improvements within a mutually agreed timescale (no longer than six weeks, equating to one school term). These should be discussed and agreed with the parent and confirmed in writing within the EHEO / EHEAO's case record. Parents must satisfy the LA, that their child is receiving education suitable to his/her age, ability, and aptitude and to any special educational needs he/she may have.

A referral to Integrated Children's Services service will be offered to help support the family, where safeguarding or family support needs have been identified.

After the agreed timescale for improvement, if the education is still believed to be unsuitable, a formal notice under section 437 of the Education Act 1996 will be issued. If NCC continues to be dissatisfied with the education being provided, the statutory

process for issuing a School Attendance Order will commence, if engagement by the Attendance Team is not successful. Please refer to the Attendance Policy which outlines the process.

Failure to comply with a SAO is a criminal offence for which the parent(s) can be prosecuted in the Magistrates' Court.

At any stage following the issue of a SAO, parents may present evidence to the Local authority that they are now providing suitable education and apply to have the Order revoked. If this is refused, parents can choose to refer the matter to the Secretary of State for Education. If as a last resort, the Local authority prosecutes parents for failure to comply with a SAO, the parents may be acquitted if they can prove that the child was receiving a suitable education otherwise than at school at the time of the offence. If the parents are acquitted, the court may direct that the SAO shall cease to be in force.

In cases where the EHEO/EHEAO is unable to contact a family, the record will be closed to EHE and opened as a CME. This role discharges the Local authority's duty to children missing education. In cases where the EHEO/EHEAO is unable to contact a family, the record will be closed to EHE and opened as a CME. This role discharges the Local authority's duty to children missing education. There are checks that we would expect EHEO/EHEAO to complete first e.g., all contact numbers tried, letter sent to home address and housing check completed if last contact with family was some time ago.

- 7.14 NCC considers that 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**

- 8.1 Parents' rights 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.
- 8.2 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. A parent who is educating their child at home may ask the Local authority to carry out a statutory assessment of their child's special educational needs and the Local authority will consider the request within the same statutory timescales and in the same way as for all other requests.

For children and young people with an Education, Health and Care Plan the right to electively home educate remains. However, when suitability of education is being considered this must take into account the Special Educational Needs of the child and young person. If agreed the local authority may support the family with this. If the child or Young person attends a special school and has been placed there by the Local authority permission from the local authority must be obtained before removal from the school register.

- 8.3 For a child with an Education Health Care Plan (EHCP) 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 an EHCP, following receipt of written confirmation from the parent that educational provision is being made otherwise than at school. **Schools/academies should as good practice, call an early review as soon as they are aware of the parent's intention.**
- 8.4 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.
- 8.5 In cases where local authorities and parents agree that home education is the right provision for a child or young person with an EHCP, the plan should make clear that the child or young person will be educated at home.

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 local authority's duty, under Section 42(2) of the Children and Families Act 2014, 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).

In order to assess whether home provision is suitable for the special education needs of the child, parents will be asked to provide information regarding the home education provision. The local authority 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.

Under Section 19 of the Children and Families Act 2014, a local authority must have regard to the views, wishes and feelings of the child and his or her parents, or the young person.

- 8.6 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 EHCP 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**

- 9.1 Working Together to Safeguard Children 2018 and section 175(1) of the Education Act 2002 states that, "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."

Therefore, all agencies and individuals including local authorities have a duty to safeguard and promote 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). An EHEO/EHEAO may make contact every 3 to 6 months to offer support in regard to the welfare of the young person.

9.2 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 seek parent consent to link the family with a Pathway Adviser who can support the family and 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.

9.3 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 Children's advice and duty service (CADS) for further consideration by the appropriate authorities in accordance with Norfolk Safeguarding Children Board procedures.

Children's services will work collaboratively to proactively safeguard and promote the welfare of children and in the event of any concerns about the welfare of a home educated child, initiate, and follow through established safeguarding procedures, which will include sharing information with GPs, health visitors and other health professionals in the interest of a child or young person.

The EHEO/EHEAO will liaise with NCC's Integrated Children's Services on those occasions where there is uncertainty about the welfare of a child or young person. The EHEO/EHEAO will explain the reasons for any welfare concerns to the parents in accordance with referral procedure.

