

Education Inclusion Service

Elective Home

Education

Guidance and

Procedures

January 2022

EDUCATION INCLUSION SERVICE



Bath & North East
Somerset Council

Improving People's Lives

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Introduction

Elective home education (EHE) is the term used by the Department for Education (DfE) and Bath & North East Somerset to describe the educational provision made for children whose parents decide to educate them 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. These guidelines are intended for use in relation to elective home education only. Throughout this guidance, 'parents' should be taken to include all those with parental responsibility, including guardians and carers.

Children whose parents elect to educate them at home are not registered at mainstream schools, special schools, independent schools, academies, free schools, Pupil Referral Units (PRUs), colleges, children's homes with education facilities or education facilities provided by independent fostering agencies. Some parents may choose to engage private tutors or other adults to assist them in providing a suitable education, but there is no requirement for them to do so. Learning may take place in a variety of locations, not just in the family home.

The purpose of this guidance is to set out how Bath & North East Somerset will fulfil its statutory responsibilities, setting out the legislative position, and the roles and responsibilities of the local authority and parents in relation to children who are educated at home.

The law relating to elective home education

In England, education is compulsory, but school is not.

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."

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."

Section 9 concerns the provision of education that is in accordance with the wishes of their parents:-

"In exercising or performing all their respective powers and duties under the Education Acts, the Secretary of State and local authorities shall have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure."

Section 13A imposes upon a local authority a duty to promote high standards and the fulfilment of the learning potential of every person to whom section 13A(1) applies, which includes persons under the age of 20.

Section 436A imposes upon a local authority a duty to make arrangements to identify children not receiving education:-

“(1) A local authority must make arrangements to enable them 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 –

- (a) are not registered pupils at a school, and
- (b) are not receiving suitable education otherwise than at a school.

(2) In exercising their functions under this section, a local authority must have regard to any guidance given from time to time by the Secretary of State.

(3) In this Chapter, "suitable education", in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have (in the case of a local authority in England) or suitable to the child's age, ability and aptitude and to any additional learning needs the child may have (in the case of a local authority in Wales).”

Definitions

Efficient education - An efficient education, within the meaning of Section 7 of the Education Act 1996, is one which achieves what it sets out to achieve.

Suitable education - There is no definition of a ‘suitable’ education in English statute law. Case law has provided some clarity, a “suitable” education is one that:

- 1) “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” (R v Secretary of State for Education, ex parte Talmud Torah Machzikei Hadass School Trust. Judicial review 1985).
- 2) enables them to achieve their full potential (Harrison & Harrison v Stevenson. Appeal 1981 Worcester Crown Court)

On pages 30-31 of the *Elective home education departmental guidance for local authorities April 2019*, there are 8 points local authorities should base their decision on as to whether the education being provided is suitable.

Full-time education - There is currently no legal definition of “full-time”. Children that attend school normally receive around 4.5-5.0 hours of education a day, for about 190 days a year. However, in home education 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.

Parental Rights, Responsibilities and Considerations

The responsibility for a child's education rests with his or her parents. 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. They may also elect to home educate at any other stage up to the end of compulsory school age. In the majority of cases parents are not required to register or seek approval from the local authority to educate their children at home. If the child attends a special school under arrangements made by the LA permission is required. The Special Educational Needs and Disability section of this document provides further information.

Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the cost of any public examinations. However, local authorities are encouraged to provide support where resources permit.

Parents must ensure their children receive efficient and suitable full-time education for as long as they are being educated at home.

Bath & North East Somerset responsibilities

Bath & North East Somerset has a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to enable them to establish the identities, so far as it is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision).

Bath & North East Somerset has no statutory duties in relation to monitoring the quality of home education on a routine basis. However, under Section 437(1) of the Education Act 1996, local authorities shall intervene if it appears that a child of compulsory school age is not receiving suitable education.

