

Name of meeting: Children's Scrutiny Panel

Date: 6.11.17

Title of report: Elective Home Education

Purpose of report: To provide an overview of a brief overview of the legislative framework in relation to Elective Home Education and local practice and put forward a proposal for the LA to establish a working group of home educating parents to review our protocols.

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	no If yes give the reason why .
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	not applicable If yes also give date it was registered
The Decision - Is it eligible for call in by Scrutiny?	Not applicable If no give the reason why not
Date signed off by Strategic Director & name	Steve Walker Director for Children's Services
Is it also signed off by the Service Director for Finance IT and Transactional Services?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning Support?	Not applicable
Cabinet member portfolio	Cllr Erin Hill Cllr Masood Ahmed

Electoral wards affected: All

Ward councillors consulted: Not applicable

Public or private: Public

1. Summary

Elective home education (EHE) is the term used by the Department for Education (DFE) to describe parents' decisions to provide education for their children at home instead of sending them to school. This is different to home tuition provided by a Local Authority, or education provided by a Local Authority other than at a school.

Numbers of electively home educated children and young people are increasing in Kirklees, and this is in line with neighbouring Local Authorities and national trends.

Year	Numbers of EHE children
2012/13	171
2013/14	204
2014/15	229
2015/16	244
2016/17	263*

*this figure has reduced by 20 as support was provided that enabled the child to return to school

This report will give a brief overview of the legislative framework and local practice. It will also consider a proposal for Local Authority engagement with parents and carers of electively home educated children and the support on offer.

2. Information required to take a decision

Historically the Pupil Referral Service (PRS) were responsible for EHE but since September 2015 the oversight of EHE became the responsibility of the Education Safeguarding Team, which also has responsibility for attendance as well as other statutory duties and commercial services. The team works in partnership with any other relevant team or agency to provide support to families when needed.

Currently in Kirklees, in line with DfE Guidance, parents who choose to educate their children at home are expected to assume full financial responsibility, including bearing the cost of any public examinations.

The role of the Education Safeguarding Team is to support when needed the family of a child who is being electively home educated so that they receive a full time education suitable to his or her age, ability and aptitude. This support may include, where appropriate, providing support and information for parents, and linking families to other services, for example if the child has Special Educational Needs.

Section 2 of the Department for Education guidance outlines the law in relation to Elective Home Education, sections of which are extracted below;

2.1 The responsibility for a child's education rests with their parents. In England, education is compulsory, but school is not.

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."

Parents have a right to educate their children at home. 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."

2.3 The responsibility for a child's education rests with his or her parents. 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".

Parental rights and responsibilities

2.4 Parents may decide to exercise their right to home educate their child from a very early age and so the child may not have been previously enrolled at school. They may also elect to home educate at any other stage up to the end of compulsory school age. Parents are not required to register or seek approval from the local authority to educate their children at home. Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the cost of any public examinations. However, local authorities are encouraged to provide support where resources permit. Parents must also ensure that their children receive suitable full-time education for as long as they are being educated at home.

Local authorities' responsibilities

2.5 The DFE recommends that each local authority provides written information about elective home education that is clear, accurate and sets out the legal position, roles and responsibilities of both the local authority and parents. This information should be made available on local authority websites and in local community languages and alternative formats on request. Local authorities should recognise that there are many approaches to educational provision, not just a "school at home" model. What is suitable for one child may not be for another, but all children should be involved in a learning process.

2.6 Local authorities have a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, 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 (for example, at home, privately, or in alternative provision). The guidance issued makes it clear that the duty does not apply to children who are being educated at home.

2.7 Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis. However, under Section 437(1) of the Education Act 1996, local authorities shall intervene **if it appears** that parents are not providing a suitable education. This section states that:

"If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education."

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

2.8 Prior to serving a notice under section 437(1), local authorities are encouraged to address the situation informally. The most obvious course of action if the local authority has information that makes it appear that parents are not providing a suitable education, would be to ask parents for further information about the education they are providing. Such a request is not the same as a notice under section 437(1), and is not necessarily a precursor for formal procedures. Parents are under no duty to respond to such enquiries, but it would be sensible for them to do so...

...**2.12** Local authorities 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 education authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children."

Section 175(1) does not extend local authorities' functions. It does not, for example, give local authorities powers to enter the homes of, or otherwise see, children for the purposes of monitoring the provision of elective home education.

