

Elective Home Education Protocol

Introduction

1. 'Elective home education' is where parents¹ decide to provide education for their children at home, instead of them having a school place. This is different to home tuition provided by a Local Authority, or situations where a child is being temporarily home schooled while remaining on the roll of a school. Parents may choose home education for a variety of reasons and provide it in many different ways.
2. The purpose of this document is to set out Southwark Council's policy and procedures for complying with our duties towards children and young people whose parents have elected to educate them otherwise than at school. It also aims to clarify our understanding of the rights and responsibilities of parents, schools and other professionals in respect of elective home education.
3. The document has been revised to reflect the latest Government guidance from the Department for Education: 'Elective Home Education: guidance for local authorities' (2019) and 'Elective Home Education: guidance for parents' (2019).

Policy Statement

4. Southwark Council wishes to maintain and develop effective relationships with home educators rooted in mutual understanding, trust and respect. In doing so we aim to safeguard the welfare and educational interests of children and young people.
5. Southwark Council respects the rights of parents to elect to educate their children at home and recognises that in many cases this will be a positive choice. There are well established networks of support available locally, and home educated children may achieve good educational outcomes. There is no standardised approach to educating a child at home, and we appreciate the different beliefs, teaching styles and educational methods used by parents.
6. Our experience is that some parents can struggle to provide a suitable education, particularly if children have ended up being home educated after difficulties at school such as poor attendance and school exclusions, or where there are difficult home circumstances. Southwark has a duty to make sure that all children are kept safe and receiving a suitable education. Where we have concerns that this is not happening we will offer support and challenge, including using our statutory education and safeguarding powers where necessary.

The Law Relating to Elective Home Education

7. The responsibility for a child's education rests with the parents. It is not compulsory for a child to go to school, but parents do have a legal duty to make sure that they are properly educated. Section 7 of the 1996 Education Act requires that:

"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

¹ The term 'parent' is used in this document to apply to both parents and to carers.

(b) to any special educational needs he may have,
either by regular attendance at school or otherwise.”

8. Compulsory school age begins on the next prescribed day following a child's fifth birthday (or on their fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March and 31 August each year. A child continues to be of compulsory school age until the last Friday of June in the school year that they reach the age of sixteen.
9. Beyond compulsory school age, young people also have a duty to continue in education or training until their 18th birthday (Education and Skills Act, 2008). This can include home education.

Children's rights

10. Southwark gives a high priority to the child's right to an education, which applies whether a child is being educated at home or at school. The United Nation Convention on the Rights of the Child, to which the UK is a party, affirms a child's right to education directed to:
 - '(a) the development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - (e) The development of respect for the natural environment'.
11. Article 12 of the UN Convention on the Rights of the Child assures 'to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with their age and maturity'. Southwark actively promotes children's right to be heard. In gathering information to inform a view about whether a child is receiving a suitable education, officers will wish to gain the child's opinions on the home education received. When arranging to meet with families, we will request that the child is present to ensure that the critical voice of the child is heard, though we accept that parents do not have to accede to this request.

Parental rights and responsibilities

12. Parents may decide to exercise their right to home educate their child from a very early age and therefore the child is never enrolled at school. Parents may also elect to home educate at any other stage up to the end of compulsory school age and may continue post 16 in order for their child to participate in education and training until the age of 18.
13. Parents have a legal right to educate their child at home and are not required to have any specific formal qualifications or training to provide their children with a suitable education. The 1996 Education Act recognises 'the general principle that pupils are to be educated in

accordance with the wishes of their parents' (Section 9) but that parents must ensure that a child receives 'efficient full-time education suitable to his age, ability and aptitude, and to any special educational need' (Section 7).

