

# LONDON BOROUGH OF HAMMERSMITH & FULHAM

**Report to:** Children and Education Policy and Accountability Committee

**Date:** 25/03/2024

**Subject:** Children Missing Education and Elective Home Education

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

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## SUMMARY

1. The report references the key legislation and Department for Education (DfE) guidance that governs Local Authority work with two cohorts of children; children missing education (CME) and those whose parents/carers have elected to home educated (EHE). CME are defined as children without any education provision and should not be confused with non-attenders, who have provision but are not utilising it. With regard to parents choosing to home educate, the law is clear that all children of statutory school age must be in receipt of a suitable education, but this does not have to be at a school. Any parent/carer has the right to choose to home educate their child and they are under no obligation to inform the Local Authority of this decision. Investigations into children believed to be missing education may establish the children are in fact being educated at home by their parent/carers.
2. The Local Authority is responsible for ensuring that all children resident in the borough are in receipt of a suitable education. Primarily, this duty is discharged through School Admissions offering every resident child a school place, but it is not specified in primary legislation how a Local Authority should discharge this duty in respect of children missing education or those who are home educated. In Hammersmith and Fulham, local processes and procedures are in place to maximise identification of both children missing education and home educated children, to ensure those wanting a school place are supported and to have some oversight of provision in place for those who are being educated at home by parents/carers. Local procedures exceed the minimum expectations stipulated in the DfE guidance, whilst aiming to ensure engagement and cooperation with parents/carers, to be satisfied education provision is suitable and take account of any safeguarding implications.
3. The report provides data relating to the numbers of both CME and EHE children over the past 5 years.

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## RECOMMENDATIONS

1. For the Committee to note and comment on the report and continue to support the current local approach for children who are either EHE or CME.

2. Local policy, practice and resourcing will be reviewed taking community feedback into account and in the light of any changes in DfE guidance or legislation.

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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 enabling them to go on to contribute to the community in which they live
Creating a compassionate council	Accepting that children have a right to an education and families have a right to educate their children at home, supporting them in their choices, sensitively and respectfully
Doing things with residents, not to them	Working with families to provide the support and advice they need, (e.g. translating Admissions advice and EHE family event), enabling access information and opportunities to share views with LA officers
Being ruthlessly financially efficient	Improved use of ICT such as the use of virtual meetings as appropriate (e.g. for contact with established EHE families) in future, to optimise use of time, managing increased demand with no budget increase
Taking pride in H&F	Continue to contribute to national and regional fora, where the H&F EHE and CME 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

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### **Contact Officers**

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## Background Papers Used in Preparing This Report

None

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## DETAILED ANALYSIS

### Legislation related to CME and EHE

1. Parents/carers are responsible for ensuring children of statutory school age are in receipt of suitable education, in school or *otherwise* (s7 Education Act 1996). Most parents fulfil this duty by enrolling their children in school but some through choosing to home educate.
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); currently, parents 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 identified as of statutory school age, who reside in the area, are in receipt of a 'suitable education' and not CME. There is no legal definition of a 'suitable education', but schools are routinely accepted as providing one.
4. 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. This will include children whose parents have made no arrangements despite advice and support (CME) and those who are EHE but where EHE has been deemed unsuitable.

### DfE Guidance – Children Missing Education: statutory guidance for local authorities (September 2013, revised November 2016)

5. The guidance outlines the responsibilities of local authorities, school staff and related professionals to have systems in place to support the prevention, where possible, of a child becoming CME.
6. The guidance highlights the importance of early identification of CME and speedy support and intervention to ensure every child is in receipt of a suitable education as a priority.
7. Local Authorities are expected to have a locally agreed CME policy in place; the Hammersmith and Fulham policy was last revised August 2021.

## **DfE Guidance – Elective Home Education – 2019**

8. The DfE guidance confirms 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 in respect of EHE.
9. 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.
10. Each Local Authority is expected to have their own EHE policy and procedures, with due regard to legislation and guidance; the Hammersmith and Fulham policy was last revised January 2021.

## **The LBHF EHE and CME policy and procedures – key points**

11. The policy and procedures set out the local arrangements in relation to how H&F LA statutory responsibilities will be met for both CME and EHE; these are available online and additional guidance is sent to all parents who are known to be EHE.
12. The policy and procedures are legally compliant and have due regard to the respective DfE guidance. In the interests of equality of opportunity, the policies aim to deliver a fair and consistent approach with all families where a child is believed to be CME or EHE.
13. Reasons for a child being CME are various but are often related to family mobility and/or parents' refusal to accept the education provision offered, both issues identified nationally.
14. Reasons for EHE are also various but include disaffection with conventional education, failure to obtain a place at a preferred school and lifestyle choices.
15. There is a dedicated CME/EHE Fieldworker located in the ACE team who has oversight of all CME cases until they are back in education and all EHE cases until the Home Education Adviser (HEA) has found the EHE provision to be satisfactory.
16. Working closely with School Admissions colleagues, the aim is to ensure all CME are in provision within 12 weeks (the majority much more quickly) and School Attendance Order proceedings will be initiated if necessary, to ensure this is achieved.
17. With regard to EHE, the local EHE 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.

18. The Home Education Adviser (HEA) therefore 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.
19. 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.
20. Most EHE families are prepared to meet with the HEA and endorsements have only been requested in a handful of cases. Endorsements have been provided by qualified education professionals (e.g. tutors/teachers).
21. In the very rare instances where parents refuse to meet with the HEA or to provide an endorsement, the child will be considered as CME and School Attendance Order proceedings will be initiated.

### Data

22. Table below shows the numbers over five years of children known to be EHE and CME in H&F. Numbers of EHE increased during the pandemic and have not reverted to pre-pandemic levels. Numbers of CME have remained largely consistent.

	EHE children	CME children
Summer 2019	102	10
Summer 2020	114	8
Summer 2021	190	11
Summer 2022	130	19
Summer 2023	134	10

### Issues and tensions - CME

23. High mobility including welcoming new arrivals to Hammersmith and Fulham (most recently from Afghanistan and Ukraine) can contribute to increasing numbers of CME. These increases are usually only short term with schools admitting where vacancies exist or placing through the Fair Access Panel which enables a school to go over numbers when necessary.
24. The oversubscription of some schools in Hammersmith and Fulham can lead to parents who do not secure a first preference school failing to enrol a child elsewhere, in the mistaken belief this will improve their position on the waiting list.

### Issues and tensions - EHE

25. Although Local Authority officers cannot *insist* on a visit or endorsements as they need convincing evidence of suitability of EHE provision, the DfE

advise that an annual meeting, consistent with the Hammersmith and Fulham policy, should be acceptable to families.

26. The EHE policy and procedure avoids terms such as '*inspect*' or '*assess*' but aims to form a professional view of provision, *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.
27. It is fully accepted 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. Parents/carers are free to decide on their preferred teaching style and may use private tutors, as long as the Local Authority can be convinced the provision in place constitutes a suitable education.
28. 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, potentially unsafe and in need of revision.
29. The EHE community is well supported by advocates and pressure groups, many of which encourage families *not* to work with the Local Authority and actively challenge the right of officers to have any contact with EHE families.
30. Ongoing endeavours to engage positively with the EHE community will continue with the reintroduction of the annual EHE family event hosted by the Local Authority, suspended during the pandemic.

## **LIST OF APPENDICES**

None