

Section 6

Elective Home Education



Section 6: Elective Home Education

1. Introduction

1.1 Elective home education is where parents or guardians decide to provide home-based education for their children instead of sending them to school. It is not home tuition provided by a local education authority or where a local education authority provides education otherwise than at a school.

1.2 These guidelines recognise that elective home education is a key aspect of parental choice and therefore aims to encourage good practice in relationships between LEAs and home educators by clearly setting out the legislative position, and by providing advice on the roles and responsibilities of LEAs and parents in relation to children who are educated at home.

1.3 This section is split into the following parts:

- Removing a pupil from the school admission register
- Working with home educators
- Assessing the efficiency of education provided by a parent
- Independent school status
- Child welfare
- Children with special educational needs
- Other issues

1.4 Home-educated children are those who, for a range of reasons, are being educated at home and in the community by parents, guardians, carers or tutors, and are not registered full time at mainstream schools, special schools, pupil referral units (PRUs), colleges, children's homes with education facilities or education facilities provided by independent fostering agencies.

1.5 A significant number of parents choose to exercise their right to educate their children at home. They may do so for a variety of reasons. The reasons themselves should not have any bearing on the LEA's treatment of families since the LEA's prime interest lies in the parents' educational provision for their children. The following examples are common, but not exhaustive:

- distance or access to a local school;
- religious or cultural beliefs;
- philosophical or ideological views;
- as a short term intervention for a particular reason;

- dissatisfaction with the system; and
- a child's reluctance or inability to go to school.

When a parent offers an account of their dissatisfaction with the public system of education provision, the education authority may wish to use this information as part of its ongoing review of its provision.

The legal background

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.

Parents have a right to educate their children at home providing that they fulfil the requirements of Section 7 of the Education Act, 1996 which places a duty on the parents of every child of compulsory school age to cause him or her to receive efficient full-time education suitable to their age, ability and aptitude, and to any special educational needs that they may have, either by regular attendance at school or otherwise.

Under Section 437 of the Education Act 1996, an LEA must by law serve a School Attendance Order (SAO) on the parent of a child of compulsory school age who fails to prove that the child is receiving suitable education and where the authority is of the opinion that the child should attend school. This duty applies equally in relation to all children, regardless of whether or not they have previously attended a local authority school in the area. The definition of suitable education is the same as that contained in Section 7 of the Education Act 1996 as described above.

The SAO specifies the school (or Pupil Referral Unit) that the child should attend. Failure to comply with an SAO is an offence, unless the parent can demonstrate that the child is receiving suitable education otherwise than at school. The order itself has a specified legal format - see the Education (School Attendance Order) Regulations 1995 and further information on SAOs in Part 5 of this Section.

2. Removing a pupil from the school admission register

2.1 Parents whose children are registered pupils at a school must ensure that their names are removed from the school admissions register when they withdraw them from school to home educate. If they do not do so they may be liable to prosecution for failing to ensure their child's regular attendance at the school where they are registered. Under the Education (Pupil Registration) Regulations, 1995, parents are required to inform schools in writing that they are educating their children at home.

2.2 Immediately the school receives such a letter, the name of the child must be removed from the admissions register. The school (including those in the independent sector) must make a return (giving the child's name and address) to the LEA within 10 school days of removal. Parents might be encouraged to inform the LEA, however, to enable the LEA to check that the child's name has actually been removed from the school register.

2.3 On no account should pressure be put on parents to remove their pupils from the school register to avoid exclusion or prosecution.

2.4 There is no general requirement for parents to inform LEAs of the fact that they intend to educate at home. This makes it particularly difficult for LEAs to keep track of certain groups of children, for example:

- those who have never attended a maintained school;
- those who have never attended a maintained school in that authority's area;
- those who have finished primary education in one school but have not started secondary education in another; and
- those where the school they have been attending has closed.

2.5 In order to ensure that they are aware of cases where children and young people are not receiving any education LEAs will need to continue to develop information-sharing processes with local partners such as Careers Wales, health organisations and social services departments. They will also need to ensure that they are part of national data sharing exercises, such as the Lost Pupils' Database (see Section 5).

2.6 Where parents have notified the LEA or the LEA is otherwise made aware of a child's withdrawal from school with the intention of being home educated, the LEA should acknowledge the receipt of this notification and consider quickly whether there is any existing evidence, either in an authority's own records or from other services or agencies, indicating whether there may be cause for concern over the withdrawal. Previous irregular attendance at school is not of itself a sufficient cause for concern. In many cases, parents and their children have reached a crisis point, for example, with bullying, so advice should be sought from education welfare services where there is any doubt. Specific instances where they may be concerns are included in Part 6 of this Section. In these cases the LEA should immediately refer these concerns to the appropriate statutory authorities using established protocols.