Withdrawal from School to Elective Home Educate

The first contact between Bath & North East Somerset and home educators often occurs when parents decide to home educate and approach the school (at which the child is registered) and/or the local authority to seek guidance about withdrawing their child from school.

The Education (Pupil Registration) (England) Regulations 2006 state that a school must delete the child's name from their admissions register upon receipt of written notification from the parents that the pupil is receiving education otherwise than at school. In a few

cases the parental decision to electively home educate is premature, without proper consideration of the consequences of such an action. Maintained schools and academies could offer parents' 10 school days to review their decision to home educate before the child's name is deleted from the admission register. During this timeframe the Alternative Learning Team will contact the parent to offer advice about parental responsibilities for those who are, or who are considering, electively home educating their child.

Maintained schools and academies should not wait for parents to give written notification that they are withdrawing their child from school before advising their local authority of the intention to electively home educate.

Maintained schools and academies must make a return (giving the child's name, address and the ground upon which their name is to be deleted from the register) to the local authority as soon as the ground for deletion is met and no later than the date on which the pupil's name is deleted from the register. They should also copy parents into the notice to the local authority.

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 on the grounds that arrangements have been made for the child to receive suitable education otherwise than at school, before the child can be deleted from the school's register and educated at home.

Bath & North East Somerset encourages parents to inform them directly of the withdrawal of a child from school but has no legal right to insist that parents do so. The only exception to this is where the child is attending a special school under arrangements made by the local authority, in which case additional permission is required from the local authority before the child's name can be removed from the register.

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. In the case of exclusion, they must follow the statutory guidance. If the pupil has a poor attendance record, the maintained school with the support of the local authority or the academy must address the issues behind the absenteeism and use the other solutions available to them.

Children with Special Educational Needs and Disability (SEND)

If the school that the child is to be withdrawn from is a special school, the school must inform Bath & North East Somerset Council who must decide whether or not to give consent before the child's name can be deleted from the school admission register. Bath & North East Somerset will need to consider whether the elective home education is suitable before amending the child's Education Health and Care (EHC) Plan.

Parents of children with special educational needs have the same right to educate their child at home. This right is irrespective of whether the child has an Education, Health and Care Plan (EHC Plan) or not.

When a child has a EHC plan, it is the local authority's duty to ensure that the educational provision specified in the plan is made available to the child - but only if the child's parents

have not arranged for the child to receive a suitable education in some other way. Therefore, if the home education is suitable, the local authority has no duty to arrange any special educational provision for the child; the plan should simply set out the type of special educational provision as being needed when the child attends school, but it should state in Section I of the plan that parents have made their own arrangements under s.7 of the Education Act 1996.

A parent who is educating their child at home may ask Bath & North East Somerset to carry out a statutory assessment or reassessment of their child's special educational needs and Bath & North East Somerset must consider the request within the same statutory timescales and in the same way as for all other requests. Bath & North East Somerset will provide information to home educators detailing the process of assessment and both its and home educators' responsibilities with regard to provision should the child be given an EHC Plan.

In some cases the local authority will conclude that the home education provision that is being made for a child with a EHC plan is not suitable. In such cases the procedure to be followed in s.437 of the Education Act 1996 is the same as for other children who are educated at home but are not receiving a suitable education.

Even if the parent is making suitable alternative arrangements by the provision of home education the local authority is still under an obligation to conduct an annual review of the EHC plan, and that should provide an opportunity for parents to seek additional support or discuss alternatives to home education. The Statutory Special Educational Needs Team are responsible for arranging the annual review of the EHC plan for children that are home educated.

Bath & North East Somerset Elective Home Education Support

The EHE Co-ordinator and EHE Visitor provides support in the form of:

- Signposting parents to resources and services
- Publishing written information about EHE that is clear, accurate and sets out the legal position, roles and responsibilities of both the local authority and parents;
- Discussing the implications of EHE with parents before they make the decision to leave or enter the school system;
- Seeks to mediate between schools and potential EHE families when the relationship has broken down and parents feel obliged to withdraw their child.
- Producing reports of contact with home educating parents and children;
- Promoting positive relationships with electively home educated families based on mutual understanding, respect and trust in order to safeguard the educational interest of children.