14. Parents are not required to seek approval from the Local Authority to home educate, unless the child has an Education Health Care Plan and attends a special school.
15. Parents whose child is enrolled at a school are advised to write to the Headteacher of the school to inform them that they elect to home educate, unless:
 - (a) the school is a special school named on the child's Education, Health & Care Plan, in which case parents are required to seek approval from the SEND team in Southwark Council first.
 - (b) the child is enrolled at a school in accordance with a school attendance order, where the authority must revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll.
16. While parents are not legally required to inform the school in writing that they intend to home educate, a school cannot delete a child from the school register in such circumstances until it has 'received written notification from the parent that the pupil is receiving education otherwise than at school' (DfE, Children Missing Education, 2016). This means that without written notification from parents the school must keep the child on school roll and may continue to enquire about school attendance and other matters.
17. Where parents have confirmed to a school in writing that they are home educating their child, the school is required to inform Southwark Council that they are removing the child from the register for this reason.
18. Parents whose child is not enrolled at a school have no obligation to notify Southwark Council that they are home educating their child, however the Local Authority encourages parents to do so in order for information and advice to be offered. In addition, Southwark Council may ask parents to confirm if they are home educating in the course of checking whether a child is missing education, where it has come to our attention that a child of statutory school age is not regularly attending school. The Department for Education has stated in its guidance to parents that 'you are under no legal obligation to respond, but if you do not, the local authority is entitled to conclude from the absence of any response that it appears that your child is not receiving a suitable education'.
19. Provided the education provided is suitable to the child's age, ability, aptitude and Special Educational Needs, the type of educational activity can be varied and flexible. Parents do not need to be qualified teachers to home educate and there is no requirement to teach the National Curriculum, match age-specific standards or to observe school hours, days and/or terms.
20. The Education Act does not define in more detail what constitutes 'suitable' education, but in its 'Elective Home Education: Departmental Guidance for Parents' (2019) the Department for Education advises home educating parents to consider that:
 - a. 'even if there is no specific link with the National Curriculum or other external curricula, there should be an appropriate minimum standard which is aimed at, and the education should aim at enabling the child, when grown-up, to function as an independent citizen in the UK - and furthermore, beyond the community in which he or she was brought up, if that is the choice made in later life by the child;
 - b. to be 'suitable', education at home should not directly conflict with the Fundamental British Values as defined in government guidance although there is no requirement to teach these;

- c. local authorities may use minimum expectations for literacy and numeracy in assessing suitability, whilst bearing in mind the age, ability and aptitude of the child and any special educational needs he or she may have;
 - d. education may not be 'suitable' even if it is satisfactory in terms of content and teaching, if it is delivered in circumstances which make it very difficult to work (for example in very noisy premises)'. And
 - e. education 'should enable a child to participate fully in life in the UK by including sufficient secular education'.
21. There is no legal definition of what constitutes a "full-time" education at home or school, although by way of comparison children attending school usually receive round 4.5-5.0 hours of education a day, for about 190 days a year. Home educators do not have to follow a set timetable, and in home education there is often continual one-to-one contact; education may take place outside normal 'school hours' and term time, and the type of educational activity can be varied and flexible. However, in taking a view about the suitability of education Southwark would expect to see that significant time was dedicated to the child's learning.
22. Parents may arrange for other people to tutor their child, though parents themselves continue to be responsible for the education provided. It is recommended that parents ensure that such people are qualified and suitable, including Disclosure and Barring Service (DBS) checks.
23. Parents may also arrange for their children to spend some of their time learning in group based settings. It is strongly recommended that parents ensure they make appropriate checks on any settings that they use, as there may be no external assurance that they comply with basic standards such as vetting staff and safeguarding children. Parents should be aware that an education provision that provides full-time education for five or more pupils of compulsory school age, or one or more such pupil who has an Education and Care Plan (EHC) or is 'looked after' by a local authority has to be registered with the DfE as an independent school. For this purpose, the DfE has stated that it considers any institution that is operating during the day, for more than 18 hours per week, to be providing full-time education (DfE, Registration of Independent School, 2019). Settings that meet this requirement and are not registered may well be operating illegally. Similarly children under eight years of age cannot be left at a setting for more than two hours per day unless that setting is registered with Ofsted.
24. Parents who elect to home-educate assume full financial responsibility for their child's education, including any costs of private tuition, courses and public examinations. This is different from the situation where the Local Authority is funding tuition for a child who is not able to attend school because of illness or other reasons.
25. Southwark Council does not provide funding for GCSEs if a child is receiving elective home education. Where a child is studying for GCSEs it is the parent's responsibility to identify exam boards and syllabus material and to prepare their child for the GCSE exams. Parents are responsible for meeting deadline dates and the costs for registering for the GCSE exams through the accredited centre.
26. In some circumstances Further Education Colleges can claim the cost of course fees directly from the Education Skills Funding Agency on an individual basis for home educated young people under 16, when parents and colleges are able to reach suitable individual arrangements. These individual arrangements are not brokered through the Local Authority but directly between parents and colleges.
27. Parents must comply with notices and orders served by Southwark Council under section 437 of The Education Act 1996, if it appears that parents are not providing a suitable education. This will apply where no evidence is provided by which the local authority is able to judge progress and that appropriate provision is in place.

