

Elective Home Education Protocol

Revised April 2019

This protocol has been updated following the latest publications by the DfE; Elective Home Education: guidance for local authorities April 2019 and Elective Home Education guidance for parents April 2019¹

¹ <https://www.gov.uk/government/publications/elective-home-education>

Contents

- 1. Introduction**
- 2. The Context for Elective Home Education**
- 3. The Legal Background**
- 4. Parent's Rights and Responsibilities**
- 5. Duty of Schools**
- 6. Duty of Local Authorities**
- 7. Initial visit: Intention to electively home educate**
- 8. The Education Provision visit by the advisor**

1. Introduction

- 1.1** Lincolnshire County Council, the local authority, believes that education is a fundamental right for every child and aims to work in partnership with parents who electively home educate and supports their right to do so.
- 1.2** It also believes that parents are the prime educator of their child within or outside the schooling system.
- 1.3** Whilst the local authority encourages parents to enrol their child at school, they also recognise that parents have an equal right to educate their child at home. The local authority wishes to work with parents who home educate in order to ensure that those children are provided with efficient, full-time education suitable to their age, ability and aptitude and to any special educational needs which they might have. It also wishes to ensure that parents who choose to electively home educate their children, do so for the right reasons and have an intention to educate at home from the point they remove their child from school.
- 1.4** The local authority seeks to build positive relationships with parents who home educate by establishing mutual understanding, trust and respect.
- 1.5** This document aims to:
 - clarify the legal position with regards to Elective Home Education
 - set out the parents' rights and responsibilities to educate their children at home
 - explain the legal duties and responsibilities of head teachers and the local authority.

2.0 The Context for Elective Home Education

- 2.1** 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 or alternative provision provided by a local authority other than in school.
- 2.2** 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."

- 2.3** This protocol takes account of the DfE Elective Home Education: guidance for local authorities April 2019 and the Elective Home Education guidance for parents April 2019²
- 2.4** The protocol has also been developed in the context of the duty placed on local authorities to make arrangements to safeguard and promote the welfare of all children (Section 175 of the Education Act 2002).
- 2.5** The protocol aims to achieve an appropriate balance between the rights of home educating parents on the one hand, and the responsibilities of the local authority on the other.

3 The Legal Background

- 3.1** The responsibility for a child's education rests with his/her parents. In England, education is compulsory, school is not.
- 3.2** Section 7 of the Education Act 1996 states that the parent of a child who is of compulsory school age (5-16) has a legal duty to see that their child receives *"efficient full-time education suitable:*
- *to his/her age according to ability and aptitude and*
 - *to any special educational needs s/he may have*
- either by regular attendance at school or otherwise".*
- 3.3** The terms "efficient" is not defined in law however, it can be interpreted as meaning education which 'achieves what it is intended to achieve'.
- 3.4** Similarly, "suitable" education is not defined in law, although it must fulfil the requirements outlined in 3.2. This means that it must be age-appropriate, enable the child to make progress according to his or her particular level of ability, and should take account of any specific aptitudes. There is an expectation that literacy and numeracy is learned and the education should aim at enabling the child, when grown-up, to function as an independent citizen in the UK - and furthermore, beyond the community in which he or she was brought up, if that is the choice made in later life by the child. Home education should not conflict with the Fundamental British values.
- 3.5** Education at home may not be deemed suitable if it is delivered in circumstances that make it difficult to work as this may affect its efficiency and whether it is 'received'. The education may also be deemed unsuitable if it leads to excessive isolation which impacts on the child's social development.

² <https://www.gov.uk/government/publications/elective-home-education>

- 3.6** Local authorities have a legal duty under section 437 of the Education Act 1996 to take action "if it appears" that a child of compulsory school age in their area is not receiving suitable education.

