

# **Kirklees - Children & Young People's Service**

## **Elective Home Education (EHE) Policy**

**September 2021**

### **Review date:**

This policy will be reviewed annually, or as required should legislative amendments be realised.

Policy reviewed September 2022

# Contents



1. Introduction
2. The Context for Elective Home Education
3. The Law Relating to Elective Home Education
4. Parental Rights and Responsibilities
5. Children's Rights
6. The Local Authority's Responsibilities
7. School and Academy Responsibilities
8. Elective Home Education and Safeguarding
9. Elective Home Education and Special Educational Needs
10. The Elective Home Education Service
11. Complaints Procedure

## **1. Introduction**

- 1.1 Kirklees Council, the local authority, believes that high-quality education is a fundamental right for every child and aims to work in partnership with parents and carers who electively home educate and respects their right to do so.
- 1.2 Whilst the local authority supports parents who wish to enrol their child at school, it equally supports a parent's right to home educate. The local authority aims to work with parents who home educate to ensure that those children are provided with efficient full-time education, suitable to their age, ability, aptitude and to any special educational needs or disabilities which they might have.
- 1.3 The local authority seeks to build positive relationships with parents who home educate by establishing mutual understanding, trust and respect.
- 1.4 The purpose of this policy is to set out the legislative position, and the roles and responsibilities of the local authority, schools and parents in relation to children who are electively home educated.
- 1.5 Kirklees Council has a dedicated Elective Home Education Team, (EHE Team), as part of the Learning and Early Support Service.

## **2. 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 from the education provided by a local authority otherwise than at a school – for example, tuition for children who are too ill to attend school.
- 2.2 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." <sup>1</sup>
- 2.3 This policy takes account of the DfE Elective Home Education guidance for local authorities, April 2019 and the Elective Home Education guidance for parents, April 2019.<sup>2</sup>
- 2.4 Whilst home education is not in itself a safeguarding issue, the policy has been developed in the context of the duty placed on local authorities to make

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<sup>1</sup> European Convention on Human Rights: <https://www.equalityhumanrights.com/en/human-rights-act/article-2-first-protocol-right-education>

<sup>2</sup> DfE Elective Home Education Guidance: <https://www.gov.uk/government/publications/elective-home-education>

arrangements to safeguard and promote the welfare of all children in Kirklees, (Section 175 of the Education Act 2002)<sup>3</sup>

- 2.5 The policy aims to achieve an appropriate balance between the rights of home educating parents and the responsibilities of the local authority.

### 3. The Law relating to Elective Home Education

- 3.1 Education is compulsory in England for children from the start of the term following the child's 5th birthday, until the last Friday in June of the academic year in which the child is 16. From June 2015, the raising of the participation age means young people are required by law to engage in education, employment or training until their 18th birthday, (Education and Skills Act 2008)<sup>4</sup>.
- 3.2 Parents have a legal duty, under Section 7 of the Education Act 1996<sup>5</sup>, to ensure their children receive efficient full-time education suitable to their age, ability and aptitude, and to any special educational needs which they may have, "either by regular attendance at school or otherwise". (The term "or otherwise" can mean 'at home')
- 3.3 The term "efficient" is defined as 'an efficient education, within the meaning of Section 7; one which achieves what it sets out to achieve'. This concept mustn't be confused with suitability. *'A wholly unsuitable education can be efficiently delivered – but would still be unsuitable'*<sup>6</sup>
- 3.4 The term "full-time" has no current legal definition. Children of compulsory school age normally receive around 4.5 – 5.0 hours of education a day, for about 190 days a year. However, when a parent home educates, there is often continual one to one contact; education may take place outside of 'normal school hours' and term time, and the type of educational activity can be varied and flexible.
- 3.5 The term "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 level of ability, and should take account of any specific aptitudes. There is an expectation that literacy and numeracy are learned, and the education should enable the child, when grown-up, to function as an independent citizen in the UK - and 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 Fundamental

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<sup>3</sup> Section 175 of the Education Act 2002 <https://www.legislation.gov.uk/ukpga/2002/32/section/175>

<sup>4</sup> Education and Skills Act 2008 <https://www.legislation.gov.uk/ukpga/2008/25/contents>

<sup>5</sup> Section 7 of the Education Act 1996 <https://www.legislation.gov.uk/ukpga/1996/56/section/7>

