

Committee Name and Date of Committee Meeting

CYPS DLT – 19th August 2021

Report Title

Revised Elective Home Education Policy

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Suzanne Joyner, Strategic Director of Children and Young People's Services

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

The Elective Home Education Policy has been revised to reflect latest Department for Education (DfE) guidance. The report seeks approval of the revised policy.

Recommendations

1. That the revised Elective Home Education Policy be approved.

List of Appendices Included

- Appendix 1 Equalities Impact Assessment
- Appendix 2 Environmental Impact Assessment
- Appendix 3 Draft Elective Home Education Policy

Background Papers

Department for Education, Elective Home Education, guidance for Local Authorities 2019.

Education Acts of 1996 and 2002.

Consideration by any other Council Committee, Scrutiny or Advisory Panel

None

Council Approval Required

No

Exempt from the Press and Public

No

Refresh of the Elective Home Education Policy

Revised Elective Home Education Policy

1.	Background
1.1	<p>Elective home education (EHE) is the term used to describe a parental decision to provide education for their child(ren) 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 other than at school.</p> <p>2019 Elective Home Education Department for Education (DfE) Departmental guidance for Local Authorities states that:</p> <p><i>Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that:</i></p> <p><i>"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable –</i></p> <p style="padding-left: 40px;"><i>(a) to his age, ability and aptitude, and</i> <i>(b) to any special educational needs he may have,</i></p> <p><i>either by regular attendance at school or otherwise."</i></p>
1.2	<p>Local Authority (LA) statutory duties relating to Elective Home Education are outlined in the Education Acts of 1996 and 2002.</p>
	<p>2019 Department for Education (DfE) Departmental guidance for Local Authorities states that <i>'there are no specific legal requirements as to the content of home education, provided the parents are meeting their duty in s.7 of the Education Act 1996.</i></p> <p><i>This means that education does not need to include any particular subjects, and does not need to have any reference to the National Curriculum; and there is no requirement to enter children for public examinations.</i></p> <p><i>There is no obligation to follow the 'school day' or have holidays which mirror those observed by schools. Many home educating families do follow a clear academic and time structure but, it should not be assumed that a different approach which rejects conventional schooling and its patterns is unsatisfactory, or constitutes 'unsuitable' education.</i></p> <p><i>Approaches such as autonomous and self-directed learning, undertaken with a very flexible stance as to when education is taking place, should be judged by outcomes, not on the basis that a different way of educating children must be wrong'.</i></p>
	<p>2019 Department for Education (DfE) Departmental guidance for Local Authorities states that Local Authorities should <i>'have a written policy statement on elective home education which is clear, transparent and easily accessible by using different formats as necessary, is consistent with the current legal framework and preferably drawn up in consultation with local families who educate children at home so that it can reflect both the challenges and rewards of educating children in this way. It should take into account local circumstances and set out how the authority will seek to engage and communicate with</i></p>

