

# Elective Home Education

Policy and Procedures

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## Introduction

This policy aims to inform schools, parents, local authority advisors and schools and other related agencies about the policy and procedures to be followed where parents/carers make the choice to educate their children otherwise than at school, usually at home. This practice is known as Elective Home Education (EHE). The term “parent” is used throughout this policy to include all those with parental responsibility.

The policy does not apply to children receiving alternative educational provision from the Local Authority (LA) or because they are not attending school as a result of illness, exclusion or any other reason.

## Policy Principles

The Local Authority respects the rights of parents and carers to elect to educate their children at home and recognises that there are many approaches to educational provision and that all children should be involved in a learning process.

The LA aims to:

- Work to promote positive relationships and mutual respect with parents for the benefit and educational well-being of children.
- Provide an effective, efficient and supportive service.

This policy document applies to those children whose parents/guardians have chosen to educate their children at home. It does not refer to children who have a home tutor provided by the LA.

This document sets out parents’ rights to educate their children at home and their responsibilities, the legal duties and responsibilities of Head teachers and the LA.

It also sets out the arrangements Islington Access and Engagement Service will make in order to carry out its legal duties under Sections 437 – 443 Education Act 1996 i.e. if it appears that a child of compulsory school age is not receiving education suitable to age, ability, aptitude and special needs, to take steps to ensure that this is remedied:

*“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 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 Act provides that the period shall be not less than 15 days beginning with the day on which the notice is served.

# 1. Parents' Rights and Responsibilities

- 1.1 The law states it is the duty of parents to ensure the education of their children. Parents may choose to educate their children at home instead of sending them to school.
- 1.1 The parents' legal duty is set out in Section 7 of the Education Act 1996 as follows:  
*"The parent of every child of compulsory school age (5 – 16) shall cause him/her to receive efficient full-time education suitable (a) to his/her age, ability and aptitude, and (b) to any special educational needs he/she may have either by regular attendance at school or otherwise."*
- 1.2 The European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 2 of Protocol No 1 also supports this by stating:  
*"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 in conformity with their own religious and philosophical convictions."*
- 1.3 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"*.
- 1.4 If parents decide to return their child to a mainstream school they should continue with existing education arrangements until a place becomes available at one of their preferred schools. Their child's admission application will be considered in line with the school's admission arrangements, and not prioritised above those on the waiting list.

## Non-Registered Children

- 1.5 When a child is not a registered pupil at a school the parent is not required to:
- Seek permission to educate "otherwise."
  - Take the initiative in informing the LA.
  - Have regular contact with the LA.
  - Meet with the LA.

However, the LA might make enquiries of parents who are educating their children at home to establish that a suitable education is being provided. Parents are under no duty to respond to such enquiries, but it would be sensible for them to do so.<sup>1</sup>

## Off-Rolling Pupils

- 1.6 Parents of a child registered in a school must formally off-roll them by writing to the Headteacher stating their intention to home educate. (Business Process Step 1 "Notification"). If a parent does not inform the Headteacher in writing a child may remain on roll and the parent may be liable to prosecution for non-attendance.

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<sup>1</sup> 1 Philips v Brown (1980) QB 424/78

## 2. The Headteacher's Duty

- 2.1 It is the duty of the Headteacher (Education (Pupil Registration) (England) Regulations 2006) to inform the LA when a parent has confirmed in writing his or her decision to educate his or her child otherwise than at school. The pupil's name will be deleted from the school admission register and the Access and Engagement Service will be informed. The child will be recorded on a register kept by Islington Access and Engagement Service of children being home educated. Please see Business Process Step 1.
- 2.2 If a child attends a special school then his/her name cannot be removed from roll until the LA gives permission – confirming that the child's special educational needs are being addressed.

The Education (Pupil Registration) (England) Regulations 2006 Regulation 8(2) states: *"A child who has under arrangements made by a local education authority become a registered pupil at a special school shall not be removed from the admission register of that school without the consent of that authority, or if that authority refuse to give consent, without a direction of the Secretary of State."*

- 2.3 The school should provide an up to date record of the child's attainment to the LA and it should be copied to both parents. This is to enable the LA and the parents to use this assessment in drawing up an education plan and drawing on support from the LA.

## 3. The Local Authority's Duty

- 3.1 Sections 437 – 443 of the Education Act 1996, dealing with school attendance orders, confers a duty on the LA if it appears that a child of compulsory school age is not receiving education suitable to age, ability, aptitude and special needs.
- 3.2 The legal duty of LAs is concerned only with children who appear not to be receiving a suitable education. However, case law (Phillips v Brown (1980) QB 424/78) established that an LA might make enquiries of parents who are educating their children at home to establish that a suitable education is being provided and that, *"where an authority has a duty to take action in particular circumstances, it also has a duty to be alert in order to detect the possibility that those circumstances exist"*.