Information Bath & North East Somerset will use to reach a legitimate conclusion that a suitable education is being received

In their consideration of home education, Bath & North East Somerset will expect the provision to include the following characteristics:

- consistent involvement of parents or other significant adults – it is expected that parents or significant adults would play a substantial role, although not necessarily constantly or actively involved in providing education
- recognition of the child’s needs, aptitude, and aspirations
- opportunities for the child to be stimulated by their learning experiences
- access to resources/materials required to provide home education for the child – such as paper and pens, books and libraries, arts and crafts materials, physical activity, ICT and the opportunity for appropriate interaction with other children and other adults.

A home visit is the preferred way of engaging with parents, however any of the following may be appropriate ways of enabling Bath & North East Somerset to consider the parents’ provision of education at home:

- A meeting with the EHE Co-ordinator or EHE Visitor at the home with or without their child.
- A meeting with the EHE Co-ordinator or EHE Visitor at another venue with or without their child being present.
- A phone or video call.
- A letter or a report from parents.
- A letter or a report from a reputable third party, for example a provision, project, private tutor, or online provision acceptable to them and the local authority endorsing their educational plans.
- Samples of their child’s work

Information provided in letters or reports should include the following:

- educational plans outlining what is intended to be achieved
- the amount of time their child is being educated,
- the circumstances in which education is being delivered e.g. premises and available resources,
- access to social development opportunities,
- details of progress their child has made,

It is likely to be much easier for parents to show that the education provided is suitable if attention has been paid to the breadth of the curriculum and its content, and the concepts of progress and assessment in relation to their child’s ability.

Information provided by parents should demonstrate that the education actually being provided is suitable and addresses issues such as progression expected and achieved. It should not be simply a statement of intent about what will be provided, or a description of the pedagogical approach taken – this would not enable the local authority to reach a legitimate conclusion that a suitable education is actually being provided.

The local authority recognises that, in the early stages, parents’ plans may not be detailed and that they may not yet be in a position to demonstrate all the characteristics of an

“efficient and suitable” educational provision. The EHE information pack, questionnaire and first visit will give parents the opportunity to develop their provision within a structured timescale.

Bath & North East Somerset Elective Home Education Procedure

The responsibility for Elective Home Education policy and procedure within Bath & North East Somerset lies with the Education Inclusion Service. The day to day operational management is by the Alternative Learning Team (ALT).

There are no detailed legal requirements as to how such a system of oversight should work, and it is for each local authority to decide what it sees as necessary and proportionate to assure itself that every child is receiving a suitable education, or action is being taken to secure that outcome.

When the ALT becomes aware that a parent wishes to home educate, either by withdrawing their child from school, or not applying for a school place, the reasons for the decision is explored. Support, advice and mediation are provided to retain the child in school if this is the parents’ true preference.

Following a parent’s final decision to home educate, the child’s details are added to the Elective Home Education EYES database. If applicable, the EHE Co-ordinator requests the school complete an “exit from school form”. In order to discharge its wider safeguarding duties the ALT seek the views of other Children’s Services teams who may be working with an electively home educated child. Services that may be contacted include Social Care, School Nurse, Child Health and/or any other service or agency if known.

Parents are offered an initial visit from the EHE Co-ordinator or Visitor, both are able to offer advice and guidance to help parents in their responsibilities to ensure that the education they arrange meets the requirements of Section 7 of the Education Act 1996. Parents are provided with an EHE information pack and are invited to complete and return a questionnaire relating to the education they intend to provide for their child. If an initial visit is declined by parents, confirmation of this registration, an elective home education information pack and copy of the questionnaire will be sent to parents.