School responsibilities

28. There is no legal requirement for parents to discuss home education with the school, however if a parent does approach the school it should help the parent to understand the implications of such a choice – including that the parents would be assuming full legal and financial responsibility for their child's education. If parents are considering home education because of a dispute with the school, the Local Authority would urge the school to actively attempt to resolve the issue. The school should signpost the parent to the Council's Pupil Tracking and Licensing Team for further advice about elective home education to enable them to make an informed choice.
29. Where a parent has expressed their intention to remove a child from school with a view to educating at home and other services are involved with the family, such as Children's Social Care, Family Early Help or SEND the Department for Education has recommended 'that LAs, schools, and other key professionals work together to coordinate a meeting with parents/carers where possible. Ideally, this would be before a final decision has been made, to ensure the parents/carers have considered what is in the best interests of each child' (Keeping Children Safe in Education, 2021).
30. Home education is not in itself a safeguarding concern. If a school does have safeguarding concerns about a child being withdrawn from school it should raise these directly with Southwark's Multi Agency Safeguarding Hub (020 7525 1921). Where there are no current safeguarding concerns, schools will be asked to share with the LA any recent concerns or risks they are aware of about the child that may impact on the suitability of home education.
31. 'Elective Home Education: guidelines for local authorities' (DfE, 2019) states that 'Schools should 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 relevant legislation and have regard to the statutory guidance. If the pupil has a poor attendance record, the school and, if appropriate, local authority should seek to address the issues behind the absenteeism and use the other remedies available to them.'
32. Persuading a parent to remove their child from the school to home educate their child may be seen as a form of off-rolling, defined by Ofsted as 'The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil'. Where Southwark has grounds for believing this has taken place, it will challenge the school and seek the child's reinstatement on roll when appropriate with parental consent. DfE 'Elective Home Education' guidance states that 'Local authorities should also consider informing Ofsted of schools where offrolling appears to be happening on a significant scale so that this can be looked into at the school's next inspection'.
33. When a school receives formal, written notice from a parent that a child is being withdrawn from school in order to be home-educated and the child has ceased to attend the school, the Headteacher must ensure that the pupil's name is removed promptly from the admissions register. In such circumstances the ground for deleting the child from the register would be that the school 'has received written notification from the parent that the pupil is receiving education otherwise than at school' - Education (Pupil Registration) (England) Regulations 2006 (as cited in DfE, Children Missing Education statutory guidance, 2016)
34. If no formal notice is received, and the child stops attending school, the school should instigate attendance processes.

35. Schools 'must notify the local authority when a pupil's name is to be deleted from the admission register' as soon as the pupil's name is removed from the register, and must provide information including full name, address and contact details for parents (DfE, School Attendance: guidance for schools, 2020). In Southwark this process is overseen by the Pupil Tracking and Licensing Team in Education, and schools are required to use an online form to report that a child has been deleted from or added to the school register: [Online form to report that a child has been added or deleted from school register](#)
36. The school must retain the child's school file. Parents can request a copy of this file from the school to assist them in planning their child's education.
37. If a parent decides that they wish their child to return to mainstream schooling they can apply for a place for their child at any time to any school outside of the normal admissions round and their application must be treated in the same way as any other. Where a child is vulnerable and/or hard to place (as defined in DfE, School Admission Code, 2021) they may be placed in a school via Southwark's Fair Access Protocol. Where a child meets the criteria for FAP and families have had difficulty in securing a school place, the Fair Access Panel will usually be expected to name the child's previous school for placement if within 12 months of the child leaving that school, unless there are clear reasons why this would not be in child's interests.

