

Elective Home Education Protocol

Revised July 2016

Contents

- 1. Introduction**
- 2. The Context for Elective Home Education**
- 3. The Legal Background**
- 4. Parent's Rights and Responsibilities**
- 5. Duty of Head Teachers**
- 6. Duty of Local Authorities**

Yellow = new in 2016

yellow/green = changed from 2015

light blue = 2015 version

1. Introduction

- 1.1 Lincolnshire County Council, the local authority, believes that education is a fundamental right for every child and aims to work in partnership with parents who electively home educate and supports their right to do so.
- 1.2 It also believes that parents are the prime educator of their child within or outside the schooling system.
- 1.3 Whilst the local authority encourages parents to enrol their child at school, they also recognise that parents have an equal right to educate their child at home. The local authority wishes to work with parents who home educate in order to ensure that those children are provided with efficient, full-time education suitable to their age, ability and aptitude and to any special educational needs which they might have.
- 1.4 The local authority seeks to build positive relationships with parents who home educate by establishing mutual understanding, trust and respect.
- 1.5 This document aims to:
 - clarify the legal position with regards to Elective Home Education
 - set out the parents' rights and responsibilities to educate their children at home
 - explain the legal duties and responsibilities of head teachers and the local authority.

2.0 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 to home tuition or alternative provision provided by a local authority other than in school.
- 2.2 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."

2.3 This protocol takes account of the Elective Home Education Guidelines for Local Authorities (2007¹).

2.4 The protocol has also been developed in the context of the duty placed on local authorities to make arrangements to safeguard and promote the welfare of all children (Section 175 of the Education Act 2002).

2.5 The protocol aims to achieve an appropriate balance between the rights of home educating parents on the one hand, and the responsibilities of the local authority on the other.

3 The Legal Background

3.1 The responsibility for a child's education rests with his/her parents. In England, education is compulsory, school is not.

3.2 Section 7 of the Education Act 1996 states that the parent of a child who is of compulsory school age (5-16) has a legal duty to see that their child receives

"efficient full-time education suitable:

- *to his/her age according to ability and aptitude and*
- *to any special educational needs s/he may have*

either by regular attendance at school or otherwise".

3.3 The terms "efficient" and "suitable" education are not defined in law, despite the detailed prescription of expectations in schools. Case law² has broadly described an "efficient" education as 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".

3.4 Local authorities have a legal duty under section 437 of the Education Act 1996 to take action "if it appears" that a child of compulsory school age in their area is not receiving suitable education.

4. Parent's Rights and Responsibilities

1

<https://www.gov.uk/government/publications/elective-home-education>

2

Mr Justice Woolf in the case of R v Secretary of State for Education, ex parte Talmud Torah Machzikei Hadass School Trust (12 April 1985)

- 4.1** School age is defined as beginning from the start of the first term commencing after the child's 5th birthday, until the last Friday of June in the school year in which they reach 16. However since 2015, young people are required to remain in learning or training up until their 18th birthday. Post-16 the choices are to stay in full-time education, either at college or school sixth form, go into an apprenticeship or find employment which has a training element. This requirement does not apply to young people with level 3 qualifications, taken as being 2 'A' levels. This post-16 stage of learning will not be monitored by the LA.
- 4.2** Parents who choose to home educate must be prepared to assume full financial responsibility for doing so, including bearing the cost of any public examinations.
- 4.3** Parents are not required to register or seek approval from the local authority if they wish to home educate their children, although parents of a pre-school child are encouraged to notify the local authority, if they intend to home educate **so that the child is not identified as one missing education.** Parents may decide to exercise their right to home educate their child from an early age, so the child may never have been enrolled at a school. They may also choose to home educate at any point up to the end of compulsory school age.
- 4.4** If the child is on roll at a school, the parents must write to the head teacher to request that the child should be removed from the school roll, if they decide to home educate him/her. This is to confirm that provision is being made for the child's education, otherwise than at school. Parents whose children have never been in school are not required to notify or contact the local authority of their intention to home educate but are encouraged to do so by contacting the Elective Home Education Team at Lincolnshire County Council.
- 4.5** Children with Special Needs can be educated at home. However where a child has a statement of Special Educational Needs or an Education, Health and Care Plan and begins home education, the local authority has a legal duty to review the Statement or Plan at least annually for as long as it is in force. This is to ensure that the child's educational needs are being met.
- 4.6** If the child is on roll at a special school, the parents must obtain the agreement of the local authority before the child's name can be removed from the school roll. **Parents can do this by contacting the elective home education team using the details at the end of this document.**
- 4.7** 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, before the child can be removed from the school's register and educated at home. **Parents can do this by contacting the elective home education team using the details at the end of this document.**

4.8 If a child is subject to an Education Supervision Order, then the parents must get permission from the Supervising Officer before electing to home educate. **Advice on how to do this can be obtained by contacting the elective home education team using the details at the end of this document.**

4.9 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. Home educating parents are not required to:

- teach the National Curriculum
- provide a broad and balanced curriculum
- have a timetable
- 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 done by the child
- formally assess progress or set developmental objectives
- reproduce school type peer group socialisation
- match school-based, age specific standards.

