

Kent County Council

DRAFT ELECTIVE HOME EDUCATION POLICY

1. Introduction

Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe parents' decisions to provide education for their children at home instead of sending them to school. This is different to home tuition provided by a Local Authority or education provided by a Local Authority other than at a school. It is recognised that parents may choose home education for a variety of reasons

Parents are responsible for ensuring that their children receive a suitable education. The Local Authority (LA) recognises that parents have the right to choose to educate their child at home rather than at school. Where parents choose to home educate, the parents and the LA need to work together, recognising each other's rights and responsibilities and establish and maintain a positive dialogue in the interests of the child to ensure that a high quality education is received and children are safeguarded. The LA supports positive engagement through identifying a range of opportunities for families to access via their website.

Many families make a pro-active decision to home educate. It is also recognised that some families may feel that electing for home education is the only available option when it appears that school issues cannot be resolved or where personal circumstances mean that attending school is problematic. The EHE team work closely with families, schools and a range of services at an early stage to support families in these situations to ensure that they are making informed choices.

Where young people are entering EHE during Key Stage 4, particular attention will be given to ensuring appropriate pathways are discussed with relevant parties. There is an expectation that clear plans will be in place for achieving recognised qualifications at age 16 and securing progression to post 16 learning or employment with training, and, recognising the vulnerability of becoming NEET (not in education, employment or training) for young people who exit school at this late stage. This might include opportunities to continue to take examinations in school.

It is vital that parents and children choose a type of education that is right for them, and it is important that EHE officers understand and are supportive of many differing approaches or "ways of educating" which are all feasible and legally valid. The role of the EHE Team is to respond to concerns that a child is not receiving a full time education suitable to his or her age, ability and aptitude and, where appropriate, provide support and information for parents. It is not the role of the EHE

Team to tell parents how to educate their children or to ensure registration at school.

2. Purpose

This document aims to clarify for schools, parents, carers, guardians and related agencies, the policy and procedures to be observed when a parent elects to home educate their child. The policy sets out parents' rights to educate their children at home, together with the legal duties and responsibilities of Headteachers and the LA. It also sets out the arrangements the LA will make in order to carry out its legal duty i.e. if it appears that a child of compulsory school age is not receiving 'suitable education' or may not be safeguarded from risk to their safety, health and wellbeing.

3. Context

This policy has been drafted within the context of the following:

- The Children Act 1989
- The Education Act 1996
- The Education Act 2002
- The Children Act 2004
- Elective Home Education Guidelines For Local Authorities (DCSF 2007)
- Working Together to Safeguard Children (DfE, March 2010)
- Information and Policies of other Local Authorities
- 'Support for Home Education', House of Commons Education Select Committee Report (Dec. 2012), Volumes I and II
- Kent and Medway Inter-Agency Threshold Criteria for Children in Need (March 2011)

4. The law relating to elective home education

Parents

The responsibility for a child's education rests with the parents. In England, education is compulsory, but school is not. 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. KCC pro-actively engages with families including where children may never have been registered at a school. Parents may also elect to home educate at any other stage up to the end of compulsory school age at 16 years.

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."

An "efficient" and "suitable" education is not defined in the Education Act 1996 but "efficient" has been broadly described in case law¹ 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".

In summary, the current law and formal guidance from the DfE requires the LA to seek to know all pupils who are electively home educated and to take action to ascertain whether a suitable and efficient education is not taking place and to take certain actions if this is not the case.

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

"No person shall be denied the right to 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 convictions."

Parents must comply with notices served by the LA under Section 473 (1) of The Education Act 1996, if it appears that parents are not providing a suitable education

5. Schools

It is important that schools are satisfied that parents are fully informed of the expectations and implications of home educating before committing to making this important decision. The LA recommends that parents are given contact details and advised to seek advice from the LA's EHE Team before formally asking the school to remove the child from the school roll. Schools must not seek to persuade parents to educate their child at home, nor should parents elect to educate their children at home as a way of avoiding an exclusion from school or because the child has a poor attendance record. In these situations both the school and parents should seek advice and support from the LA's EHE Team. Support for the family may be offered through the LA's Early Help and Preventative Service where families are considering home education as means of addressing wider unmet needs or unresolved issues. There should be a presumption that

¹ 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)

problems with school, or about the school, can be resolved if the parents are acting to home educate for these reasons.

There is an expectation that schools will have had a thorough discussion with parents and signposted them to support and guidance before making any formal decision. When a school receives written notification from a parent of their intention to home educate their child, it is the responsibility of the school to:

- Invite the parents to discuss any issues or concerns that could be resolved to enable the child to continue to be educated at school in a way which meets the parents' expectations
- If the parents' decision is firmly to home educate, to acknowledge this in writing and delete the child's name from the school register. The LA requires the school to do this within 3 working days of receiving the parents' letter. **However** in the interest of the family, recommended good practice would be to allow a period of 10 school days to reflect on their decision having sought further advice and support.
- Inform the LA immediately of removal of the child's name from the register following the above. (Section 12 [3] of the "The Education [Pupil Registration] Regulations 2006)
- Ensure that the pupil file is retained in accordance with usual procedures until requested by a receiving school. The parent may request a copy of the file.

