

LONDON BOROUGH OF HAMMERSMITH & FULHAM

Report to: Children and Education Policy and Accountability Committee

Date: 16/11/2021

Subject: Elective Home Education

Report author: Elizabeth Spearman, Head of ACE and School Admissions

Responsible Director: Jan Parnell, Director of Education

SUMMARY

The report outlines the key legislation and Department for Education (DfE) guidance which governs Local Authority work with parents/carers who have elected to home educate their child/ren. The law is clear all children of statutory school age must be in receipt of a suitable education but does not stipulate this has to involve enrolment at a school. Any parent/carer is able, in law, to decide to home educate their child and they are under no obligation to inform the Local Authority of this decision.

The Local Authority is responsible for ensuring that all children resident in the borough are in receipt of a suitable education. It is not specified in primary legislation or subsequent guidance how a Local Authority should discharge this duty. In Hammersmith and Fulham, local processes and procedures are in place to maximise identification of home educated children and to have some oversight of their education provision. These are designed to ensure, as far as possible, engagement and cooperation with parents/carers, be satisfied education provision is suitable and take account of safeguarding implications. Local procedures exceed the minimum expectations stipulated in the DfE guidance, while remaining legally compliant.

Finally, the report provides evidence of the increase in children being electively home educated during the pandemic and the resource implications if this trend is not reversed.

RECOMMENDATIONS

1. For the Committee to note and comment on the report and continue to support the current local approach, with returning to home visits and meetings with all new EHE families and those causing concern, once it is deemed safe to do so.
 2. For the Committee to note that local policy, practice and resourcing will need to be reviewed in the light of any changes in DfE guidance, resulting from the government Select Committee report, July 2021.
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Wards Affected: All

Our Values	Summary of how this report aligns to the H&F Values
Building shared prosperity	Working to ensure all children receive a suitable education and can go on to contribute to the community in which they live
Creating a compassionate council	Accepting that families have a right to educate their children at home and supporting them to do this, sensitively and respectfully
Doing things with local residents, not to them	Working with families to provide the support and advice they need, enabling them to share experiences with each other and the Home Education Adviser
Being ruthlessly financially efficient	Building on the experience of virtual meetings necessitated by the pandemic, embedding this for contact with established EHE families in future, to optimise use of time
Taking pride in H&F	Continue to contribute to national and regional fora, where the H&F EHE policy and procedures have been cited as exemplars
Rising to the challenge of the climate and ecological emergency	The Home Education Adviser to include references to learning in relation to the climate change agenda at EHE meetings with families, if deemed appropriate

Contact Officers

Name: Elizabeth Spearman
Position: Head of ACE and School Admissions
Telephone: 07818 017506
Email: elizabeth.spearman@lbhf.gov.uk

Background Papers Used in Preparing This Report

None.

DETAILED ANALYSIS

Legislation – key facts and challenges

1. Parents/carers are responsible for ensuring all children of statutory school age are in receipt of suitable education, in school or *otherwise* (s7 Education Act 1996).
2. Legislation is clear that any/all parents (regardless of any safeguarding, mental health or other potential concerning factors) have a legal right to elect to educate their children 'otherwise' than at school, commonly referred to as 'elective home education' (EHE); they do not have to inform the LA of this decision.
3. Local Authorities (LA) have a legal obligation (s437 Education Act 1996) to ensure that all children who are of statutory school age, who reside in the area, are in receipt of a 'suitable education'. There is no definition of a 'suitable education' in law.
4. The law also makes it clear that LAs have a duty to consider legal action, by applying for a School Attendance Order (SAO), if they have concerns that a child is not in receipt of a suitable education.

DfE Guidance – (EHEGLA – 2019)

5. EHE parents often confuse the DfE Guidance with legislation and believe the parents right to home educate overrides the LA statutory role.
6. The DfE has confirmed that Local Authorities have a statutory role to ensure a child is in receipt of a suitable education, but it is for LAs to decide how to discharge this duty. Each LA is therefore expected to draw up their own EHE policy and procedures, with due regard to legislation and guidance.
7. In relation to the 'suitability' of provision, the DfE advice is that Local Authorities should consider the evidence available, to conclude whether there is sufficient convincing evidence of the suitability of a child's education.

