

# LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Health and Wellbeing Board

**Date:** 21/09/2022

**Subject:** Elective Home Education

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

**Responsible Director:** Peter Haylock, Operation Director of Education and SEND

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## SUMMARY

1. 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.
2. 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.
3. 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. 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 being reinstated.
  2. Local policy, practice and resourcing will need to be reviewed in the light of any changes in DfE guidance and proposed changes in legislation expected 2022.
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**Wards Affected:** All

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<b>Our Values</b>	<b>Summary of how this report aligns to the H&amp;F Values</b>
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 agenda, 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 now includes references to learning in relation to the climate change agenda at EHE meetings with families, if deemed appropriate

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### **Background Papers Used in Preparing This Report**

None

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## DETAILED ANALYSIS

### Introduction

1. The option for parents to elect to educate their children (EHE) at home has polarised opinion both nationally and internationally for decades; for example, it is a much-exercised right in Australia and the USA but not a legal option in Japan, Sweden, Greece or Germany.
2. In England, a parents right to elect to home educate their children was made explicit in the Education Act 1944 when both primary and secondary education became a statutory requirement and available to all for free.
3. Whilst the significant majority of parents choose to educate their children through attendance at a school, home education is now an option a growing number of parents choose for a wide variety of reasons and deliver in a wide variety of ways. Much is of an excellent standard but provision for a minority of children is inadequate, with all the associated impact lack of education can have on a child's life chances.
4. Electively home education has continued to be an issue that attracts controversy and debate between Local Authority (LA) staff, the DfE and families; this has been brought to the fore over the last couple of years, with more families choosing EHE during the Covid 19 pandemic.

### Legislation

5. The current legislation is clear that any parent has a legal right to elect to educate their children 'otherwise' than at school, commonly referred to as 'elective home education' (EHE). Parents currently have no legal requirement to inform the LA of a decision to EHE; there was however a significant increase in EHE notifications during the pandemic, both locally and nationally, with the anticipated return to schools, once they reopened, *not* happening.
6. Local Authorities have a legal obligation (s437 Education Act 1996) to ensure that all children who are of statutory school age, who reside in their area, are in receipt of a 'suitable education'. There is currently no definition of a 'suitable education' in law. Finally, the law 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.

### Department for Education (DfE) Guidance – (EHEGLA - 2019)

7. The DfE guidance is clear that, although Local Authorities have a *statutory* role to ensure a child is in receipt of a suitable education, it is for each LA to decide how to discharge this duty in respect of EHE. Each LA is expected to devise and publicise their EHE policy and procedures, having due regard to legislation and guidance.
8. 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.

Currently, there is a broad range of ways LAs discharge these duties, but the Hammersmith and Fulham (H&F) approach has been commended by the DfE and is already well aligned with the proposed new legislation.

### **The Hammersmith and Fulham EHE policy and procedures**

9. The EHE policy and procedures set out the local arrangements in relation to how H&F LA statutory responsibilities will be met; they are legally compliant and 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, regardless of family circumstance.
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. Therefore, in H&F, the 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. Most EHE families are prepared to meet with the HEA; in exceptional case where families are *not* prepared to meet the HEA, endorsements from an education professional who can vouch for the quality of the provision in place, will be considered. At any given time, there are less than 3% of families who choose not to engage with the LA.
13. In the absence of a family being prepared to meet with the HEA or provide endorsements, and if insufficient evidence of a suitable education is provided, the Local Authority will consider legal action by initiating a School Attendance Order (SAO).

### **Resourcing**

14. There is currently one 0.5 Home Education Adviser, employed term time only, who undertakes all assessments of families known to be EHE in H&F. Prior to the HEA assessing the provision, all new EHE notifications are held by the Children Missing Education (CME) Fieldworker, who works 0.6 term time only. This enables early support for families who may not be fully aware of the implications of EHE or those who have made the decision in haste and can be supported back into school.
15. The CME Fieldworker is also responsible for initiating any legal action in respect of unsatisfactory provision and/or lack of willingness to engage with the HEA to assess and improve provision. Positively, this sanction is rarely needed.

## **Elective Home Education, children missing education (CME) and potential safeguarding implications**

16. Children whose parents have elected to home educate them should *not* be confused with children missing education (CME). CME are children who have no known education provision, either through being on roll at a school or through EHE.
17. Over the preceding three terms the service has received forty-eight new CME referrals, all of which have been resolved within a 12-week period (frequently much sooner), with no cases needing legal action. There are currently eight open CME referrals, including three siblings.
18. There are robust systems in place to track and monitor all CME until education provision is secured. All new CME or EHE notifications received by ACE are cross checked with social care via Mosaic: if a match is found the allocated social worker is informed that the child is CME/EHE. Currently there is only one CME child known to social care colleagues
19. Although there is no evidence to suggest that either CME or children in the EHE community are proportionately overly represented in cases known to social care, any child who is not in regular attendance at school misses the opportunity to be seen regularly by school staff. School staff are in an advantageous position, through regular contact and knowledge of individual children and their families, to identify concerns or to monitor existing concerns. Potentially vulnerable children who are CME or EHE are not afforded this oversight.
20. However, although parents of a CME child are potentially acting illegally in not securing a suitable education for their child, current education legislation does *not* preclude a child with a Child Protection plan or a Child in Need from being EHE, so social care staff should consider factoring in lack of school contact into any planning, contact or legal proceedings.

### **Increased demand**

21. In line with the national trend, numbers of EHE children have been rising steadily over the past decade. The 2 years of the pandemic saw a substantial increase in families deciding to EHE and the expected return to schools once they reopened and perceived risks to health decreased, has not happened.
22. The table below shows the increase in numbers year on year of EHE known children in H&F

<b>Summer 2017</b>	<b>72</b>
<b>Summer 2018</b>	<b>88</b>
<b>Summer 2019</b>	<b>102</b>
<b>Summer 2020</b>	<b>114</b>
<b>Summer 2021</b>	<b>190</b>

23. Despite this increase, the HEA has continued to engage with all EHE families, undertaking initial contacts and follow up assessments, in line with existing policy and procedures. Increased demand has been managed during the past two years, due to the restrictions imposed by the pandemic; this necessitated online/telephone contacts and assessments, saving considerable time on travel and 'no-show' home visits. However, the intention to resume face-to-face contact will increase the time needing to be allocated to each EHE case and it is anticipated the current resourcing may become insufficient.
24. In addition, the legislative changes currently going through parliament will put an increased burden nationally on LAs in relation to EHE, most significantly in the following three areas:
- A national register of children not in school (CNIS), requiring all parents/carers to inform the LA of their intention to EHE
  - A structured definition of 'suitability' and explicit guidance on how LAs should assess provision for EHE children
  - A requirement to collate data in relation to EHE and CME, the new CNIS register
25. Although the current H&F policy, procedures and data collection exceed the expectations of the existing DfE guidance in relation to EHE, these changes in legislation will be likely to lead to a further increase in numbers of children known to be EHE, an increase in the expectations of assessments and broadening of data collation requirements, putting additional demands on existing resources. The impact is hard to assess until the details of any changes in legislation and guidance are publicised.

**Elizabeth Spearman Head of ACE/School Admissions – July 2022**

## **LIST OF APPENDICES**

Case studies