

Elective Home Education

Policy and Procedures

June 2016

Introduction

This policy aims to inform schools, parents, local authority advisors and other related agencies across North Yorkshire about the policy and procedures to be followed where parents/carers make the choice to educate their children otherwise than at school, usually at home. This practice is known as Elective Home Education (EHE).

The term “parent” is used throughout this policy to include all those with parental responsibility.

The policy does not apply to children receiving alternative educational provision from the Local Authority (LA) or because they are not attending school as a result of illness, exclusion or any other reason.

Policy Principles

North Yorkshire County Council

- respects the rights of parents and carers to elect to educate their children at home;
- recognises that there are many approaches to educational provision;
- believes that all children should be involved in a learning process.
- will work to promote positive relationships and mutual respect with parents for the benefit and educational well being of children.

This policy document applies to those children whose parents/guardians have chosen to educate their children at home. It does not refer to children who have a home tutor provided by the Local Authority.

This document sets out

- parents’ rights to educate their children at home and their responsibilities,
- the legal duties and responsibilities of Head teachers
- the legal duties and responsibilities of the LA.

It also sets out the arrangements we will make in order to carry out our legal duties under Sections 437 – 443 Education Act 1996 ie if it appears that a child of compulsory school age is not receiving education suitable to age, ability, aptitude and special needs, to take steps to ensure that this is remedied:

“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 be not less than 15 days beginning with the day on which the notice is served.

1. Parents' Rights and Responsibilities

1.1 The law states it is the duty of parents to ensure the education of their children. In England education is compulsory, but schooling is not. Parents may choose to educate their children at home instead of sending them to school and are not required to register or seek approval in order to educate their child at home.

1.2 The parents' legal duty is set out in Section 7 of the Education Act 1996 as follows:

"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"*

1.3 The European Convention for the Protection of Human Rights and Fundamental Freedoms, Article 2 of Protocol No 1 also supports this, stating:

"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."

1.4 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".

1.5 Whichever course a parent/guardian decides to take it is a good idea for them to talk to the child and take their wishes and feelings about their education into account.

1.6 Home educating parents are not required to :

- have premises equipped to any particular standard;
- set hours during which education will take place;
- cover the same syllabus as any school;
- teach the National Curriculum;
- make detailed plans in advance;
- observe school hours, days or terms;
- have a time-table;
- give formal lessons;
- reproduce school type peer group socialization;
- match school, age specific standards.

1.7 Non-registered Children

When a child is not a registered pupil at a school the parent is not required to:

- seek permission to educate “otherwise”
- take the initiative in informing the Local Authority
- have regular contact or meet with the Local Authority

However, the Local Authority may make enquiries of parents who are educating at home to establish that a suitable education is being provided (as per the parties legal duties), and to ensure the welfare of and appropriate support for the family and children involved.

Parents are under no legal duty to respond to such enquiries, but, as Local Authority, we are keen to promote a supportive, positive relationship with home educating families.

1.8 Where children are registered with a school :

Parents of a child who is registered at a maintained or independent school must inform the school formally by writing to the Head teacher stating their intention to de-register their child from the school and to instead home educate.

If a parent does not inform the Head teacher in writing a child may remain on roll and the parent may be liable to prosecution for non-attendance.

2. The Headteacher’s Duty

- 2.1 It is the duty of the Headteacher (Education (Pupil Registration) (England) Regulations 2006) to inform the Local Authority (LA) when a parent has confirmed in writing his or her decision to educate his or her child otherwise than at school. The pupil’s name will be deleted from the school admission register and the child will be recorded on a register kept by North Yorkshire County Council of children being home educated. See Annex A for detail.
- 2.2 If a child attends a special school then his/her name cannot be removed from roll until the LA gives permission – confirming that the child’s special educational needs are being addressed.

The Education (Pupil Registration) (England) Regulations 2006 Regulation 8(2) states:

“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.”

- 2.3 The school should provide an up to date record of the child's attainment to the LA and it should be copied to both parents. This is for the LA's records and to enable the parents to use this assessment in drawing up an education plan for the child moving forward.

3. The Local Authority's Duty

- 3.1 Sections 437 – 443 of the Education Act 1996, dealing with school attendance orders, confers a duty on the LA if it appears that a child of compulsory school age is not receiving education suitable to age, ability, aptitude and special needs. It says that LAs can intervene if they have good reason to believe that parents are not providing a suitable education. This section states :

“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”.

- 3.2 The legal duty of LAs is concerned only with children who appear not to be receiving a suitable education. However, case law (Phillips v Brown (1980) QB 424/78) established that an LA might make enquiries of parents who are educating their children at home to establish that a suitable education is being provided and that, *“where an authority has a duty to take action in particular circumstances, it also has a duty to be alert in order to detect the possibility that those circumstances exist”*.
- 3.3 The LA has a duty under section 175(1) of the Education Act 2002 to safeguard and promote the welfare of children. These powers allow the LA to insist on seeing children in order to enquire about their welfare where there are grounds for concern. It does not give the LA power to enter the home of, or otherwise see children for the purpose of monitoring the provision of elective home education
- 3.4 The LA has a duty to make arrangements to identify children who are not registered at school. If it appears to the LA that a child is not receiving suitable education, the LA shall serve a formal notice on the parent under section 437(1) of the Education Act 1996.

Special Educational Needs

- 3.5 Parents of a child who has a Statement of Special Educational Needs can educate him/her at home. However, if the child is on the roll of a special school, the child's name may not be removed from the register of that school without the LA's consent. Parents wishing to begin home education with a child registered at a Special School must first seek the consent of the LA before withdrawing the child from school. Consent may not unreasonably be withheld.

