

<h1>BRIEFING</h1>	TO:	Improving Lives
	DATE:	17 September 2019
	LEAD OFFICER:	Dean Fenton – Head of Access to Education Dean.fenton@rotherham.gov.uk Marie Boswell Teaching & Learning Consultant/Deputy Head of Access to Education Marie.boswell@rotherham.gov.uk
	TITLE:	Elective Home Education

1. Background (What's working well?)

- 1.1. Elective home education (EHE) is the term used to describe a legal choice by parents to provide education for their children at home - or at home and in some other way which they choose - instead of sending them to school full-time. This is different to education provided by a local authority (LA) otherwise than at a school - for example, tuition for children who are too ill to attend school.
- 1.2. **Department for Education (DfE) Elective Home Education (EHE) Guidance 2019** highlights that *'Parents have a right to educate their children at home, and the government wants the many parents who do it well to be supported. They devote time, financial resources and dedication to the education of their children. Most parents who take up the weighty responsibility of home education do a great job, and many children benefit from being educated at home.'*
- 1.3. **Department for Education (DfE) Elective Home Education (EHE) Guidance 2007 section 2.6** stated that: Local Authorities (LA's) have a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to enable them to establish the identities, so far as it is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately or in alternative provision).
- 1.4. Following increased interest in EHE from ministers, media and a variety of professional interest groups, including the national Association of EHE Professionals (AEHEP), an attempt had been made through parliamentary processes to amend the underlying legislation related to EHE. The proposed changes, including mandatory registration of EHE children, proceeded through the House of Lords and onto the House of Commons, supported by various consultations. Unfortunately the proposal was delayed numerous times before being closed in spring 2019, due largely to more pressing parliamentary business.
- 1.5. Taking some of the issues arising through the proposal to amend legislation and consultations, in **April 2019 the Government published new guidance on EHE**. Two documents were published: One for LA's and one for parents:

- 1.6. The new guidance documents are clear that there has been no change in legislation but clarified the role and duties of LA's. The guidance recognises that some families do use EHE well for a variety of reasons and through a range of educational methods. It is also clearer that the LA must proactively take action to identify where education is unsuitable and take steps to rectify an unsuitable education.
- 1.7. The EHE Officers conduct home visits to discuss the education a child in EHE is receiving and to review samples of work, progress being made and future plans. Where there are concerns about the suitability of the education being provided the EHE Officer will discuss alternative options with parents/carers e.g. amendments that could be made to improve the education being provided or returning to mainstream or other education setting.
- 1.8. Where education is felt to be unsuitable, processes are followed linking with Early Help to support a return to a suitable and appropriate education setting.
- 1.9. The new guidance goes further than the preceding guidance in clarifying that a lack of suitable education could possibly constitute neglect causing significant harm:

4.4 In particular, local authorities should explore the scope for using agreements with health bodies, general practitioners and other agencies, to increase their knowledge of children who are not attending school. Some local authorities already actively encourage referrals from doctors and hospitals of children whom there is reason to think may be home educated. Under s.10 of the Children Act 2004, local authorities should have arrangements in place to promote co-operation between the authority and its partners who deal with children, and under section 11, arrangements should be in place to ensure that functions are discharged with regard to the need to safeguard and promote the welfare of children. These arrangements should include information sharing protocols and it is possible for these to allow sharing of data on children who appear to be home educated and about whom there is a concern as to the suitability of that education which amounts to possible neglect causing significant harm....

- 1.8. The LA has an established EHE Team consisting of 2 Officers of which one Officer is a Teaching And Learning specialist with several years' experience in the EHE field and the other Officer has a background in Education Welfare and Early Help.
- 1.9. Rotherham's EHE Officers continue to play a significant role at regional and sub regional EHE forums and have contributed to developments in practice through these forums.
- 1.10. The EHE policy was refreshed in 2018 and procedures link closely to other relevant CYPS procedures including Early Help and Safeguarding.

2. Key Issues and what we are worried about.

- 2.1 Section 5.1 of the new EHE guidance states that: *The duty under s.436A dealt with above means that local authorities **must** make arrangements to find out so far as possible whether home educated children are receiving suitable full-time education.*
- 2.2 The new guidance for LA's is a much larger document than the 2007 version, with more emphasis on actions that LA's **must** and **should** take, making a clearer distinction between informal enquiries (typically from home visits) and formal education enforcement processes to be followed where an informal approach is unsuccessful in assuring the LA that the education is not *unsuitable*.

2.3 The AEHEP continues to discuss the possibility of changes to legislation, but largely welcomes the new guidance for the clarification it gives all partners about application of the current legislation.

2.4 Local, Regional and National developments

- 2.4.1 Rotherham has taken part in all regional consultations and regularly attends regional network meetings.
- 2.4.2 In 2017, Rotherham developed a multi-agency Overview & Accountability (O&A) Group for EHE which met on a half termly basis. The group led a review of RMBC's EHE policy, staffing and re-establishing local partnership contacts. Given the time limited nature of the project and approval and implementation of recommendations, the O&A Group stepped back to become a virtual network for as-and-when-required case conversations. EHE links in to the Operational and Strategic Missing Groups.
- 2.4.3 There has never been a statutory fixed point or requirement to collate any data related to EHE, this means that there is no formal comparative data for EHE regionally or nationally. A summary of the RMBC data position at the end of the academic year (31st August) as a fixed point each year is produced. (Appendix 1)

