

North Somerset Council Elective Home Education Policy

January 2023



Our Aim:

We want all children and young people to fulfil their potential; children and young people to gain the knowledge and skills they need to flourish as adults, and families to receive the right help and support to achieve the best for their children.

About this policy:

This policy details North Somerset Council's (The Local Authority's) roles and responsibilities in relation to Elective Home Education.

Introduction

This policy sets out the responsibilities of agencies in identifying children whose parents have elected to educate their children at home and outlines the Local Authority's statutory responsibilities in the context of legislation and government guidance.

Children who are educated at home are, statistically, no more likely to be at risk of harm but, if a child is vulnerable, lack of attendance at school limits access by professionals to identify concerns and take preventative action, making it particularly important that all professionals are vigilant.

Elective Home Education should not be confused with home tuition provided by the Local Authority if a child is unable to attend school for medical reasons.

The Law and Legislation

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."

The responsibility for a child's education rests with his or her parents. Education in England is compulsory, schooling is not.

Parents responsibilities

The European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 2 of Protocol No 1 state 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 in conformity with their own religious and philosophical convictions".

Under the Education Act 1996 parents are responsible for ensuring their children of compulsory school age receive efficient full-time education. This is from the first term after the child's fifth birthday, until the last Friday in June in the school year that the child turns 16 years old.

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."

The courts have held that education is efficient if it achieves what it sets out to achieve and suitable if the education prepares the child for life in a modern civilised society as long as it does not foreclose other options in the future. Provision must include instruction in English and mathematics, confirmed in case law (Harrison & Harrison v Stevenson (1981) QB (DC) 729/81, Worcester).

School Responsibilities

Schools should 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 relevant legislation and have regard to the statutory guidance. If the pupil has a poor attendance record, the school and, if appropriate, local authority should seek to address the issues behind the absenteeism and use the other remedies available to them

When a school receives written notification from a parent of their intention to educate electively home, it is the responsibility of the school to:

- Formally acknowledge the parents' letter/ email.
- Immediately inform North Somerset LA of the removal of the child's name from their roll and reason for removal using the 'Exit from School' form.
- Remove the child from the school admissions register under regulation 8 (1) (d) of The Education (Pupil Registration) (England) Regulations 2006.

Children with Special Educational Needs

Parents' right to educate their child at home applies equally where a child has special educational needs. Where a child has an Education, Health and Care Plan (EHCP) and is home educated, it remains the LA's duty to maintain the EHCP and review it annually to ensure that the child's needs are met.

If the child who is to be withdrawn from the school is a pupil at a special school, the headteacher must inform the LA before the child's name can be removed from the school roll and the LA must consider whether the elective home education is suitable before amending the EHCP. The views of the Designated Clinical Officer should be sought by the LA if the child is educated at home because of health needs or a disability.

the name of a child who has under arrangements made by a local education authority become a registered pupil at a special school shall not be removed from the admission register of that school without the consent of that authority, or if that authority refuse to give consent, without a direction of the Secretary of State. The Education (Pupil Registration) (England) Regulations 2006.

If schools are in any doubt, they must contact the Local Authority's SEND team prior to removal of children with an EHCP from the school admissions roll.

Looked after Children

Children in the care of the Local Authority must not be removed from the school admissions roll without consultation with the Headteacher of the Virtual School.

LA Responsibilities

The 2019 EHE guidance from the DFE clearly sets out that;

"a local authority has a moral and social obligation to ensure that a child is safe and being suitably educated. If it is not clear that that is the case, the authority should act to remedy the position."

Sections 10 and 11 of the Children Act 2004 give local authorities general duties for promoting the well-being and (in relation to their non-education functions) safeguarding and promoting the welfare of children in their areas. This includes children educated at home as well as those attending school. Section 175 of the Education Act 2002 requires authorities to make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting children's welfare. Therefore, the general duties of local authorities in relation to safeguarding are the same for all children, however they are educated.

