

Elective Home Education: developing best practice within the constraints of current legislation and guidance - notes for ADCS Annual Conference 2017

1) Legislation

- Parents/carers are responsible for ensuring all children of statutory school age are in receipt of suitable education, in school or otherwise (s7 Education Act 1996)
- Any/all parents have a right, in law, to educate their children 'otherwise' than at school, commonly referred to as 'elective home education' or EHE - there are no restrictions due to issues such as parenting capacity, mental health or existence of a Child Protection plan
- Local Authorities (LA) have a legal obligation (s437 Education Act 1996) to ensure that all children who are of statutory school age who reside in the area are in receipt of a 'suitable education'.
- The law makes it clear that LAs have a duty to consider legal action if they have concerns that a child is **not** in receipt of a suitable education
- There is no definition of a 'suitable education' in law.

2) DfE Guidance – (EHEGLA 2007)

- EHE parents and their advocates often confuse the DfE Guidance with legislation, believing parents right to home educate overrides the LA statutory role
- The DfE has confirmed that Local Authorities have a statutory role to ensure a child is in receipt of a suitable education and that it is for LAs to decide how to discharge this duty
- Each LA is expected to draw up their own EHE policy and procedures, with due regard to legislation and guidance
- In relation to the '*suitability*' of provision, the DfE advice is that Local Authorities should consider the evidence available to conclude whether there is sufficient *convincing* evidence of the *suitability* of a child's education.

3) The EHE policy and procedures in LBHF, WCC and RBKC

- Have been verified as being legally compliant by Legal Services and an independent barrister, with due regard to the DfE guidance
- Set out the local arrangements in relation to how LA statutory responsibilities will be met and these are made available to parents who EHE
- Aim to deliver a fair and consistent approach with *all* families who EHE, in compliance with both education and equal opportunities legislation
- Are based on the view that a written or verbal *description* of provision *alone*, provided by a parent, cannot satisfy the LA that a child is receiving, or indeed benefiting from, the provision described
- Consequently, the Home Education Adviser (HEA) offers to meet with parents and see EHE children to discuss the provision in place and see examples of work, to form a professional view about the provision in place
- This will allow the HEA to confirm that the child is receiving the provision described and, more importantly, how the child is benefitting from it
- If parents decline to meet with the HEA, the EHE policy allows the LA to consider an endorsement from an education professional involved in the delivery of a child's education, who can confirm that the child is in receipt of, and benefitting from, the provision in place. Most EHE families are prepared to meet with the HEA, meaning endorsements have only been requested in a handful of cases
- Endorsements should confirm evidence of a suitable education, formed by meeting with the child and parents; endorsements are accepted from qualified education professionals (e.g. tutors/teachers involved in the delivery of the child's education provision).

4) Discussion points

- LA cannot '*routinely*' monitor EHE provision but has a duty to ensure that children who are home educated have a suitable education – DfE advise that an annual meeting does not constitute '*routine*' monitoring
- LA cannot *insist* on a visit or endorsements but should have convincing evidence of suitability of EHE provision
- LA do not '*inspect*' the provision being made or '*assess*' the child but interact with the child and see examples of work, to form a professional view and ensure the LA has sufficient evidence that the child is in receipt of a suitable education
- LA accepts that there is much flexibility on how home educators organise their provision; there is no obligation to follow traditional school hours either in number or times or to follow the National Curriculum
- Parents are free to decide on their preferred teaching style, as long as the LA can be convinced it constitutes a suitable education
- LA always makes informal enquiries and takes all reasonable steps to resolve the situation before resorting to initiating the School Attendance Order process. Details of SAOs are attached (Appendix 1)
- Children who are EHE are statistically no more likely to be vulnerable to safeguarding issues but if a child *is* vulnerable, lack of attendance at school limits access by professionals to identify concerns
- In EHE cases where a Child Protection plan is indicated, consideration can be given to including an expectation that the child is enrolled at a school
- The case studies attached (Appendix 2) illustrate some of the benefits of adopting a clear, consistent and fair approach in working with the EHE community.

Appendix 1

School Attendance Order process initiated in cases relating to elective home education since September 2013 to June 2017

SAO process initiated	WCC	RBKC	LBHF	TOTALS
SAO 1 st Notice issued	15	7	3	25
SAO Served following non-compliance with Notice	7	3	1	11
SAO process halted	11	5	3	19
Summons issued	4	2	0	6
Case proceeded to trial	0	1	0	1

Appendix 2

EHE case studies illustrating the impact of School Attendance Order proceedings

Child A

Parent provided an education philosophy describing education provision but declined to meet with the Home Education Adviser (HEA) or to provide any endorsements from an education professional involved in the delivery of the provision.

Parent involved an advocate, DfE, and parliamentary members including Select Committee and All Party Parliamentary Group for Home Education.

School Attendance Order (SAO) was issued; parent provided endorsements as convincing evidence of education provision being made and SAO was halted.

Child B

Parent declined to meet with HEA or provide any convincing evidence of provision being made. SAO process was initiated and legal action was initiated and the case went to court; court found in favour of the LA and directed the parent to enrol the child at the provision named in the order.

Parent to appealed the court's decision and provided an endorsement of provision being made from an independent Education Psychologist prior to the appeal hearing which was accepted as an endorsement of suitability of provision and legal action was no longer necessary.

Child C

Parent initially declined to meet with HEA and provided only a philosophy of education provision. Parent was resistant to comply with our EHE policy and procedures and was consequently issued with SAO Notice. Parent then agreed to meet with HEA and has continued to positively engage with the EHE process. SAO process was halted.

Child D

Parent elected to home educate owing to unresolved issues at the child's school. HEA initially met with the family but there was insufficient evidence to conclude child was in receipt of a suitable education; parent was provided with suggestions on how to improve provision being made. Unfortunately, provision continued to be unsatisfactory and following failed meetings with LA officers, the SAO process was initiated. Parent complied with SAO Notice naming provision and child enrolled in school that LA proposed to name in the Order. SAO process was halted.

Child E

Parent failed to provide sufficient convincing evidence of a suitable education following meetings with HEA. SAO process was initiated, parent failed to comply and case was in the process of being prepared for court. Social care colleagues initiated care proceedings owing to safeguarding concerns, combined with lack of education provision being made by parent. Child is now on roll at provision named in SAO Notice and SAO process halted.

Child G

Child had on-going attendance issues when on a school roll and parents subsequently elected to home educate principally to avoid a prosecution for failing to ensure the child's attendance at school.

Parents failed to engage with EHE process or to provide evidence that child was in receipt of a suitable education. SAO process was initiated and parent complied: child enrolled at the school named in the Order. SAO process was halted.