



Elective Home Education Policy

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Introduction

The purpose of this document is to set out the current legal position and Staffordshire County Council's procedures relating to Elective Home Education (EHE) of children/young people of compulsory school age. The policy also reflects the government's aim to ensure all children and young people receive world-class education which allows them to reach their potential and live a more fulfilled life, regardless of background. That education should be provided in a safe environment, whether at school or home.

Staffordshire County Council has sought to strengthen its relationship with Elective Home Educators to ensure that Staffordshire is a safe and supportive place in which to home educate your child.

What is Elective Home Education?

EHE is the term used by the Department for Education to describe parents who have decided to provide education other than at school. This is different to home tuition provided by a Local Authority (LA) due to a child missing education for health reasons or following permanent exclusion.

It is important to note that EHE is an option that any family may consider for their children. The reasons for deciding on this approach are many, as are the styles of education undertaken.

Responsibility of Parents relating to Elective Home Education

This policy accepts that the responsibility for a child's education rests with their parents. In England, education is compulsory, but school is not. Parents have a duty to secure an appropriate suitable full-time education for their children. Some parents choose to do this by educating their children at home.

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."

When parents choose to home educate their child, they assume financial responsibility for their child's education. This, and the time involved in educating a child properly at home, form an onerous challenge for many parents. This would include the cost of any public examinations which would have to be entered by an external examination centre, which may be some distance from the home.

Home education falls within the 'otherwise' part in the above section 7 of the Education Act 1996, and parents have the right to educate their children at home. Staffordshire LA recognises that there are many, equally valid, approaches to education provision. What is suitable for one child may not be for another, but all children should be involved in a learning process.

The LA recognises that elective home educators, whilst not required to follow the national curriculum, should still provide a suitable, efficient, and full-time education as stated in section 7 of the Education Act 1996.

Local Authority Responsibilities

Local Authorities have a duty to:

- make arrangements under section 436A of the Education Act 1996 to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but are not registered pupils at a school and are not receiving suitable education.

It should be noted that 'so far as it is possible to do so' means the LA should do whatever is possible.

- intervene if it appears that parents are not providing a suitable, efficient, and full-time education. Section 437(1) of the Education Act 1996, states that:

To fulfil the above statutory duties, the LA will employ an Elective Home Education Lead. The EHE Lead is the named contact for parents and professionals. The EHE Lead co-ordinates and responds to both schools and parents in respect of EHE. To support this EHE Lead we will also employ full-time Elective Home Education officers, who will work with parents and other professionals to support EHE. The senior officer with responsibility for EHE policy and procedures, and the interaction with other work on issues such as children missing education, unregistered settings, vulnerable children, and welfare will be the Principal Officer for attendance and inclusion.

In Staffordshire we aim to contact parents at least on an annual basis by an EHE officer to confirm they are still home educating their child(ren) and request an update on the educational progress and current suitability of the education provision for their child(ren). This contact will be proportionate to the continuing level of provision and if there have been no previous concerns raised.

Defining Suitable Education

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."

This means that the wishes of parents are relevant. However, we believe it does not mean that parents are the sole arbiters of what constitutes a suitable education.

DfE guidance "Elective home education: Departmental guidance for local authorities April 2019" states that until a LA is satisfied that an EHE child is receiving a suitable fulltime education, then a child being EHE is potentially in scope of Section s436A of the Education Act 1996.

There is no definition of a 'suitable' education in English statute law. Therefore, the Local Authority will reach a view of suitability based on the individual circumstances of each child and the education provided.

Staffordshire LA does not accept that families beginning home education are entitled to a period during which the home education provided for the child may not meet the requirements in section 7 because they are still, as it were, building up the provision to a satisfactory level. There is no legal basis for such a position. Any statement along these lines could be an indication that the child is not being properly educated.

In Staffordshire we will ask parents for detailed information about the education they are providing, we will provide a framework for this to parents, but will accept other forms of information provided by parents. The LA recognises that parents are under no duty to respond to such enquiries. However, if a parent does not respond, or responds without providing sufficient information about the child's education, current case law means that a refusal by parents to provide any information in response to informal enquiries will in most cases mean that the LA has a duty to serve a notice under s.437(1). This is because where no other information suggests that the child is being suitably educated, and where the parents have refused to answer, the only conclusion which the LA can reasonably come to is that the home education does not appear to be suitable.