### Special Educational Needs

- 3.3 Parents wishing to begin home education with a child registered at a Special School must first seek the consent of the LA in order to withdraw the child from school. Consent may not unreasonably be withheld
- 3.4 Where a child has a Statement of Special Educational Needs or an Education, Health and Care Plan (EHCP) when a parent begins home education, the LA's statutory duty to undertake an annual review still continues. The review will include consideration of whether the statement/EHCP is still appropriate and it may be possible to alter or even cease to maintain the statement/EHCP, depending on the child's current circumstances and the provision being made. Should it be necessary for the statement/EHCP to remain in force, parents continue to have responsibility for the education provided. However, the LA has a legal duty to ensure that the child's needs are met.

- 3.5 Where a Statement/EHCP exists, the child will be seen by the Senior Educational Psychologist separately to the Advisor to ensure the parents get as much support and advice as required. Parents can at any time request a Statement/EHCP be withdrawn. This must be done in writing to the Special Educational Needs Service.
- 3.6 Should disagreement arise between the parents and the LA regarding the review of an assessment, the Special Educational Needs Tribunal may resolve it and the LA has a duty to inform the parent of their right to appeal.
- 3.5 The LA's statutory duty to undertake an Annual Review of Special Educational Needs continues for those who are home educated. This review includes assessing whether the statement/EHCP is still appropriate, requires amendment or might cease to be maintained.
- 3.6 The LA has a duty under section 175(1) of the Education Act 2002 to safeguard and promote the welfare of children. These powers allow the LA to insist on seeing children in order to enquire about their welfare where there are grounds for concern. It does not give the LA power to enter the home of, or otherwise see children for the purpose of monitoring the provision of elective home education
- 3.7 The LA has a duty to make arrangements to identify children who are not registered at school. If it appears to the LA that a child is not receiving suitable education, the LA shall serve a formal notice on the parent under section 437(1) of the Education Act 1996.

## 4. The Role of the Local Authority

This section sets out the arrangements the LA will make to ensure it carries out its statutory duties for children educated by parents. The LA recognises that both the Children Act 2004 and the Every Child Matters outcomes apply to all children, including those who are being home educated. Services and support for home educating families will therefore take these into account.

The LA will:

- 4.1 Maintain a register of pupils being educated at home. This is not a statutory duty and the numbers of children who are home educated fluctuate regularly. The register will enable the LA to coordinate the children being home educated in their area in order to offer support and advice and an assessment of their education. This is in order to assess whether or not it appears that a child is receiving a suitable education.
- 4.2 Provide an Elective Home Education (EHE) Assessor to liaise with parents. The role of the Assessor is to advise parents and children and to assess whether the education provided at home is suitable to the child's age, aptitude and ability. The Assessor will make contact with parents to offer support, seek information about the education being provided and work in partnership. Please see Step 5 of the Business Process "Assessment Visit".
- 4.3 Send the EHE Guide for Parents to all parents who have elected to home school their children. The Guide will also contain details of other organisations that can support and advise parents enquiring about educating children at home or who are already home educators.

- 4.4 Organise the annual review for children with Statements of Special Educational Needs or Education, Health and Care Plans.
- 4.5 If it appears to the LA that a child is not receiving an appropriate education, after offering support and allowing parents a reasonable amount of time to address concerns, issue a School Attendance Order requiring the child to attend a named school.
- 4.6 Provide details of the complaints procedure and deal with any complaints in a sensitive and timely manner.
- 4.7 Ensure the Assessor who has contact with home-educating families receives safeguarding and child protection training and has a full understanding of the essential difference, variation and diversity in home education practice, as compared to schools.
- 4.8 The Assessor is line managed by the School Improvement Service (SIS) and meets every school term with the Access and Engagement Service (AES) Team Manager to discuss all cases. There is also regular contact with the Access and Engagement Service Team Manager on a case by case basis, as the need arises.

## **5. Access and Engagement Service Elective Home Education Procedure**

- 5.1 On the day the LA is informed that a child is to be home educated, a risk assessment will be carried out using checks for records that may indicate a cause for concern. This will include information from school, Children's Social Care and Access and Engagement Service records. The risk assessment will be clear, recorded and evaluated by a manager. Please see Business Process Step 2 "Assessing the Risk".
- 5.2 The child's name, date of birth, previous school and address will be recorded on a register of children living in Islington who are being home educated.
- 5.3 The Access and Engagement Service will check with the child's previous school if they have any child protection concerns by requesting they complete a School Risk Assessment Form. A check on the child's siblings will also be made. Please see Business Process Step 2 "Assessing Risk".
- 5.4 An Access and Engagement Officer will carry out a home visit to parents/carers and offer information on elective home education and the relevant forms within three working days. During this visit the officer will see the home environment and will endeavour to see the child or children. Please see Business Process Step 3 "Home Visit".
- 5.5 Within six weeks of registration, the Assessor will contact the parents to make enquiries to satisfy himself that the parents are discharging their statutory duty in educating their child/ren. The Assessor will endeavour to give 2 weeks' notice of any proposed meeting and will be flexible in making arrangements to suit the circumstances of the parents. Please see Business Process Step 5 "Assessment Visit".
- 5.6 A home visit will be offered; however, parents may satisfy the authority in any of the following ways:
  - Meet with the Assessor at their home with or without their child.
  - Send a letter or a report setting out their educational plans enclosing, if they wish, samples of their child's work.

