



Elective Home Education Policy

Hackney Education

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1. Introduction

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 home tuition provided by a Local Authority or education provided by a Local Authority (LA) other than at a school. It is recognised that parents may choose home education for a variety of reasons.

Home-educated children are those who, for a range of reasons, are being educated at home and in the community by parents, or tutors, and are not registered full time at mainstream schools, Academies, Independent schools, special schools, Pupil Referral Units (PRUs), colleges, or children’s homes with education facilities or education facilities provided by independent fostering agencies.

2. Principles

Hackney education service believes in the value of school-based education but respects the conditional rights of parents to elect to educate their children at home. Parents are responsible for ensuring that their children receive a suitable education. Where parents choose to home educate, Hackney education service considers it to be desirable for parents and the LA to work together, to find an appropriate balance between parental autonomy and the LA responsibilities for the education of children in its area.

Parents are responsible for ensuring that their child receives an efficient full-time education suitable to their age, ability, aptitude and any special education needs, either by regular attendance at school or otherwise. Home education needs a holistic approach to issues of suitability, attendance, welfare and safeguarding, to ensure a good education outcome. LAs have the same safeguarding responsibilities for children educated at home as for other children.

3. Purpose

The purpose of this policy is to clarify for schools, parents, carers, guardians and related agencies, the framework by which the LA carries out its statutory responsibilities, and to encourage good practice, by setting out the legislative position and the roles and responsibilities of the LA and parents. The policy sets out parents’ rights to educate their children at home, together with the legal duties and responsibilities of Hackney Council. It also sets out the way in which Hackney education service carries out its duties under the Education Act 1996, with regard to Elective Home Education.

The local authority must establish whether a family is genuinely providing education or whether it is simply avoiding engaging with the school system. In the latter case, officers must consider both child protection and educational issues and respond accordingly within the legal frameworks available.

This policy seeks to build improved relationships with home educators within Hackney, and provide a means to effectively protect the educational and safeguarding interests of children being electively home educated where vulnerabilities are identified. In addition to this, the policy aims to develop a supportive community and encourage parents to share their positive ideas and experiences around Elective Home Education. We aim to encourage parents to take ownership of their children’s education and support families by demonstrating that we recognise

and accept, that Home Education approaches can be varied and flexible and that there is no one approach to educating a child from home. Hackney education service support different beliefs, teaching styles and educational approaches. The local authority does not seek to standardise or set prescriptive expectations around the way in which parents educate from home.

4. The law relating to Elective Home Education

The responsibility for a child's education rests with the parents. In England, education is compulsory, but school is not. The law is set out in the European Convention on Human Rights and in the Education Act 1996.

Section 7 of the Education Act 1996 provides that:

"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable –

- (a) To his age, ability and aptitude, and*
- (b) To any special educational needs he may have,*

Either by regular attendance at school or otherwise."

An "efficient" and "suitable" education is not defined in the Education Act 1996 but "efficient" has been broadly described in case law as an education that "achieves that which it sets out to achieve", and a "suitable" education is one that "primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so".

There is no legal definition of what constitutes a "full-time" education. Measurement of "contact time" in this way is not relevant in the context of elective home education, where the child often has continuous one to one contact with the educator. The types of educational activity which the child follows may be varied and flexible.

Compulsory school age begins on the next prescribed day following a child's fifth birthday (or on their fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March and 31 August each year. A child continues to be of compulsory school age until the last Friday of June in the school year that they reach the age of sixteen.

Article 2 of the Protocol of the European Convention on Human Rights, 1953, states that 'no person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to 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.'

5. Parental rights and responsibilities

Parents may decide to exercise their right to home educate their child from a very early age and therefore the child is never enrolled at school. Parents may also elect to home educate at any other stage up to the end of compulsory school age and may continue post 16 in order for their child to participate in education and training until the age of 18.