4. Parent's Rights and Responsibilities

- 4.1** School age is defined as beginning from the start of the first term commencing after the child's 5th birthday, until the last Friday of June in the school year in which they reach 16. However since 2015, young people are required to remain in learning or training up until their 18th birthday. Post-16 the choices are to stay in full-time education, either at college or school sixth form, go into an apprenticeship or find employment which has a training element. This requirement does not apply to young people with level 3 qualifications, taken as being 2 'A' levels. This post-16 stage of learning will not be monitored by the LA.
- 4.2** Parents who choose to home educate must be prepared to assume full financial responsibility for doing so, including bearing the cost of any public examinations.
- 4.3** Parents are not required to register or seek approval from the local authority if they wish to remove their child from school to home educate. Parents of a pre-school child are also not required to notify the local authority of their intention to home educate but are encouraged to do so by contacting the Elective Home Education Team at Lincolnshire County Council in order to access advice and support.
- 4.4** It is recommended that the parents inform the school, preferably by writing, that they intend to home educate their child to avoid subsequent misunderstandings as to how the child is being educated and to access advice and support. The school is obliged to inform the local authority of children removed from its admission register and will give home education as the reason, if notified of this by the parent.
- 4.5** Children with Special Needs can be educated at home. However, where a child has an Education, Health and Care Plan (EHCP) and begins home education, the local authority has a legal duty to review the Plan at least annually for as long as it is in force. This is to ensure that the child's educational needs are being met.
- 4.6** If the child is on roll at a special school, the parents must obtain the agreement of the local authority before the child's name can be removed from the school roll. Parents can discuss this by contacting the elective home education team using the details at the end of this document.
- 4.7** If a child is registered at a school as a result of a school attendance order, the parents must get the order revoked by the local authority, before the child can

be removed from the school's register and educated at home. Parents can do this by contacting the elective home education team using the details at the end of this document.

- 4.8** If a child is subject to an Education Supervision Order, then the parents must get permission from the Supervising Officer before electing to home educate. Advice on how to do this can be obtained by contacting the elective home education team using the details at the end of this document.
- 4.9** Parents who choose to home educate their child must be able to demonstrate their intention to home educate once they have made the decision to remove their child from school. Through a visit or a submission of information, the parents must be able to demonstrate that they have considered the educational needs of their child and how they will meet these needs in the immediate and long-term future. This does not have to be rigid and parents will not be held to account if they do not follow the ideology or intentions that they originally had. Parents should, however, be able to evidence, what learning has taken place since the child left school and how they are preparing for educating their child in the future. Some parents refer to a period of time at the start of home educating as 'de-schooling' but there is no legal basis for such a position.
- 4.10** Parents who choose to home educate their children may choose how they wish to do this. The type of educational activity can be varied and flexible. Home educating parents are not required to:
- 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 the child
 - formally assess progress or set developmental objectives
 - reproduce school type peer group socialisation
 - match school-based, age specific standards.
- 4.11** Once the intention to home educate has been established, the local authority may make informal enquiries of home educating parents so that it can be satisfied that the child is receiving a suitable education that demonstrates progress. There is no prescriptive or single method by which parents can provide this information but parents may provide samples of work completed

by the child or request a home visit or a meeting at a mutually convenient and neutral location. DfE guidelines make it clear that where parents do not provide this information or agree to a visit/meeting, the local authority is entitled to conclude from the absence of any response or any other information that it appears that a child is not receiving a suitable education.³

- 4.12** Should home educating parents, however, decline to engage at any point in the process, the local authority may reasonably presume that the child is not receiving a suitable education which could result in the local authority issuing a formal notice under section 437 requiring the parent to satisfy the local authority that the child is in fact receiving a suitable education.

5 Duty of Schools

- 5.1** The school have a duty to inform the local authority when they remove a child from their roll to be electively home educated. The local authority also requests from the school, confirmation that they know or believe the child to be electively home educated. Preferably this would be a letter from parents informing them of their intention to home educate their child or if the school does not receive this, a copy of a letter from the school to the parent confirming the school's understanding that the parent intends to home educate. It is this local authority's requirement that schools share with it any concerns or known risks about the child, including their view on whether home education is likely to take place, and pass this, together with a 2 year attendance history (or less if the child has not been at the school for 2 years) to the local authority at the time of notification.
- 5.2** When a school is informed by parents of their intention to home educate, the school should invite the parents and if appropriate the child, to discuss their decision. This is particularly important when a parent makes a decision to home educate in response to an incident at school or as a means of avoiding a particular issue, such as actions related to the child's attendance or behaviour. The decision to home educate should be made for positive reasons and should be made in an informed and considered way, with the child's best interests as the prime consideration. There should be no intention of trying to dissuade parents from choosing to home educate and the parents participation in this meeting must be entirely voluntary. If the parents attend and decide to pursue their intention to home educate, the school will provide them with a copy of the LA's 'Elective Home Education' leaflet which informs the parent of the process that will follow once their child is removed from the school roll. If parents choose not to attend a meeting, the school will send this information to the parents.