Local authority responsibilities

38. Southwark Council has a statutory duty, under section 436A of the Education Act 1996 to make arrangements to enable them to establish (so far as it is possible) the identities of children in their area who are not receiving a suitable education. This duty applies to all children of compulsory school age who are not on a school roll and do not appear to be receiving a suitable education other than being at school. In line with this duty 'local authorities must make arrangements to find out as far as possible whether home educated children are receiving suitable full time education' (DfE, Elective Home Education, 2019).
39. In providing oversight of home education, local authorities are expected to take a proportionate approach that recognises that most parents successfully take on the task of educating their children. The Department for Education recommends that Local Authorities make contact with home educating families on at least an annual basis, though there is no requirement to routinely meet with parents.
40. If after making enquiries it appears that a child of compulsory school age is not receiving a suitable education, Local Authorities have a duty to issue a notice requiring parents to satisfy them that the child is receiving such an education. If the parent fails to satisfy the local authority, a school attendance order may be issued requiring child to attend a named school (Section 437 of the Education Act 1996). Further details of the local process for this are set out in the Southwark Procedures section below.
41. The Local Authority role in relation to home education is part of its wider responsibilities to children in its area including safeguarding and promoting the fulfilment of children's learning potential (Education Act 1996).
42. Southwark maintains a register of children being electively home educated on its children's services database in order to meet its duty of recording that all children in its area are receiving a suitable education. It also uses this data to monitor trends in order to respond to changing needs. LAs are monitored by Ofsted on the arrangements they have in place 'to identify the number of children not in full-time school education and to respond if there are concerns about their welfare'. As part of an Ofsted inspection, the LA is required to share the 'information the local authority uses to monitor the welfare of electively home educated children, in particular

those children who are electively home educated and are either on a child protection plan, education, health and care (EHC) plan or are a child in need' (Ofsted, Inspection of Local Authority Children's Services, 2021)

Safeguarding Children

43. The welfare and protection of all children, both those who attend school and those who are educated at home, is of paramount concern and the responsibility of the whole community. Section 175 of the Education Act 2002 imposes a duty on the Local Authority to make arrangements for ensuring that the functions conferred on them are exercised with a view to safeguarding and promoting the welfare of all children resident in Southwark.
44. Department for Education statutory guidance on 'Keeping children safe in education' (2021) states that: 'Many home educated children have an overwhelmingly positive learning experience. We would expect the parents' decision to home educate to be made with their child's best education at the heart of the decision. However, this is not the case for all, and home education can mean some children are less visible to the services that are there to keep them safe and supported in line with their needs.
45. All Southwark staff involved with elective home education will follow Southwark Safeguarding Children Partnership procedures at all times and collaborate with relevant agencies and individuals to proactively safeguard and promote the welfare of children. In the event of any concerns about the welfare of a home educated child they will initiate and follow established safeguarding procedures which may include sharing information with GPs, health visitors and other health professionals in the interest of a child or young person.
46. The Elective Home Education Advisers will consult with Southwark's Multi Agency Safeguarding Hub where there are concerns about the welfare of a child or young person. Where a referral results the reasons for this will be explained to parents in accordance with referral procedures.
47. Where a child is being electively home educated and is subject to an assessment under Section 17 or Section 47 of the Children Act 1989, social workers will consider how the child's education arrangements impact on meeting the child's needs and any risks to the child. Southwark Elective Home Education Advisers are available to support the social worker in assessing the suitability of the education being provided as part of the assessment process.
48. Southwark's Multi Agency Threshold Guide sets out different levels of need that would meet the threshold for support from different children's services. It considers education as part of the developmental, family/environmental and parental factors impacting on a child's well-being and safety.
 - a. A failure to ensure a child receives suitable education is one potential indicator of a Level 3 Need, meeting the threshold for a Children's Social Care Section 17 Assessment.
 - b. Where a 'parent/carer disregards the needs for their child to engage in education, and will not engage with services' this is one indicator of a Tier 4 acute need requiring child protection
49. Where a child is subject to a child protection plan or child in need plan the suitability of home education will be considered within the context of the plan. On receipt of a notification that such a child is being home educated, the social worker should:
 - a. consider whether a strategy discussion is required