Parents who home educate assume the full financial responsibility for their child's education. This includes the costs of resources, private tuition, courses and public examinations. Hackney education service recognises that parents have the right to choose to educate their child at home rather than at school. Where parents choose to home educate, Hackney education service consider it to be desirable for parents and the LA to work together, recognising each other's rights and responsibilities and establish and maintain a positive dialogue in the interests of the child to ensure that a high quality education is received and children are safeguarded.

Informing the school

If a child is on the roll at a school, the parent/ carer must write to the head teacher of the school and inform them that they are withdrawing their child in order to educate their child 'otherwise than at school'. This will allow the school to remove the child from roll; a school cannot legally remove a child from roll without written notification.

If a child attends a special school and this was arranged by the local authority, then the permission of the local authority must be obtained before the child's name can be removed from the admission register.

- Special schools should not automatically remove a child from their roll because a parent states that they intend to opt for home education.
- Parents must seek the consent of the local authority before making arrangements to home educate. Until this is provided and the local authority has approved the educational provision for the child, the child should be expected to attend school as normal. Failure to attend without reason should be treated as unauthorised absence.

Parents do not need to be qualified teachers to home educate and there is no requirement to teach the National Curriculum, match age-specific standards, observe school hours, days and/or terms. However, Parents are responsible for having a sound understanding of what constitutes a 'suitable' education. For further information on what a 'suitable' education entails, please refer to Hackney education service' Elective Home Education Assessment Framework which is attached to this document.

Where young people are entering elective home education during Key Stage 4, particular attention will be given to ensuring appropriate learning pathways are discussed with relevant parties. There is an expectation that clear plans will be in place for achieving recognised qualifications at age 16 and securing progression to post 16 learning or employment with training, and, recognising the vulnerability of becoming not in EET ("education, employment or training") for young people who exit school at this late stage. This might include opportunities to continue to take examinations in school.

The Local Authority is not able to provide funding for GCSEs if a child is receiving elective home education. It is a parent/ carers responsibility to identify exam boards and syllabus material and to prepare their child for the GCSE exams. Parents are responsible for meeting deadline dates and the costs for registering for the GCSE exams through the accredited centre.

Parents must comply with notices and orders served by Hackney education service under section 437 of The Education Act 1996, if it appears that parents are not providing a suitable education.

6. Children's rights

Hackney education service actively promotes children's right to be heard. As part of any assessment, officers from the education service will wish to gain the child's opinions on the home education received, in order to help inform decisions about suitability. To ensure that the critical voice of the child is heard and to establish education suitability Hackney education service will request that both the child and evidence of learning are seen. Where one or more of the conditions set out below have been determined education will not be recorded as suitable if this meeting is not facilitated.

The United Kingdom has ratified the United Nations Convention on the Rights of the Child (UNCRC), November 1989, which includes the right to be safe, to an education, the right to express their views and for due weight to be given to those views.

7. Choosing home education

Many families make a pro-active decision to home educate. Such families usually provide an extremely high standard of education for their children. However, some families may feel that electing for home education is the only available option when it appears that school issues cannot be resolved, or where personal circumstances mean that attending school regularly is problematic.

Pressure should never be put on parents by a school to home educate and remove a child from a school to avoid a formal exclusion, or because a child is having difficulty with learning or behaviour. This practice – sometimes called 'off-rolling' – is unacceptable. This is particularly important for children in years 10 and 11 who are already preparing for public examinations.

The Pupils Out of School Team aims to support families in these situations to ensure families understand the implications of the child no longer being on a school roll, for example having to take qualifications as an external candidate, and the lack of school places for young people during GCSEs.

8. Schools responsibilities

If parents inform the schools they are considering home education, it is important that schools and parents are fully apprised of the expectations and implications of home educating before committing to making this important decision. Hackney education service recommends that parents are given contact details and advised to seek advice from the Pupils Out of School Team, before formally asking the school to remove the child from the school roll.