2.16 Section 53 of the 2004 Act sets out the duty on local authorities to, where reasonably practicable, take into account the child's wishes and feelings with regard to the provision of services. Section 53 does not extend local authorities' functions. It does not, for example, place an obligation on local authorities to ascertain the child's wishes about elective home education as it is not a service provided by the local authority.

Full time does not mean being bound by school hours and terms, as this measurement of contact time is not relevant to home education where there is often almost continuous one-to-one contact.

Parents may decide to exercise their right to home educate their child from a very early age and so the child may not have previously enrolled at school. They may also elect to home educate at any other stage up to the end of compulsory school age. Parents are not required to register or seek approval from the local authority to educate their children at home.

Home education is an option that any family may consider for their children. The reasons for deciding on this approach are many, as are the styles of education undertaken. For a significant number of families it is a decision based on their philosophical, spiritual or religious outlook, for others it is to meet the specific needs of a child or children. If parents report that an issue at school has led to their consideration of electively home educating their child, the Education Safeguarding Team work restoratively with the family to resolve these issues, and where appropriate, re-engage with school.

Kirklees fully respects the rights of parents that have chosen to home educate their children. We have seen many excellent examples of home education and acknowledge that learning takes place in a wide variety of environments.

Whilst there is no legal obligation on the Council or home educators to develop relationships with each other, doing so will often provide parents and carers with access to any support that is available and allow authorities to better understand parents' educational provision and preferences. Therefore, to build on current practice, the service proposes to establish a working group of parents and carers of electively home educated children in order to review and develop the offer currently available.

3. Implications for the Council

3.1 Early Intervention and Prevention (EIP)

Kirklees has an EHE protocol in place that is understood by all schools in Kirklees. Schools have a duty to inform the Local Authority of any child that has been removed from their school roll once a parent has de-registered to become EHE.

When the Education Safeguarding Team is made aware of a child that has become EHE it offers to visit the parent to provide an offer of support if required.

Children with Special Educational Needs

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

Where parents elect to home educate a child with a statement/ plan who is registered at a mainstream school the school will remove the pupil from roll, following receipt of written confirmation from the parent that educational provision is being made otherwise than at school. Local Authority approval for removal from roll is not required irrespective of whether or not the child has a statement of SEN/ EHC plan unless registered at a special school.

In Kirklees before a child is removed from the roll of a Special School a review of the Statement/EHC Plan takes place – an agreement is sought to ensure that the child's needs can be met other than at school.

3.2 Economic Resilience (ER)

It is expected that all children who are electively educated will receive an education appropriate to their needs that enables them to transition successfully to adulthood. For those young people who take external exams, a centre is available, and provided by Shelley College who liaise with the Education Safeguarding Team.

3.3 Improving Outcomes for Children

Kirklees understands that there is no one 'correct' educational system. All children learn in different ways and at varying rates. It is vital that parents and children choose a type of education that is right for them, and we ensure that officers understand and are supportive of many differing approaches or "ways of educating" which are all feasible and legally valid to enable all children to reach their full potential.

3.4 Reducing demand of services

As the current education environment changes there is more parental choice with regards to education such as Academies, Free Schools and Independent Schools, home education is increasingly being seen as another option open to families.

3.5 Other (e.g. Legal/Financial or Human Resources)

In order to ensure a flexible approach to meeting our statutory duty, all officers within the Education Safeguarding Team are required to work the families of electively home educated children and young people.

4. Consultees and their opinions

In the last academic year we arranged two EHE Network meetings in order to engage with our families. This is a positive way of meeting with parents, has resulted in amendments to guidance documents and processes as a result of consultation.

5. Next steps

We are always looking for ways to improve the service we offer and intend to engage and consult with our EHE families to draw up an action plan that set out our mutual objectives.

6. Officer recommendations and reasons

There is commitment to support children, young people and their families who have chosen to home educate, and we believe that further opportunities exist to engage positively with our EHE families in a more creative way.

We propose to work with our current EHE parents to seek their views about what they feel would be supportive to them as part of an overall review of our current EHE protocols and our approach to support.

7. Cabinet portfolio holder's recommendations

8. Contact officer

Mandy Cameron – Head of Service - Education Inclusion & Safeguarding
Mandy.cameron@kirklees.gov.uk

9. Background Papers and History of Decisions

Elective Home Education – Guidance for Local Authorities
(DfE publication)

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/288135/guidelines_for_las_on_elective_home_educationsecondrevisev2_0.pdf

10. Service Director responsible

Jo-Anne Sanders – Acting Service Director for Learning and Early Support
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