



<b>Report to:</b>	Children Family and Education Committee	<b>Date:</b>	18 December 2014
<b>Report title:</b>	Home Education Policy		
<b>Report from:</b>	Tolis Vouyioukas – Children Young People and Learning Directorate 020 8770 6502		
<b>Ward/Areas affected:</b>	Borough Wide		
<b>Chair of Committee:</b>	Councillor Wendy Mathys		
<b>Author(s)/Contact Number(s):</b>	Colin Stewart – Executive Head of Education and Early Intervention		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• An Open Council – Working collaboratively ensuring we involve and listen to residents</li> <li>• An Open Council – Helping individuals and communities to work together and to help themselves</li> <li>• A Fair Council – Building safe, strong and healthy communities</li> </ul>		
<b>Open/Exempt:</b>	Open		
<b>Signed:</b>	Tolis Vouyioukas Strategic Director, CYPLD	<b>Date:</b>	4 December 2014

## 1. Summary

- 1.1 Following a meeting between officers and representatives from the Sutton Home Education Forum (SHEF), it was agreed that the borough Home Education Policy needed to be updated to reflect recent changes in the statutory guidance to Local Authorities on Home Education. In conjunction with colleagues from SHEF, we reviewed a number of policy documents on Home Education. The revised policy which is attached as an appendix to this report proposes the revised Council position on home education and the support available to residents who opt to make home education provision for their child/children.

## 2. Recommendations

- 2.1 To adopt the policy as set out in Appendix One as the Council's new policy on Home Education which will be implemented by officers immediately.

## 3. Background

- 3.1 While education is compulsory for children of statutory school age, school is not. Parents have the right to educate their child at home.
- 3.2 Some parents will make this decision in the early years before the child enters schooling. Other families may make the decision to remove their child from a school roll to educate at home.
- 3.3 Recent revisions to the guidance on Local Authority roles and responsibilities, particularly with regard to monitoring of home education provision, now need to be reflected in an updated Local Authority policy on Home Education.



**4. Issues**

- 4.1 The respective and relevant issues which focus on the rights of parents, the role of the Local Authority and the due processes around withdrawal from school to home educate are all set out within the policy as proposed in Appendix One.
- 4.2 The underlying issue is that the Local Authorities previous policy on Home Education had not been updated for some time and was no longer fit for purpose. As a consequence this revised policy has been rewritten to reflect best practice elsewhere, and is based on a best practice model produced by Lancashire County Council. In our discussions between local authority officers responsible for home education oversight and representatives from Sutton Home Education Forum, we unanimously agreed that the Lancashire best practice model most closely reflected our proposed approach for Sutton.

**5. Options Considered**

- 5.1 The option of continuing with the previous policy has been discounted because the policy no longer aligns with revised guidance on the roles and responsibilities of Local Authorities with regard to Home Education.

**6. Impacts and Implications**

6.1 Financial

The Children, Young People & Learning Directorate estimates for 2014/15 include a budget of £85,600 for Home Education.

6.2 Legal

The updated policy is fair and adheres to the legislative framework which sits behind it. The Local Authority will need to ensure that appropriate action is taken in cases where it does not appear that suitable education is being provided at home to prevent a claim of negligence being alleged by a child once they reach the age of majority. There are no areas of legal concern arising out of this report.

6.3 Other impacts and implications – Integrated Impact Assessment

NA.

**7. Appendices and Background Documents**

Appendix Letter	Title
A	Elective Home Education Policy – November 2014 (Draft)

Background Documents
None



<b>Audit Trail</b>		
Version	Final	Date: 4 December 2014
<b>Consultation with other officers</b>		
<b>Officer</b>	<b>Comments Sought</b>	<b>Comments checked by</b>
Finance	Yes	Sue Holmes
Legal	Yes	Meera Leavey