³ Para. 6.10 DfE Elective Home Education <https://www.gov.uk/government/publications/elective-home-education>

5.3 The school should not advise or recommend that parents home educate, especially if a child is experiencing difficulties at school. Should it come to light following a meeting between the parents and the EHE team that this has happened, the child will be supported to return to the school.

5.4 Flexi-schooling (part-time school attendance) is where children are given permission to receive part of their education other than at a school. This is a matter for head teachers, rather than the local authority, to negotiate with parents. Parents cannot insist that the school agrees to a flexi-schooling arrangement, the decision to do so rests with the head teacher. Flexi-schooling is not the same as a reduced timetable which is instigated by the school in response to the medical needs of the child.

6 Duty of Local Authorities

6.1 The duty under s.436A means that the local authority must make arrangements to find out as far as possible whether home educated children are receiving suitable full-time education. Until the local authority is satisfied that a home-educated child is receiving a suitable full-time education, then a child being educated at home potentially remains in scope of the duty under s.436A of the Education Act 1996.

6.2 The local authority is responsible for ensuring that it has a clear and easily accessible EHE protocol which sets out the legal position, establishes clear and fair procedures and explains the respective roles and responsibilities of the local authority and home educating parents. The local authority will publish the name and contact details of the team and the named senior officer with responsibility for Elective Home Education.

6.3 The local authority recognises that there are many, equally valid, approaches to educational provision and what is important is that all children are involved in a learning process. The local authority will therefore seek to establish positive and supportive relationships with home educating parents and will respect their right to adopt a rich and diverse range of approaches to home education and use of a variety of philosophies and methods.

6.4 Parents may choose to meet the local authority representatives at a mutually convenient and neutral location instead of at home, with or without the child being present. The local authority will as first preference, seek to meet with the parents and child in person at their home. Parents may however, choose to provide information by phone, email or post.

7 Initial contact: Intention to electively home educate

- 7.1** When the local authority first becomes aware that parents have decided to home educate their child, contact will be made by an Education Welfare Officer (EWO) who will offer a meeting to confirm that the parents have made an informed decision to electively home educate their child and to offer further information about EHE in Lincolnshire. This will take place within 10 working days of the local authority obtaining all information that confirms that the child is being home educated. In the majority of cases, a parent will have given serious consideration of how they intend to educate their child and will therefore have no difficulties in providing information about how they intend to progress with home education. Once the EWO is satisfied that the parent has an understanding of what elective home education is and that it will take place, i.e. the home education is satisfactory at this point, a meeting is arranged with an Education Provision advisor to visit or for evidence of provision to be sent to the local authority in 3 month's time.
- 7.2** The local authority understands that in the early stages, parents may not be in a position to respond fully to enquiries about the provision they are making and therefore will not be able to demonstrate all the characteristics of an 'efficient and suitable' educational provision. There is, however, an expectation that education has continued to take place for the child since they left school and, whilst they may need to ask for support and advice from the local authority, parents should be able to explain their broad intention to educate. Where a child has unmet medical needs and parents are unable to assess the appropriate amount of learning for the child, an EWO may offer a visit from the Children and Young People's Nursing team to support parents to establish this.
- 7.3** Following initial contact, the EWO may conclude that the parents are unable to demonstrate that their child is receiving an education or that there is an intention to educate. In this case, the provision will be deemed unsatisfactory until parents are able to provide their evidence of intention to educate. Parents will be given 10 working days to provide this. If a parent declines a visit from an EWO, the LA will serve a formal s. 437 notice on parents requiring them to provide information about the child's education. If the parent is subsequently able to demonstrate they are offering a suitable home education from the outset and have made preparations with that aim in view, a meeting is arranged with an Education Provision advisor to visit or for evidence of provision to be sent to the local authority in 3 month's time.
- 7.4** If the information received within the 10 working days, does not provide sufficient evidence that the child has been learning since they left school or information on the parent's intention to educate, the education will be deemed unsatisfactory and parents will be requested to complete a mid-year application for their previous school and/or a school attendance order will be issued naming the child's previous school if possible. There will be an

expectation that the previous school will put the child back on their roll and make arrangements for the reintegration. The EWO will seek assurance from the school that this has taken place. Where it is concluded a return to the previous school is not in the best interest of the child, an alternative school provision will be found.