- 3.6 Where a child has a Statement of Special Educational Needs when a parent begins home education, it remains the duty of the LA to ensure that the child's needs are met. Any existing statement must remain in place and it is the LA's statutory duty to undertake an annual review of Special Educational Needs. This review will include assessing whether the statement is still appropriate, requires amendment or might cease to be maintained, depending on the child's current circumstances and the provision being made. If parents' arrangements are suitable then the LA is relieved of its duty to arrange the provision specified in the statement.
- 3.7 Should it be necessary for the statement to remain in force, parents continue to have responsibility for the education provided. However, the LA has a legal duty to ensure that the child's needs are met.

4. The Role of the Local Authority

4.1 This section sets out the arrangements the LA will make to ensure it carries out its statutory duties for children educated by parents. The LA recognises that both the Children Act 2004 and the Every Child Matters outcomes apply to all children, including those who are being home educated. Services and support for home educating families will therefore take these into account.

4.2 The LA will:

- Maintain a register of pupils being educated at home. This is not a statutory duty and the numbers of children who are home educated fluctuate regularly. The register will enable the LA to coordinate the children being home educated in their area in order to offer support and advice and an assessment of their education. This is in order to assess whether or not it appears that a child is receiving a suitable education.
- When the LA is notified of the intention to home educate the case will be allocated to a Family Outreach Worker, who will undertake a home visit with the family to discuss the arrangements for EHE and to ensure the safety and welfare of the home educated child.
- NYCC are committed to establishing and maintaining positive links with home educating families and a Family Outreach Worker (FOW) may revisit families on an occasional basis, giving written notice in advance, to update our records and discuss any issues the young person
- NYCC will provide information for families about elective home education and suggest resources and other support that families can access.
- If it appears to the LA that a child is not receiving an appropriate education or any concerns are identified relating to the child's welfare, the Family Outreach Worker will raise these concerns with the family and with the Education and Skills team.

- If it appears to the LA that a child is not receiving an appropriate education, after offering support and allowing parents a reasonable amount of time to address concerns, the LA will issue a School Attendance Order requiring the child to attend a named school.
- The LA will provide details of the complaints procedure and deal with any complaints in a sensitive and timely manner.

5. School Attendance Orders (SAO)

- 5.1 If it is not possible to persuade the parent to make suitable arrangements for their child's education, the parent will be notified in writing by LA that they need to locate a school place within 15 school days or satisfy the LA that they are providing an education. Failure to comply with this notice may result in an NYCC Attendance and enforcement Officer beginning the process of issuing a SAO.
- 5.2 Upon expiry of the notice, the LA will write to the parent referring them to the notice and informing them of the authority's intention to serve an SAO. The LA Attendance & enforcement Officer will inform the parent of schools that are suitable for the child to attend. The parent will be advised that they have 15 days in which to take action or the AEO will proceed to make an SAO. The parent will be provided with an explanation of the law regarding the issuing of an SAO.
- 5.3 If the 15 days expire without the parent registering their child at a school, then the authority should issue an SAO. Prior to this, a school with a vacancy should be identified and a letter written to the governing body, informing them of the impending School Attendance Order. The Order should specify which school the child should attend and inform the parent that they have 15 days to comply, from the date of the letter. A failure of the parent complying would result in prosecution for the breach of Section 443 of the Education Act 1996.

6. Contacts : If you require further information please contact :

- **SENDIASS - Special Educational Needs and Disabilities Independent Advice and Support Service** : www.northyorks.gov.uk/send
- **Inclusion**
 - **SEND Team**
 - **Inclusive Education Service; inclusiveeducation@northyorks.gov.uk**

Or

- **NYCC's Customer Service Centre – see below**

Contact us

North Yorkshire County Council, County Hall, Northallerton, North Yorkshire, DL7 8AD

Our Customer Service Centre is open Monday to Friday 8.00am - 5.30pm
(closed weekends and bank holidays). Tel: **01609 780 780**

email: **customer.services@northyorks.gov.uk** web: **www.northyorks.gov.uk**

If you would like this information in another language or format please ask us.

Tel: **01609 780 780** email: **customer.services@northyorks.gov.uk**

Annex A : Further Guidance for Schools when EHE is selected :

All schools have a duty to notify the Local Authority when a child is to be removed from their school. This includes for Elective Home Education.

The school must complete the following actions :

- Complete and submit Part 1 of the Children and Families Service : Joint Elective Home Education Notification and Home Visit Form
This can be found by link to CYPS info.
- Complete and submit the Common Transfer File (CTF) which are uploaded to S2S using the DFE Secure Access Website:

<https://sa.education.gov.uk/idp/Authn/UserPassword>

as follows

- For a pupil that is moving to EHE the school should add 'North Yorkshire' as the destination in the CTF creation process which will produce a file with the following file name. 815SSSS_CTF_815LLLL_001.xml (Where SSSS is replaced with the school establishment number)

NB : These files should contain only one pupil per file

The LA are then notified that there are files waiting for them to download.

- For a pupil that is missing or their destination is unknown then schools would select 'Other Unknown' which will produce a file with the following file name

815SSSS_CTF_XXXXXXX_001.xml (where SSSS is replaced with the school establishment number)

This is as per the standard process for when a pupil moves from the schools: Eg For a pupil that is moving to an Independent school/abroad/Scotland/Ireland then the school should select 'Out of the maintained sector' as the destination which will produce a file with the following file name.815SSSS_CTF_MMMMMMM_001.xml (where SSSS is replaced with the school establishment number).

