

# North Lincolnshire Council

## Elective Home Education Policy

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Date	Amendments Made	By Whom
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## 1.0 Introduction

1.1 North Lincolnshire Council believes that all our children and young people should:

- Feel safe and are safe
- Enjoy good health and emotional wellbeing
- Recognise and achieve their potential

1.2 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.

1.3 EHE is an option that any family may consider for their children. The reasons for deciding on this approach may be many, 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.

1.4 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.

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

1.6 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.

## 2.0 The law relating to Elective Home Education

2.1 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 5<sup>th</sup> 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

2.2 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.

### **3.0 The law for schools on de-registration of a pupil**

3.1 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”.*

3.2 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.

3.3 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.

3.4 Under no circumstances should schools seek to persuade parents to educate their child at home as a way of avoiding an exclusion or because the child has poor attendance or other known issues. In the case of 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. It is not always possible for a child to go back to the same school if elective home education does not work out.

#### **4.0 The law for schools on part-time attendance**

4.1 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”.

4.2 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).

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

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

4.4 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.

4.5 Thus, 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.

4.6 Moreover, 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.

#### **5.0 Parental rights and responsibilities**

5.1 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.

5.2 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.

- 5.3 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 parents right to apply for a future school place.
- 5.4 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.
- 5.5 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.
- 5.6 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**.
- 5.7 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
- 5.8 Parents who educate their child at home must be prepared to assume full financial responsibility, including the cost of any public examinations.
- 5.9 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 they are arrangements are made for on-going supervision and that the arrangement does not fall under the category of 'unregistered school'.

## 6.0 North Lincolnshire Council accountabilities

6.1 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.

6.2 At the point of notification of EHE to the local authority, all new EHE requests will be allocated to an Education Inclusion Officer, who will support you for a minimum 12 weeks of EHE. Following this period, the Education Inclusion Officer will hand to our Education Officer, who works with you to ensure suitable education for your child. Our Education Inclusion 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, will continue to work alongside the Education Officer to support the family.

**COVID-19** Following consultation with the family, it may be risk assessed that at the present time a home visit is not the best option, therefore when working with our families, the service has found through COVID-19, a number of alternatives to a home visit, when a risk assessment highlights this may not be possible

- **Emailing examples of work and your child's education plan to an agreed email address**
- **Engaging within a Virtual meeting (North Lincolnshire Council can facilitate Microsoft Teams; Skype; and WhatsApp) – confirmation of your email address / contact number required.**

**The LA would normally initiate a 'Keeping In Touch' Event annually, however due to Covid-19 restrictions, these will be resumed as soon as is safe to do so.**

6.3 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.

6.4 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.'

6.5 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 young person are sought and listened to.

6.6 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.

6.7 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.

6.8 North Lincolnshire Local Authority considers that the taking of the above measures shall be 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.

6.9 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 a very small number of cases the LA may insist on seeing children in order to enquire about their welfare where there are grounds for concern, e.g. if there was evidence that a child was at risk of harm or neglect.



## 7.0 Children with Special Educational Needs and Disabilities

- 7.1 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).
- 7.2 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 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. It is suggested that an interim review of the EHCP is called **within 4 weeks of EHE**. The LA would always advise that discussions take place both with the school and SEND team before making this decision to electively home educate.
- 7.3 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.**

*Excerpt taken from the SEND Code of Practice*

*"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."*

- 7.4 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.
- 7.5 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.

7.6 A parent who is educating their child at home may ask the Local Authority to carry out a statutory assessment of their child's special educational needs and the Local Authority will consider the request with the statutory timescales and in the same way as for all other requests.

## **8.0 Gypsy, Roma and Traveller Children**

8.1 Local authorities should have an understanding of and be sensitive to the distinct ethos and needs of Gypsy, Roma and Traveller communities. It is important that these 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.