4.10 **2016** The local authority is encouraged to make informal enquiries of home educating parents that it can be satisfied that the child is receiving a suitable education. There is no prescriptive or single method by which parents can provide this information but parents may provide samples of work completed by the child or request a home visit or a meeting at a mutually convenient and neutral location. DfE guidelines make it clear that where parents do not provide this information or agree to a visit/meeting, this does not of itself constitute a ground for concern about the provision being made but the guidelines nevertheless suggest that "*it would be sensible for them to do so.*"³

2015 4.10 *The local authority is encouraged (in the 2007 DfE guidelines) to make informal enquiries of home educating parents. They may ask parents to provide information about their provision*

or request a home visit or a meeting with home educating parents. DfE guidelines make it clear that where parents do not agree to a meeting, this does not of itself constitute a ground for concern about the provision being made but the guidelines nevertheless suggest that "it would be sensible for them to do so."

4.11 **2016** Should home educating parents, however, decline to engage or to provide a submission of evidence, enable the local authority to be satisfied that the child is receiving a suitable education through these informal enquiries, the local authority may reasonably presume that the child is not receiving a suitable education which could result in the local authority issuing a formal notice under section 437 requiring the parent to satisfy the local authority that the child is in fact receiving a suitable education.

2015 Should home educating parents, however, persistently and repeatedly decline to respond to all reasonable enquiries made by the local authority, the authority may, in certain circumstances, consider that it appears that the child is not receiving suitable education which could result in the authority issuing a formal notice under section 437 requiring the parent to satisfy the authority that the child is in fact receiving suitable education.

5 Duty of Head teachers

5.1 Head teachers have a duty to inform the local authority when a parent has confirmed to them in writing that they intend to educate their child at home⁴. It is this local authority's requirement that schools share with it any concerns or known risks about the child and pass this, together with a 2 year attendance history (or less if the child has not been at the school for 2 years) to the local authority at the time of notification.

5.2 When a head teacher is informed by parents of their intention to home educate, the head teacher should invite the parents and if appropriate the child, to discuss their decision. This is particularly important when a parent makes a decision to home educate in response to an incident at school or as a means of avoiding a particular issue, such as attendance or behaviour. The decision

to home educate should be made for positive reasons and should be made in an informed and considered way, with the child's best interests as the prime consideration. There should be no intention of trying to dissuade parents from choosing to home educate and the parents participation in this meeting would be entirely voluntary. If parents choose not to attend a meeting, then the suggestion would not be pursued further.

- 5.3 Head teachers or teachers should not advise or recommend that parents home educate, especially if a child is experiencing difficulties at school.
- 5.4 Flexi-schooling (part-time school attendance) is where children are given permission to receive part of their education other than at a school. This is a matter for head teachers, rather than the local authority, to negotiate with parents. **Parents cannot insist that the school agrees to a flexi-schooling arrangement, the decision to do so rests with the headteacher.**

6 Duty of Local Authorities

- 6.1 The local authority is responsible for ensuring that it has a clear and easily accessible EHE protocol which sets out the legal position, establishes clear and fair procedures and explains the respective roles and responsibilities of the local authority and home educating parents. **The local authority will publish the name and contact details of the team and the named senior officer with responsibility for Elective Home Education.**
- 6.2 The local authority recognises that there are many, equally valid, approaches to educational provision and what is important is that all children are involved in a learning process. The local authority will therefore seek to establish positive and supportive relationships with home educating parents and will respect their right to adopt a rich and diverse range of approaches to home education and use of a variety of philosophies and methods.
- 6.3 When the local authority first becomes aware that parents have decided to home educate their child, contact will be made by an Education Welfare Officer (EWO) who will offer a meeting or a discussion to confirm that the parents have elected to home educate their child and to offer support and information about EHE in Lincolnshire. The local authority understands that in the early stages, parents may not be in a position to respond fully to enquiries about the provision they are making.
- 6.4 **Following the initial contact by an EWO, within three months, or two months for a child with an SEN statement or EHCP, an EHE adviser will contact the parents to arrange a follow up visit to discuss the education provision. The EHE adviser will be happy to provide suggestions, ideas and advice, as well as discuss the child's progress. When EHE children reach the 14 – 16 age group, the EHE adviser can offer help and advice on where to**

find career guidance, information about examinations and college placements. Parents are not legally required to give the LA representatives access to their home and may choose to meet at a mutually convenient and neutral location instead, with or without the child being present. If this is not agreeable to the parents, then the local authority will suggest that the parents provide a submission of evidence. The local authority will satisfy it that a suitable education provision is in place. The EHE adviser will also be available if parents have anything they want to ask or discuss.

