

Wiltshire Council	
Families & Children Services (FCS)	
Policy in respect of Elective Home Education	
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Annexes

Annex 1	Safeguarding Form – Elective Home Education
Annex 2	Policy & Procedures – Elective Home Education
Annex 3	Guide for Parents – Elective Home Education.
Annex 4	Current DfE Guidance – Elective Home Education (2007) <u>This is the current guidance to consider</u>
Annex 5	Draft DfE Guidance – Elective Home Education (04/18) <u>Not yet in effect – being consulted on.</u>

1. Elective Home Education – Local Authority Responsibilities

- 1.1 Wiltshire Council has specific responsibilities under Section 11 of the 2004 Children Act, and Section 175(1) of the Education Act 2002 to “make arrangements to safeguard and promote the welfare of children” that are educated at home. This responsibility is exercised on behalf of the Council by the Support and Safeguarding Service within which EWOs (Education Welfare Officers) are based. Such powers however, do not bestow on Local Authorities the “ability to see and question children subject to elective home education in order to establish whether they are receiving a suitable education”. Powers are restricted to acting in the best interests of the child where there is a concern that the child is suffering from ‘significant harm’; which is the test for all such interventions whether the child is electively home educated or otherwise.
- 1.2 The Safeguarding and Support Service is a blended team of professionals who work together to support, safeguard and protect children in need of higher level ‘Early Help’ and social work interventions such as Child in Need and Child Protection. The service includes; Family Key workers, Social Workers, Early Years Inclusion Officers, Education Welfare Officers and Early Intervention Advisors (formerly called CAF Coordinators) amongst others. If there are any concerns, the form in **Annex 1** can be completed by schools or the child referred into the MASH (Multi Agency Safeguarding Hub).

2. What is Elective Home Education?

- 2.1 Elective Home Education offers families and carers the opportunity to provide education for the children and young people in their care independent from the Local Authority or established school provision. The law in England states

that the responsibility for a child's education rests with their parents/carers and that whilst education is compulsory, attending school is not.

- 2.2 Elective Home Education in Wiltshire is governed by statute and Department for Education guidance which has been used to form Wiltshire local guidance (see **Annex 2**) – a copy of which is made available to all parents and carers known to be electing to educate their children at home (see **Annex 3**).
- 2.3 A parent/carer can elect to home educate their child at any stage of a child's educational career. Should this option be taken at the earliest stage (pre-school), then the child will never be registered on any school roll. If the option is taken at a later stage, schools are required to notify the Local Authority (via completion of a form) and remove the child's name from the school roll. This means that such children are not included in the schools' census and the authority receives no funding for their education. The Local Authority holds a register of all children who are home educated – which is overseen by the Manager with functional lead for Education Welfare (which sits in the Support and Safeguarding Service of the Families and Children's Directorate).

3. What does the statutory (DfE) Guidance require?

NOTE: The below relates to existing DfE Guidance (dated 2007 – see Annex 4)

3.1 This states that:

- (i) Parents/carers have a right to elect to educate their children at home.
- (ii) Parents/carers must ensure that the education programme that they deliver provides an "efficient and suitable" education that 'primarily equips a child for life within the community of which he/she is a member'. Consistency with the National Curriculum is not required. However, the programme on offer must not restrict the child's education and educational and employment options in later years (post 16).
- (iii) An 'efficient and suitable' education is not defined in the Education Act 1996 (leaving the programme open to parental interpretation).
- (iv) Local Authorities have no statutory duty, power or funding to monitor the quality of the home education.
- (v) Local Authorities are expected to monitor those who receive home education for 'safeguarding purposes', intervening where children are at risk of serious harm and ensuring that parents receive 'written information that is clear, accurate, and sets out the local position, roles and responsibilities of both the Local Authority and parents/carers'.

NOTE: Where lower level safeguarding or child welfare issues exist but which do not meet the level of significant, these concerns can still be discussed with MASH staff (Multi-Agency

Safeguarding Hub). Please also refer to WSCB Thresholds Guidance and use the DART tool as required.

- (vi) The statutory safeguarding responsibility does not extend to empowering Local Authorities to enter homes to see children for the purpose of monitoring the quality of provision. Where there are grounds for concern, Education Welfare Officers will refer the child into the Multi-Agency Safeguarding Hub (MASH) where assessments will be made in line with the Children's Act legislation. It is only in very rare cases where a child is considered to be at risk of 'significant harm' where a child can be removed (by Police supported by Social Workers) from a home.
- (vii) It is only in cases where it appears that a parent is not providing a suitable education that the Local Authority has the option to respond with a School Attendance Order. A parent is not compelled to meet with the Local Authority or receive a monitoring visit. If there are concerns, Local Authorities can however ask parents for information to evidence that they are providing a suitable education (which parents do not have to legally provide although it is good practice for them to do so).
- (viii) The Local Authority in all its involvement with parents/carers, is expected to acknowledge that "learning takes place in a wide variety of environments and not only in the home", and that the "views of children involved should be taken into account" (where practicable).

NOTE: The DfE are currently consulting on new guidance for local authorities (see Annex 5 for draft DfE April 18 guidance) which will strengthen safeguarding responsibilities and actions. This new guidance has not yet been agreed. This new guidance should also be taken into account when reaching any decisions.