6. Role and duties of the Local Authority

In December 2012 the House of Commons Education Select Committee produced a report, 'Support for Home Education'. It stated that:

"The role of the local authority is clear with regard to home education. They have two duties: to provide support for home educating families (at a level decided by local authorities themselves), and if families wish it; and to intervene with families if the local authority is given reason to believe that a child is not receiving a suitable education."

Local Authorities have a duty to try and identify children not receiving a suitable education. Section 436A of the Education Act 1996, *"requires all local authorities to make arrangements to enable them to establish (so far as it is possible to do so) the identities of children residing in their area who are not receiving a suitable education."*

Local Authorities have a duty to establish whether a child who is being educated at home (under section 7 of the Education Act 1997) is not receiving suitable education, *"where it is known that they are home educated and where the place that they are being educated is known"*.

The (DfE) definition of suitable education refers to, “*efficient full-time education suitable to her/his age, ability and aptitude and to any special educational needs the child may have.*”

Section 437/443 of the Education Act 1996 says that it is, “*the LA’s duty to ensure that the arrangements being made for (your)/(a) child’s education are suitable, and to take certain actions if it appears that this is not so.*”

Case law (Phillips v Brown, 1980) established that an LA may make enquiries of parents who are educating their children at home to establish that a suitable education is being provided. DfE guidelines state that parents are under no duty to respond to such enquiries, “*but it would sensible for them to do so*”.

KCC policy is to require a response to the request to engage with the LA to establish the suitability of education.

The view of the House of Commons Education Select Committee Report in 2012 and the summary of duties placed upon LAs, drawn from the DfE Guidance on EHE for LAs, provides the basis for how KCC defines and carries out its role. In order to determine the suitability of education and wellbeing of the child and to adequately plan for support for families, KCC policy is to:

- Maintain a register of children being educated at home. This is a list of the children known to the LA only and therefore not an exhaustive list of all children educated at home in Kent. Families who have children who have never been on roll may also register to access advice and support.
- Require every child whose parent(s) elect to home educate to participate in a meeting with an EHE officer and the child at a mutually convenient time and place in order to satisfy the LA of the suitability of the education provision proposed. To ensure that the critical voice of the child is heard and to establish education suitability the LA will request that both the child and evidence of learning are seen. Education will not be recorded as suitable if this is not facilitated.
- Publish information about EHE arrangements for parents who wish to educate their child at home. The information will be posted on the County Council website and can be sent out on request to those enquiring about educating children at home.
- Employ EHE Officers who are available to liaise with parents. Officers can offer support and guidance relating to the parents’ plans for their child’s education.

- For the KCC EHE Team to explore the options for access/signposting to other LA services and facilities for parents, within available resources, and to also seek to ensure EHE children have appropriate access to services and facilities from other agencies that would generally be delivered via school.
- To ensure that if a child has a statement of Special Educational Needs, the legal duty to ensure that the child's needs are met is fulfilled and annual reviews are undertaken for those children who have a statement of Special Educational Needs. (Refer to SEN section).
- Under Section 175 (1) of the Education Act 2002, KCC EHE officers, along with all employees, have a responsibility to ensure all children are safeguarded and their welfare promoted throughout their work. Officers must act upon any concerns that a child may be at risk of significant harm, in accordance with KCC's child protection procedures, which can be accessed through the Kent Safeguarding Children Board website –www.kscb.org.uk.

7. Procedural Guidance

Parents and schools may contact the KCC EHE Team for advice at any stage in a child's education. If a child is registered at a Maintained or Independent school, and the parents elect to home educate, they must inform the school in writing. Schools are advised to refer families to the KCC EHE Team to ensure they are fully informed of the process prior to receiving formal notification of intention to withdraw the child from school.

Schools are strongly advised to offer to meet with the parents to discuss and resolved any issues about school and the child's needs that might influence the parents' decision to continue with their child's attendance at school or to home educate.

Once a school receives written confirmation from the parents to home educate their child, the school must acknowledge the parents' letter in writing and remove the child's name from the school roll within 3 working days. **However** in the interest of the family, recommended good practice would be to allow a period of 10 school days to reflect on their decision having sought advice and support.

It must be made clear to parents who choose to educate their children at home that they must be prepared to assume full financial responsibility for that education. This includes examination fees. Schools must then inform the KCC EHE Team immediately using the EHE 1 Form.

If KCC is made aware of a child being home educated within Kent, the child's details will be added to the central EHE database. An officer will

make contact with the parent and share information and guidance on a range of issues including the local offer of available services.

Initial contact will be made with a family within two weeks of de-registration from school. Further visits will be arranged once education provision is established. Families may also be contacted by a LA Officer if a referral has been made to the Children Missing Education Team to establish that education is being provided at home in order to close that referral.