Schools must not seek to persuade parents to educate their child at home, nor would it be recommended for parents to elect to educate their children at home as a way of solving a perceived or ongoing problem for a school.

Where parents are looking to home educate due to a breakdown in relations at the school and the parents are notifying of intent to home educate for these reasons, there should be a presumption that mediation will be explored prior to a final decision being made on whether to remove the child from the school roll. Hackney education service would expect all Hackney schools to have had a discussion with parents, signposting them to support and guidance before making any formal decision.

When a school receives written notification from a parent of their intention to home educate their child, it is the responsibility of the school to:

- 1) Invite the parents to discuss any issues or concerns that could be resolved to enable the child to continue to be educated at school in a way which meets the parents' expectations. Whilst there is no legal requirement for parents to discuss home education with the school, Hackney education service would encourage schools to respond positively and constructively.
- 2) If the parents' decision is firmly to home educate, to acknowledge this in writing and delete the child's name from the school register. Schools should follow Hackney education service off rolling procedures, informing the LA prior to removing the child from the school's register and forwarding any written notification from the parents.
- 3) Ensure that the pupil file is retained in accordance with usual procedures until requested by a receiving school. The parent may request a copy of the file.

Home education is not in itself a safeguarding concern. The expectation is that schools will have previously referred to FAST (First Access and Screening Team) if they have serious concerns about a child. However, they will be asked to share with the LA any recent concerns or risks they are aware of about the child that may impact on the suitability of home education. Therefore, we request that schools complete the Hackney Education Elective Home Education Deregistration form at the point the child/ren removed from roll.

9. The Local Authority's (LA's) Responsibilities

Local Authorities have a duty to try and identify children not receiving a suitable education. Section 436A of the Education Act 1996:

“A local education authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but —

(a) Are not registered pupils at a school, and

(b) Are not receiving suitable education otherwise than at a school:

Section 437 (1) Education Act 1996 provides that *“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 a notice in writing on the parent requiring him to satisfy them within the period specified in the notice (which must be no less than 15 days) that the child is receiving such education.”*

Section 437(3) Education Act 1996 provides that if a parent fails to satisfy the local authority within the specified period that their child is receiving a suitable education, it has the power to issue a “school attendance order” requiring that their child become a registered pupil at the school named in the order.

Hackney education service is entitled to make informal enquiries of parents to establish what education is being provided.

Parents are under no duty to respond to such enquiries, but if a parent does not respond, or responds without providing any information about the child's education, then it will normally be justifiable for the local authority to conclude that the child does not appear to be receiving suitable education.

Hackney education service has general duties to make arrangements to safeguard and promote the welfare of children (see section 175 of the Education Act 2002 and sections 10 and 11 of the Children Act 2004). Pupils Out of School Staff, along with all employees of Hackney Council, have a responsibility to ensure all children are safeguarded and their welfare promoted throughout their work. Section 175 (1) provides:

“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”.

Officers must act upon any concerns that a child may be at risk of significant harm, in accordance with local child protection procedures, which can be accessed through the City & Hackney Safeguarding Children Partnership www.chscp.org.uk

As part of Hackney education service' duty to ensure the safety and welfare of children who are educated from home, we have a responsibility to make enquiries into any additional settings or resources that may serve as part of their education. This includes private tutors, flexi-schooling settings, and tuition centres. The local authority has a duty to make enquiries to obtain relevant information about additional settings and to report any unregistered settings to the Department for Education.

Hackney education service will monitor trends in elective home education in a wider strategic context and has a key role in identifying any shortcomings in local school provision and in challenging failures by schools to manage attendance and behaviour properly.

10. Oversight and assessment of suitability

In order to comply with its duty to intervene if it appears that a child of compulsory school age is not receiving a suitable education, Hackney education service will maintain a record of children known to the Council being educated at home. This is a list of the children known to Hackney Council only and therefore not an exhaustive list of all children educated at home in the borough. Families who have children who have never been on roll may also register to access advice and support.