2.5 What are we worried about:

- 2.5.1 The number of parents requesting information about EHE or considering alternatives to current schools and hence EHE Officer involvement continues to increase. Without sufficient EHE Officer capacity to discuss issues rapidly, local knowledge and school admissions/other service links, many families would have elected to home educate without a full understanding of the implications of this decision or the education options and support available to them, often at a time of crisis. (See Appendix 1 - Involvements data).
- 2.5.2 Taking public examinations from EHE is possible but requires an understanding of exam board and syllabus choices along with expertise to deliver teaching in a range of subject areas. Whilst progress to further education (FE) and training without evidence of qualifications is possible locally due to partnership working with Rotherham North Notts College (RNN), children may be disadvantaged if they are required to evidence academic achievement for other employment or training. RNN group has implemented new criteria so that learners have to be in EHE for 6 months prior to starting part time college within their EHE programme for Y10 and/or Y11 because of previous negative experiences of accepting EHE learners (Anecdotally, not Rotherham learners). This can impact on learners who leave school in KS4 (Year10/Year11) expecting to start college immediately. Also, RNN Group rules prevent a learner who is asked to leave college reapplying for 12 months, thus increasing the risk of becoming NEET in Y12 as the available choices may be limited.
- 2.5.3 A small, but increasing number of families decline EHE Officer visits or refusing to send actual evidence in support that their child is receiving a 'suitable education' when requested.
- 2.5.4 Parents do not have to inform the Local Authority if they choose to home educate. The vast majority do and they accept and welcome contact with the EHE Officers. Current legislation appears to conflict with other Government strategies for protecting the rights of children. Although the legislation hasn't changed, the new, clearer Guidance to LA's and parents is a welcome step. Separate consultation on possible mandatory registration will

be followed along with ADCS research into issues of Exclusions, Off-rolling, SEN provision and increasing EHE

2.5.5 If a child has attended a school, the school has a duty to inform the LA of a withdrawal to EHE. Support and information about options, including EHE, alternative education providers, SEN support etc. can be given to parents in a timely manner and issues resolved if the EHE team is aware quickly. As there is no statutory timeframe around the sharing of information, occasionally opportunities to support families quickly are missed. The Rotherham EHE policy also advises a five day 'cooling off period'. Schools generally contact the EHE and CME service for help and advice. This continues to improve as the CME Officer is now located with the EHE Officers in the Access to Education Service.

2.5.6 Rotherham had its first formal case of a primary school agreeing to a Flexi-Schooling arrangement with a family starting on a trial basis in late Summer 2018. Flexi-Schooling is legal and is at the discretion of the headteacher and governors. A Flexi-Schooled child remains solely on the school roll. School maintains full responsibility for outputs and achievements but an agreement with parents is in place about the times when a child will be educated by the parents. Information and advice was sought from the Regional EHE network. Whilst safeguarding was paramount with the advice offered to the school, the case created an opportunity to share learning from neighbouring LAs with more experience of Flexi Schooling (Derbyshire and Sheffield) to inform the trial case and development of a Rotherham model. The case will be monitored for learning, and is expected to be adopted as routine in future cases. An increase in Flexi-School requests was anticipated, but this has not happened to date. Other families have discussed the option with schools and EHE Officers but there have been no more cases known to the EHE team in this academic year.

2.5.7 As there is no national comparative data it can be difficult to comment on local trends in any data field.

- a. Previous work to consider **locality issues** demonstrated no significant patterns and withdrawals were spread across the whole borough.
- b. Although there is no duty to collate **ethnicity** of EHE learners, the vast majority of declarations when a child was in school and anecdotal evidence indicates the overwhelming majority of Rotherham EHE learners are from the white British community.
- c. Numbers of secondary age children in EHE is higher than primary ages. Rotherham data mirrors anecdotal discussion with other LA's. See below:
- d. The **gender** balance in Rotherham mirrors anecdotal evidence from other Yorkshire & Humberside LA's:

End of 2018/19 numbers EHE	Primary age	Secondary age	Y11 leavers
Girls	30	41	13
Boys	56	56	15
Total school age	86	97	
Y11 leavers			28

3. Key Actions and Timelines (What are we doing about it?)

- 3.1 To continue to monitor staff capacity to ensure that EHE Officers can act as quickly as possible to give advice to parents about EHE and other options, including sign-posting to other services. CYPS DLT receive reports from the EHE Lead Officer which include implications for staffing to ensure that the LA's duties are met with regard to taking action where education is unsuitable, or may be unsuitable.
- 3.2 To continue to work with Local Colleges and Early Help Services in relation to Y10/11 children, to support progress and transition to post 16 education or training.
- 3.3 To continue to work with Early Help colleagues to ensure that the process flow of actions from informal enquiries by EHE Officers through to formal enforcement action by Early Help Services is robust and seamless. (Section 436 to Section 437 Education Act). Two cases referred to Early Help for enforcement action have resulted in subsequent court proceedings during the 2018/19 academic year.
- 3.4 To continue involvement with the Regional and National AEHEP and maintain a watching brief in relation to the progress of the EHE-related developments. Rotherham has contributed to all consultations with regard to possible changes in legislation, research into links between Exclusions, Special Educational Needs and, proposed mandatory registration for children not attending mainstream education. The EHE Officers will continue to play an active part in these developments.
- 3.5 To continue to seek guidance from DfE and RMBC legal services where necessary in relation to the parameters of statutory duty.
- 3.6 To review the EHE Policy and guidance as part of its 2 yearly cycle, to ensure it continues to link effectively to Early Help and legal processes, captures key learning points and reflects best practice.
- 3.7 To continue to report to CYPS DLT and Rotherham Local Safeguarding Children's Board in relation to EHE.

4. Recommendations

- 4.1 The report on Elective Home Education be noted by Elected Members.