The LA has a statutory duty 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. (Section 436A of the Education Act 1996)

Under section 437(1) Education Act 1996,

Local Authorities shall intervene if it appears that the parents are not providing a suitable education. They can serve a notice in writing on the parent asking the parent to demonstrate that the child is receiving a suitable education no less than 15 days from the date that the notice is served.

Local authorities have overall responsibilities towards the children living in their area (for example as set out in s.13A of the Education Act 1996 shown below)

A local authority in England must ensure that their relevant education functions and their relevant training functions are (so far as they are capable of being so exercised) exercised by the authority with a view to—

- (a)promoting high standards,**
- (b) ensuring fair access to opportunity for education and training, and**

(c)promoting the fulfilment of learning potential by every person to whom this subsection applies.

Procedures in North Somerset

Once the Local Authority has received notification from the school of a pupil who is now EHE, we triage the information we receive through our education welfare service. All notifications of EHE are electronic, a copy of the notification form can be found here:

<https://www.n-somerset.gov.uk/my-services/schools-learning/home-education/elective-home-education/>

We will write out to families and offer a visit within 4 weeks of receiving the notification. We will also write out and send parents an information guide. Parents are encouraged to send the LA any information about their child’s home education. Parents are able to contact our EHE Officer for advice and guidance and signposting to other services, for pupils in year 11, our Post 16 Team will also offer help and support for post 16 transition.

We will also keep in touch and make contact annually with all of our EHE families.

The DFE advises parents that:

“It would be sensible to engage with your local authority in such reviews, as advice and support may also be accessed through such co-operation.”

In North Somerset if a child is removed from the school roll for EHE, we ask schools to let us know whether children are currently involved with children’s social care or have been involved with children’s social care previously. Schools are also asked to record whether a child has previous attendance issues, has any identified SEND needs, if the child is known to other services, and to note whether there would be any safeguarding concerns if the child was not regularly seen at school.

In Conferring our duties under s.13A of The Education Act 1996, In North Somerset we prioritise visits for those children who:

- (a) have a history of persistent unauthorised absence from school (by persistent absence, we mean attendance that falls below 90% of a child's expected sessions at school,
- (b) have a record of poor attainment at school as measured by progression in performance using prior attainment and current school assessment methods,
- (c) have previously been permanently excluded from school(s) or have been subject to more than 5 days of suspension whilst at school,
- (d) have been referred to early help and/or to children's social care,
- (e) have been raised at the Inclusion Panel for poor behaviour or placement breakdown,
- (f) have previously been children missing education (CME).

The EHE officer will arrange a visit at an agreed time. After the visit, parents are provided with a written report. If there are concerns these will be outlined in the report. Please see how we deal with concerns.

If there are no concerns, we will make contact again annually. This may be in the form of a home visit, a contact asking for an updated report, timetable, or samples of work.

Please note that if a child's circumstance has changed since our last visit, we may ask for more detailed information from the parent including a home visit.

Dealing with concerns

If the LA has reason to believe that the home education provided is not suitable, we will try to resolve the issues informally at first, this may involve us asking to visit the child at home, asking the parent to provide us with examples of the child's work, making enquiries with other agencies and previous school where necessary to obtain further information.

In line with the Department for Education (DFE) 2019 guidance to Local authorities, In North Somerset what we would expect:

- That the education provided to the child at home occupies a significant amount of their time. This does not have to be Monday to Friday or in school hours, but we would expect that the education is a significant element of the child's life.
- That the environment in which they are taught is conducive to support their learning, that it is free of distractions and hazard free. They should have a space in which they are able to concentrate and that it enables them to learn without distraction.
- That it should enable the child to participate fully in life in the UK by including sufficient secular education.
- That it demonstrates effectiveness in such matters as literacy and numeracy, whilst accepting that these must be applied in relation to the individual child's ability and aptitudes.
- That the education takes into account any special educational needs that the child has.
- That there is evidence of Interaction and socialisation with peers.
- That there is an overall plan for the education and that which demonstrates progress.