4. Local Authority Processes

- 4.1 Upon being notified of a parent/carer's decision to home educate their child, Education Welfare Officers will initially write to the parent providing clear information (**Annex 3**) setting out the legal position, roles and responsibilities for parents/carers, and that of the Local Authority.
- 4.2 Once the above has been provide; Education Welfare Officers will contact the parent to offer a home visit (which the parent does not have to agree to); or failing that, request evidence of education plans from the parent. Depending upon the Education Welfare Officer's assessment (most parents cooperate), a monitoring visit of a frequency of between 6 and 12 months will be set.

5. The Education Welfare 'Offer' within the Support & Safeguarding Service

- 5.1 There are 9.91 full time equivalent staff – including 1 full time equivalent Penalty Notice Licensing Officer. There is resource dedicated to monitoring Elective Home Education of at least 2 EWO full time equivalents.
- 5.2 All communications initially to semi specialist EHE EWOs will be channelled through the mainstream link EWOs for the school which the child has been attending or if the child has never been registered at a Wiltshire school, the Education Welfare Officer who covers the area where the child resides.

6. What if the Local Authority is not satisfied that a suitable education is being provided?

- 6.1 If the LA is not satisfied that a suitable education is taking place then further contact in writing, visits or consultation will be offered with the aim of helping parents/carers to overcome any difficulties within a *mutually* agreed time scale.
- 6.2 If the LA still considers that a child is receiving a less than satisfactory education, the LA has a duty under S437 of The Education Act 1996 to serve notice on the parent/carer requiring them to satisfy the LA that their child is receiving suitable education “otherwise than at school”. If a parent/carers reply is unsatisfactory; or they fail to reply, the LA may consider issuing a School Attendance Order, although these proceedings are rarely used. The process for this is summarised as follows:
- a The LA serves parents/carers with a notice giving them at least two weeks to satisfy the LA that the child is being educated properly.
 - b If parents/carers fail to satisfy the above request, the LA has to consider whether it is expedient for the child to go to school. If they believe it is, they will serve a second notice telling parents/carers which school they intend to name, giving them a chance to express a preference for an alternative.
 - c If this does not bring about the required change, the Authority then serves a School Attendance Order requiring parents/carers to register their child as a pupil named at the school on the Order.
 - d However, parents/carers can ask for the Order to be revoked because they are educating “otherwise”. This is a matter for the court at this stage.
 - e The LA can prosecute the parent/carers if they do not cause their child to become a registered pupil at the named school in the Order and thereby fail to secure regular attendance at that school, but this action will fail if the court is shown that they (parents/carers) are educating otherwise in a manner to convince a reasonable person on the balance of probability that this is the case.

7. Where a child has Special Educational Needs and Disabilities.

7.1 The law upholds the right for parents/carers to home educate children who have a Special Educational Need and/or Disability. Education Health and Care Plans – EHCPs – (formerly known as SEN Statements) can be prepared on the basis that home provision is being provided; although the consent of the Local Authority *must* be sought before a child is removed from a ‘Special’ SEND school (if they are attending one at the point of EHE).

8. Additional Context

8.1 ***The clear majority of parents and carers do a good job in home educating their children*** and the Local Authority must work within the confines of the law and DfE guidance. This can only be done by establishing good relationships with parents known to be home educating their children – and encouraging/supporting schools in their duty to speedily and accurately advise the Local Authority where a parent/carer has elected to home educate; this is not always the case. In all of the above, the Local Authority must respect the parent/carers’ right to home educate even if their provision is seen to be alternative or unorthodox – as parents will choose to home educate for a variety of reasons. Parents/carers do not need any specific qualifications to home educate their children.

8.2 Our new configuration of delivery within the Support and Safeguarding Service provides the ideal opportunity and synergy to ensure an integrated focus is placed upon children who are EHE; with the potential for Family Key Workers and other staff to work in a collective way.

9. Process

9.1 If a parent wishes to Electively Home Educate their child; the school must deregister the child at the point written notification is received from the parent expressing their intention to do so. Deletion from the admissions register should take place as soon as notifications are received.

9.2 The exception to the above is a child who has an Education Health Care Plan (EHCP) where the child has Special Education Needs and / or Disabilities and the child is registered at a Special School. In these circumstances; consent should be obtained from a Senior Manager in the SEND Team before the child’s name can be deleted from the Admissions Register.

9.3 Schools are required to inform the Local Authority of the intention to home educate by completion of the Safeguarding Form (**Annex 2**) which should be attached to the parents’ letter, the school’s letter of acknowledgement (to the parent) and a registration certificate. Upon receipt of the required documents,

Education Welfare Officers will make contact with the parents/carers who as above are then required to provide evidence that the child is in receipt of a 'suitable education'. If the parent fails to provide the relevant evidence, EWOs will pursue the matter and may initiate a 'School Attendance Order' which will require the parent/carer to register their children at a named school.

*Note: Parental Guidance (**Annex 3**) currently reflects current 2007 DfE guidance (**Annex 4**). This will be updated to reflect the current national review into EHE monitoring and outcomes is complete and the DfE publishes its findings in full (including new guidance – a consultation draft of which is attached in **Annex 5**)*