2.7 Otherwise, the LEA should assume that efficient educational provision is taking place, which is suitable for the child, unless there is evidence to the contrary. There is no express requirement in the 1996 Act for LEAs to investigate actively whether parents are complying with their duties under Section 7.

Flexi-schooling

2.8 'Flexi schooling' or 'flexible school attendance' is an arrangement between the parent and the school where the child is registered at school in the normal way but where the child attends the school only part time; the rest of the time the child is home-educated (effectively on authorised absence from school). This is sometimes done as a short-term measure for a particular reason. Flexi-schooling is a legal option provided that the head teacher at the school concerned and, in many cases, the LEA as well, agree to the arrangement. Some of the advantages and disadvantages of flexi-schooling are referred to on the Home Education UK's website at www.home-education.org.uk/articles-flexi-school.htm. Further details are contained in Section 4 of this guidance.

3. Working with home educators

Developing effective relationships

3.1 Education authorities should seek to build effective relationships with home educators that function to safeguard the educational interests and welfare of children and young people. Doing so will provide parents with access to any support that is available and allow authorities to understand the parents' educational provision. A positive relationship will also provide a sound basis if the child, at some point in the future, returns to mainstream education or if the authority is required to investigate assertions from any source that an efficient education is not being provided.

3.2 Education authorities should provide parents who are, or who are considering, home educating with a named contact within the authority who is familiar with home education policy and practice and has an understanding of the relevant legislation and a range of educational philosophies. The named contact's role could include liaising on a regular basis with already-established local groups of home educators or developing new groups where these don't already exist.

3.3 It may also be helpful in developing positive relationships for the contact person to be referred to as an 'adviser', 'home-educating consultant' or 'facilitator' rather than as an 'inspector', 'examiner' or 'assessor' even where the usual term may be 'educational welfare officer' or in some cases 'exclusions officer'.

3.4 It is recommended that LEAs should also have a written policy statement on home-educated children and their families which has been prepared in consultation with home educating families and are willing and able to provide guidance for parents and carers who request it. In addition, LEAs should organise training on the law and home education methods for all their Education Officers who have contact with home-educating families in their area.

Initial contacts

3.5 The authority may invite the parents to meet with a named education authority officer to discuss their provision. Any such meeting should take place at a mutually acceptable location. The child should be given the opportunity to attend that meeting, or otherwise to express his or her views. Either during such a meeting, or otherwise, the parents and the authority should consider and agree what future contact there will be between them.

3.6 Any initial meetings or other forms of discussion should be taken as an opportunity to provide information for the parents or guardians. LEAs will also wish to make it clear to parents that if they choose to home-educate, they assume financial responsibility for their child's education, including the cost of public examinations, and that the child must continue to receive suitable education until the end of 'compulsory education' (i.e. the last Friday in June in the academic year in which they reach age 16). If meeting in person is not possible LEAs should endeavour to provide the same information through the post.

3.7 Following any initial contact with parents, a report should be prepared by the authority, setting out any recommendations that have been discussed and made, with the reasons for them. The report should be copied to the parents, and where appropriate, the child. In exceptional cases, where there is a reasonable concern that a passage in the report might cause serious harm to the physical or mental health or condition of the applicants or a named third party, consideration should be given to withholding that part of it. In doing so authorities will need to comply with freedom of information and data protection principles.

Ongoing monitoring

3.8 There is no legal framework for the LEA to regularly monitor provision of home education, however such an arrangement is likely to help the LEA to fulfil their duties and can help provide new information and support to parents. The frequency with which an authority will contact parents to discuss their ongoing home education provision will vary depending on the individual circumstances of each family.

3.9 It is recommended that the authority should ordinarily make contact on an annual basis. Contact with the family should normally be made in writing and should seek a meeting or request an updated report. A report should be made after such contact and copied to the family stating whether the education authority has any concerns about the education provision. Any telephone communication should be followed up with a written confirmation of what had been discussed and agreed.

3.10 Where there are concerns about the efficiency or suitability of the education being provided for the child, more frequent contact may be required. Where concerns merit frequent contact the authority should discuss these concerns with the child's parents, with a view to helping them improve their provision in the best interests of the child.