Upon notification, an elective home education assessment officer will be assigned to liaise with parents, to offer support and advice and to gather any relevant information to assist in reaching a properly informed view that the education provided is suitable.

Information provided by parents should demonstrate that the education being provided is suitable and will address issues such as progression expected. It should not be simply a statement of intent about what will be provided, or a description of the pedagogical approach taken. Evidence could include discussion of parent's plans, a written report, observation of the learning environment, the child's views, samples of the child's work and/or information about

educational settings attended. Parents would be expected to provide evidence of a suitable education that would, on the balance of probabilities, convince a reasonable qualified professional that a suitable education is being provided for the age and ability of the child.

The elective home education assessment officer understands that there is no one 'correct' educational system. All children learn in different ways and at varying rates. It is vital that parents and children choose a type of education that is right for them, and the Officer, should not assume that because the provision being made by parents is different from that which was being made or would have been made in school, the provision is necessarily unsuitable.

The role of the assessment officer is not to tell parents how to educate their children or to promote registration at school. It is to identify and deal with children who, for any reason and in any circumstances, are not receiving an efficient suitable full-time education. Establishing a positive relationship between the elective home education assessment officer and the home-educating parent – where that is possible – will allow the local authority to better understand parents' educational provision and preferences and offer them appropriate support.

Hackney education service has identified a criteria for judgement on which to reach the decisions as to whether or not, the education being provided is suitable:

- The education should enable the child to participate fully in life in the UK by including sufficient secular education. The home education should not foreclose the child's options in later life to adopt some other mode of living, and to be capable of living on an autonomous basis so far as he or she chooses to do so.
- The curriculum and teaching produces attainment suitable to the child's age, ability, aptitude and to any special educational needs they may have.
- Suitable education is not simply a matter of academic learning but should involve socialisation. Contact with peers and the development of emotional resilience should be regarded as essential elements of equipping a child to his/her place in modern civilised society.
- The environment in which education is being provided will be considered in assessing suitability.
- Education should promote the fulfilment of learning potential through the provision of some challenge to a child across a reasonably wide range of learning.
- Parents should be able to quantify and demonstrate the amount of time for which a child is being educated, indicating how education is occupying a significant proportion of a child's life.

Where one or more of the conditions listed above are not met and should the offer of a meeting be declined by parents Hackney education service will not be able to state that a suitable education is being offered.

If it appears that a child is not receiving a suitable education, the assessment officer will in the first instance, address the situation informally by offering advice and support to help enhance the education being provided and seek to agree a follow up meeting to monitor progress.

If it then appears that a child is still not receiving a 'suitable' education, the officer will write formally to the parent requiring them to satisfy Hackney education service that their child is receiving a suitable education (section 437 (1) Education Act 1996). This letter will state the

reasons for Hackney education service' opinion that the child is not receiving suitable education. Parents will be given 15 working days to reply. Their reply should address the question of whether they are providing a 'suitable education' with reference to their own philosophy, and/ or educational provision.

If this is not forthcoming, then Hackney education service will consider whether the local authority ought to take action under education or safeguarding law (see section 11).

If the local authority is of the view that the child is not receiving a suitable education and believes that the child should attend school, it shall issue a school attendance order in the form prescribed by the Education (School Attendance Order) Regulations 1996. Before making such an order, HLT will comply with the procedural requirements detailed in section 438 Education Act 1996.

At any stage following the issuance of the Order, parents may present evidence to Hackney education service that they are now providing a suitable education and apply to have the School Attendance Order revoked.

Hackney education service will always seek to discuss and engage with parents and will only take legal action against as a last resort, after all reasonable avenues have been explored to bring about a resolution of the situation.

The local authorities role is confined to situations where it is not satisfied that the education is full-time and suitable to the child's age, ability and aptitude. Hackney Council does not think this means that the authority should do nothing until evidence of failure by the parent materialises, but it does mean that the approach should be proportionate.