The term 'suitable' education should be seen in the following light:

- a. It should enable a child to participate fully in life in the United Kingdom by including sufficient secular education. This means that even if the home education is primarily designed to equip a child for life within a smaller community within this country it should not foreclose the child's options in later life to adopt some other mode of living, and to be capable of living on an autonomous basis so far as he or she chooses to do so.

- b. The education provision does not need to follow specific examples such as the National Curriculum, or the requirement in academy funding agreements for a 'broad and balanced' curriculum, nor the independent school standards prescribed by the Secretary of State. Conversely, however, if the home education does consist of one or more of those, then that would constitute strong evidence that it was 'suitable' in terms of s.7.
- c. That education functions are exercised with a view to safeguarding and promoting the welfare of children. Whilst these duties are very broadly drawn, it will be evident that if home education provided by a family taught children values or behaviour which was in conflict with 'Fundamental British Values' as defined in the Fundamental British values government guidance (for example by seeking to promote terrorism, or advocating violence towards people on the basis of their race, religion or sex), then it would not be in accordance with the authority's general duties to regard that education as being 'suitable'.
- d. That a parent can demonstrate effective ability and progress has been made in such matters as literacy and numeracy, whilst accepting that these must be applied in relation to the individual child's ability and aptitudes.
- e. If a child's ability is significantly above or below what might be regarded as 'average' then allowances must be made for that; and similarly, the home education may legitimately be catering specifically for particular aptitudes which a child has, even if that means reducing other content, however, there will remain a requirement to meet point d above.
- f. Suitable education is not simply a matter of academic learning but should also involve socialisation, parents are requested to demonstrate how they ensure their child has opportunities to socialise outside of the family.
- g. Home accommodation which is noisy and/or cramped is likely to make it very difficult for a child to learn and make satisfactory progress. Environmental factors such as these may therefore prevent a child receiving suitable education and will be considered in assessing suitability if present on a significant scale.

The EHE Officer's may require parents to produce materials which demonstrate their claims to providing a suitable education. These requests will take the form of requesting copies of a child's work in paper or electronic form.

Defining 'Full-time' Education

In Staffordshire we will require parents to provide information about the overall time devoted to home education of their child based on the number of hours per week, and weeks per year so that this information can be set alongside that relating to suitability. Education provision which manifestly is not occupying a significant proportion of a child's life (making allowance for holiday periods) will likely not meet the s.7 requirement.

However, the following will also be taken into account:

- in some home education provision, there is often continual one-to-one contact.
- education may take place outside normal 'school hours' and term time; and
- the type of educational activity can be varied and flexible.

Safeguarding

Staffordshire has the same safeguarding duties for children educated at home as for other children. Section 175 of the Education Act 2002 requires LAs to make arrangements to ensure that their education functions are exercised with a view to safeguarding and promoting children's welfare.

It is important to note that unsuitable or inadequate education can also impair a child's intellectual, emotional, social or behavioural development, and may therefore invoke the use of child protection powers.

Staffordshire will approach all cases where the suitability of home education is in doubt using their powers in the Education Act 1996, and they will also be ready, if a lack of suitable education appears likely to impair a child's development, to fully exercise their safeguarding powers and duties to protect the child's well-being, which includes their suitable education. See Appendix 3 for a summary of the legal options for the LA if it is satisfied that a child is not receiving a suitable education at home.

Local Authority Responsibilities relating to School Attendance Orders (SAO)

A SAO will only be served after all reasonable steps have been taken to try to resolve the situation informally.

A proportionate and timely approach will be taken in Staffordshire to ensure that the LA is satisfied that a suitable full-time education is being provided.

This will initially take the form of an EHE officer asking parents to provide detailed information about the education they are providing. Such a request is not the same as a notice under section 437(1) and is not necessarily a precursor for formal procedures. We acknowledge parents are under no duty to respond to such enquiries. However, as previously stated, if a parent does not respond, or responds without providing any information about the child's education, current case law means that in most cases we will then serve a notice under s.437(1).

Informal enquiries can include a request to see the child, either in the home or in another location, again we acknowledge the parent is under no legal obligation to agree to this simply to satisfy the LA as to the suitability of home education, although a refusal to allow a visit can in some circumstances justify service of a notice under s.437(1).