We will not normally accept a list of the activities that the child is engaged in as described by the parent or lists of websites; we may ask for further

information which can include e.g., asking to see examples of the child's work. This enables the Local Authority to consider fully whether a "suitable" education is in place; the Local Authority will use its discretion and treat all cases on an individual basis. Recent Case Law: *Goodred V Portsmouth County Council* (2021) has supported this view:

"I find that this guidance is entirely in accord with that of the Secretary of State. At paragraph 6.12 of the Elective Home Education guidance for local authorities, it is stated that the local authority should give reasonable weight to information provided by parents, on its own merits. In particular, the local authority should not dismiss such information simply because it is not in a particular form preferred by the authority:

"On the other hand, the information provided by parents should demonstrate that the education actually being provided is suitable and address issues such as progression expected and (unless the home education has only just started) 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 authority to reach a legitimate conclusion that a suitable education is actually being provided. This is often a key point in separating out families which are genuinely providing a suitable education at home from those who are not because the latter often cannot demonstrate satisfactory content or measurement of progress.»

The Hon Mr Justice Lane

If following our informal enquires the parent has satisfied the LA that a suitable education is in place, we will take no further action, and contact the parent again annually.

If following our informal enquiries, the LA still has reason to believe that the education in place is not suitable, we will issue a formal notice:

"If your local authority feels that it has not had sufficient information about the home education being provided, or has had no information, and it appears to the authority that your child is not receiving a suitable education at home, it must serve a notice (known as a s.437(1) notice), requiring that you as parents satisfy the authority that the child is receiving a full-time and efficient education at home suitable to your child's needs."

We will also take into account the views of the child, when assessing the suitability of the education and make an assessment on a case-by-case basis.

The Local Authority would expect a parent to have fully considered all aspects of EHE before they have started. We expect that the education provided by the parent is efficient and suitable from the outset, as any time lost in education can have a detrimental effect on a child's progress and learning.

If the parent fails to satisfy the Local Authority within the notice period that they are providing the child with a suitable education, the Local Authority can serve a School Attendance Order (SAO) on them. The School Attendance Order can name a school that the child should attend. This is usually a last resort and is only done when all reasonable steps have been taken to work alongside parents in addressing any concerns.

