

# **Elective Home Education Policy and Procedure**

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## **1.0 Introduction**

- 1.1** Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe the education provided by parents<sup>1</sup> 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 (LA).
- 1.2** This document outlines our recently reviewed policy and procedures to enable Oxfordshire County Council (OCC) to comply with its duties towards children and young people living in Oxfordshire whose parents have elected to educate them otherwise than at school. It is published for parents, schools and other agencies with an interest in EHE.

## **2.0 Policy Statement**

The DfE “Elective Home Education Guidelines for Local Authorities”, published in April 2019, 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.

This revised policy seeks to build improved relationships with home educators and provide a means to effectively protect the educational and safeguarding interests of children being electively home educated where vulnerabilities are identified.

## **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.”*

- 3.2** There is no legal definition of what constitutes a “full-time” education. 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 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.

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<sup>1</sup> The term “parent”, unless the context otherwise requires, in relation to a child or young person, includes any person - (a) who is not a parent of his but who has parental responsibility for him, or (b) who has care of him, except that in [section 499(8), Education Act 1996] it only includes such a person if he is an individual.

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

- 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 suitable education in accordance with section 7. In addition, the Act provides that, generally, children are to be educated in accordance with the wishes of their parents.
- 4.2** Parents are not required to inform the Local Authority that they intend to elect or have elected to home-educate. They are not required to seek approval from the LA, unless the child has an Education, Health & Care Plan and the LA has arranged educational provision at a school specified by the plan. If the child is subject to a School Attendance Order ('SAO'), the SAO should be revoked before EHE begins.
- 4.3** Parents whose child is enrolled at a school are advised to write to the Headteacher to inform them that they elect to home educate, unless the school is named on the child's Education, Health & Care Plan, in which case parents are required to seek approval from the Local Authority first. Parents whose child is not enrolled at a school have no obligation to inform the Local Authority 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.
- 4.4** Although parents must provide education in accordance with section 7, (see paragraph 3.1 above), the type of educational activity can be varied and flexible. For example, parents may choose but are not required to:
- Teach the National Curriculum
  - Have a timetable
  - Have premises equipped to a 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
- 4.5** 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.

- 4.6 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 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.

## 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.*

Oxfordshire County Council supports parents who opt to educate their child at home.

- 5.1 Local authorities have a statutory duty, under section 436A of the Education Act 1996 to make arrangements to enable them to establish (so far as it is possible) the identities of children in their area who are not receiving a suitable education. This duty applies to all children of compulsory school age who are not on a school roll and do not appear to be receiving a suitable education otherwise than being at school.
- 5.2 A further statutory duty exists, which requires the Local Authority 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 the Local Authority is not satisfied that the child is receiving a suitable education, the local authority may commence the statutory process for the issue of a School Attendance Order ('SAO') requiring the parent to register the child at a named school.
- 5.3 The Local Authority has no legal power or duty to monitor home education on a routine basis although OCC will make enquiries if it is not clear that a child is receiving suitable education. The Local Authority sees its role in relation to home education as part of its wider responsibilities, including safeguarding, to all the children in its area.

## 6.0 **Responsibilities of Schools in Oxfordshire**

- 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 Local Authority expects the school to respond positively and constructively. If parents are considering home education because of a dispute with the school, the Local Authority expects the school to take all necessary steps

to resolve the issue. This is likely to be scrutinised by the Local Authority. The school should signpost the parent to the Local Authority EHE service for further advice and guidance to enable them to make an informed choice.

- 6.2 The DfE guidelines make 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 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 In Year Fair Access Panel will name the previous school for placement.

- 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 Headteacher 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 Local Authority 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 In practice the school must inform the Local Authority immediately when a child is removed from the school roll and send in a copy of any relevant letter written by parent(s). The school must also provide information requested by the OCC EHE service. The school must create a Common Transfer File and post it to the school to school (s2s) secure website where the file will be stored in the Lost Pupil Database section.
- 6.6 The school is responsible for raising any safeguarding concerns relating to a child with the Multi-Agency Safeguarding Team (MASH). Home Education is not, in itself, a safeguarding concern.
- 6.7 The school must retain the child's school file. Parents can request a copy of this file from the school to assist them in planning their child's education.