If no progress can be made under an informal arrangement, then an Education Welfare Officer will be asked to serve a notice under s.437(1)

In considering whether it is satisfied by the parent's response to the s.437(1) notice, it is open to the LA to consider any other relevant information available to it – not only through its own contacts with the family, but also information provided by other agencies and other sources and the child's former school (if any), as to the child's circumstances and needs.

If the parent refuses to provide any substantive response to a notice served under s.437(1) then that refusal in itself is likely to satisfy the above test under s.437(3)(a) to service a School Attendance Order.

If the parent does not cause their child to be registered at a school, then the LA will consider prosecuting the parent. The LA will also consider whether as an alternative to prosecution or as well as prosecution, making an application for an Education Supervision Order (ESO) which provides the LA with a formal supervisory role in the education of a child subject to one.

At any stage following the issue of the SAO, parents may present evidence to the LA that they are now providing suitable, efficient, and full-time education and apply to have the SAO revoked.

If the LA refuses to revoke the SAO, parents can choose to refer the matter to the Secretary of State. If the LA prosecutes the parents for not complying with the SAO, then it will be for a court to decide whether the education being provided is suitable, full-time and efficient. The court can revoke the SAO if it is satisfied that the parent is fulfilling his or her duty. It can also revoke the SAO where it imposes an ESO.

Concerns about the suitable education of an EHE child should be raised with the EHE Lead within Staffordshire County Council.

De-registering from school to Electively Home Educate

Parents are requested to notify the school in writing when withdrawing a child for EHE. However, it should be noted that until a child is removed from the school roll (which can only be when one of the trigger points specified in the Education (Pupil Registration) (England) Regulations 2006, as amended, is reached), the parent is at risk of prosecution for not securing attendance at the school even if suitable home education is being provided. This means that it is in a parent's interests to notify the school in writing of withdrawal for home education. See procedure flowchart in Appendix 2

The LA requires schools to inform them within 5 days upon receipt of a request from a parent (with parental responsibility) to EHE their child.

The LA is clear that schools must 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. Ofsted is likely to ask the LA about withdrawal rates at schools and whether action has been taken to identify patterns and a suitable strategic response, therefore the LA will compile data on children leaving schools to be EHE and provide this data to Ofsted upon request.

Special Schools: Under regulation 8(2) of the Education (Pupil Registration) (England) Regulations 2006, where a child is registered at a special school by arrangements made by a LA, the LA's consent must be obtained for the child's name to be removed from the admission register of that school. See procedure flowchart in Appendix 1

Parents whose children have an EHCP but do not attend a special school can either request an early Annual Review of their child's EHCP (regardless of when the last review was completed) and state their desire to alter it to confirm EHE or parents can write directly to the SEND Key Worker to request a change confirming EHE. The LA will request information regarding the proposed suitable EHE provision as outlined previously in defining a suitable education.

EHE children moving out of Staffordshire: Staffordshire LA is working with other LA's to identify children and share data about those who have left Staffordshire and have moved to another location to continue their EHE.

Children with Special Educational Needs or a Disability

Parents' right to educate at home applies equally where a child has special educational needs or a disability (SEND). This right is irrespective of whether the child has an Education, Health and Care Plan (EHCP).

EHE parents may request an Education, Health and Care needs assessment (EHCNA) via the same process as parents whose children attend a school. When a child has an EHCP, it is the LA's duty to ensure the special educational provision within the EHCP is made available to the child, but only if the child's parents have not arranged alternative suitable education for the child. Therefore, if a child's parents have arranged alternative suitable education for the child, for example, by way of suitable EHE, then the LA does not have a duty to secure the special educational provision specified in the EHCP for the child.

There is a distinction between children who are EHE and those who are 'educated otherwise than at school' (EOTAS).

Where the LA agrees that home education is the right provision for a child with an EHCP and that it would be inappropriate for the child to attend a school or other education setting, the child would be known as being EOTAS. When a child is EOTAS the LA must arrange the special educational provision set out in the EHCP.

If the LA offers the special educational provision that it considers is necessary and appropriate for the child, whether that is at a school or other education setting or at home, but parents decide to make their own arrangements rather than the child receiving the provision offered by the LA, then the LA has no duty to then assist parents with any costs incurred, this includes any requests for a personal budget.