- b. assess where the risk to the child may have changed as a result of child being home educated;
 - c. make any necessary changes to protect the child and review plan at the next Child Protection Conference, Core Group or Child in Need meeting.
 - d. liaise with the allocated Elective Home Education adviser to assess the suitability of home education;
 - e. If education is deemed not suitable, agree actions to resolve this such as ensuring an in year application for a school place is made.
50. In the event of a case being closed/stepped down by children's social care while child remains home educated, the closure should detail how the parent will regularly engage with the Elective Home Education advisers to review the suitability of the education. Advisers may consult with MASH about re-referring case to children's social care if there are concerns that the child's needs are not being met.
51. The Pupil Tracking and Licensing Team will check the Mosaic system on a monthly basis to identify if any children who are being electively home educated have been opened to children's social care.

Children with Special Educational Needs and Disabilities

52. Parents' right to educate their child at home applies equally where a child has an Education, Health and Care (EHC) plan. Parents of any child subject to the statutory provisions of an EHC Plan who are considering whether to make their own arrangements should discuss this with their child's school SENCO and or the named EHCP Co-ordinator to ensure that they are fully aware of alternatives (amended provision and/or change of placement) and their SEN statutory rights of appeal.
53. Under Section 42 of the Children and Families Act (2014) the Local Authority is responsible for securing the specified special education provision within a child's Education Health and Care Plan, (EHCP). However in 'cases where the EHC plan gives the name of a school or type of school where the child will be educated and the parents decide to educate at home, the local authority is not under a duty to make the special educational provision set out in the plan provided it is satisfied that the arrangements made by the parents are suitable' (SEND Code of Practice, 2015).
54. Where a child or young person is a registered pupil the parent should notify the school in writing that he child or young person is receiving education otherwise than at school and the school must then remove the pupil's name from the admission register. However, the school should be minded that while they are named on the EHCP section 66 of the Children and Families Act imposes a duty on the appropriate authority to 'use its best endeavours to ensure that the special educational needs are met'. Where a child or young person is a registered pupil and the parent decides to home educate, schools should as good practice, call a meeting with the parents as soon as they are aware of this intention. If the school is a special school, the local authority must give consent for the child's name to be removed, but this should not be a lengthy or complex process.
55. In Southwark, assessment of the suitability of home education for children with an EHCP is the responsibility of the SEND service. The Local Authority has a duty to review Education, Health and Care (EHC) plans annually, following procedures set out in the 'SEND code of practice: 0 to 25 years'. In order to assess whether home provision is suitable for the special education needs of the child, parents will be asked to provide information regarding the home education provision. The Local Authority will only be relieved of its duty to arrange the provision specified in the child's EHC plan if it is satisfied that the parents' arrangements are suitable.
56. If the Local Authority is satisfied with the parents' arrangements the plan should make clear that the child or young person will be educated at home. The Local Authority will continue to

have a duty to maintain and review the EHC plan annually until it decides to cease the EHC plan; or the EHC plan is transferred to another Local Authority. Parents may also request advice and information from Southwark's EHE Advisers about educating their child.

57. Where it appears to the Local Authority that a child is not receiving education suitable to age, ability and aptitude and SEN, the process set out in the Southwark Procedures below will be followed. If the EHC plan remains in place, it will be maintained and reviewed annually and amended where appropriate.
58. A parent who is educating their child at home may ask the Local Authority to carry out a statutory assessment of their child's special educational needs and the Local Authority will consider the request within the same statutory timescales and in the same way as for all other requests.

Support, guidance and resources

59. Southwark Council will offer support in the form of:

- a. Signposting parents to resources and services, discussing methods of teaching, networking and advising on examinations.
- b. Publishing information about EHE that is clear, accurate and sets out the legal position, roles and responsibilities of both the Local Authority and parents.
- c. Discussing the implications of EHE with parents before they make the decision to leave or enter the school system
- d. Producing and distributing accurate written records of meetings with home educating parents and children.
- e. Promoting positive relationships with elective home education families based on mutual understanding, respect and trust in order to safeguard the educational interest of children.
- f. Referring to other agencies such as Family Early Help for support where appropriate.

