

Review Due October 2019



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# Elective Home Education

Local Authority Protocol, Information  
and Guidance

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## Contents Page

Content	Page
1 - Introduction	2
2 - Purpose	2
3 - The law relating to Elective Home Education (EHE)	2
4 - Parental rights and responsibilities	3
5 – Schools	5
6 – Local Authority's Roles and Responsibilities	6
7 – Children with Special Educational Needs (SEN)	8
8 – Safeguarding	9
9 – Reviewing Policies and Procedures	10
10 – Complaints	10



## 1. Introduction

- 1.1 Elective Home Education (“EHE”) is the term used by the Department for Education (“DfE”) to describe parents' decisions to provide education for their children 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.
- 1.2 EHE is an option that any family may consider for their children. The reasons for deciding on this approach may be many, as are the styles of education undertaken. Some families may base their decision on their philosophical, spiritual or religious outlook. For others it may be to meet the specific needs of a child or children. Sometimes it may be because of dissatisfaction with the ‘system’ or used as a short term intervention for a particular reason.
- 1.3 The London Borough of Waltham Forest (LBWF) is unable to offer any financial support to parents who elect to home educate their child/ren.

## 2. Purpose

- 2.1 This document aims to clarify for schools, parents, carers, guardians and related agencies, the protocol and procedures to be observed when a parent elects to home educate their child who is of compulsory school age.
- 2.2 The protocol sets out parents’ rights to educate their children at home, together with the legal duties and responsibilities of Head teachers and the LBWF. It also sets out the arrangements the Behaviour, Attendance and Children Missing Education (BACME) Service from the LBWF will make in order to carry out its legal duties.

## 3. The law relating to elective home education

- 3.1 The responsibility for a child’s education rests with the parents. Education is compulsory in England, however, school is not.

Article 2 of Protocol 1 of the European Convention on Human Rights states:

“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and 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”.

Parents have a duty to secure an appropriate full-time education for their children. Some parents choose to do this by educating their child/ren at home. They do it because they judge it to be the best way to carry out this duty.



Section 7 of the Education Act 1996 states 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."

3.2 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". It is appropriate for EHE lead BACME officer to be mindful of this when planning education provision.

3.3. 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."

3.4 Parents must comply with notices and orders served by the LBWF under Section 437 of The Education Act 1996, if it appears that parents are not providing a suitable education. This will apply where no evidence is provided by which the local authority is able to judge progress and that appropriate provision is in place.

#### **4. Parental rights and responsibilities**

4.1 Parents are responsible for ensuring that their children receive a suitable education. The LBWF recognises that parents have the right to choose to educate their child at home rather than at school. Where parents choose to home educate, LBWF consider it to be desirable for parents and the LA to work together, recognising each other's rights and responsibilities and establish and maintain a positive dialogue in the interests of the child to ensure that a high quality education is received and children are safeguarded.

4.2 Many families make a pro-active decision to home educate. Such families usually provide an extremely high standard of education for their children. However, some families may feel that electing for home education is the only available option when it appears that school issues cannot be resolved or where personal



circumstances mean that attending school regularly is problematic. The LBWF's BACME Service aims to support families in these situations to ensure families understand the implications of the child no longer being on a school roll, for example having to take qualifications as an external candidate.