NCC acknowledge that parents can decide to EHE at any time; however it considers that where a child is made subject to or is currently subject to a Child Protection (CP) or Child in Need (CIN) plan, the conference chair / chair of the CIN meeting will make clear that if the parent/carer has already declared EHE, or states an intention to do so, the risk will be re-considered in light of this information with the likelihood that the child could be considered unsafe as a consequence. On receipt of a declaration to EHE, the Conference Chair (CP), the Team Manager or the CIN Review Chair will:

- If necessary, ensure the plan is changed or reviewed to protect the child at the next Child Protection Conference, Core Group or Child in Need meeting.
- Consider if a strategy discussion is required
- Outline what harm is likely
- Assess the risk to the child, to include health and well-being and record how the risk is increased as a result of continuing to or starting to educate the child at home and record this within the minutes of the meeting
- Assess the family's EHE Outline Plan
- Consult with education colleagues and the previous school
- Amend the plan to reflect the necessary actions that need to be taken, which may include the referral to Fair Access to identify a school place.

Where education provision is not immediately available, or the risk assessment indicates that EHE is acceptable, the above professionals and allocated social worker will ensure that the plan will include increased home visits to regularly check that the child is safe whilst not in education and that annual visits from the EHE team will form part of any future agreement with the family should the case be 'stepped down'.

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

9.5 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**

10.1 We may use the information about you and/or your child:

- To identify children in Norfolk who are being educated at home, to identify whether they are receiving suitable education in line with Norfolk County Council's duty under the Education Act 1996 (Section 436A) and to take appropriate steps to ensure suitable education is provided
- To provide you with additional support and information that may help you to provide a suitable education to your child
- To assist:
  - the National Child Measurement Programme to collect information on the height and weight of Reception and Year 6 children by providing your contact details to the Children and Young People's Health Service Norfolk (part of Cambridgeshire Community Services NHS Trust)
  - the Public Health England immunisation programme for children under the National Health Act 2006 by providing your contact details to the Children and Young People's Health Service Norfolk (part of Cambridgeshire Community Services NHS Trust)
  - Public Health Norfolk in dental surveys as part of a programme of work to help improve the dental health of people in Norfolk by providing your contact details.
  - The Post 16 team at NCC to support the planning post 16 provision

We also use this information to assess the quality of our services and evaluate and improve our policies and procedures.

We may also use information in other ways compatible with the above.

10.2 Full details of the personal data we collect and use about you, what we use your information for and who we share your information with you can read our Services to Home Educators Privacy Notice on the Norfolk County Council website.

11.1 When the Local authority receives notification that a parent wishes to home educate, the Services to Home Educators team will:

- Update the record for that child to reflect home education and ensure that all the necessary information has been received from the school

- Review the local authority database to identify if the child is subject to an Early Help Assessment, Child in Need or Child Protection Plan (open or closed)
- Make initial contact with the parent by telephone/letter/email
- Send a welcome pack to parent by email, including a Home Education form which can be used by the parent to provide information on the provision they are making.
- Arrange a call or visit to review provision within the first year.
- Carry out an assessment of the initial information provided from the visit. A written report will be made after this contact and copied to the parents.
- If provision is considered suitable an annual review will be arranged. We may also arrange more frequent 'check ins' as a form of family support.
- If the authority has concerns about the education provision it will specify these concerns and give the child's parents an opportunity to address them. Further advice and guidance may be provided and a follow up review within three months arranged.
- EHE registrations will not be processed for children who have returned to school following a School Attendance Order, and/or where they were returned to school through the local authority. These children will be recorded as Children Missing Education unless there is evidence of a substantive change in circumstances.

The frequency and format of meetings will be determined by factors such as whether the child holds an Education, Health and Care Plan, whether they have current or historic involvement with Children's services.

11.2 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.

