North Lincolnshire Council Elective Home Education Policy

Author:	Scott Belton
Reviewer:	Wendy Holmes
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Contents

1.	Introduction	Page 3
2.	The law relating to Elective Home Education	Page 3
3.	The law for schools on de-registration of a pupil	Page 4
4.	The law for schools on part-time attendance	Page 5
5.	Parental rights and responsibilities	Page 5
6.	North Lincolnshire Council accountabilities	Page 7
7.	Children with special educational needs	Page 8
8.	Gypsy, Roma and Traveller children	Page 10
9.	The voice of the child or young person	Page 10
10.	Reviewing policies and procedures	Page 10
11.	Complaints	Page 11
12.	Safeguarding	Page 11
13.	North Lincolnshire Local Offer Website	Page 12

1. Introduction

North Lincolnshire Council believes all children and young people should **thrive in their families, achieve in their schools and flourish in their communities**.

The local authority (LA) recognises the right of parents or carers to educate their children other than attending a school. Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe parents' decisions to provide education for their children at home instead of sending them to school. This is different to any home tuition or alternative learning provided through the school or via the LA.

EHE is an option that any family may consider for their children. The reasons for deciding on this approach may be varied, as are the styles of education undertaken. Some families may base their decision on their philosophical, spiritual or religious outlook. For others it may be to meet the specific needs of a child or children. Regardless of the reason for EHE, this LA aims to ensure children and young people achieve their full potential.

In compiling the policy, the DfE provided information and guidance. This policy is aimed to assist parents or carers who may be considering educating their child at home or who have already taken the decision to do so and to inform parents and carers of the legal position and the role of the LA.

North Lincolnshire Council is unable to offer any financial support to parents who elect to electively home educate their child.

Throughout this guidance, 'parents' should be taken to include all those with parental responsibility, including guardians and carers. The term 'child' or 'children' refers to all children and young people who are legally required to receive an education.

2. The law relating to Elective Home Education

The responsibility for a child's education rests with the parents. Education is compulsory in England, however school is not.

Article 2 of Protocol 1 of the European Convention on Human Rights states:

> "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions".

Parents have a ***duty*** to secure an appropriate full-time education for their children. Some parents choose to do this by educating their child other than at school. They do it because they judge it to be the best way to carry out this duty.

Section 7 of the Education Act 1996 states that:

> "The parent of every child of compulsory school age (term after the 5th birthday to last Friday in June in the year the young person reaches 16 years of age), shall cause him to receive efficient full-time education suitable to -
>
> - his age, ability and aptitude, and
> - to any special educational needs he may have,
> - either by regular attendance at school or otherwise

Education is considered efficient and suitable if it enables the child to achieve their full potential and it prepares them for adult life in their community, as long as it does not foreclose the child's options in later years to adopt some other form of life if he or she chooses to do so. Full time does not mean bound by school hours and terms, as this measurement of time is not relevant to elective home education where there is often a continuous one-to-one contact.

3. The law for schools on de-registration of a pupil

The Education (Pupil Registration) Regulations 2006 as amended in 2016, set out the grounds under which a pupil's name is to be removed from the admissions register of a school. Regulation 8(1)(d) states that a pupil's name is to be deleted if:

> *"He has ceased to attend the school and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school".*

As long as parents have notified the school of their intention to educate their child at home, they are under no obligation to inform the local authority. This responsibility falls on the school, under Regulation 12(6), and the school must report the deletion no later than the time at which the pupil's name is deleted from the register.

If a child is registered at a school as a result of a school attendance order, the parents must get the order revoked by the LA on the ground that the arrangements have been made for the child to receive suitable education otherwise than at school, before the child can be removed from the school roll and educated at home.

Under no circumstances should schools seek to persuade parents to educate their child at home as a way of avoiding a suspension or an exclusion or because the child has poor attendance or other known issues. In the case of a permanent exclusion, they must follow the statutory guidance. If the pupil has a poor attendance record, the school and LA must seek to address the issues behind the absenteeism and use other remedies available to them. If there are problems at school, the LA would encourage parents to contact the LA before asking for their child's name to be removed from the school roll.

4. The law for schools on part-time attendance

Some parents who wish to educate their child at home may also wish them to attend school on a part-time basis to take advantage of the specialist facilities and social context available.

This combination of home and school education is sometimes referred to as “flexi-schooling” or “flexi-time schooling”.

In English law, a child who goes to school must attend regularly but, under Section 444 of the Education Act 1996, absence with leave granted by anyone authorised by a school’s governing body, does not count as irregular attendance. In such cases, the child is officially at school (and therefore occupies a funded place within the school’s standard number) but is effectively being educated off-site. In making complementary arrangements at home, the parents must ensure, under Section 7 of the Education Act 1996, that the education provided is suitable to the needs of their child (just as if they were exercising their full right to education at home).