- 4.3 Where young people are entering EHE during Key Stage 4, particular attention will be given to ensuring appropriate learning pathways are discussed with relevant parties. There is an expectation that clear plans will be in place for achieving recognised qualifications at age 16 and securing progression to post 16 learning or employment with training, and, recognising the vulnerability of becoming NEET ("not in education, employment or training") for young people who exit school at this late stage.
- 4.4 It is appropriate that parents and children choose a type of education that is right for them. It is equally important that the EHE lead BACME officer understands and is supportive of the many differing approaches or "ways of educating" which are all feasible and legally valid. The role of the EHE lead BACME officer is to respond to concerns that a child is not receiving suitable education for his or her age, ability and aptitude and, where appropriate, provide support and information for parents. It is not the role of the EHE lead BACME officer to tell parents how to educate their children.
- 4.5 Parents are able 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 a school. They may elect to home educate at any other stage up to the end of compulsory school age.
- 4.6 Where a child has been registered at a mainstream school, parents are required to notify the school in writing when withdrawing their child/ren for the purpose of EHE. This is to confirm that provision is being made for the child/ren's education otherwise than at school and requesting removal from the school's roll.
- 4.7 Consent of the LBWF is required to de-register pupils placed at a special school under arrangements made by an LBWF (see section 7). Where a child/ren are registered at a school as a result of a school attendance order, parents must ask the LBWF to revoke the order.
- 4.8 Parents are required to provide an efficient, full-time education suitable to the age, ability and aptitude of the child/ren. There is currently no legal definition of "full time". The length of time children should be involved in learning is not specified in law. As guidance, children in school spend between 21 and 25 hours on schoolwork for 38 weeks of the year.
- 4.9 Parents may choose to employ others to educate their child, though they themselves are still responsible for the education provided. In these circumstances, parents are responsible for ensuring that those whom they engage are suitable to have access to children. It is strongly recommended that

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parents arrange for a Disclosure and Barring Service (DBS) check prior to employment and that there are arrangements made for ongoing supervision.

- 4.10 If the child is below compulsory school age, parents do not need to inform the LBWF. However, the intention of the LBWF is to be supportive and to work in partnership and therefore the LBWF is grateful if parents notify and inform of their intention prior to compulsory school age.

## 5. Schools

- 5.1 If parents inform schools they are considering home education, it is important that schools and parents are fully apprised of the expectations and implications of home educating before committing to making this important decision. The LBWF recommends that parents are given contact details and advised to seek advice from the LBWF's EHE lead BACME Officer before formally asking the school to remove the child from the school roll.
- 5.2 Schools must not seek to persuade parents to educate their child at home, nor would it be recommended for parents to elect to educate their children at home as a way of solving a perceived or ongoing problem for a school.
- 5.3 In these situations both the school and parents should be able to obtain advice and support from LBWF's EHE lead BACME Officer. LBWF hopes that the schools will explain to the family that delegated funding from the school may be used to pay for 'Alternative Provision' as long as the young person remained on roll, however there is no funding once a child or young person is removed from the school roll.
- 5.4 When parents are opting to home educate due to a breakdown in relations between the school and family, there should be a presumption that mediation will be explored prior to a final decision being made on whether to remove the child from the school roll and that the LBWF can be engaged in that process.
- 5.5 The LBWF would expect all schools in the borough to have had a discussion with parents, signposting them to support and guidance before making any formal decision.
- 5.6 When a school receives written notification from a parent of their intention to home educate their child, it is the responsibility of the school to:-
- 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.
  - Schools **must** inform the LBWF that they have removed the child/ren from roll (copy of the parent letter should be provided to the LBWF through the



BACME-Referral email). It is important that the school informs the LBWF of the reason for deletion in order to ensure appropriate support is in place for parents. This should be done at the point of deletion from roll.

- 5.7 If a child/ren are registered at a school as a result of a school attendance order, the parents must request that the order be revoked by the LBWF on the ground that the arrangements have been made for the child to receive suitable education otherwise than at school, before the child/ren can be removed from the school roll and educated at home.
- 5.8 If a child has a statement of Special Education Needs (SEN) or an Education Health Care (EHC) Plan, please also refer to section 7.

## **6. The LBWF responsibilities and procedures**

- 6.1 Whilst there are no statutory duties in relation to the routine monitoring of the quality of home education, under Section 437(1) of the Education Act 1996, LA's shall intervene if it appears that parents are not providing a suitable education. This section states:

"if it appears to a local 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 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".

- 6.2 Section 437(2) of the 1996 Act provides that the period shall not be less than 15 days beginning with the day on which the notice is served.

Section 437(3) of the 1996 Act provides for the serving of School Attendance Orders:

If:

- a) a parent on whom a notice has been served under subsection (1) fails to satisfy the LA, within the period specified in the notice, that the child is receiving suitable education, and
- b) In the opinion of the LA 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 on the order.