The ALT makes contact with the parents of all home educated children on at least an annual basis to reasonably inform itself of the current suitability of the education arranged. Letters will state whether contact initiated by the authority is in response to specific concerns.

Following contact with parents, the EHE Co-ordinator or EHE Visitor prepares a report to the home educator. This report will include one of the following:

- A statement that the education is satisfactory with recommendations as appropriate.
- A statement that there are concerns as stated in the report with recommendations for improvement and a review timeframe specified.
- A letter stating that the education is unsatisfactory for reasons stated in the report with recommendations or/and plans for support and a review timeframe specified.

Each case is judged upon its own individual circumstances.

Where the education provided is deemed to be satisfactory parents are offered further opportunities to meet with the EHE Visitor. Feedback received from home educators within Bath & North East Somerset suggest that satisfactory endorsement by way of a report is welcomed.

Where there are concerns about the education being provided the EHE Co-ordinator or EHE Visitor will discuss these with the parents and suggests areas for improvement and/or provide guidance about what other information is required to enable the authority to conclude the education is satisfactory. In these cases, follow up contact from the authority will occur more frequently. The authority will initially attempt to resolve concerns through informal contact and enquiries.

If, on review, the education remains unsatisfactory then the case will be referred to the Attendance and Welfare Support Service (A&WSS). Refusal by parents to provide any information in response to informal enquiry will, in most cases, result in a referral to the A&WSS.

The A&WSS may serve a notice in writing on the parent requiring them to satisfy the local authority that the child is receiving a suitable education. Please see the flow chart on page 5 of the *Elective home education, Departmental guidance for local authorities April 2019*, that outlines the process Local Authorities are expected to follow.

Safeguarding Information

Home education is not, in itself, a safeguarding concern. The welfare and protection of all children, both those who are registered at a school and those who are educated at home, is of paramount concern and a shared responsibility. A situation in which a child receives unsuitable or inadequate education can impair a child's intellectual, emotional, social or behavioural development, and may therefore involve child protection duties.

Bath & North East Somerset have a duty under section 175(1) of the Education Act 2002 to safeguard and promote the welfare of children. This section states:

“A local education authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children.”

Section 175(1) does not extend local authorities' functions. It does not, for example, give the local authority powers to enter the homes of, or otherwise see, children for the purposes of monitoring the provision of elective home education.

The Children Act 2004 (“the 2004 Act”) provides the legislative framework for developing children's services as detailed in Every Child Matters: Change for Children.

Section 10 of the 2004 Act provides a statutory framework for cooperation arrangements to be made by local authorities with a view to improving the well-being of children in their area.

Section 11 of the 2004 Act sets out the arrangements to safeguard and promote the welfare of children. However, this section does not place any additional duties or responsibilities on local authorities over and above section 175(1) of the Education Act 2002.

The Alternative Learning Team will follow Bath and North East Somerset's safeguarding procedures at all times, working with relevant agencies and individuals to proactively safeguard and promote the welfare of children. In the event of any concerns about the welfare of a home educated child the ALT will initiate and follow established procedures. The EHE Co-ordinator or EHE Visitor will explain the reasons for any welfare concerns to the parents in accordance with procedure.

The EHE Co-ordinator and EHE Visitor will have up to date safeguarding training.

Enquires

Any enquiries relating to this guidance should in the first instance be addressed to:

Head of Education Inclusion Service

☒ Bath & North East Somerset Council
Lewis House
Manvers Street
Bath
BA1 1JG

☎ 01225 394454

✉ EHE@bathnes.gov.uk

The Government's guidance to local authorities on Elective Home Education can be viewed at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791527/Elective_home_education_guidance_for_LAv2.0.pdf

The Government's guidance for parents on Elective Home Education can be viewed at:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791528/EHE_guidance_for_parentsafterconsultationv2.2.pdf

Further advice is available through the Governments [DirectGov](#) website which also contains links to independent groups (HEAS & Education Otherwise) which support parents who educate their children at home.