Therefore a combination of education at home and at school is legal, provided that two conditions are satisfied:

- the school has given permission, and
- the arrangements other than at school can be evidenced as suitable.

In the first of these, the school’s discretion is absolute – it is entirely a matter for the governing body, and there is no obligation to agree or even to provide reasons for the decision. In the second, the LA must satisfy itself that the educational provision is suitable under its normal monitoring arrangements.

Whereas full-time education at home is an absolute right (in the sense that any parent who can make suitable arrangements must be allowed to do so), the full-time education at school is an absolute right in the sense that the LA must either find a place for any child of compulsory school age or admit such a child to a given school with a vacancy. Flexi-schooling is simply discretionary, because it requires the consent of the school and governing body.

In addition to this, while a child is registered at a state school, he or she is subject to all the relevant legal provisions, including the requirements of the National Curriculum and all relevant funding provisions.

5. Parental rights and responsibilities

Parents are able to exercise their right to electively home educate their child from a very early age and so the child may not have been previously enrolled at a school. They may elect to home educate at any other stage up to the end of compulsory school age. Parents are not required to register or seek approval from the LA to educate their child at home.

If the child is below compulsory school age, parents do not need to inform the LA. However, the intention of the LA is to be supportive and to work in partnership and therefore the LA is grateful if parents notify and inform of their intention prior to compulsory school age.

Once a parent has exercised the right to home educate their child, any pending application for a school place submitted under the 'School Admissions Arrangements' will be withdrawn and the parent notified. This does not replace a parental right to apply for a future school place.

Where a child has been registered at a mainstream school, parents are required to notify the school in writing when withdrawing their child for the purpose of EHE. This is to confirm that provision is being made for the child's education otherwise than at school and requesting removal from the school's roll. Written notifications via email are acceptable in law, but the parent will need to demonstrate the intended recipient received the email.

Consent of the LA is required by the parents to de-register pupils placed at a special school under arrangements made by an LA. Where a child is registered at a school as a result of a school attendance order, parents must ask the LA to revoke the order.

Parents are required to provide an efficient, full-time education suitable to the age, ability and aptitude of the child. There is currently no legal definition of "full time". The length of time children should be involved in learning is not specified in law. An 'efficient' education is not legally defined. It has been described in case law as an education that 'achieves that which it sets out to achieve'. It is for parents to fulfil their duty according to a reasonable interpretation of the term. It will be up to the parent to demonstrate to the local authority that the child is **making sufficient progress.**

The type of educational activity can be varied and flexible. It is recognised that home-educating parents are not required to:

- teach the national curriculum
- provide a broad and balanced curriculum or have a timetable
- have premises equipped to any particular standard or set hours during which education will take place or have any specific qualification
- make detailed plans in advance or observe school hours, days or terms
- give formal lessons or mark work done by the child
- formally assess progress or set development objectives
- reproduce school type peer group socialisation
- match school-based, age-specific standards

Parents who educate their child at home must be prepared to assume full financial responsibility, including the cost of any public examinations.

Parents may choose to employ others to educate their child, though they themselves are still responsible for the education provided. In these circumstances, parents are responsible for ensuring that those whom they engage are suitable to have access to children. It is strongly recommended that parents arrange for a Disclosure and Barring Service (DBS) check prior to employment and that there are arrangements made for on-going supervision and that the arrangement does not fall under the category of **'unregistered school'.**

6. Role of the Local Authority

North Lincolnshire Council recognises that there are many valid approaches to educational provision. What is suitable for one child may not be for another, but all children should be engaged in a learning process.

At the point of notification of EHE to the local authority, the case is allocated to an Education Inclusion Officer, who will offer you support for up to 12 weeks of the initial EHE. This is prior to our teacher qualified education officer taking over the role, who works with you to ensure suitable education for your child. Our officer will be able to support you through your first few weeks of EHE and address any concerns you may have and should there be a need, following the handover, will continue to work alongside the education officer to support the family.

The initial support from the Education Inclusion Officer and subsequent involvement of the teacher qualified education officer ensure that the transition to elective home education (EHE) is smooth and that educational standards are maintained. Additionally, the home visit within the first ten days serves not only as an educational check but also as a measure to confirm the child's wellbeing.

As part of due diligence, officers will liaise with the previous school (if appropriate) and other key agencies to collect information about any current or previous support, or concerns.