- 7.5** If a child has an EHCP, the school should inform the SEND team who will arrange an annual review meeting preferably prior to removing the child from the school roll. This meeting should take place within 2 weeks of parents informing the school that they wish to home educate and the child should continue to attend school until the meeting. If parents choose to exercise their right to remove the child immediately from the school, then a request for an annual review meeting at home will be sent to the parents. The purpose of the meeting is to confirm that the parents have made an informed decision to electively home educate their child, to establish that there is intention to home educate and review the plan in light of the change to provision. If the decision is that there is no intention to home educate, or that the needs of the child cannot be met at home, then the child will be supported to return to their previous school or an alternative suitable provision.

8 The Education Provision visit by an advisor

- 8.1** The purpose of the advisor visit is to ensure that the child is receiving an education that is efficient and suitable to the child's educational needs and support and advise where required. During an Education Provision visit, the advisor will be happy to provide suggestions, ideas and advice, as well as discuss the child's progress. When EHE children reach the 14 – 16 age group, the EHE advisor can offer help and advice on where to find career guidance, information about examinations and college placements.
- 8.2** A parent will be asked if they would like an advisor visit after educating their child at home for 3 months. If the education is deemed to be suitable, then the advisor and the parent will jointly agree when to have a future visit.
- 8.3** If the education is deemed to be unsuitable then the advisor will request further information within 2 months. If the education continues to be unsuitable, the local authority will ask the parent to make arrangements to return their child to school and issue a school attendance order if required.
- 8.4** A parent may choose not to have a visit but instead submit information about the educational provision being made for the child. This information will be reviewed by an EHE advisor who will make a judgement regarding the suitability of the provision. If the education is deemed to be suitable, then there will be a request for information again in 12 months time. If unsuitable a

request for further information will be sent and if there is no response or if this too is unsuitable, then the local authority will ask the parent to make arrangements to return their child to school and issue a school attendance order if required.

- 8.5** A School Attendance Order will normally only be served, if all reasonable informal and formal steps have been taken to establish that the education provision is suitable. At any stage during the process, parents may present evidence that they are now providing a suitable education and apply to have the order revoked.
- 8.6** If the local authority is not satisfied that the education is suitable and believes that the child should attend school, it will service a school attendance order. Non-compliance of this order may result in the prosecution of parents. Alternatively, or in addition, the local authority may apply for an education supervision order (ESO) made under s.36 of the Children Act which allows the local authority to impose conditions as to the way in which a child is to be educated. Non-compliance of an ESO can result in prosecution and an application of a care order under s.31 of the 1989 Act.
- 8.7** If the local authority is not satisfied that the education is suitable but does not believe that it is expedient for the child to attend school, the local authority will source advice and support or make alternative provision arrangements unless the child is very close to the school leaving age.
- 8.8** Although the local authority has no statutory duty to monitor the quality of home education on a routine basis, an EHE advisor will make contact with parents annually to discuss the ongoing suitability of the provision in relation to the child's age, ability, aptitude and to any special educational needs which they might have. During their visit the EHE advisor may suggest to parents a shorter or longer interval between visits as appropriate to the family's circumstances, for example where parents have previously educated other siblings of a similar age the interval could be extended.
- 8.9** The local authority encourages parents who are electively home educating their child to notify the local authority, particularly families who move into the local area from another local authority, although they are under no obligation to do so. Lincolnshire reserves the right to make its own judgement as to the suitability of an education provision but will, where practicable, consider evidence and judgements of other local authorities, provider and services.

Notes

- To make the protocol less clumsy 'parents and carers' will read as parents and 'child or children' as child. We have also used the term 'child' to cover the entire age range for statutory education i.e. 5 – 16 years
- Although we recognise that education can take place at all times and in all places, for convenience 'education otherwise than at school' will be referred to as 'elective home education', 'home education' and 'home schooling'.
- Again for the sake of ease Lincolnshire County Council Children's Services is referred to as the local authority.

Feedback: We are happy to receive feedback on the protocol. Contact details are below

Contact details:

Elective Home Education
County Offices
Newland
Lincoln
LN1 1YG

01522 553241

ehe@lincolnshire.gov.uk

Team Manager: Jill Chandar-Nair

jill.chandar-nair@lincolnshire.gov.uk

Senior Officer with responsibility for EHE: John O'Connor

john.o'connor@lincolnshire.gov.uk