2015 Following the initial contact by an EWO, a settling in period will follow and after an appropriate time, an EHE adviser will contact the parents and offer further discussion by meeting, telephone or email. This will usually be within three months or two months for a child with an SEN statement or EHCP. The EHE adviser will be happy to provide suggestions, ideas and advice, as well as discuss the child's progress. When EHE children reach the 14 – 16 age group, the EHE adviser can offer help and advice on where to find career guidance, information about examinations and college placements. Parents are not legally required to give the LA representatives access to their home and may choose to meet at a mutually convenient and neutral location instead, with or without the child being present. If this is not agreeable to the parents, then the authority may suggest that the parents provide a written report. If this is also not agreeable to the parents, then the authority will invite the parents to suggest an alternative means of providing information. The EHE adviser will also be available if parents have anything they want to ask or discuss.

6.5 The local authority notes that whilst some home educating parents choose to provide a submission of evidence, the local authority will as first preference seek to meet with the parents and child in person.

2015 The local authority notes that whilst some home educating parents choose to provide a written report, the authority will seek to meet with the parents and child in person.

6.6 Where it appears that a child is not receiving suitable education, the local authority will endeavour to give home educating parents the opportunity, over a reasonable period of time, to demonstrate that they are providing a suitable education. It should be possible to resolve most disputes without recourse to formal statutory procedures. However, when parents choose not to engage with the local authority through informal enquiries then it may make a formal request under section 437.

2015 Where it appears that a child is not receiving suitable education, the local authority will endeavour to give home educating parents every opportunity, over a reasonable period of time, to demonstrate that they are providing a suitable education. It should be possible to resolve most disputes without recourse to formal

statutory procedures. However, when families choose not to engage with the LA at all, there may in some cases be an escalation which could involve other agencies.

6.7 A School Attendance Order will normally only be served, if all reasonable informal and formal steps have been taken to establish that the education provision is suitable. At any stage during the process, parents may present evidence that they are now providing a suitable education and apply to have the order revoked.

2015 A School Attendance Order will normally only be served, if all reasonable steps have been taken to resolve the situation and have failed. At any stage during the legal process, parents may present evidence that they are now providing a suitable education and apply to have the order revoked.

6.8 Although the local authority has no statutory duty to monitor the quality of home education on a routine basis, an EHE adviser will make contact with parents annually to discuss the ongoing suitability of the provision in relation to the child's age, ability, aptitude and to any special educational needs which they might have. During their visit the EHE adviser may suggest to parents a shorter or longer interval between visits as appropriate to the family's circumstances, for example where parents have previously educated other siblings of a similar age the interval could be extended

2015 Although the local authority has no statutory duty to monitor the quality of home education on a routine basis, an EHE Adviser will make contact after a mutually agreed period (usually a year) to discuss the ongoing suitability of the provision in relation to the child's age, ability and aptitude and to any special educational needs which they might have.

6.9 The local authority encourages parents who are electively home educating their child to notify the local authority, particularly families who move into the local area from another local authority, although they are under no obligation to do so. Lincolnshire reserves the right to make its own judgement as to the suitability of an education provision but will, where practicable, consider evidence and judgements of other local authorities

Notes

- To make the protocol less clumsy 'parents and carers' will read as parents and 'child or children' as child. We have also used the term 'child' to cover the entire age range for statutory education i.e. 5 – 16 years
- Although we recognise that education can take place at all times and in all places, for convenience 'education otherwise than at school' will be referred to as 'elective home education', 'home education' and 'home schooling'.

- Again for the sake of ease Lincolnshire County Council Children's Services is referred to as the local authority.

Contact details:

Elective Home Education
County Offices
Newland
Lincoln
LN1 1YG

01522 553241

ehe@lincolnshire.gov.uk

Team Manager: Jill Chandar-Nair

jill.chandar-nair@lincolnshire.gov.uk

Senior Officer with responsibility for EHE: John O'Connor

john.o'connor@lincolnshire.gov.uk