For the majority of Hackney families who home educate, elective home education suitable and they continue to home educate for as long as they feel it meets the needs of their child. When the assessment officer has no concerns that a parent is not complying with their section 7 of the Education Act 1996 duty, the Officer and family will agree a date for the next annual review of educational provision. The child's name remains on the elective home education database. The assessment officer is allocated as the main contact for the family.

Following contact with the parent and child, the Officer will write to parents within two weeks summarising the matters discussed and presented and will provide any additional information or advice requested by parents.

11. Safeguarding in Elective Home Education

Unsuitable or inadequate education can impair a child's intellectual, emotional, social or behavioural development, and may therefore bring child protection duties into play. Hackney Council makes arrangements for ensuring that their educational functions are exercised with a view to safeguarding and promoting children's welfare and this includes children educated at home as well as those attending school.

Officers must act upon any concerns that a child may be at risk of significant harm, in accordance with the London Child Protection Procedures. If the concerns present an immediate and serious risk of harm to the child, Officers of Hackney education service will make a referral to the First Access & Screening Team (FAST).

If the child is known to be vulnerable and being educated at home, a refusal to cooperate is more serious in view of the potential safeguarding risks. A failure to provide suitable education is capable of satisfying the threshold requirement contained in section 31 of the Children Act 1989 that the child is suffering or is likely to suffer significant harm. 'Harm' can include the impairment of health or development which means physical, intellectual, emotional, social or behavioural development.

In most cases if a child is on either a Child Protection (CP) or Child in Need (CiN) Plan, the local authority would not expect home education to be suitable. However, both the child's and the parent's views will be considered, and advice sought from Children's Social Care before any decision is made.

12. Children with SEN or an Education, Health and Care Plan (EHCP)

Parents' right to educate their child at home applies equally where a child has special educational needs and disability (SEND). This right is irrespective of whether the child has an EHCP or not.

Parents of any child subject to the statutory provisions of an EHC Plan who are considering whether to make their own arrangements should discuss this with their child's named SEND caseworker to ensure that they are fully aware of alternatives (amended provision and/or change of placement) and their SEND statutory rights of appeal.

Local authority approval for removal from roll is not required for children with an EHCP who are registered at mainstream schools. Where parents elect to home educate a child with an EHCP who is registered at a mainstream school the school will remove the pupil from roll in the same way as for children who are not subject of an EHCP.

If a child is registered at a special school under arrangements made by Hackney Council, the child may not be removed from the admission register without the consent of the local authority. In deciding whether to give consent, Hackney Council will consider whether the home education to be provided will meet the special educational needs of the child. That consideration will 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.

In cases where the EHC plan gives the name of a school or type of school where the child will be educated and the parents decide to educate at home, the local authority is not under a duty to make the special educational provision set out in the plan provided it is satisfied that the arrangements made by the parents are suitable. The local authority must review the plan annually to assure itself that the provision set out in it continues to be appropriate and that the child's SEN continue to be met. Where the local authority has decided that the provision is appropriate, it should amend the plan to name the type of school that would be suitable but state that parents have made their own arrangements under section 7 of the Education Act 1996.

In some cases a local authority will conclude that, even after considering its power to provide support to home-educating parents, the provision that is or could be made for a child or young person with an EHC plan does not meet the child or young person's needs. The local authority is required to intervene through the school attendance order framework 'if it appears...that a child of compulsory school age is not receiving suitable education'. 'Suitable education' means

efficient full-time education suitable to the child or young person's age, ability and aptitude and to any SEN they may have.

13. Reviewing procedures and practices

Hackney will review this policy and practice in relation to elective home education on an annual basis.

14 Contact details

For enquiries relating to this policy, please contact the Elective Home Education Team at ElectiveHomeEducation@hackney.gov.uk