	<i>parents’.</i>
	<p>2019 Department for Education (DfE) Departmental guidance for Local Authorities states that in relation to children who have previously attended school <i>‘it was formerly the case that schools were obliged by the 2006 Pupil Registration Regulations to notify the local authority that a child had been withdrawn for home education only when the school had been notified of this in writing by the parents.</i></p> <p><i>From September 2016 the regulations were amended so that the local authority must now be informed of all deletions from the admission register when this takes place at a non-standard transition time.</i></p> <p><i>Local authorities should also consider using their power to require schools (including independent schools) to provide information, under arrangements set out by the authority concerned, about children who leave at the school’s standard transition times, to help ensure that there is knowledge at local authority level of a child’s schooling status.</i></p> <p><i>Ofsted is likely to ask local authorities about withdrawal rates at schools and whether action has been taken to identify patterns and a suitable strategic response.</i></p> <p><i>Local authorities are entitled to ask schools whether there is any further information available which would suggest that a child may be now home educated, but a school may genuinely not know the reason for withdrawal. A state-funded school must respond reasonably to any request from the local authority for any information it has about the reasons for withdrawal’.</i></p>
	<p>2019 Department for Education (DfE) Departmental guidance for Local Authorities states that in relation to children who have never attended school <i>‘there is no legal duty on parents to inform the local authority that a child is being home educated. If a child never attends school, an authority may be unaware that he or she is being home educated.</i></p> <p><i>Identification of children who have never attended school and may be home educated forms a significant element of fulfilling an authority’s statutory duty under section 436A of the Education Act 1996 - to make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children in its area who are not receiving a suitable education.</i></p> <p><i>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 at school (for example, at home, or in alternative provision).</i></p> <p><i>Until a local authority is satisfied that a home-educated child is receiving a suitable full-time education, then a child being educated at home is potentially in scope of this duty.</i></p> <p><i>The department’s children missing education statutory guidance for local authorities applies. However, this should not be taken as implying that it is the responsibility of parents under s.436A to ‘prove’ that education at home is suitable. A proportionate approach needs to be taken’.</i></p>
1.3	<p>The Rotherham Metropolitan Borough Council Elective Home Education (EHE) Policy was last updated in 2017. The policy has been revised following consultation with parents of children who are electively home educated as required by DfE to incorporate 2019 Department for Education (DfE) guidance for Local Authorities, to ensure alignment of processes to the</p>

	guidance and taking in to account the views of key stakeholders.
1.5	This report seeks approval of the revised Elective Home Education Policy (Appendix 3).
2.	Key Issues
2.1	The 2017 policy document made reference to a cooling off period, where parents had withdrawn their child to EHE. The cooling off period held a school place open for a period of time, with the intention that if parents changed their mind, their child could return to the school they had been withdrawn from.
2.2	The revised policy reflects DfE guidance and consultation feedback and removes potential conflict with School Admissions and attendance statutory frameworks. On receiving a parental withdrawal letter, a school <u>must</u> remove the child from the school admissions register in-line with the parental letter and notify the local authority. In line with the guidance and DfE advice to parents considering the withdrawal of their child from school to Elective Home Education, the Local Authority (LA) policy strongly recommends that parents meet with the LA to consider whether EHE is appropriate for their family and child before deciding whether to withdraw them from their school's admissions register.
2.3	The 2017 policy document made reference to informal and formal processes, however parents of children who are electively home educated felt that further clarity was needed.
2.4	The revised policy provides further clarity with a clear distinction between informal and formal processes and a definition of informal and formal processes: Reference to <i>"Informal"</i> refers to support, advice, and requests for information to demonstrate that a suitable education is being provided and is prior to any action under section 437 of the Education Act. Reference to <i>"Formal"</i> refers to notice and action served under section 437 of the Education Act.
2.5	The 2017 policy included a Local Authority EHE 1 form which parents were asked to complete to provide details about their child. Parents questioned the value that the document had as information can be obtained from the school the child has been withdrawn from and via informal processes and discussions with parents.
2.6	The revised policy removes the EHE 1 form as it is seldom used by parents in practice nor required under DfE guidance.
2.7	The 2017 policy included flow diagrams to outline LA EHE process flow and the pathway from informal to formal processes. However, parents during consultation felt that these could be simplified to remove confusion or