## **APPENDIX A - Elective Home Education Policy – November 2014 (Draft)**

### **Introduction**

- 1.1. The United Nations Convention on the Rights of the Child includes an outline of the duties of parents and authorities in respect of children's education and welfare. Sutton Council constructs all its policies for children and young people to fit the framework of the UN Rights of the Child and as a result the welfare of all children is at the heart of this policy statement as it is with all of the Council's policies for working with and supporting others working with our children and young people.
- 1.2. The Council recognises every family has the right to educate their child at home. The Council also recognises that parents decide to educate at home for a variety of reasons. For some families it is a choice made for philosophical, spiritual or religious reasons and for some it is a choice made to meet a child's specific needs. Equally we know that some parents will opt to home educate because there are issues about the educational provision for their child at school. Whatever the reasons, the Council will support parents who choose home education as their preferred approach to educating their child.

### **2. Purpose of this Policy**

- 2.1. This policy sets out for parents, schools and Local Authority staff the legal position on Elective Home Education (EHE) and the principles and processes that the LA will follow in fulfilling its statutory duties.
- 2.2. The policy covers children of compulsory school age whose family chooses to educate them at home.
- 2.3. The policy is based on DfE guidance and best practice elsewhere.

### **3. The Law On Home Education**

- 3.1. The responsibility for a child's education rests with their parents.
- 3.2. In England, education is compulsory, but school is not.
- 3.3. Article 2 of Protocol 1 of the European Convention on Human Rights 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."
- 3.4. Parents have a duty to secure an appropriate full-time education for their children. Some parents choose to do this by educating their child at home. They do it because they judge it to be the best way to carry out their duty.
- 3.5. 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 to his age, ability and aptitude, and to any special educational needs he may have, either by regular attendance at school or otherwise."



#### **4. Principles and Policy Statement**

- 4.1.** Sutton Council believes that the foundation of a good education is a broad and balanced curriculum, which promotes a child's learning and their social development, moral and spiritual awareness and equal opportunities.
- 4.2.** The Council also recognises that there will be a diversity and plurality of educational provision for children in Sutton and that a good education can be made by parents through Elective Home Education (EHE).
- 4.3.** In all good education provision there is an underlying principle that what is suitable for one child may not be for another. When parents elect to home educate their child, that provision will inevitably reflect the home educator's philosophy, approach or framework for the education of their child.
- 4.4.** Parents are required to provide an efficient, suitable, full-time education. If parents wish advice on any aspect of their education provision for their child then Sutton Council will provide support to parents whenever possible. Where parents choose to electively home educate their children they assume financial responsibility for their children's education.
- 4.5.** An 'efficient and suitable education' is not defined in the Education Act 1996 but case law has described them as: an 'efficient' education is one that achieves that which it sets out to achieve; and a 'suitable' education primarily equips a child for life within the community of which they are 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.

#### **5. Parental responsibilities**

- 5.1.** Parents have the right to decide to educate their child at home at any time during the years their child is of compulsory school age. So some parents will make this decision in the early years before the child enters schooling. Other families may make the decision to remove their child from a school roll to educate at home.
- 5.2.** There is no specific legal requirement for parents to notify the Local Authority if they decide to educate their child at home.
- 5.3.** However, parents who decide to home educate *are* required to:
  - 5.3.1.** Provide an efficient, full-time education suitable to the age, ability and aptitude of the child. There is no legal definition of what constitutes 'full-time'
  - 5.3.2.** Notify the school in writing if they are withdrawing their child from the school for 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
  - 5.3.3.** Seek the consent of the local authority if they wish to de-register a pupil placed at a special school under arrangements made by a local authority.
- 5.4.** The type of educational activity can be varied and flexible. It is recognised that home-educating parents are not required to:
  - (a) teach the National Curriculum
  - (b) provide a broad and balanced curriculum
  - (c) have a timetable
  - (d) mark work done by their child
  - (e) set hours during which education will take place

- (f) have premises equipped to any particular standard
- (g) have any specific qualifications
- (h) cover the same syllabus as any school
- (i) make detailed plans in advance
- (j) observe school hours, days or terms
- (k) give formal lessons
- (l) reproduce school type peer group socialisation
- (m) match school, age-specific standards