<sup>6</sup> Elective home education: Departmental guidance for local authorities 9.7  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/791527/Elective\\_home\\_education\\_guidance\\_for\\_LAv2.0.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791527/Elective_home_education_guidance_for_LAv2.0.pdf)

British values. [Promoting fundamental British values through SMSC - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/promoting-fundamental-british-values-through-sm-sc)

- 3.6 Education at home may not be deemed suitable if it is delivered in circumstances that make it difficult to learn, (for example, in very noisy premises). 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 the child's social development, as per DfE guidance.
- 3.7 Local authorities have a legal duty under section 437 of the Education Act 1996 to act "if it appears" that a child of compulsory school age in their area is not receiving a suitable education.
- 3.8 In discharging our responsibilities in relation to home education, the LA bears in mind that it is subject to the Public Sector Equality Duty contained in s.149 of the Equality Act 2010.<sup>7</sup>

## **4. Parental Rights and Responsibilities**

- 4.1 The responsibility for a child's education rests with their parents. In England education is compulsory, school is not.
- 4.2 Parents may decide to exercise their right to home educate their child from a very early age. Therefore, 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.
- 4.3 Parents are required to provide an efficient, full-time education suitable to the age, ability and aptitude of the child.
- 4.4 When parents elect to home educate, they assume full financial responsibility for their child's education, including the costs of private tuition, courses and public examinations.
- 4.5 When parents engage a third party, (for example, a tutor), to deliver part of their child's education, they are responsible for ensuring that the person is appropriately qualified and suitable, including Disclosure and Barring Service, (DBS), checks.<sup>8</sup>
- 4.6 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. There are no legal requirements for parents educating a child at home to do any of the following:
  - teach the National Curriculum,
  - have a timetable,

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<sup>7</sup> Equality Act 2010 <https://www.legislation.gov.uk/ukpga/2010/15/section/149>

<sup>8</sup> Disclosure and Barring Service <https://www.gov.uk/request-copy-criminal-record>

- 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 completed by the child,
- formally assess progress or set developmental objectives,
- reproduce school type peer group socialisation,
- match school-based, age-specific standards.

However, many home-educating families do many of these. Furthermore, it is likely to be much easier to show that the education provided is suitable if there is a breadth of the learning and content and the concepts of progression and assessment are incorporated into the child's learning. If home educating families do not do these, it should still be possible for a member of The EHE Team to determine that an efficient, full-time education is being provided.

## 5. Children's Rights

5.1 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."

5.2 In 2001, the [Committee on the Rights of the Child](#), the body of experts that monitors the implementation of the Convention, published a paper, (called a General Comment), that explains and elaborates on the right to an education.

General Comment 1 - Annex 9 states:

"article 29 (1) underlines the individual and subjective right to a specific quality of education."

Education must include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner and develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents and other abilities which give children the tools needed to pursue their life options.

5.3 Electively home educated children are entitled to access all eligible childhood immunisations. In Kirklees, NHS childhood immunisation programmes are delivered by the Locala Immunisation Service. The EHE Team will forward information regarding immunisations on Locala's behalf at the appropriate times.

The Locala Immunisation Service can also be contacted directly:

[Local Immunisation Service](#) Or parents can contact their GP's practice for advice and guidance.

## **6. The Local Authority's (LA's) Responsibilities**

- 6.1 The LA recognises that home educating parents adopt a rich and diverse range of approaches to home education and use a variety of philosophies and methods.
- 6.2 The LA's primary interest lies in the suitability of the provision which home educating parents make, not their decision for choosing to home educate.
- 6.3 If, however, it appears likely or possible that a parent may have chosen to home educate in response to, for example, a one-off incident at school, or as a means of avoiding particular issues - such as attendance or behaviour - this will be explored. The EHE Team will seek to ensure that the parent or carer is choosing to home educate for positive reasons, that they have not felt coerced, and that the decision to home educate is being made in an informed and considered way, and in the best interest of the child.
- 6.4 The LA has a statutory duty under section 436A of the Education Act 1996<sup>9</sup>, inserted by the Education and Inspections Act 2006<sup>10</sup>, to make arrangements to enable them to establish the identities, so far as it is possible to do so, of children residing in Kirklees of compulsory school age, who are not on a school roll and are not receiving suitable education otherwise than being at school.
- 6.5 The LA has a responsibility to enquire about what education is being provided, these are referred to as 'informal enquiries'.
- 6.6 Parents are under no duty to respond to such enquiries. But if a parent does not respond or responds without providing any information about the child's education, then it will normally be justifiable for the authority to conclude that the child does not appear to be receiving a suitable education.
- 6.7 A further statutory duty exists, which requires the LA to serve a formal notice under section 437 of the Education Act 1996 if it appears that a child of compulsory school age is not receiving a suitable education. The formal notice requires the parent to satisfy the LA that the child is receiving a suitable education. If the LA is not satisfied that the child is receiving a suitable education, and after attempting to support the parent with suggestions and recommendations with no success, the LA may commence the statutory process for the issue of a School Attendance Order, (SAO), requiring the parent to register the child at a named school. If the SAO is not complied with, the Order will be breached through the Magistrates Court.

