Elective Home Education
Policy Statement
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Sandwell Metropolitan Borough Council Elective Home Education Policy Statement

1.0 Introduction

1.1 Education is a fundamental right for every child and Sandwell Metropolitan Borough Council (SMBC) recognise that parents have the right to choose to educate their child at home rather than at school. Parents are responsible for ensuring that their children receive a suitable education, whilst SMBC have a duty to intervene if a child of compulsory school age in their area does not appear to be receiving such an education. We believe that by working together positively with home educating parents, recognising the rights and responsibilities of one another, the best outcome can be achieved for all concerned.

1.2 This policy applies to those children whose parents have chosen to educate their children at home. This is known as “Elective Home Education” (EHE). It does not refer to children who have a home tutor provided by the Local Authority (LA) as a result of their being unable to attend school because of illness, exclusion or any other reason. Throughout this document parent should also be taken to include those defined as such under Section 576 of the Education Act 1996, i.e. any person who is not a parent of a child but has parental responsibility for the child, or who has care of the child.

1.3 This document sets out parents’ rights to educate their children at home and their responsibilities, as well as the legal duties, roles and responsibilities of Head Teachers and SMBC

1.4 This policy is written in accordance with the Department for Education (DfE) publication entitled Elective Home Education – Guidance for Local Authorities 2013.

1.5 The responsibility for supporting children who are electively home educated in Sandwell rests with a small team of workers based in Education Support Services at SMBC.
The team comprises:

- **Elective Home Education Lead Officer** – (Named Senior Officer)
- Senior Practitioner
- Attendance Support Officer
- EHE Support Teacher
- Business Support

### 2.0 Purpose of Policy Statement

2.1 The purpose is:

- To ensure as far as possible that every child of statutory school age in SMBC’s area is engaged in suitable education in accordance with their right to such education (Section 7 Education Act 1996).

- To ensure that parents are given clear advice and support about the procedures and responsibilities regarding the choice to educate their child at home, and in providing a suitable education.

- To assist in ensuring as far as possible that all children in SMBC’s area are effectively safeguarded.

- To ensure that appropriate information is gathered and retained by SMBC as required.
3.0 **The Law: Rights and Duties of Parents and Head Teachers**

3.1 **Parents’ Rights and Responsibilities**

The responsibility for a child’s education rests with their parents. In England, education is compulsory, but schooling is not. Parents are not required to register or seek approval in order to educate their child at home. Parents may choose to home educate at an early age meaning that the child may never have been enrolled at any school, or they may choose to elect home education at any other stage up to the end of compulsory school age.

3.2 The parent’s legal duty is set out in Section 7 of the Education Act 1996:

> “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.”

The “otherwise” option includes EHE with parents taking responsibility to provide education without recourse to a school or Local Authority (LA). In short education is compulsory, attending a school to be educated is not.

An “efficient” and “suitable” education is not defined in the Education Act 1996 but in case law\(^1\). An “efficient” education is 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”. It is therefore recognised that there are many approaches to educational provision and what is suitable for one child may not be suitable for another.

3.3 **The European Convention on Human Rights and Fundamental Freedoms, Article 2 of Protocol No 1** also supports this by stating:

\(^1\) Mr Justice Woolf in the case of R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust (12 April 1985)
"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 in conformity with their own religious and philosophical convictions."

3.4 There is no legal definition of “full time” education. Children normally attend school for between 22 and 25 hours per week for 38 weeks of the year, but this measurement of “contact time” is not relevant to EHE where there is often almost continuous one-to-one contact and education may take place outside normal school hours. The type of educational activity can be varied and flexible. Home educating parents are not required to:

- have premises equipped to any particular standard
- provide a broad and balanced education
- have any specific qualifications
- mark work done by their child
- formally assess progress or set development objectives
- set hours during which education will take place
- cover the same syllabus as any school
- teach the National Curriculum
- make detailed plans in advance
- observe school hours, days or terms
- have a timetable
- give formal lessons
- reproduce school type peer group socialisation
- match school, age-specific standards.

SMBC will offer advice and support in respect of such matters upon request.

Any costs incurred to support EHE (including examination fees) will be the responsibility of the parents. Examples of such costs would include (but are not limited to) books and resources, employment of tutors, e-learning courses or any alternative provision. It is recognised that there is no obligation for parents to use any specific resources.
Parents may choose to employ other people to educate their child, though they themselves will continue to be responsible for the education provided. The parents will also be responsible for ensuring that those whom they engage are suitable to have access to children.

3.5 Regulation 8(1)(d) of the Education (Pupil Registration)(England) Regulations 2006 requires schools to remove a child’s name from their register on being informed by a parent in writing that their child is to be electively home educated.

3.6 Parents who wish to home educate a child who is a registered pupil at a school must inform the school formally and in writing of their intention to deregister.

3.7 If a child has never attended school there is no statutory requirement for home educating parents to register that they are home educating their child with SMBC.

3.8 **Children with Special Needs**

The right to home educate applies equally to children with a Statement of Special Educational Needs (SEN) or Education Health and Care Plan (EHCP)*. However, if the child is on the roll of a special school the child’s name may not be removed from the register of that school without SMBC’s consent. Consent may not unreasonably be withheld.

If a child who has a statement of SEN or an EHCP is educated at home it remains the duty of SMBC to ensure that the child’s needs are met. The SEN / EHCP must remain in place and it is SMBC’s statutory duty to undertake an annual review. This review includes assessing whether the statement is still appropriate, requires amendment or might cease to be maintained. If a parent’s arrangements are suitable then SMBC is relieved of its duty to arrange the provision specified in the SEN/ EHCP.