Although the LA has no statutory duty to monitor the quality of home education on a routine basis, contact will be made with parents at least annually to ask for information in order to support the suitable education and to offer support and guidance to the family where a concern may have arisen. Parents are under no obligation or duty to respond to this request and a lack of response would not itself trigger a concern. The information provided ought to be sufficient that on the balance of probabilities, the education provided is consistent with the age, ability and aptitude of the child and any special educational needs he or she may have.

The legal duty of LA's is concerned only with children who appear not to be receiving a suitable education. However, case law (Philips v Brown (unreported) 20 June 1980) established that a LA might make informal enquiries of parents who are educating their children at home. '... parents will be under no duty to comply however it would be sensible for them to do so.'

If it appears that a suitable education is not being provided, the LA will seek to gather any relevant information that will assist reaching an informed judgement. This will include seeking from the parents any further information that they wish to provide which explains how they are providing a suitable education. Parents will be given the opportunity to address any specific concerns that the authority has. Children are welcome and encouraged to attend any meetings and make contributions to the information provided. It is important to the LA that the views of the children are sought and listened to.

If it still appears to the LA that a child is not receiving a suitable education, we may contact the parents further to discuss the on-going educational provision. This will normally be done in writing to parents to request further information.

Whilst there are no statutory duties in relation to the routine monitoring of the quality of home education, under Section 437(1) of the Education Act 1996, LA's shall intervene if it appears that parents are not providing a suitable education. This section states:

> "If it appears to a local 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 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 1996 Act provides that the period shall not be less than 15 days beginning with the day on which the notice is served.

Section 437(3) of the 1996 Act provides for the serving of School Attendance Orders:

> If:

a) a parent on whom a notice has been served under subsection (1) fails to satisfy the LA , within the period specified in the notice, that the child is receiving suitable education, and
b) In the opinion of the LA it is expedient that the child should attend school, the authority shall serve on the parent an order (referred to in this Act as a "school attendance order"), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named on the order.

The Local Authority considers taking the above measures as a last resort after all reasonable avenues have been explored to bring about a resolution of the situation. At any stage following such an order, parents may present evidence to the LA that they are now providing a suitable and appropriate education and apply to have the order revoked. Ultimately failure by a parent to comply can lead to prosecution.

Local authorities have a duty under section 175(1) of the Education Act 2002 to safeguard and promote the welfare of children. This section states:

> "A local authority shall make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting the welfare of children".

Section 175(1) does not extend local authorities' functions. It does not, for example, give LA's powers to enter the homes of, or otherwise see children for the purposes of monitoring the provision of elective home education. In such cases, concerns would be shared with the Single Point of Contact (SPOC) team.

When children are EHE, the Local Authority's duty to safeguard these children. We balance the parents' rights to educate their children and ensuring that the child's safety and welfare are not at risk. Please also see safeguarding below.

7. Children with Special Educational Needs and Disabilities

A parents' right to educate their child at home applies equally, where a child has special educational needs and disabilities (SEND). This right is irrespective of whether the child has an Education, Health and Care Plan (EHCP).

Where parents make the decision to electively home educate a child with an EHCP who is registered at a mainstream school, the school will remove the pupil from roll, following receipt of written confirmation from a parent that educational provision is being made otherwise than at school. LA approval is not required regardless of whether or not the child has an EHCP unless registered at a special school. The SEND team will call an interim review **within 3 weeks of EHE;** however we would always advise that discussions take place both with the school and SEND team before making this decision to EHE.

Where parents make the decision to electively home educate a child with an EHCP who is registered at a special school, the local authority will request the school and parents to hold an immediate review of the EHCP in order to satisfy itself that the home education will meet the needs of the child. **This must happen prior to any decision by the school or parent to remove from roll.**

SEND Code of Practice states:

> "If a school already attended by a child is a special school and the child is attending it under arrangements made by the local authority, the local authority's consent is necessary for the child's name to be removed from the admission register, but this should not be a lengthy or complex process and consent must not be withheld unreasonably. If the child is to be withdrawn to be educated at home then the local authority, in deciding whether to give consent, should consider whether the home education to be provided would meet the special educational needs of the child, and if it would, should give consent. However, that consideration should take into account the additional difficulties of providing education at home to a child whose special educational needs are significant enough to warrant a place at a special school. There is no equivalent requirement for children with an EHC Plan who attend a mainstream school; the parents of a child may withdraw him or her without the local authority's consent, although they should *be encouraged to engage with the authority before doing so, whenever possible."*

Where a child who is electively home educated has an EHCP, the LA retains a duty to maintain and review it annually, following the procedures set out in the SEND Code of Practice. Parents should always be involved in the review process. However, it is not mandatory to see the child or the home as part of the review. Where parents wish for only minimal contact and there are no other concerns, the annual review can serve as the annual contact for EHE purposes.