3.11 Authorities need to take account of the fact that parents may educate their children in a wide variety of environments and not simply in the home. Where the education is taking place in the home, LEAs should, where possible, and without placing undue pressure on parents, seek agreement to see the provision at first hand as the learning environment can have a strong bearing on the effectiveness of learning. Seeing the child responding to the educational provision of the parents may provide a strong indication that efficient education is being provided.

3.12 The authority does not however have the right to insist on seeing education in the home and some parents may not feel comfortable in allowing an education officer access to their child or family home. Trusting relationships may need time to develop before a parent is happy to invite an authority officer to visit. However, where a parent elects not to allow access to their home or their child, this does not of itself constitute a ground for concern about the education provision.

3.13 Where LEAs are not able to visit homes they should, in the vast majority of cases, be able to discuss and evaluate the parents' educational provision by alternative means. Parents might prefer, for example, to write a report, provide samples of work, have their educational provision endorsed by a third party, meet at another venue such as a library or café or provide evidence in some other appropriate form.

Review

3.14 Authorities should review all of their procedures and practices in relation to home education on a regular basis to see if improvements can be made to further develop relationships and meet the needs of children and parents. Home education organisations and home educating parents should be involved in this process of review. Effective reviews, together with the sensitive handling of any complaints, will help to secure effective partnership.

Providing information and support

3.15 Although authorities are not legally obliged to provide any resources for young people educated at home, choosing to do so, particularly where there are minimal resource implications, will help develop positive relationships. This might include:

- providing general advice and information;
- allowing access to learning centre resources;
- allowing access to school for health services such as vaccinations;
- allowing access to school resources where feasible;
- facilitating access to any discounted rates for educational materials;
- providing access to local authority owned community and sports facilities;

- facilitating access to Careers Wales and work experience;
- providing assistance with identifying exam centres willing to accept external candidates;
- facilitating under-16 access to vocational and other courses at further education colleges; and
- facilitating access to CRB checks or approval schemes for tutors.

3.16 Authorities should also inform home educating families of any projects or programmes, such as Out of School Hours Learning (OSHL) or Study Support, whether provided by schools or other organisations, as they may be able to provide support and a range of activities for children being educated at home.

4. Assessing the efficiency of education provided by a parent

4.1 In their consideration of parents' provision of education at home, education authorities may reasonably expect the provision to include the following characteristics:

- consistent involvement of parents or other significant carers - it is expected that parents or significant carers would play a significant role, although not necessarily constantly or actively involved in providing education;
- an indication that parents have thought through their reasons for home educating and what they hope to achieve;
- signs of commitment and enthusiasm, and recognition of the child's needs, attitudes and aspirations;
- opportunities for the child to be stimulated by their learning experiences;
- involvement in activities to cater for the interests of the child and his/her stage of development;
- access to resources/materials required to meet the objectives of the parents;
- the opportunity to interact with other children and other adults;
- the involvement of Careers Wales at an appropriate stage; and
- development of numeracy and literacy skills suitable to the child's age, aptitude and ability and taking into account any special educational needs that they may have.

4.2 There is no legal definition of “full-time”. This measurement of ‘contact time’ is not relevant to home education where there is far more one-to-one contact and where education takes place outside ‘normal school hours’ and where the type of educational activity can be varied and flexible. It should be borne in mind that home-educating parents are not required to:

- teach the National Curriculum
- have a timetable
- have premises equipped to any particular standard
- mark work done by their child
- set hours during which education will take place
- have any specific qualifications
- cover the same syllabus as any school
- make detailed plans in advance
- observe school hours, days or terms
- give formal lessons
- reproduce school type peer group socialisation
- match school, age-specific standards.

However, LEAs should offer advice and support to parents on these matters if requested.

4.3 When assessing the efficiency and suitability of education provided through home education, local education authorities should take into account that parents’ educational provision will reflect a diversity of approaches and interests. Some parents may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to school hours and terms. Other parents may decide to make more informal provisions that are responsive to the developing interests of their child. One approach is not necessarily any more efficient than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, education authorities are not able to specify a curriculum which parents must follow.

4.4 If an assessment is undertaken at an early stage of provision, account will need to be taken of the fact that parents and their children might require a period of adjustment before finding their preferred mode of learning.

4.5 Parents are not required to have any qualifications or training to provide their children with an appropriate education. Their commitment to providing an efficient education that is suitable for their child may be demonstrated by their providing some indication of their objectives and resources.

4.6 The approach home educating parents take to assessing their child's progress is likely to be dictated by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision.