- 6.3 When the LBWF becomes aware that parents have elected to home educate, an initial contact will be made within five schools days with the parent. The purpose of this contact is to undertake preliminary discussions regarding suitable education provision for the child/ren and to arrange an initial meeting.



- 6.4 Within 10 school days or upon receiving notification, an initial review of the suitability of EHE will be completed by the EHE Lead BACME Officer. Ideally this review will take place in person at the family home and include both parents and child/ren. It is recognised that some parents may wish to meet at another venue and this is also acceptable.
- 6.5 The LBWF accepts that in the early stages, parents may not yet be in a position to respond fully to such enquiries. In such cases, a reasonable timescale for responding will be agreed with the parents.
- 6.6 In order to determine the suitability of education provision, an assessment process will be undertaken, which incorporates reviewing and asking for evidence in the following areas:-
- Academic Subjects
  - Personal Development and Social Skills
  - Physical Activities
  - Creative and Self Expression
  - Technology
  - Child's Special Interests and Aptitudes
- 6.7 The review process also incorporates checks on Mosaic and the One system to ascertain if there are any additional vulnerabilities or risks that need to be considered within the review process.
- 6.8 Children are welcome and encouraged to attend any meetings and make contributions to the information provided. It is important to the LBWF that the views of the young person are sought and listened to.
- 6.9 If the assessment concludes that suitable education is being provided then a written report to the parents will confirm this and an annual review booked in.
- 6.10 Should the EHE Lead BACME Officer have concerns that the child/ren are not receiving a suitable education, following the review then parents will be advised via a formal written report.
- 6.11 The written report, completed following a visit and or contact, will outline what the specific concerns are and why the EHE Lead BACME Officer is concerned about this. The written report will also include a second review date\* with which the parent will need to demonstrate suitable education is being delivered to their child/ren. Wherever possible, parents will have been informed of this in a face to





face conversation beforehand and will have been given guidance about ways in which suitable education to meet the needs of the child/ren may be provided.

\* The review date is agreed with a Senior or Manager based on the risk and vulnerability of the child/ren. This decision will be evidenced in Mosaic under manager's decisions and will not be longer than 6 weeks.

6.12 At the second review if there remains no demonstrable evidence that suitable education is being provided then the parents will be advised in writing that they have 15 school days with which to apply for a school place.

6.13 If after 15 school days parents have not applied for a school place then the process to apply for a School Attendance Order will be instigated.

6.14 If parents fail to engage with the EHE lead BACME officer and provide any education plan then the Local Authority will assume that the education being provided is not suitable and a School Attendance Order will also be instigated.

6.15 The London Borough of Waltham Forest considers that the taking of the above measures shall be a last resort after all reasonable avenues have been explored to bring about a resolution of the situation. At any stage following such an order, parents may present evidence to the LBWF (or the court) that they are now providing a suitable and appropriate education and apply to have the order revoked.

## **7. Children with Special Educational Needs**

7.1 Parents' right to educate their child/ren at home applies equally where a child has special educational needs (SEN). This right is irrespective of whether the child has a statement of SEN or an Education, Health and Care (EHC) plan.

7.2 Where parents elect to home educate a child with a statement/plan who is registered at a mainstream school, the school (as described in section 5) will remove the pupil from roll, following receipt of written confirmation from parent that educational provision is being made otherwise than at school. The school should inform parents of the legal position and inform The School Admissions Service, BACME Officer for Elective Home Education and the Disability Enablement Service (DES). LA approval is not required regardless of whether or not the child has a statement of SEN/EHC plan unless registered at a special school. That said, the LA would strongly recommend advising the DES immediately however as a Review of the statement/plan will still need to be conducted. The EHE lead BACME officer will be involved in the EHC plan review conducted by the DES.

7.3 On confirmation from the DES that a child, who is attending a special school, has been removed from roll for EHE, the updated EHCP/Statement of SEN will be



sent to BACME. The BACME Officer with a lead for EHE will then review home education provision in line with the timeframes detailed above.