## **6. Local Authority Responsibilities and Procedures**

- 6.1.** The Local Authority has no statutory duty to routinely monitor the quality of home education.
- 6.2.** However on a routine basis contact will be made with parents once a year to ask for information in order to keep the database up-to-date and to offer support. Parents are under no duty to respond to this request and a lack of response would not of itself trigger a concern.
- 6.3.** The Local Authority Education officers are available to provide more frequent support if required.
- 6.4.** When the Local Authority first becomes aware that parents have elected for home education initial contact will be made in order to establish that provision is being made. Many people find a home visit helpful, but parents may wish to meet at another venue, with or without their child.
- 6.5.** Alternatively they could write a brief report to let the authority know the provision that they are making. In the early stages, parents may not yet be in a position to respond fully to enquiries. In such cases a reasonable timescale for responding will be agreed with the parents.
- 6.6.** If the Local Authority has concerns that a suitable education is not being provided, it will seek to gather any relevant information that will assist reaching a properly 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 to attend any meetings and make contributions to the information provided. Whilst parents are under no duty to respond to such a request, DfE guidelines comment that: "it would be sensible for them to do so" and refers to the legal case Phillips v Brown (1980).
- 6.7.** If it still appears to the local authority that a child is not receiving a suitable education the Council would make further contact with the parents to discuss the on-going educational provision. Contact will normally be made in writing to parents to request further information. A written report will be made after such contact and copied to the parents stating whether the authority has any continuing concerns. At that point the Local Authority would detail in writing the precise nature and context of the concern about the education provision to give the child's parents an opportunity to address them.
- 6.8.** If the Local Authority feels it appropriate to take the step of formally writing to parents expressing concern about the education provision, this should be a follow up in most cases to an issue that the parents have been made aware of before. In addition the decision to write and express concerns would normally only arise after the Local Authority has given the family guidance about ways in which the education provision they make needs to be adjusted to ensure it is suitable for meeting the needs of the child may be provided. Throughout, the Local Authority will seek to support and advise on other services that may be useful or may suggest other contacts that can provide advice. The report which outlines concerns in writing will suggest timescales and arrangements for future contact to ensure progress has been made.



- 6.9.** In the instance outlined above, some parents may welcome the opportunity to discuss the provision that they are making for the child's education during a home visit but parents are not legally required to give the local authority access to their home. They may choose to meet a local authority representative at a mutually convenient and neutral location instead, with or without the child being present, or choose not to meet at all.
- 6.10.** Where a parent elects not to allow access to their home or their child, this does not of itself constitute a ground for concern about the educational provision being made.
- 6.11.** Where we are unable to visit homes, officers should, in the vast majority of cases, be able to discuss and evaluate the parents' educational provision by alternative means. If they choose not to meet, parents may be asked to provide evidence that they are providing a suitable education. Parents might prefer, for example, to write a report, provide samples of work, have their educational provision endorsed by a third party (such as an independent home tutor) or provide evidence in some other appropriate form.
- 6.12.** Whilst there are no statutory duties for the Local Authority in relation to the routine monitoring of the quality of home education, under Section 437(1) of the Education Act 1996, local authorities must 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 a 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.
- 6.13.** 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 local authority, within the period specified in the notice, that the child is receiving suitable education; and (b) in the opinion of the authority 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 in the order.
- 6.14.** These are measures of last resort and would only be used by Sutton after all reasonable avenues have been explored to bring about a resolution of the situation. At any stage following the issuing of an Order, parents may present evidence to Sutton (or the court) that they are now providing a suitable and appropriate education and apply to have the Order revoked.
- 6.15.** Local authorities also 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."
- 6.16.** Section 175(1) does not extend local authorities' functions. It does not, for example, give local authorities powers to enter the homes of, or otherwise see, children for the purposes of monitoring the provision of elective home education.