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<sup>9</sup> Section 436A of the Education Act 1996 <https://www.legislation.gov.uk/ukpga/1996/56/section/436A>

<sup>10</sup> Education and Inspections Act 2006 <https://www.legislation.gov.uk/ukpga/2006/40/contents>

- 6.8 Kirklees LA considers that the taking of the above measures shall be the last resort after all reasonable avenues have been explored to bring about a resolution of the situation. At any stage following the issuing of an Order, parents may present evidence to the LA, (or the court), that they are now providing a suitable and appropriate education and apply to have the Order revoked.
- 6.9 LAs also 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 authority shall make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting the welfare of children." Home education is not in itself a safeguarding issue.

## **7. School and Academy Responsibilities**

- 7.1 The Education (Pupil Registration) Regulations 2006 as amended in 2016, set out the grounds under which a pupil's name is to be removed from the admissions register of a school. Regulation 8(1)(d) states that a pupil's name is to be deleted if:

*"He has ceased to attend the school and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school."*

- 7.2 If parents have notified the school of their intention to educate their child at home, they are under no obligation to inform the LA. This responsibility falls on the school, (including independent schools). The school must report the deletion within 5 days of the pupil's name being deleted from the register.
- 7.3 The school must inform the LA by submitting an online EHE notification and attach a copy of the letter/email that parents have written to request deregistration: <https://kirkleesbusinesssolutions.uk/Page/13204>
- 7.4 If a child is registered at a school as a result of a School Attendance Order, the parents must have the order revoked by the LA - on the grounds that the arrangements have been made for the child to receive suitable education otherwise than at school - before the child can be removed from the school roll and educated at home.
- 7.5 Departmental guidance for LAs - April 2019 (10.4) - makes it explicit that:

*"Schools should not seek to persuade parents to educate their child at home as a way of avoiding an exclusion or because the child has poor attendance or other known issues. In the case of exclusion, they must follow the statutory guidance. If the pupil has a poor attendance record, the school must seek to address the issues behind the absenteeism and use other remedies available to them."*

- 7.6 There is no legal requirement for parents to discuss home education with the school. However, if a parent does approach the school to discuss the



possibility of home educating, Kirklees Council expects the school to respond positively and constructively and signpost the family to the Kirklees Council Elective Home Education policy. If parents are considering home education because of a dispute with the school, the LA expects the school to take all necessary steps to resolve the issue.

The school should signpost the parent to The EHE Team for further advice and guidance to enable them to make an informed choice. A school's response to parent's requests to EHE is likely to be scrutinised by the LA. It will capture data of this nature and share it with education partners including Ofsted as necessary.

- 7.7 The school is responsible for raising any safeguarding concerns relating to a child directly with Kirklees Council Children's Services as soon as possible. Home Education is not, in itself, a safeguarding concern.

## **8. Elective Home Education and Safeguarding**

- 8.1 The welfare and protection of all children, both those who attend school and those who are educated at home, is of paramount concern and the responsibility of parents and the whole community. Section 175 of the Education Act 2002 imposes a duty on the LA to make arrangements for ensuring that the functions conferred on them are exercised to safeguard and promote the welfare of all children residing in Kirklees.
- 8.2 Under Section 175 of the Children Act 2002, the LA has a general duty to safeguard and promote the welfare of all children. The LA has powers to enable it to insist on seeing children to enquire about their welfare where there are grounds for concern. Such powers, however, do not give the LA the right to see and question children who are being home educated to establish whether they are receiving a suitable education.
- 8.3 The EHE Team will follow Kirklees Safeguarding Children Partnership, (KSCP), procedures at all times. The LA will work with parents and relevant partner agencies to proactively safeguard and promote the welfare of children.<sup>11</sup>
- 8.4 The 2019 Guidance clarifies that "where necessary - because it is evident that a child is simply not receiving a suitable education at home and the use of school attendance powers is not achieving a change in that situation - the local authority should be ready to use its safeguarding powers", (as explained in the 2019 Guidance). The overriding objective in these cases is to ensure that the child's development is protected from significant harm.
- 8.5 Parents may choose to employ other people to educate their child(ren), though they will continue to be responsible for the education provided. They will also be responsible for ensuring that those with whom they engage are suitable to have access to children. Parents may therefore wish to satisfy themselves by