## **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 Local Authority to make arrangements for ensuring that the functions conferred on them are exercised with a view to safeguarding and promoting the welfare of all children resident in Oxfordshire.
- 7.2 The EHE Team will follow Oxfordshire Safeguarding Children Board safeguarding procedures at all times and work with relevant agencies and individuals 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 established procedures.
- 7.3 EHE Officers will contact the Multi-Agency Safeguarding Hub when there is uncertainty about the welfare of the child. EHE Officers will explain the reasons for any welfare concerns to the parents in accordance with procedure. EHE officers will offer mediation to all schools and families prior to a child's removal from roll.

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

- 8.1 The EHE service provides support in the form of:
- 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 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;
  - Promoting positive relationships with elective home education families based on mutual understanding, respect and trust in order to safeguard the educational interest of children.
  - Seeks to mediate between schools and potential EHE families when the relationship has broken down and parents feel obliged to withdraw their child.
  - Discussing the implications of EHE with parents before they make the decision 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 Section 8(1) (d) of the Education (Pupil Registration) (England) Regulations 2006.
- 8.2 Oxfordshire County Council embraces diversity and respects individual choice. The EHE Team recognises that parents of all educational, social, racial, religious and ethnic backgrounds successfully educate children outside the school setting.

## **9.0 Oxfordshire County Council's EHE Procedures**

- 9.1** When the EHE service receives formal confirmation from a school or directly from a parent that a child is being home educated, a check will be made on the Capita ONE database to ensure that de-registration has been correctly recorded. An EHE Involvement will be created in the database which will enable the LA to record involvement with the family.
- 9.2** The EHE service will send a letter and an EHE "Information Leaflet for Home Educators" to parents and will ask for basic information via completion of an "EHE Outline Plan" form or another chosen format. A visit from a Link Worker will be offered to discuss the child's education at home and to offer the parent support and advice when family vulnerabilities are identified. The aim of the visits will be to maintain a positive and constructive relationship with parents and to ensure the child's education at home is sufficient and suitable. Parents are not obliged to accept a visit. Electronic records will be saved to EDRMS Document Manager.

The EHE service:

- Checks Liquid Logic (the electronic recording system on which Social Care staff record information on their contacts and activity relating to individual service users in Oxfordshire) and contacts Social Care for information if the child is subject to an Early Help Assessment, Team Around the Family, Child In Need or Child Protection Plan (open or closed).
  - Requests information from school, including completion of the "School Exit" form and advises on off roll procedure.
  - Alerts the County Attendance Team of the decision to home educate if known to the team. Contacts Exclusion and Reintegration service if child at risk of permanent exclusion to ensure that all education options have been explored.
  - Checks if there are siblings
- 9.3** The EHE service will compile the completed EHE "Outline Plan", withdrawal letter, "School Exit" form (without the withdrawal letter and School Exit form, the child is not permitted to be removed from roll) and other relevant information and share with appropriate Local Authority Officers within 3 weeks of receipt to arrange a home visit when vulnerabilities are apparent. Appropriate Officers who are Social Workers (in the event that the child is subject of a Child In Need or Child Protection Plan) will receive the information during the same week that the inform is received in full.
- 9.4** Parents may exercise their right not to allow the Local Authority 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 applies if it appears that parents are not providing a suitable education.
- 9.5** Following a consented visit, EHE Officers complete the "Record of Discussion" and agree next contact with parents. Within 7 working days of the visit the EHE Officer will:



- Send a letter with the Record of Discussion extract embedded in it to the parents. Parents will then be given the opportunity to ratify/amend the summary before it goes on file and is circulated to other individuals where relevant.
- Upload the completed “Record of Discussion” to the child’s record (9.2 above) and shares with the SEN Casework Officer (where appropriate).