The LBHF EHE policy and procedures

8. The policy and procedures set out the local arrangements in relation to how H&F LA statutory responsibilities will be met; these are available online and additional guidance is provided for parents who are known to be EHE.
9. The EHE policy and procedures have been verified as being legally compliant by Legal Services and they have due regard to the DfE guidance. In the interests of the law and equality of opportunity, the policy aims to deliver a fair and consistent approach with all families who EHE.
10. Local policy and procedures are based on the view that a written or verbal description of provision alone, provided by a parent, cannot satisfy the LA that a child is receiving, or indeed benefiting from, the provision described.

11. In H&F a Home Education Adviser (HEA) offers to meet with parents and the child, to discuss the provision in place and see examples of work, to form a professional view about the provision in place. This will allow the HEA to confirm that the child is receiving the provision described and more importantly, how the child is benefitting from it.
12. If parents decline to meet with the HEA, the EHE policy allows the LA to consider an endorsement from an education professional involved in the delivery of a child's education, who can confirm that the child is in receipt of, and benefitting from, the provision in place.
13. Most EHE families are prepared to meet with the HEA, meaning endorsements have only been requested in a handful of cases. In these cases, the endorsements have provided evidence of a suitable education, formed by meeting with the child and parents. Endorsements have been provided by qualified education professionals (e.g. tutors/teachers) involved in the delivery of the child's education.

Data

14. Table below shows the increase in numbers over six years of children known to be EHE in H&F

Summer 2016	69
Summer 2017	72
Summer 2018	88
Summer 2019	102
Summer 2020	114
Summer 2021	190

15. Table below illustrates the increase in EHE activity since March 2020 to date

Time frame	Average number of EHE cases open in each term	Average number of EHE assessments each term
3 terms prior to March 2020	108	26
4 terms 2020 to July 2021	145	40

16. The significant increase in EHE caused by the pandemic has been manageable within existing resources due to the Home Education Adviser undertaken on-line/virtual assessments. Whilst this could be embedded as routine practice for previously satisfactory EHE, there are safeguarding implications for new cases and for cases where provision is known to be of concern.

Issues and tensions

17. LA cannot insist on a visit or endorsements but does need convincing evidence of suitability of EHE provision.

18. LA do not 'inspect' the provision being made or 'assess' the child but form a professional view, either through meeting the child and parents/carers or through perusal of endorsements, to ensure the LA has sufficient evidence that the child is in receipt of a suitable education.
19. LA cannot 'routinely' monitor EHE provision but has a duty to ensure that children who are home educated have a suitable education – DfE advise that an annual meeting, consistent with the LBHF policy, does not constitute 'routine' monitoring.
20. LA accepts that there is much flexibility on how home educators organise their provision; there is no obligation to follow traditional school hours either in number or times or to follow the National Curriculum.
21. Parents/carers are free to decide on their preferred teaching style and may use private tutors, as long as the LA can be convinced the provision in place constitutes a suitable education.
22. LA always makes informal enquiries and takes all reasonable steps to resolve any disagreements in relation to evidence of suitability, before resorting to initiating the School Attendance Order process.

National picture

23. Professional organisations working with the EHE community over time, have frequently raised concerns about the current legislation and DfE guidance, which is believed by many to be unhelpful, unsafe and in need of revision.
24. The EHE community is well supported by advocates and pressure groups, many of which encourage families not to work with the LA and actively challenge the LAs right to have contact with EHE families.
25. The DfE most recent guidance (2019) supports the approach already being adopted in LBHF.
26. A recent Education Select Committee into EHE reported their findings July 2021 and recommended:
 - A national register
 - Definition of suitability and guidance on how LAs can establish this in relation to children who are EHE
 - LAs to fund examinations for EHE children
27. All three recommendations would have resource implications; the first two are welcome. The introduction of a requirement for all EHE children to be registered would be likely to see a further increase in EHE children identified. Funding for examinations would need careful consideration as LAs would be open to challenge if those in independent schools also requested funding for examinations.

LIST OF APPENDICES

None.