## **7. Children with Special Educational Needs**

- 7.1.** Parents' right to educate their child at home applies equally where a child has special educational needs (SEN). This right is irrespective of whether the child has a statement of SEN or an Education, Health and Care (EHC) plan.



- 7.2.** Where parents elect to home educate a child with a statement/ plan who is registered at a mainstream school the school will remove the pupil from roll, following receipt of written confirmation from the parent that educational provision is being made otherwise than at school. Local authority approval for removal from roll is not required irrespective of whether or not the child has a statement of SEN/ EHC plan unless registered at a special school.
- 7.3.** On receipt of notification that a child has been withdrawn from a special school for EHE, the Local Authority will request through its education officers initial information regarding provision being made. When this information has been received, unless exceptional circumstances exist where we feel additional information is required, the Local Authority's officers will confirm to the school that the child may be removed from roll.
- 7.4.** On confirmation of the removal from roll for EHE, the officers will notify the Special Educational Needs service within the LA, who will make arrangements to review the statement/EHC plan. SEN will advise parents that they can ask for an EHE officer or other person to be invited to the Annual Review if they wish. EHE officers will only attend an Annual Review where parents wish for such support.
- 7.5.** Where a child who is home educated has a statement of SEN or EHC plan, the local authority retains a duty to maintain and review it annually, following the procedures set out in the Code of Practice for SEN. 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.
- 7.6.** Parents do not have to arrange provision detailed in the statement/plan, 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 a statement of SEN/EHC plan, this change of placement will be reflected in the statement/plan. The statement/plan may identify provision to be secured by the local authority, where the local authority considers it necessary to assist parents to fulfill their responsibilities.
- 8.     **Withdrawal from School to Home Educate****
- 8.1.** First contact between the local authority and home educators often occurs when parents decide to home educate and approach the school (at which the child is registered) and/ or the authority to seek guidance about withdrawing their child from school.
- 8.2.** It is important that this initial contact is constructive and positive. Whilst parents must inform the school in writing of their decision, they are not legally required to inform the local authority. Where a parent is seeking to withdraw a child from a special school, the school must obtain consent from the local authority before they can remove the child from their roll.
- 8.3.** The school must delete the child's name from their admissions register upon receipt of written notification from the parents that the pupil is receiving education otherwise than at school. Schools must make a return (giving the child's name, address and the ground upon which their name is to be deleted from the register) to the local authority as soon as the ground for deletion is met and no later than the point at which they delete the pupil's name from the register. The EHE officers will provide parents with a copy of the notification from school.
- 8.4.** 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 local authority on the ground that arrangements have been made for



the child to receive suitable education otherwise than at school, before the child can be deleted from the school's register and educated at home.

- 8.5.** Schools must not seek to persuade parents to educate their children at home as a way of avoiding an exclusion or because the child has a poor attendance record. In the case of exclusion, they must follow the statutory guidance. If the pupil has a poor attendance record, the school and local authority must seek to address the issues behind the absenteeism and use the other remedies available to them.

## **9. Reviewing procedures and practices**

- 9.1.** Sutton will review these policy guidelines and practice in relation to home education at least every two years.
- 9.2.** Home education organisations and parents will be involved in the process of policy review in order to ensure the most effective practice and strengthen partnerships.

## **10. National and regional organisations**

- 10.1.** There are many websites that provide information for anyone considering EHE – some links to such sites are provided below.
- o Sutton Home Education Forum: <http://www.shesutton.wordpress.com>
  - o Education Otherwise: [www.education-otherwise.net](http://www.education-otherwise.net)
  - o Ed Yourself: [www.edyourself.org](http://www.edyourself.org)
  - o Home Schooling: [www.home-schooling-uk.com](http://www.home-schooling-uk.com)
  - o Home Education Advisory Service: [www.heas.org.uk](http://www.heas.org.uk)
  - o Department for Education: [www.education.gov.uk](http://www.education.gov.uk)
  - o HE in the UK – Special Educational Needs: <http://www.he-special.org.uk>

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