- 7.4 On confirmation of a child, who is attending a mainstream school, has been removed from roll for EHE, the BACME Officer with a lead of Elective Home Education will notify the Disability Enablement Service (DES) and Admissions.
- 7.5 Where a child who is home educated has a statement of SEN or EHC plan, the LA retains a duty to maintain and review it annually. Following the procedures set out in the Code of Practice for SEN. Parents should always be involved in the review process. However, it is not mandatory to see the child or the home as part of the review. Ideally the BACME Officer with a lead of Elective Home Education will attend the annual review to prevent additional meetings if the parents wish for only minimal contact and there are no other concerns.
- 7.6 Parents do not have to arrange provision detailed in the statement/plan, but do have a duty to provide an education suitable to their child's age, ability and any special educational needs. Where parents elect to home educate a child with a statement of SEN/EHC plan, this change of placement will be reflected in the statement/plan. The statement/plan may identify provision to be secured by the LA, where the LA considers it necessary to assist parents to fulfil their responsibilities.

## **8. Safeguarding**

- 8.1 The Law says that a local education authority *shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children.* This would include children who are electively home educated.
- 8.2 A number of recent, high-profile cases in which children have been placed at risk whilst being electively home-educated suggest the following.
- Home-educated children are subject to less monitoring and scrutiny than those who attend school. Services are less likely to become aware of the signs of abuse or neglect.
- 8.3 Parents of children with special educational needs, particularly those with complex and/or profound needs, are likely to require additional support with the practical and emotional difficulties of providing home education. Such parents may lack the support of others and become isolated.
- 8.4 It is, therefore, vital to gather information about vulnerable children/families and to share it systematically with relevant officers and workers. The BACME Officer with a lead for EHE should have identified newly referred children who may be



vulnerable to not receiving their education entitlement. Indicators of vulnerability may include:-

- Children in the care of a Local Authority.
- Children known to Social Care, including those who have a child protection plan or those who have been designated as children in need.
- Children who have previously been known to social care, but where the case is not currently active.
- Children who have significant levels of special educational need, including those who have a statement of SEN/EHC Plan or are awaiting one.
- Children belonging to groups where there is evidence to suggest that they may not always receive their full education entitlement.
- Children for whom an Early Help Assessment has been created.
- Pregnant girls or teenage parents.

8.5 In relation to **vulnerable children**, the following guidelines must be followed: -

- EHE Lead BACME Officer will liaise with all professionals involved with the child/ren and ensure Mosaic is updated to reflect that the child/ren is now EHE.
- The initial meeting must be arranged within 10 schools days (Unless authorised by a senior or manager) of the child becoming home educated. If after several attempts, face to face contact has not been made, the provision must automatically be viewed as unsuitable. This should be explained to the parent.
- In these cases, strategy will be decided upon by the appropriate lead professional in conjunction with the BACME Officer.
- If the situation is considered to be potentially unsafe, a request for Help, Support and Protection should be completed and submitted to the MASH without delay.
- If it is not possible to arrange monitoring at all, the case should be discussed with the BACME Senior Practitioner for decision on strategy.
- If there are concerns about the immediate safety of the child consideration will be given to seeking the involvement of the Police and children and Social Care.

## 9. Reviewing policies and procedures

9.1 The LBWF is committed to a successful education for all children and recognises that elective home education can work well for some children. If, after careful consideration, parents decide to educate at home, the LBWF hopes that this proves to be a happy and constructive experience. The LBWF is not able to

Review Due October 2019



provide teaching support or detailed curriculum plans, but will offer encouragement and advice. The LBWF will review this protocol and procedures in relation to EHE annually.

## 10. Complaints

10.1 Any concerns should in the first instance be taken to the BACME Officer for Elective Home Education:

Email: [BACME-Referral@walthamforest.gov.uk](mailto:BACME-Referral@walthamforest.gov.uk)

Tel: 0208 496 1718

10.2 If concerns still remain, parents are able to make a complaint to the Local Authority. Information on the Local Authority complaints process can be found on the LA website <https://www.walthamforest.gov.uk/content/complaints>