If the home education arranged by parents is suitable, the EHCP will simply set out the type of special education provision that the LA believes the child requires, whilst setting out in the EHCP that parents have made their own arrangements under s.7 of the Education Act 1996.

For clarity, the LA will still be required to check the suitability of the home education. If at any point the LA considers the home education is no longer suitable, it must ensure that the special educational provision within the EHCP is made available, which may include ensuring a place is available at the school/education setting or type of school/education setting named in the child's EHCP.

As with children who do not have EHCPs, where a child is not receiving sufficient education suitable to the child's age, ability, aptitude and any special educational needs the child may have, this may lead to the local authority invoking SAO procedures.

When a parent is seeking consent for their child to be removed from a special school's register, the special school will arrange an Annual Review of the child's EHCP (regardless of when the last review was completed). The LA will consider whether the proposed EHE provision will meet the SEN of the child. Consideration will also be given to the additional difficulties of providing education at home to a child whose SEN are significant enough to warrant a place at a special school.

If a child is removed from a special school without prior consent from the LA, then this will fall within the remit of non-school attendance and may lead to prosecution or a fine.

Where a child who is home educated has an EHCP, the LA retains a duty to maintain and review it annually, following the procedures set out in the Code of Practice for SEND. Parents should always receive an invitation to the review process; however, it is not mandatory to see the child, or visit the home as part of the review.

If a child or young person has an EHCP, then there is a duty on the LA to consult with the child or young person about his or her wishes as to education, including any home education currently provided.

Children Missing Education

The intention of this policy is to avoid EHE children becoming classified incorrectly as Children Missing Education. Therefore, it is crucial that parents, schools and the LA clearly and openly communicate with each other when a child ceases to attend mainstream school to be EHE, when a child moves into Staffordshire who was EHE in another county or when an EHE child moves within or outside of Staffordshire.

Reviewing Procedures and Practices

Staffordshire County Council will review these guidelines and practice in relation to EHE at least every three years. Home educators will be invited to be involved in the process to strengthen partnerships.

Appendix 1

Education Health and Care Plan/Elective Home Education Flowchart Elective Home Education (EHE) requests for Children and Young People who attend a special school

A flowchart to support decision making in line with statutory guidance and provide clarity to parents and schools on local procedure

Parents notify the school of their wish to EHE

Where a special school receives a formal letter from parents with parental responsibility (PR) requesting that the school take their child off roll stating their intention to EHE clearly, the school informs the relevant SEND Assessment and Planning Service team and organises an Annual Review of the Education Health and Care Plan (EHCP), inviting parents and the EHE Lead.

Prior to the review taking place, the EHE Lead will ask parents to share information as to how they plan to meet their child's needs, objectives or outcomes of the EHCP and provide a suitable education.

Annual Review

Annual Review takes place and all views and discussion notes are included in Annual Review sent to the relevant SEND Assessment and Planning Service team.

If parents would like some support during this process, they may wish to contact the SEND Family Partnership Service who are independent and can help them to express any views they may have or advise on SEND legislation. They can be contacted on 01785 356921.

The parental request for EHE is considered by the Local Authority

A SEND Key Worker will prepare the Annual Review for the Decision Making Group (DMG) Panel for discussion, this will include the EHE Lead's recommendation on the suitability of EHE for the child. The SEND Assessment and Planning Service team may request additional information from the parents of the child, the school or any other professionals involved with the child.

The DMG Panel decide, in light of all the evidence submitted with the Annual Review and in line with the law, if it is appropriate or not to amend the EHCP to reflect the parents' choice to EHE and for parents to take on the full responsibility of providing a suitable education and with it the full financial responsibility.

A decision is made

If it has been agreed to amend the EHCP parents and school will be notified of the decision. The SEND Assessment and Planning Service will notify the school when it is appropriate to off-roll the child and amend the EHCP accordingly.

The EHE Service will be notified at this point so the child can be added to the EHE database. School to send a copy of the de-registration letter and school exit form to the EHE service.