## **9.0 The voice of the child or young person**

9.1 The LA welcomes the views and thoughts of the child or young person and wherever possible children and young people should be encouraged to give their views, be heard and acted upon.

## **10.0 Work Experience and child employment**

10.1 Children educated at home have no entitlement to participate in work experience under arrangements made by the LA. Where home-educated children do participate in work experience the parent should ask the employer to what extent the child is covered by health and safety and insurance provision.

10.2 Child employment - the law surrounding paid employment is the same for those who are home educated as those who remain in school. This means that paid employment cannot be done during the school day and the LA will challenge cases where this appears to be the case.

## **11.0 National Careers Service**

11.1 The National Careers Service is a free careers service for adults and young people aged 13 and over in England. Advice and guidance can be accessed via the telephone and online. The National Careers Service provides confidential advice and guidance to help children make decisions on learning, training and work opportunities.

## **12.0 Reviewing policies and procedures**

12.1 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.

12.2 North Lincolnshire Council is committed to working positively with all its 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 school 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.

12.3 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 action
- will 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 use established protocols to investigate such concerns

### **13.0 Safeguarding**

Where parents engage private tutors, they should undertake the necessary checks that the person is suitable to work with children, including DBS and qualification checks.

Where parents are using out of school settings and groups (and where the organisation does not meet the requirement for registering with Ofsted as a school) the DfE has

produced guidance to help parents think about some of the questions they would want to ask the person who runs the setting in order to reassure themselves that the setting is a safe place.

Sometimes a setting may be operating as a school but has failed to register as a school. Parents can use the OFSTED website to see whether a school is registered. It is illegal for a person to operate an unregistered school and there is an expectation that local authorities, operating within DfE guidance, identify and alert the DfE and Ofsted to any settings in its area that may be operating as an unregistered school.

Local authorities have the same safeguarding responsibilities under Section 175(1) of the Education Act 2002 for children educated at home as for all other children. It does not, however, give local authorities powers to enter the homes of, or otherwise see, children for the purposes of exercising their duties around elective home education. Whilst the contacts that arise between Education Inclusion officers and families are not for the purposes of welfare or safeguarding checks, officers must escalate any immediate safeguarding concerns about the safety and welfare of a using the locally agreed procedures.

Where the suitability of home education is in doubt, the local authority will approach all cases using powers in the Education Act 1996 and will exercise its safeguarding powers if the lack of education appears likely to impair a child's development or if the steps described above (intervention under education law) may be unlikely to sufficiently address the risk to a child's welfare and development. It should be noted that a failure to provide suitable education can satisfy the threshold contained in s.31 of the Children Act 1989 that the child is suffering or is likely to suffer significant harm. Whether the provision of unsuitable education amounts to significant harm must always depend on the particular circumstances of the child.

Safeguarding concerns will always be reported to and discussed immediately with the Children's Safeguarding Team at North Lincolnshire Council. Concerns should be reported on 01724 296500. Parents and carers will always be notified of concerns and the decision to report.

This policy considers its safeguarding responsibilities under the requirements of the Multi Agency Resilience and Safeguarding arrangements. They can be contacted at:

[mars@northlincs.gov.uk](mailto:mars@northlincs.gov.uk)

Tel: 01724 297240

## 14.0 Complaints

14.1 Any concerns should in the first instance be communicated to the Senior Officer, Compliance & Case Management. [joanne.westaway@northlincs.gov.uk](mailto:joanne.westaway@northlincs.gov.uk)

[Tel 01724 297502](tel:01724297502)

If concerns still 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](http://www.northlincs.gov.uk)

## 15.0 North Lincolnshire Local Offer Website

North Lincolnshire 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 with our local [Parents' Involvement and Participation](#) Forum as well as taking on board feedback we have received from parents and carers and young people themselves.

We have tried to make documents on our website as accessible as possible. If you require a different format, please contact **the SEND Team at North Lincolnshire Council**. You can read our [Accessibility Statement on our website](#).