

<b>BRIEFING</b>	<b>TO:</b>	Improving Lives Select Commission
	<b>DATE:</b>	27 October 2020
	<b>LEAD OFFICER:</b>	Dean Fenton Head of Service, Access to Education <a href="mailto:dean.fenton@rotherham.gov.uk">dean.fenton@rotherham.gov.uk</a>
	<b>TITLE:</b>	Elective Home Education
<b>1. Background</b>		
<b>1.1</b>	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.	
<b>1.2</b>	2019 Government guidance highlights that <i>'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.'</i>	
<b>1.3</b>	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.	
<b>1.4</b>	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. The proposal was delayed numerous times before being closed in Spring 2019, due largely to more pressing parliamentary business.	
<b>1.5</b>	Taking some of the issues arising through the proposal to amend legislation and consultations, in <b>April 2019 the Government published new guidance on EHE</b> . Two documents were published: One for LA's and one for parents: <a href="https://www.gov.uk/government/publications/elective-home-education">https://www.gov.uk/government/publications/elective-home-education</a>	
<b>1.6</b>	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	<p>The 2019 guidance goes further than the preceding guidance in clarifying that a lack of suitable education could possibly constitute neglect causing significant harm:</p> <p><i>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....</i></p>
1.8	The LA has an established EHE structure within the Access to Education Service which also includes the Children Missing Education, School Admissions and Exclusions functions.
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. With the issuing of the 2019 DfE guidance, the policy is currently being reviewed and revised accordingly following a period of consultation with EHE families and stakeholders.
<b>2. Key Issues</b>	
2.1	Section 5.1 of the 2019 EHE guidance states that: <i>The duty under s.436A dealt with above means that local authorities <b>must</b> make arrangements to find out so far as possible whether home educated children are receiving suitable full-time education.</i>
2.2	The 2019 guidance for LA's is a much larger document than the 2007 version, with more emphasis on actions that LA's <b>must</b> and <b>should</b> 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 <i>unsuitable</i> .
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	<p><b>Local, Regional and National developments</b></p> <p>Rotherham has taken part in all regional consultations and regularly attends regional network meetings.</p>
2.5	In 2017 a multi-agency Governance Group for EHE was established. The group led a review of RMBC's EHE policy, staffing and re-establishing local partnership contacts. The Governance Group discuss issues relating to EHE which include, impact of other

	service area changes on EHE work, reducing overlap of officer activity between service areas, cases where the education provided by a family is unclear, or where a family is having difficulty in accessing other services and has asked for help. The Governance group also serves a role as critical friend of the EHE Officer, offering both support and challenge when necessary to ensure the LA's statutory duties are met.
<b>2.6</b>	There has never been a statutory fixed point or requirement to collate 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 (31 August 2020) as a fixed point each year is provided. (Appendix 1)
<b>2.7</b>	<p><b>What are we worried about?</b></p> <p>The number of parents requesting information about EHE or considering alternatives to their current schools and hence EHE Officer involvement continues to increase. These contacts enable parents to discuss issues rapidly, receive support to resolve issues, access school admissions / other services support, or gain a full understanding of EHE prior to making a decision. 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 without the early conversations. (See Appendix 1 - Involvements data).</p>
<b>2.8</b>	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 local colleges, children may be disadvantaged if they are required to evidence academic achievement for other employment or training. Local college criteria means 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.
<b>2.9</b>	As private candidates, EHE learners are included in Autumn GCSE exam guidance and will be able to arrange to take GCSE examinations, should they wish to.
<b>2.10</b>	A small but increasing number of families decline EHE Officer visits/contacts or refuse to send actual evidence in support that their child is receiving a 'suitable education' when requested.
<b>2.11</b>	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 Officer, there have been cases whereas a result of CME enquiries it has been established that a child is EHE and has subsequently been recorded as such. Although the EHE legislation hasn't changed, the 2019 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 the increasing EHE cohort.
<b>2.12</b>	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. The Rotherham EHE policy also advises a 'cooling off period' whereby the vacated school place is not reallocated in case the parent changes their mind. Schools generally contact the EHE and CME service for help and advice. This is assisted as the CME Officer is located within the Access to Education Service.
<b>2.13</b>	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. The case created an opportunity to share learning from neighbouring LA's with more experience of Flexi Schooling to inform the headteacher who was keen to support the family in this case.
<b>2.14</b>	As there is no national comparative data it can be difficult to comment on local trends in any data field.
<b>2.15</b>	Previous work to consider locality issues demonstrated no significant patterns and withdrawals were spread across the whole borough.
<b>2.16</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.
<b>2.17</b>	Numbers of secondary age children in EHE is higher than primary ages. Rotherham data mirrors other local authorities trends.
<b>2.18</b>	The gender balance in Rotherham indicates slightly more boys in EHE than girls, again this mirrors other local authorities trends.
<b>3. Key Actions and Timelines</b>	
<b>3.1</b>	To continue to monitor staff capacity to ensure that EHE Officers can act quickly to give advice to parents about EHE and other options, including sign-posting to other services.
<b>3.2</b>	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.
<b>3.3</b>	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 (none in 2019/20). It should be noted that enforcement is only used as a last resort where education is believed to be unsuitable and the majority of these cases are resolved at an informal stage level and the child subsequently returns to school via an application for a school place with the mutual agreement of parents that this is in the best interests of the child.
<b>3.4</b>	To continue involvement with the Regional and National AEHEP (albeit virtually at the present time) 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.
<b>3.5</b>	To continue to seek guidance from DfE and RMBC legal services where necessary in relation to the parameters of statutory duty. The co-location of CME and EHE functions has created a robust system of identifying children and establishing education status.
<b>3.6</b>	To continue 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.
<b>3.7</b>	To continue to report to CYPS DLT and Rotherham Local Safeguarding Children's Board in relation to EHE.
<b>4. Recommendations</b>	
<b>4.1</b>	The report on Elective Home Education be noted.