#### 9.6 Where formal notice is required:

If it appears to the EHE service that a suitable education is not taking place, then the EHE Officer should go through the following steps:

- Allow the parent the opportunity to address the identified issues and recommendations for improvements within a mutually agreed timescale. These should be discussed and agreed with the parent and confirmed in writing within the EHE Officer’s “Record of Discussion”. When a home visit has not been consented to, concerns (with evidence) about suitability and sufficiency of education will be logged using the same process.
- An Early Help Assessment may be completed, Team Around the Family convened and support available from the LCSS team. If there are safeguarding concerns, Multi-Agency Safeguarding Hub will be contacted without delay.
- After the agreed timescale for improvement, if the education is still believed to be insufficient and/or unsuitable, the County Attendance Team will commence the statutory process for issuing a School Attendance Order (‘SAO’).
- A County Attendance Officer will write to parents requiring them to satisfy the Local Authority within 15 days (plus two days for service by first class post) that the child is receiving efficient full-time education suitable to the child’s age, ability and aptitude and to any special educational needs he/she may have. If the Local Authority continues to be dissatisfied with the education being provided, a statutory “Notice of Intention to Serve a School Attendance Order will be served on the parent. This notice indicates the LA’s intention to formally order the parent to register the child at a school. It will identify school(s) the LA 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.

**9.7** Reasonable steps to resolve the situation will be taken by the LA before the SAO statutory process is commenced. 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 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.

**9.8** In cases where the EHE service has been unable to contact a family, the Children Missing Education Officer will be informed. This role discharges the Local Authority's duty to children missing education.

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

**10.1** Parents' right to educate their child at home applies equally where a child has an Education, Health and Care (EHC) plan. The Local Authority has a duty to review Education, Health and Care (EHC) plans annually, following procedures set out in the "SEND code of practice: 0 to 25 years". Annual Review meetings will be convened and chaired by the SEN Casework Officer for electively home educated children. The Local Authority will make it clear to parents that they are welcome to attend but are not obliged to do so.

**10.2** If the child is on the roll of a special school or mainstream school specified by the child's Education, Health & Care Plan, the child's name may not be removed from the school register without the Local Authority's consent, or if the Local Authority refuses to give its consent, at the Secretary of State's direction [Regulation 8(2) Education (Pupil Registration) (England) Regulations 2006]. Schools/academies should call an early review as soon as they are aware of an intention to home educate.

**10.3** 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.

**10.4** If the Local Authority 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 Local Authority does not have to name a school/setting in part 4 of the child's EHC plan, though it may state the type of school it considers appropriate. 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 OCC, 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.

- 10.5** Where it appears to the Local Authority that a child is not receiving education suitable to age, ability and aptitude and SEN, the procedures set out in 9.6 will be followed. If the EHC plan remains in place, it will be maintained and reviewed annually and amended where necessary. The annual review will be arranged by the SEN Casework Officer.
- 10.6** Therapy provision, if stipulated in the EHC plan, should be accessed through the GP or at the electively home educating parents' expense and professionals invited to contribute to the annual review.
- 10.7** 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.

## **11.0 The EHE service**

- 11.1** EHE Officers 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 their manager in the first instant. They will adhere to all elements of the Lone Working Policy consistently.

## **12.0 Review and Evaluation**

This policy and procedure will be reviewed annually. Consultation with home educators will take place where there are significant changes to policy or procedure. The voice of parents and children/young people, through the EHE service, also informs developments. Oxfordshire County Council is committed to securing an effective partnership with home educators based on respect, consent (within the parameters of safeguarding legislation) and with the best interest and rights of the child at the centre.

Local Authority Officer: Deborah Bell Head of Service Learner Engagement

Date of next review: May 2023

## **References**

- Education Act 1996 [www.legislation.gov.uk/ukpga/1996/56/contents](http://www.legislation.gov.uk/ukpga/1996/56/contents)
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- Special Educational Needs Code of Practice 2014
- <https://www.gov.uk/government/publications/send-code-of-practice-0->
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