4.7 There is no legal requirement for children to take a particular set of qualifications. The internal assessment component of many qualifications such as GCSEs, for example teacher assessments, can make them difficult for external candidates to achieve. These are not, however, the only qualifications which external candidates can take, and LEAs may usefully offer parents and their children information about alternative qualifications and the arrangements that they would need to make for the children to take them. LEAs should also inform parents and, where appropriate, their children of possible problems that they might encounter if their qualifications are not sufficiently recognised by employers, or further or higher education establishments. When offering advice it should be borne in mind that the opposite may also be true in that some employers and admissions staff may favour home education.

4.8 Authorities are not required to meet any costs associated with external candidates taking examinations or other qualifications. They may however, at their discretion, choose to make available any resources or support that they can offer.

Dealing with inadequate provision

4.9 Every effort should be made to resolve issues about provision by a process of ongoing dialogue before any formal proceedings are invoked. If, on considering the educational provision, there are doubts as to whether provision is adequate, the authority may choose to further investigate whether or not an efficient education is being provided. If dialogue fails a full written report on the LEA's findings should be made and copied to the parents promptly, specifying the grounds for concern and any reasons for concluding that provision is unsuitable.

4.10 It may be necessary for the LEA to serve a notice on the parents. Under Section 437(1) of the Education Act 1996, LEAs can intervene if they have good reason to believe that parents are not providing a suitable education by serving a School Attendance Order. This will allow a period of at least 15 days for the parent to provide the education authority with whatever information they require to satisfy themselves about the suitability of the education. The parent may choose to do this by meeting with the authority in person, or by supplying the information in writing.

4.11 A SAO continues to be in force for as long as the child is of compulsory school age unless it is revoked. If there is a continued failure to register the child, the LEA has the option of referring to Social Services for consideration of care proceedings. In exceptional circumstances, the case may be taken to the Family Proceedings Court instead of the Magistrates Court where an application can be made for an Education Supervision Order (ESO - under Section 36(5)a of the Children Act 1989). Where an ESO is in

force with respect to a child, the duties of the child's parents under section 7 and 444 of the Education Act 1996 (duties to secure education of children and to secure regular attendance of registered pupils) are superseded by their duty to comply with any directions in force under the ESO.

4.12 Parents may apply for SAOs to be revoked at any time because arrangements have been made for the child to receive education otherwise than at school. The LEA must comply with this request unless these arrangements are not suitable.

5. Independent school status

5.1 Some groups of pupils educated by parents on premises outside their home are classified as independent schools. This would be the case under the following circumstances:

- The provision is full-time, and either:
 - there are 5 or more pupils of compulsory school age (i.e. 5 - 16) or
 - at least one pupil of compulsory school age has a statement of special education needs or
 - at least one pupil or is looked after by a local authority.

5.2 Establishments falling within these criteria are required to seek registration with the National Assembly for Wales. As part of that registration, schools will be required to meet and continue to meet a number of prescribed statutory standards relating to:

- the quality of education (including work-related);
- the spiritual, moral, social and cultural development of pupils;
- the health welfare and safety of pupils;
- the suitability of proprietors and staff;
- the premises and accommodation;
- the provision of information; and
- the manner in which complaints are handled.

5.3 The National Assembly for Wales requires Estyn to inspect all independent schools in Wales under the revised Common Inspection Framework introduced in September 2004. All independent schools can anticipate at least one inspection within the current 6-year inspection cycle although the National Assembly may request more frequent inspections.

6. Child welfare

6.1 As stated earlier, a parent's decision to home educate is not in itself grounds for concern about the welfare of children. However, as with school educated children, child welfare issues may arise in relation to home-educated children. If any child welfare concerns come to light in the course of engagement with children and families, these concerns should immediately be referred to the statutory authorities for consideration. The local education authority's nominated child protection officer can provide more detailed advice on the local protocols and procedures in place.

6.2 Concerns may arise where a parent states their intention to home educate. Specific instances where advice from the local social services department would be appropriate on the suitability of home education include:

- where a child or family member has been identified as being in need;
- where a child or family member has been referred to social work or the police for child protection reasons, and the matter is being investigated;
- where a child or a sibling is on the child protection register;
- where a child or family member has been referred on care and protection grounds, and the referral is being considered;
- where the child is the subject of a supervision requirement.

LEAs may also apply to the Court for a child assessment under the Children Act 1989 if they have reasonable cause to do so.