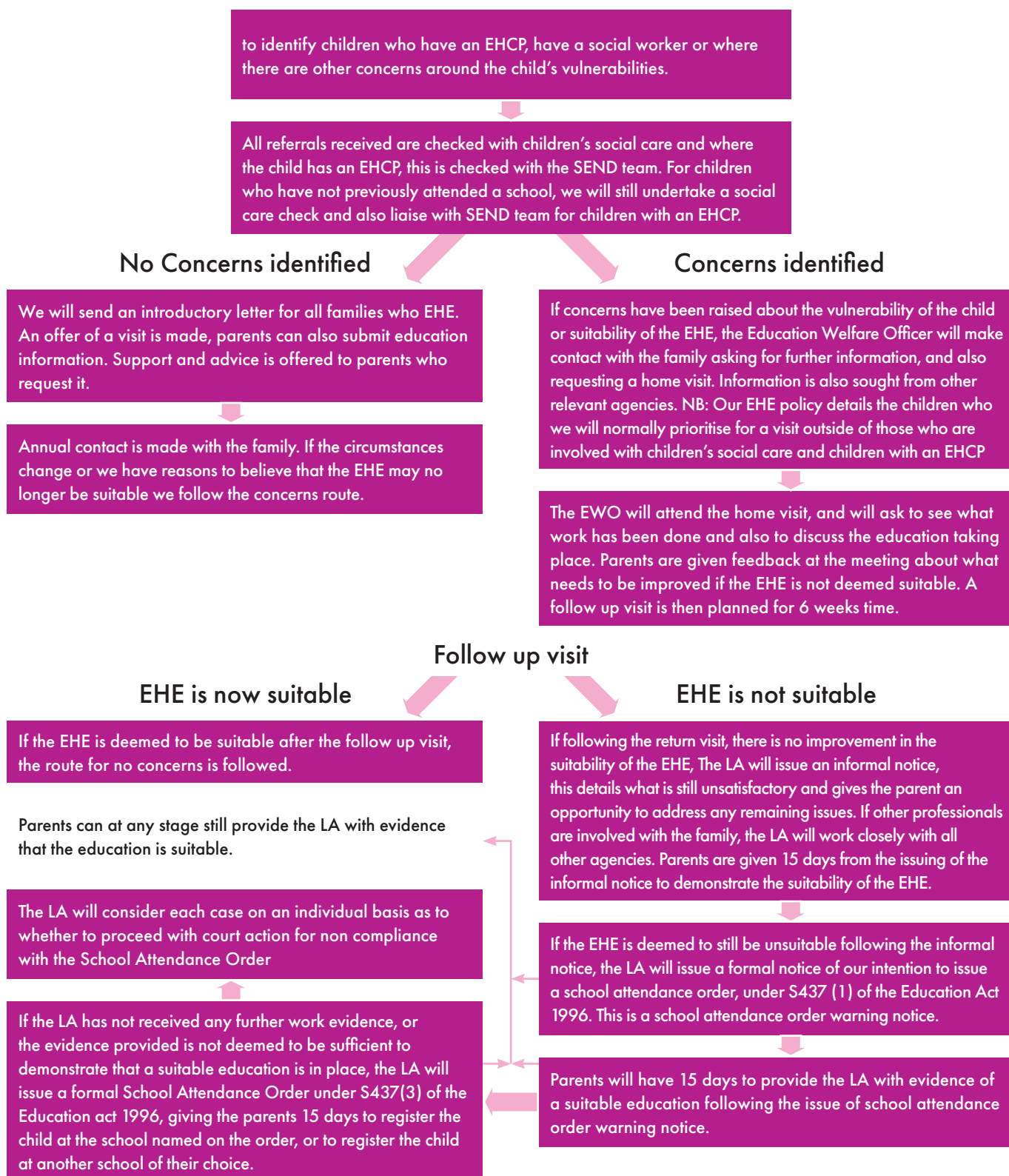
The parent can provide evidence at any time to request that the order is revoked. In North Somerset we aim to work with parents first before using a School Attendance Order. It is always helpful if parents cooperate with the enquiries made by the Local Authority as this can avoid unnecessary legal actions

Elective Home Education in North Somerset – identifying concerns

Local Authorities have a duty under S436A of the Education Act 1996 to ensure that they have systems in place to identify children who are not on a school roll or being educated otherwise than at school.

Glossary of terms:

- EHE – Elective home Education
- EHCP – Education Health and Care Plan
- EWO – Education Welfare Officer
- LA – Local Authority



Funding from the Local Authority

North Somerset Council Does not provide any financial assistance to families who decide to Electively Home Educate their child/ren. Parents assume full financial responsibility for the education, including registering children for exams.

Collecting data

Whilst there is currently no mandatory registration system for families who are EHE, we collect data on all children who are known to us in the local authority area.

Complaints

The Senior Officer in North Somerset Council responsible for EHE is the person undertaking the post of the Head of Inclusion Service. Complaints can be made in writing to:

Head of Inclusion Service
North Somerset Council
Town Hall
Wallis Cote Road
Weston-super-Mare
BS23 1UJ

If parents are dissatisfied with the conduct of the local authority, they can make a complaint directly to the Secretary of state for education or the local government ombudsman.

Key Contacts at the Local Authority:

Education Welfare Service
EWSReferrals@n-somerset.gov.uk



For more details contact:

Education Welfare Service
EWSReferrals@n-somerset.gov.uk