	misinterpretation.
2.8	The revised policy simplifies the flow process making the process clearer and distinguishes the point at which informal processes may be escalated to formal processes.
2.9	The 2017 policy did not include a complaints procedure.
	The 2019 DfE departmental guidance requires local authorities to provide clear details of their complaint's procedure and deal with all complaints in a sensitive and timely manner. A how to make a complaint section has been included in the revised policy.
3.	Options considered and recommended proposal
3.1	Option 1: Retain the 2017 policy. However, the policy does not reflect current DfE guidance.
3.2	Option 2: Revise the policy to reflect current DfE guidance incorporating the views of parents of children who are EHE and seek approval of the policy.
3.3	Option 2 is the recommended proposal.
4.	Consultation on proposal
4.1	<p>Consultation was undertaken as required by DfE with Elective Home Educating families and also a wider range of stakeholders were consulted including:</p> <p>Parents of EHE children. Department for Education. Ofsted. Yorkshire and Humber LA's EHE network. RMBC legal department. Neighbouring Local Authorities. RMBC Early Help and Safeguarding Services. School Headteachers / Principals.</p> <p>Consultation with the different groups of stakeholders was undertaken between June 2020 and April 2021.</p>
4.2	The views and comments of stakeholders were considered as part of the consultation and incorporated into the revised policy as outlined in section 2 of the report.
5.	Timetable and Accountability for Implementing this Decision
5.1	The policy refresh if approved will be implemented with immediate effect and published on the RMBC website, shared with all EHE families, sent to the

	local EHE forum and distributed to all schools, DfE, Ofsted and the regional EHE network.
6.	Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)
6.1	There are no procurement issues to consider.
6.2	Local Authority costs related to Elective Home Education are retained within the Children and Young People's Services budget.
7.	Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)
7.1	Local Authority (LA) statutory duties relating to Elective home education are outlined in the Education Acts of 1996 and 2002 and are reflected within the revised policy.
7.2	2019 Elective Home Education Department for Education (DfE) Departmental guidance for Local Authorities provides detail of the requirements for Local Authorities to meet their statutory duties.
7.3	Legal Services have reviewed the draft policy revision against statutory requirements and amendments suggested have been incorporated in to the document.
8.	Human Resources Advice and Implications
8.1	There are no HR implications to consider. The Local Authority resources for EHE are incorporated in the Children and Young People's Services staffing and resources structure.
9.	Implications for Children and Young People and Vulnerable Adults
9.1	<p>2019 Elective Home Education Department for Education (DfE) Departmental guidance for Local Authorities states that parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that:</p> <p><i>"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable –</i></p> <p style="padding-left: 40px;"><i>(a) to his age, ability and aptitude, and</i></p> <p style="padding-left: 40px;"><i>(b) to any special educational needs he may have,</i></p> <p><i>either by regular attendance at school or otherwise."</i></p> <p><i>Local Authorities have a statutory duty under section 436A of the Education Act 1996 - to make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children in its area who are not</i></p>

	<i>receiving a suitable education.</i>
10.	Equalities and Human Rights Advice and Implications
10.1	<p>Section 149 of the Equality Act 2010 requires that public bodies, in exercising their functions, have due regard to the need to:</p> <ol style="list-style-type: none"> 1. eliminate discrimination, harassment, victimisation and other unlawful conduct under the Act, 2. advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not share it.
10.2	An equalities Impact Assessment (appendix 1) has been completed, informed by consultation in relation to the revision of the EHE policy.
11.	Implications for CO₂ Emissions and Climate Change
	An environmental impact assessment has been completed (appendix 2). EHE Officers have established a wider range of options for families to retain contact with the LA during covid 19 lockdowns including the use of technology for meetings and discussions and the practices will remain in place as a permanent option for families moving forward and the most appropriate option will be used which will reduce home visits and travel in certain cases.
11.	Implications for Ward Priorities
11.1	The EHE cohort of children covers all Wards in the Borough. There are no Wards that have a significantly higher proportion of EHE children than others.
12.	Implications for Partners
12.1	All schools have been consulted in relation to the revised policy and are aware of their statutory duties in relation to processes once a withdrawal letter is received.
13.	Risks and Mitigation
13.1.	The Local Authority has clearly defined statutory duties under the Education Act and DfE guidance. The policy outlines the statutory duties and how the LA will meet its obligations.
13.2	An established governance group retains oversight of LA responsibilities and provides support and challenge to EHE Officers and holds them to account.
14.	Accountable Officers
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