6.3 Parents may choose to employ other people to educate their child, though they themselves will continue to be responsible for the education provided. They will also be responsible for ensuring that those they engage are suitable persons to have access to children. Guidance on key issues to consider in appointing individuals who work with children is set out in National Assembly for Wales Circular 34/02: Preventing Unsuitable People From Working With Children and Young Persons in the Education Service. This cannot be considered exhaustive and it is for individual employers to satisfy themselves on issues of suitability.

6.4 There may be occasions where parents who choose to educate their children at home organise group events with like-minded parents. It is important that they are aware of the mechanisms for drawing child or adult welfare concerns to the statutory authorities. Local education authority nominated child protection officers' should ensure when promoting their role that their details are not limited to schools within the maintained sector.

7. Children with special educational needs

7.1 Parents' right to educate their child at home applies equally where that child has special educational needs (SEN). The fact that a child has special educational needs is not, in itself, a reason to question parents' decision to educate at home. Additional considerations do, however, apply.

7.2 Where a child has a statement of special educational needs and is educated at home by the parents the statement does not automatically cease. While the statement is maintained it must be reviewed annually, following the procedures set out in Chapter 9 of the SEN Code of Practice for Wales. In many circumstances the child's special educational needs identified in the statement will have been related to the school setting and the child's needs may be readily met at home by the parents without LEA supervision. It may be appropriate, once it is established that a child's special needs are being met without any additional support from the LEA to give consideration to ceasing the statement, if the parents agree. This may be done at the annual review or at any other time.

7.3 The parents must make suitable provision for the child's special needs, but due to the change in the child's educational setting, this provision may be different from that outlined in the statement which would apply in a school setting. Parents need only provide an efficient education suitable to the child's age, ability and aptitude, and to any special educational needs the child may have as defined in Section 7 of the Education Act 1996.

7.4 If the parents' arrangements are suitable, then the LEA is relieved of its duty to arrange the provision specified in the statement. If, however, the parents' arrangements for the education of their child at home fall short of meeting the child's needs, then the parents are not making suitable arrangements and the LEA are not absolved of their responsibility to arrange the provision in the statement. In some cases a combination of provision by parents and the LEA may best meet the child's needs.

7.5 In the case of home educated children Section 324(4A) of the Education Act 1996 does not require the name of a school to be provided in Part 4 of the statement. There should be discussion between the authority and the parents and, rather than the name of the school, Part 4 of the statement should mention the type of school the LEA consider appropriate but go on to say that: "parents have made their own arrangements under Section 7 of the Education Act 1996". The statement can also specify any provision that the LEA have agreed to make under Section 319 to help parents provide suitable education for their child at home.

7.6 If the child to be de-registered is a pupil at a special school, the school must inform the LEA before the child's name can be deleted from the school roll so that the LEA can ensure extra support and a smooth transition in accessing services. There should however be no delay in removing the child's name from the register. It may then be appropriate to amend Part 4 of the child's statement at the next review.

8. Other Issues

Education Maintenance Allowance

8.1 Education Maintenance Allowance is a means-tested grant available to learners over the age of 16, if they stay on in education at school or college after GCSEs. It is not available to learners whose parents elect to educate them at home.

Truancy Sweeps

8.2 Guidance on Truancy Sweeps is contained on the Welsh Assembly Government's web pages on Inclusion and Pupil Support. Those taking part in the sweeps, including police officers, should be aware that there is a range of valid reasons why school-age children may be out of school. In particular, they may encounter children who are educated at home and that these children are not required to be at school.

8.3 No further action should be taken where children indicate that they are home educated unless there is a reason to doubt that this is the case. Home-educating parents need to be made aware that professionals involved in truancy sweeps may need to verify any information given to them in these circumstances. To make sure this is a fast and efficient process, it would be advisable that the LEA maintains a list of all school-age children known to them who are home-educated. This list can then be checked by the LEA staff as part of a truancy sweep.

Christian Home School: www.homeschool.co.uk

Education Otherwise Association Limited: www.education-otherwise.org

Home Education Advisory Service: www.heas.org.uk

Home Education UK: www.home-education.org.uk

Home Education Resources: www.home-education-resources.co.uk

Muddle Puddle - an independent site focusing on learning for 0-8 year olds: www.muddlepuddle.co.uk

The Home Service - a national Christian home education group: www.home-service.org

National Assembly for Wales, 2002, Special Educational Needs Code of Practice for Wales

National Assembly for Wales 34/02: Preventing Unsuitable People From Working With Children and Young Persons in the Education Service

Welsh Office Circular 52/95, Protecting Children from Abuse: The Role of the Education Service