Parents do not have to arrange provision detailed in the EHCP, but do have a duty to provide an education suitable to their child's age, ability and any special educational needs. Where parents elect to home educate a child with an EHCP, this change of placement will be reflected in the plan. The EHCP may identify provision to be secured by the LA, where the LA considers it necessary to assist parents to fulfil their responsibilities.

If a child has an EHCP, and particularly if they are registered at a special school, parents may wish to contact the SEND team for further advice.

8. Gypsy, Roma and Traveller Children

North Lincolnshire Council has an understanding of and is sensitive to the distinct ethos and needs of Gypsy, Roma and Traveller communities. It is important that families who are electively home educating are treated in the same way as any other families. Home education should not necessarily be regarded as less appropriate than in other communities.

When a Gypsy, Roma and Traveller family with children move into area, they are strongly encouraged to contact the Admissions Team and the Ethnic Minority Traveller Achievement Service (EMTAS) for help to access local education settings.

9. The voice of the child or young person

The LA welcomes the views and thoughts of children who are EHE and wherever possible children are encouraged to give their views, be heard and acted upon. EHE children are encouraged to access organised activities by the local authority including swimming lessons, pantomime, holiday activities, With Me In Mind, The Girl I Want To Be course. Children are also encouraged to showcase and talk about their own work when families meet with local authority EHE staff.

10. Reviewing policies and procedures

North Lincolnshire Council is committed to a successful education for all children and recognises that elective home education can work well for some children. If, after careful consideration, parents decide to electively home educate, the LA hopes that this proves to be a happy and constructive experience. The LA is not able to provide teaching support or detailed curriculum plans, but will offer encouragement and advice.

We are committed to working positively with all our families.

North Lincolnshire Council is confident in the quality of education it provides in its schools and in their schools' ability to provide a suitable education that prepares young people for life in society.

North Lincolnshire Council takes its responsibility to raise standards seriously, continues to support its schools in maintaining and developing that provision.

Nevertheless, the LA recognises that some parents will wish to make their own arrangements to educate their child on the basis of their philosophical or religious convictions, or because they believe the educational options available to them locally do not meet their child's individual requirements.

The LA will therefore:

- recognise the legal right of parents to educate their children otherwise than at school
- will seek to work in partnership with parents, individually or in groups, and with any local sections of voluntary organisations involved in this approach to education

- will try to guide parents to ensure that they have based their decision on all the relevant

information, having considered all possible alternative courses of actionwill carry out its duty to satisfy itself of the suitability of the education being provided

- will, if the education is considered unsuitable, offer parents guidance on any action they may need to take to adapt the provision
- will aim to agree with parents on the arrangements for monitoring the provision at annual intervals
- will aim to confirm the suitability of the education provided within six months of being notified of the provision
- will take necessary action if it believes that the child is not receiving suitable education, or making sufficient progress suitable to the child's age and ability, but working as far as possible co-operatively with the parent(s)
- will acknowledge and recognise diversity in respect of the cultural, religious, educational, social and ethnic backgrounds within our families
- will take all steps necessary to safeguard and promote the welfare of all its children and young people and where a concern is identified will used established protocols to investigate such concerns

11. Complaints

If concerns remain, parents are able to make a complaint to the LA. Information on the LA complaints process can be found on the LA website – www.northlincs.gov.uk. For further information please contact customerservice@northlincs.gov.uk.

12. Safeguarding

The local authority duty extends beyond education to ensuring the child's safety and well-being. During checks, local authorities may look for signs of abuse, neglect, or other concerns. may encourage regular communication with home-educating families to stay informed about the child's overall development and health.

Where possible, we work alongside any other agencies or professionals known to the family and work within any plans in place for the child, for example child in need planning.

If concerns are raised that a child or young person's safety or wellbeing is compromised, or it is felt that the child or young person may be at significant risk, parents or professionals are advised to contact our Single Point of Contact Team on:

- 01724 296500 (9am to 5pm Monday to Thursday, 9am to 4:30pm Friday)
- 08081 689667 (free phone)
- 01724 296555 (answerphone – out of office hours and at weekends)
- 101 – Police (non-emergency)
- 999 – Police (emergency)

EHE staff will be open and honest with families should concerns be identified and discuss their concerns prior to referring, unless their concerns may cause a risk of further harm.

13. North Lincolnshire Local Offer Website

North Lincolnshire SEND Local Offer provides up to date information about available provision in North Lincolnshire and how to access it.

The provision is responsive to local needs and aspirations. It has been co-produced in collaboration with our Parent/Carer Forum as well as taking on board feedback we have received from parents and carers and young people themselves.