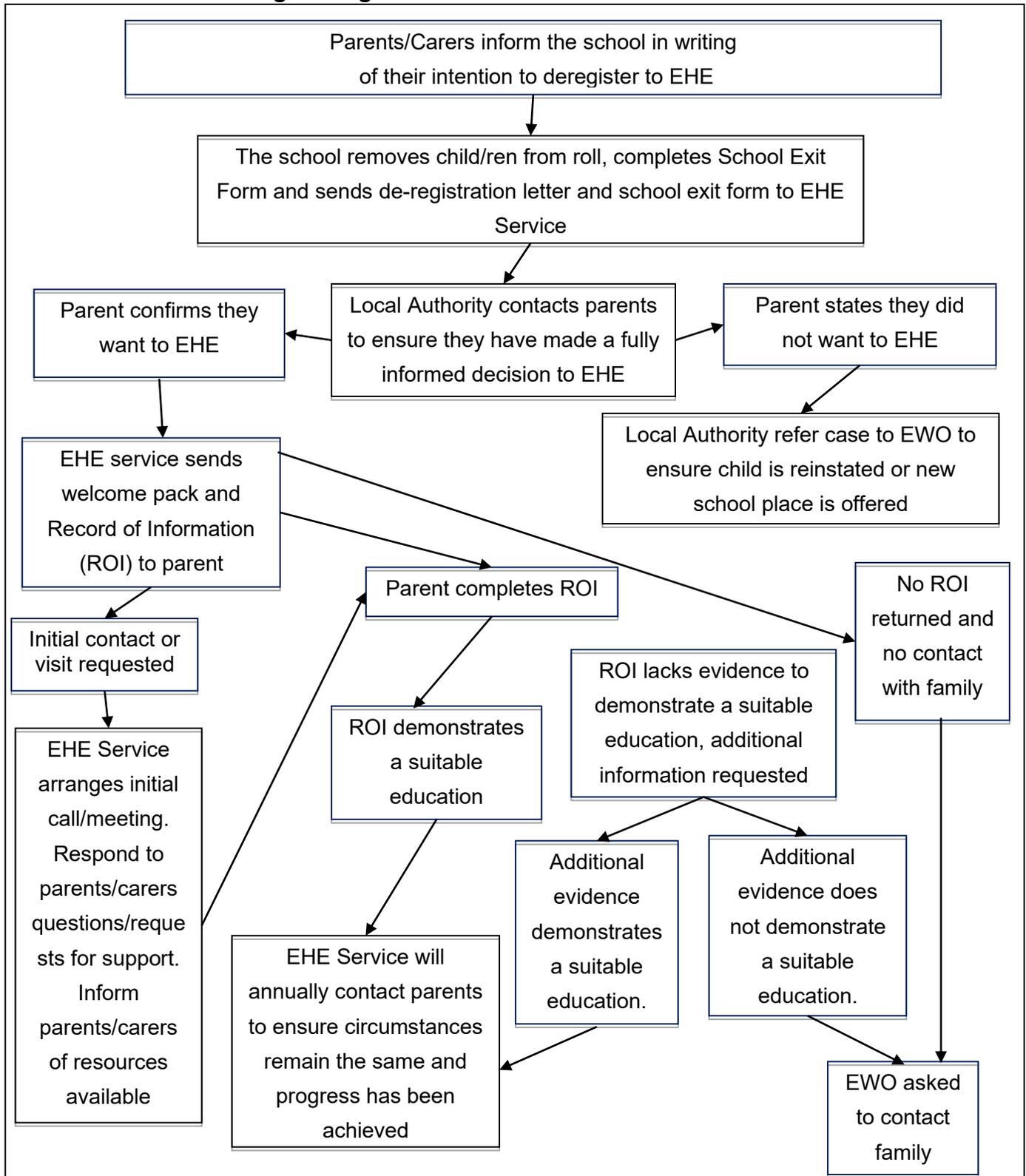
If it has not been agreed to amend the EHCP parents will be notified of what actions they can take if they disagree with the decision.

Relevant legislation, regulations and statutory guidance:

Section 7 of Education Act 1996, Part 3 (Section 42 [2 & 5]) of Children and Families Act 2014, SEND Regulations 2014, SEND Code of Practice 2001, SEND Code of Practice: 0 to 25 years 2015

Appendix 2

Procedure for Deregistering from Mainstream School



Appendix 3

This chart summarises the main features of the legal options open to a local authority if it is satisfied that a child is not receiving a suitable education at home