* From September 2014 Education, Health and Care Plans started to replace Statements of Special Educational Needs. All statements have to be transferred over to an Education, Health and Care Plan by 1 April 2018.
3.9 **The Duty of Head Teachers/Principals**

Regulation 12(3) of the Education (Pupil Registration) (England) Regulations 2006 imposes a duty on schools to make a return to SMBC regarding pupils who are being removed from the school roll to be home educated, giving the full name of the pupil, the address of any parent with whom the pupil normally resides and the ground upon which their name is to be deleted from the admission register. This must be provided as soon as the ground for deletion from the register is met in relation to that pupil, and in any event no later than deleting the pupil's name from the register.

SMBC’s EHE team encourages all schools and academies to complete an ‘Off Register’ form (removal from roll checklist) that should be kept by the school and a copy forwarded to the EHE team.

The school is responsible for raising any safeguarding concerns and must retain the child’s school file.

3.10 Schools and academies must not suggest to a parent that a pupil should be removed from the school roll to electively home educate because of issues such as, for example, poor attendance or behavioural difficulties.

3.11 If at any point it becomes apparent that a decision to home educate is based on the child’s name being removed from the school register otherwise than in accordance with the The Education (Pupil Registration) (England) Regulations 2006 (and the statutory guidance on applying the said regulations), the child’s name should be returned to the school roll with immediate effect if that is the wish of the parents.

3.12 The head teacher, or the designated person, must inform the parents of the full implications of EHE and advise them to contact the EHE team for further support and information.
4.0 **The Duties and Role of SMBC**

4.1 All SMBC officers will seek to establish positive and supportive working relationships with existing and potential members of the Sandwell EHE community. Once the Attendance Support Officer has received information regarding a child who has been off rolled to be home educated (or is a new pupil to the area that is being home educated) an information pack including an optional questionnaire will be provided to the family by the Officer. An EHE Support Teacher is also available on request to advise parents and offer guidance on the delivery of a suitable home education.

4.2 Sections 436A – 443 of the Education Act 1996 confer a duty on SMBC to identify and act if it appears that a child of compulsory school age in their area is either not registered at a school or is not receiving a suitable education otherwise than at school. Guidance confirms that SMBC should consult the parents of the child when establishing if the child is receiving suitable education. As such, although SMBC does not monitor home education on a routine basis, it should be satisfied as to such an education being provided. To enable SMBC to comply with this duty, SMBC will attempt to engage positively with parents who have elected to home educate by offering to make a home visit (or by offering to meet with them at a suitable local venue such as a library) to provide further information about home education, the support available and to discuss the parent’s intentions. The child may or may not be present at such a meeting. It is acknowledged that parents may choose alternative methods to provide the information. Whilst there is no duty for parents to respond, DfE guidelines comment that “it would be sensible for them to do so” (as stated in the case of Phillips v Brown (1980). Once the provision is shown to be suitable SMBC will make contact annually to confirm the arrangements remain suitable.

4.3 If at any point SMBC have concerns about the suitability of a child’s educational provision they will contact the parent detailing concerns and ask the parent to provide information either through a home visit or otherwise. If following the parents’ response, concerns remain relating to the provision; the LA will offer the parent assistance to review the provision and offer support / guidance with a view to equipping them to make the provision suitable. In considering the suitability of education, SMBC will have regard to any information in its possession or which comes into its possession as to the education and / or the learning environment.
4.4 If the educational provision remains unsuitable despite a reasonable period being allowed to make it so, or the parent does not respond to requests following concerns, formal action under the School Attendance Order process will be instigated in accordance with the provisions of S437(1) of the Education Act 1996.

4.5 SMBC also has 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 educational functions are exercised with a view to safeguarding and promoting the welfare of children”. This does not extend the LA’s functions. It does not, for example, give LAs powers to enter the homes of, or otherwise see, children for the purpose of monitoring the provision of elective home education.

4.6 The welfare and protection of all children, both those who attend school and those who are educated at home, are of paramount concern and the responsibility of the whole community. As with school educated children, child protection issues may arise in relation to home educated children. If any child protection concerns come to light in the course of engagement with children and families, or otherwise, these concerns should immediately be referred to the appropriate authorities. Working Together to Safeguard Children 2015 states that local agencies, including the police and health services, have a duty under section 11 of the Children Act 2004 to ensure that they consider the need to safeguard and promote the welfare of children when carrying out their functions. Under section 10 of the same Act, a similar range of agencies are required to cooperate with local authorities to promote the well-being of children in each local authority area.

4.7 If a home educated child moves to another LA area, the Attendance Support Officer / Business Support Officer will inform that LA by sending a written referral.
4.8 SMBC maintains a register of pupils being educated at home. As there is no statutory duty for parents to inform SMBC about children who have not been previously educated in schools/academies, it is acknowledged that this list will be incomplete. The EHE register is used by SMBC to make contact with parents to offer support and guidance in partnership with home educating parents.

4.9 SMBC will organise annual reviews, in collaboration with the SEN team, for home educated children with statements of special needs.

4.10 SMBC will share information and good practice with home educating parents as appropriate. This includes signposting services and agencies that may be considered in assisting / enhancing elective home education.

5.0 Complaints Procedures

5.1 Any concerns or complaints must be directed in writing to the Named Officer as detailed in paragraph 1.5, who can be contacted at

Elective Home Education – Lead Officer
Education Directorate
Sandwell Council House
PO Box 2374
Freeth Street
Oldbury
B69 3DE

Or by email: home_education@sandwell.gov.uk

6.0 Monitoring of Policy

6.1 This Policy to be reviewed annually or as new legislation and statutory guidance are issued.