- Send a letter or a report from a reputable third party acceptable to them and the LA endorsing their educational plans.
  - Send in representative samples of their child's work.
  - Provide evidence in another appropriate form acceptable to the LA.
- 5.7 The LA will allow the parent up to 6 weeks, after a child is recorded on the Elective Home Education Register, to provide such information. Parents should contact the LA if they require an earlier visit.
- 5.8 If the LA become aware that a child may be home educated but has never been registered at school they will make contact with the family and follow the procedures from 5.3 above.
- 5.9 No visit will take place unless parents agree to one and an appointment has been made verbally or confirmed in writing.
- 5.10 The purpose of the first visit is to allow parents and children to get to know the LA Assessor and to offer support and to talk about their educational style. If a child has work s/he wishes to share, this would be welcomed. Parents may decide that they would rather send in a written report or use another acceptable way to evidence their educational provision. Whatever parents decide the Assessor will write a report and send them a copy. Copies of the report will also be sent to the AES and SIS.
- 5.11 The LA has a power to see the child alone without the parent present in certain circumstances. The EHE Assessor may ask to see the child alone for example to obtain the child's wishes and feelings if it is not possible to do this in the parent's presence. Consideration should be made as to whether it is most appropriate for two people to be present when the child is seen alone. This is only likely to arise where there is no evidence that the child has received the education described by the parents, little or no evidence that the education meets the needs of the child or where there are doubts that the child is resident at the registration address – and where these matters can only be resolved by talking to the child without their parents present. Although these circumstances will be rare, the power is available when there are safeguarding concerns and efforts to establish whether education is 'suitable' have failed.
- 5.12 The EHE report will include one of the following (Business Process Step 6 "Assessment Outcome"):
- A statement that the education is satisfactory. The LA may make future enquiries and will always take the parent's wishes into account;
  - A statement that the education is not yet satisfactory as detailed in the report;
  - A letter stating that the education is unsatisfactory for reasons stated in the report.
- 5.13 If the EHE Assessor believes there is capacity to improve the home education provided the first time the education is judged as not yet unsatisfactory, he will discuss the concerns with the parents during the visit to suggest areas of improvement. Please see Business Process Step 6 "Assessment Outcome." If, following a period of advice and support and a further visit, (maximum period 6 weeks from date of Report) and all reasonable steps have been taken to try and resolve the situation, the education still remains unsatisfactory, the Assessor will inform the parent, AES and SIS. The LA may at this point take steps to ensure the education of the child/children through the use of a School Attendance Order (SAO) and by naming a local school.



Section 437(3) refers to the serving of school attendance orders:

*“If (a) a parent on whom a notice has been served under sub section (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and (b) in the opinion of the authority it is expedient that the child should attend school, the authority shall serve on the parent an order (referred to in this Act as a “school attendance order”), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.”*

## Applied Behavioural Analysis (ABA)

- 5.14 ABA pupils who are registered at home or other than at school, but funded by the LA will now be included on the list of EHE children in Islington.

## 6. Post Statutory School Age (Youth & Careers Service)

- 6.1 All EHE young people who would have been in school year groups 10 and 11 receive advice from the Assessor around future pathways and post 16 opportunities and offers parents and young people the opportunity to obtain support and information from the Youth & Careers Service. If the parents are agreeable, they are given the contact details of a named officer who is based within the AES.
- 6.2 The aim of this is to ensure that all EHE young people have the same opportunities as those young people who are registered and are attending school.

## 7. School Attendance Orders (SAO)

- 7.1 If it is not possible to persuade the parent to make suitable arrangements for their child's education, the parent will be notified in writing by AES that they need to locate a school place within 15 school days or satisfy the LA that they are providing an education. Failure to comply with this notice may result in AES beginning the process of issuing a SAO. Please see Business Process Step 7 “Unsatisfactory”.
- 7.2 Upon expiry of the notice, the AES will write to the parent referring them to the notice and informing them of the authority's intention to serve an SAO. The AES will inform the parent of schools that are suitable for the child to attend. The parent will be advised that they have 15 days in which to take action or the AES will proceed to make an SAO. The parent will be provided with an explanation of the law regarding the issuing of an SAO.
- 7.3 If the 15 days expire without the parent registering their child at a school, then the authority should issue an SAO. Prior to this, a school with a vacancy should be identified and a letter written to the governing body, informing them of the impending School Attendance Order. The Order should specify which school the child should attend and inform the parent that they have 15 days to comply, from the date of the letter. A failure of the parent complying would result in prosecution for the breach of Section 443 of the Education Act 1996.
- 7.4 Almost all reports provided by the Assessor for Islington home educated children show the educational provision being provided is satisfactory and often excellent.

- 7.5 The LA will contact home educating families from time to time to ask for a report and offer support. Where there are special educational needs but no statement/EHCP exists, the family will be offered more visits to get the support and advice they need.

## 8. Elective Home Education Business Process