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<sup>11</sup> Kirklees Safeguarding Children Partnership <https://www.kirkleessafeguardingchildren.co.uk/>

taking up appropriate references and/or by requesting a potential tutor to consent to a Disclosure and Barring Service, (DBS), check.<sup>12</sup>

8.6 This policy seeks to build constructive relationships with home educators and provide a means to effectively protect the educational and safeguarding interests of children being electively home educated where vulnerabilities are identified.

## **9. Elective Home Education and Special Educational Needs**

9.1 Parents' right to educate their child(ren) at home applies equally where a child has special educational needs, (SEN). (See Section 319 of the Education Act 1996). This right is irrespective of whether the child has an Educational Health Care Plan, (EHCP)<sup>13</sup>

9.2 If the child attends a special school, the school must inform the LA before the child is deleted from the school roll and the LA will need to consider whether elective home education is suitable before amending the EHCP. The child's name will remain on the school roll until the LA gives consent for the child to be de-registered.

9.3 LA consent for removal from a school roll is not required for children with an EHCP who are registered at a mainstream school. Where parents elect to home educate a child with an EHCP who is registered at a mainstream school, the school will remove the pupil from the roll in the same way as children who do not have an EHCP. Parents should submit a letter to the school indicating their intention to home educate. Following receipt of written confirmation from the parent that educational provision is being made, the school should remove the child from the school roll.

9.4 It remains the LA's duty to maintain an EHCP, to review it annually and ensure that the child's needs are met through elective home education, following procedures set out in the SEN Code of Practice.

9.5 Where the LA is satisfied that the child's parents have made suitable arrangements, it does not have to name a school in the EHCP - though it should state the type of school it considers appropriate and go on to state that "parents have made their own arrangements under section 7 of the Education Act 1996".

9.6 A parent who is educating their child at home may ask the LA to carry out a statutory assessment of their child's special educational needs and the LA must consider the request within the same statutory timescales as for all requests: [Kirklees Local Offer](#)

## **10. The Elective Home Education Service**

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<sup>12</sup> Disclosure and Barring Service <https://www.gov.uk/request-copy-criminal-record>

<sup>13</sup> Kirklees Local Offer <https://www.kirklees.gov.uk/beta/local-offer/the-local-offer.aspx>

10.1 Elective home education duties sit within the Children Services Directorate.

10.2 Kirklees Council will ensure that dedicated EHE Officers access relevant training and network opportunities regarding EHE practice, safeguarding, health and safety and other relevant procedures and practices relevant to their EHE duties.

10.3 Kirklees Council embraces diversity and respects individual choice, and recognises parents of all educational, social, racial, religious and ethnic backgrounds successfully educate children outside the school setting.

10.4 The EHE Team provides support in the form of:

- providing advice and guidance to parents considering or are new to EHE.
- signposting to resources and services.
- publishing information about EHE that is clear, accurate and sets out the legal position, roles, and responsibilities of both the LA, schools, and parents.
- seeking to mediate between schools and potential EHE families when the relationship has broken down and parents feel obliged to withdraw their child.
- offering a variety of support options to the family - if needed - from Kirklees Children's Services and their partners, including Early Support Services and C + K Careers.
- promoting positive relationships with elective home educating families based on mutual understanding, respect, and trust to safeguard the educational interest of children.

## **11. Complaints Procedure**

Kirklees Council seeks to work in partnership with parents who choose to home educate their children and to develop good working relationships. However, if a complaint should arise, in the first instance, contact should be made with The EHE Team by telephone, email or in writing to the Service Manager:

Elective Home Education Team  
Kirklees Council  
Red Doles Lane  
Huddersfield  
HD2 1YF

Tel 01484 221919

Email: [eheteam@kirklees.gov.uk](mailto:eheteam@kirklees.gov.uk)