11.3 Where it appears to the EHEO/EHEAO that a suitable education is not taking place, reasonable steps to resolve the situation will be taken by the local authority before the SAO statutory process is commenced:

- A letter outlining the concerns will be sent to the parents, specifying grounds for concerns, and identifying reasons to conclude that the provision is unsuitable
- Parents are allowed the opportunity to address the identified issues and recommendations for improvements within a mutually agreed timescale (no longer than six weeks, equating to one school term). These should be discussed and agreed with the parent and confirmed in writing within the EHEO/EHEAO's case record. Parents must satisfy the local authority, that their child is receiving education suitable to his/her age, ability, and aptitude and to any special educational needs he/she may have
- A referral to Integrated Children's Services service will be offered to help support the family, where safeguarding or family support needs have been identified
- After the agreed timescale for improvement, if the education is still believed to be unsuitable, the EHEO/EHEAO will refer the case to the Children Missing Education and Attendance teams. If Norfolk County Council continues to be dissatisfied with the education being provided, the statutory process for issuing a School Attendance Order will commence. This notice indicates the Local authority's intention to formally order the parent to register the child at a school. It will identify school(s) the Local authority deems suitable and allow the parent 15 days to propose alternatives. If the parent does not respond, or does not make satisfactory arrangements elsewhere, the Local authority may issue a SAO in accordance with its stated intention.

Failure to comply with a SAO is a criminal offence for which the parent(s) can be issued with a penalty notice or prosecuted in the Magistrates' Court.

At any stage following the issue of a SAO, parents may present evidence to NCC that they are now providing suitable education and apply to have the Order revoked. If this is refused, parents can choose to refer the matter to the Secretary of State for Education. If as a last resort, the Local authority prosecutes parents for failure to comply with a SAO, the parents may be acquitted if they can prove that the child was receiving a suitable education otherwise than at school at the time of the offence. If the parents are acquitted, the court may direct that the SAO shall cease to be in force.

If it transpires information has been deliberately withheld from the local authority, and the parent is easily able to satisfy the court. NCC will 'seek legal advice about the prospect of obtaining a costs order against a successful defendant on the basis that the prosecution would have been unnecessary if not for the defendants' unreasonable conduct'.

In cases where the EHEO/EHEAO is unable to contact a family, the record will be closed to SHE (Services to Home Educators) and opened as a CME. This role discharges the Local authority's duty to children missing education.

## **Policy Review**

12.1 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. Moving forward, home education organisations and parents will be involved in the process of review in order to ensure the most effective practice and to strengthen partnerships.

## **Contacts/useful addresses**

13.1 NCC Services to Home Educators is a small team that sits within the Learning and Inclusion service.

The team can be contacted:

- By telephone on 01603 307733 between the hours of 9:30am to 5:00pm Monday to Thursday, and between 9:30am to 4:30pm on Friday. .
- By email: [EHE@norfolk.gov.uk](mailto:EHE@norfolk.gov.uk)
- Further information can also be found on the Elective Home Education page of the Norfolk County Council website <https://www.norfolk.gov.uk/education-and-learning/home-education>

13.2 The Team consists of one full-time EHE adviser, two EHE Officers, three EHE Assistant Officers, two full time equivalent Services to Home Educators Support Assistants. Enhanced DBS checks are mandatory for all EHE officers and specific training will be delivered in relation to elective home education, safeguarding children, EHAP (Early Help Assessment and Plan) and Health & Safety including lone worker arrangements.

13.3 The Services to Home Educators (SHE) 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.

The Elective Home Education Assistant Officers/Officers will provide support in the form of:

- Signposting parents to resources and services, discussing methods and philosophies, networking and advising on examinations
- Publishing information about EHE that is clear, accurate and sets out the legal position, roles, and responsibilities of both the Local authority and parents
- Discussing the implications of EHE with parents before they make the decision to leave or enter the school system
- Producing and distributing accurate written records of meetings with home educating parents and children
- Emailing information that may be supportive for families (e.g., information on food vouchers or free holiday activities to eligible families, notification of Zoom information sessions on Apprenticeships or other areas)
- Promoting positive relationships with EHE families based on mutual understanding, respect, and trust in order to safeguard the educational interest of children
- Referring to other agencies, such as Children's Integrated Services and school nursing for support.
- Seek to mediate between schools and potential EHE families when the relationship has broken down and parents feel obliged to withdraw their child.

13.4 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 and 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.

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

- Education Otherwise: [www.educationotherwise.org/](http://www.educationotherwise.org/)
- Ed Yourself: [www.edyourself.org.uk](http://www.edyourself.org.uk)
- A Home Education: [www.ahomeeducation.co.uk/](http://www.ahomeeducation.co.uk/)
- Home Education Advisory Service: <https://www.heas.org.uk/>
- Department for Education: [www.education.gov.uk](http://www.education.gov.uk)

Home Education in the UK – Special Educational Needs: [www.he-special.org.uk/](http://www.he-special.org.uk/)