In order for parents to satisfy KCC that they are providing a suitable education an EHE Officer will request to meet with the family and the child to discuss the education provision. Evidence at this meeting could include a report about the education provided, an assessment by a qualified third party or by showing samples of their child's learning supported with input from the child. Parents should provide evidence of a suitable education that would, on the balance of probabilities, convince a reasonable person that a suitable education is being provided for the age and ability of the child.

Should the offer of a visit be declined the LA will not be able to state that a suitable education is being offered. The LA will also record that there has been no opportunity to speak to the child regarding their education. In this case the child's name will be added to the Children Missing Education register until such time as it becomes possible to ascertain that they are receiving suitable education. This information will also be made available for the KCC Children's Social Services Teams.

When the EHE officer is satisfied that a parent is complying with their Section 7 of the Education Act 1996 duty, the EHE officer and family will agree a date for the next annual review of educational provision. Parents may contact the EHE team during this period for advice and support.

Following contact with the parent and child the EHE officer will write to parents within four weeks summarising the matters discussed/presented and will provide any additional information or advice requested by parents.

If it appears that a child is not receiving a suitable education, the EHE officer will offer advice and support to help enhance the education being provided and agree a follow up visit to monitor progress.

If it appears to the EHE officer that a child is still not receiving an 'efficient' and 'suitable' full-time education, the officer will write to the parent stating that this appears to be the case, the reasons for their opinion and inviting them to respond. Parents will be given 15 working days to reply. Their reply should address the question of whether they

are providing a 'suitable education' with reference to their own philosophy, and/ or educational provision.

The EHE Team will only take legal action against the parent as a last resort, after all reasonable avenues have been explored to bring about a resolution of the situation.

"If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance 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 473(1) of the Education Act 1996]

If it appears to KCC that an appropriate education is not taking place then a magistrate may be requested to issue a School Attendance Order. At any stage following the issue of the Order, parents may present evidence to KCC that they are now providing a 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. If KCC prosecutes parents for not complying with the Order, then it will be for a court to decide whether the education being provided is suitable and efficient. The court can revoke the Order if it is satisfied that the parent is fulfilling their duty. It can also revoke the Order where it imposes an Education Supervision Order.

LAs have general duties to make arrangements to safeguard and promote the welfare of children (section 175 of the Education Act 2002 and for other functions in sections 10 and 11 of the Children Act 2004). EHE officers, along with all employees of KCC, have a responsibility to ensure all children are safeguarded and their welfare promoted throughout their work:

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

These powers 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).

EHE officers will reflect on the implications of these responsibilities and consult with their manager on those occasions when access to children educated at home is denied, and consider contacting KCC's Central Referral Unit (Central Duty Team) on those occasions where there is uncertainty about the welfare of the child. EHE officers will explain the reasons for any welfare concerns to the parents.

8. Children with a Statement of Special Educational Needs

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 a Statement of SEN or not.

Parents can request that they make their own arrangements to home educate their child under section 7 of the Education Act 1996. They should make their request to the SEN Assessment and Placement team at KCC, who will review the case and decide whether the home education programme is appropriate to meet their child's special educational needs. If agreed, the local authority will amend the Statement of SEN to reflect that parents have made their own arrangements to home educate and arrange for the child to be removed from the roll of the school.

Where a child has a Statement of SEN and parents have made their own arrangements to home educate, certain duties will remain the responsibility of the local authority. This will require LA consultation with parents to ensure that the needs identified in the Statement of SEN are being met.

If the parents' arrangements are suitable the LA is relieved of its duty to arrange the provision specified in the Statement of SEN. The LA would expect the parents to be able to demonstrate the provision that is being made to meet the child's needs, as outlined in the Statement of SEN. If home education results in provision which falls short of meeting the child's learning needs, then the parents are not making 'suitable arrangements' and the Local Authority could not conclude that it is absolved of the responsibility to arrange the provision in the Statement of SEN.

Even if the local authority is satisfied, the local authority retains a duty to ensure the child's needs are met, to maintain the Statement of SEN and to review it annually, following the procedures set out in the Code of Practice for SEN. Parents and the child should always be involved in the annual review process.

Parents can ask the LA to arrange home education (or part of it) for a child with a statement. The request will be considered against the relevant legislation (section 319 Education Act 1996):

- (1) *Where a local education authority are satisfied that it would be inappropriate for—*
 - (a) *the special educational provision which a learning difficulty of a child in their area calls for, or*
 - (b) *any part of any such provision, to be made in a school, they may arrange for the provision (or, as the case may*

be, for that part of it) to be made otherwise than in a school.

- (2) *Before making an arrangement under this section, a local education authority shall consult the child's parent.*

If the local authority agrees to arrange home education the child's statement will be amended to include the home education programme.

If a child is registered at a school under arrangements made by the local authority the parent cannot de-register them to be home educated without LA agreement. Parents should first contact the SEN Assessment and Placement Team at KCC.

9. Reviewing procedures and practices

Kent County Council will review this policy and practice in relation to EHE 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.

10. Contact details

For enquiries relating to this policy, please contact the Elective Home Education Team at educationathome@kent.gov.uk

Further information can be found on the Elective Home Education page of Kent County Council's website www.kent.gov.uk

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