60. Southwark Council and its partners provide a wide range of services to support children's learning, health and well-being which are open to home educating families. Information about many of these services is available at the Local Offer website: [Southwark local offer](#)

61. Parents who wish to apply for a school place for their child can do so at any time via the In Year Admissions process: [School-admissions/in-year-admissions web page](#)

Southwark procedures

Administration and initial contact

62. Within 10 days of confirmation from a school or a parent (where a child is not on roll of a school) that a child is being electively home educated, the Pupil Tracking and Licensing team will:
- a. ensure schools have provided all necessary information, including a copy of the parent's written confirmation of the child being withdrawn from school;
 - b. update the child's education records to reflect EHE and add to the Southwark list of children who are being electively home educated;
 - c. check Southwark systems to identify if the child is currently being supported by Children's Social Care or Family Early Help and if so notify the allocated practitioner;
 - d. send a letter acknowledging the parent's notification that they are electively home educating child, and introducing the parent to their assigned EHE Adviser

- e. request that the parent provides a plan setting out how they are educating their child.

Elective Home Education Advisers

63. Southwark employs Elective Home Education Advisers within the Education Access team to provide advice, support and where required challenge to home educating families.
64. After initial contact with the Pupil Tracking and Licensing Team as set out above, an Elective Home Education Adviser will make contact with the parent to offer a discussion regarding the parent's plans for the child's education at home and to signpost the parent to resources, advice and guidance. The aim of the discussion will be to initiate a positive and constructive relationship with parents.
65. Following initial discussion the EHE Advisers will maintain contact in order to confirm that education continues successfully and to offer support. This will include offering to meet with families as well as offering phone, virtual meeting or email contact. The frequency and format of contact will be determined by factors such as the Adviser or parents identifying concerns about the child's progress and the suitability of the education. Advisers will offer to meet all newly home educating families. They will also prioritise meetings with children currently open to Children's Social Care, seeking to meet with them at least once every six months.
66. Parents may exercise their right not to allow the Local Authority access to the home, the child, or the child's work. DfE EHE guidance for local authorities states that: 'Parents are under no duty to respond to such enquiries, but if a parent does not respond, or responds without providing any information about the child's education, then it will normally be justifiable for the authority to conclude that the child does not appear to be receiving suitable education and it should not hesitate to do so and take the necessary consequent steps'. Parents are not obliged to accept a visit from the Local Authority; however, they are encouraged to do so, and a meeting can be held at a mutually convenient time and place if the family prefer not to hold the visit in their home.
67. Following a meeting, the EHE Adviser will:
 - f. send a copy of the meeting report to the parent, allowing them the opportunity to ratify/amend the summary before it goes on file;
 - g. update the child's record on the Children's services case management system (Mosaic), including uploading meeting report as a case note.
 - h. notify the social worker, family early help practitioner, YOS worker or other allocated professional within Children's and Adults services, where relevant.
68. All home educating parents will be contacted at least once a year and asked to provide an update on the child's education. The Department for Education advises that 'where there were no previous concerns about the education provided and no reason to think that has changed because the parents are continuing to do a good job, such contact would often be very brief'.
69. Based on their observations, information provided by parents, and any other information available to them, EHE Advisers will identify if they have any concerns about the suitability of education being provided. They may make recommendations to parents about improving the education and check whether these result in positive change. Where there is no improvement and the Adviser believes that the education is unsuitable, this will be discussed with the parent. Where the parent agrees that they cannot currently provide a suitable education and wish the child to attend school the Adviser will support them in applying for a school place through the In Year Admissions process. Where further action is required the process below will be followed.

Where formal notice is required

70. If a parent, after informal enquiries, is unable to satisfy the local authority that they are providing a suitable education for their child, the Local Authority has a duty to take formal action. This includes situations where parents have refused to respond to the Local Authority, where as a result the only conclusion a local authority can reasonably come to is that the home education does not appear to be suitable. It also includes situations where information has been provided but the Local Authority remains concerned that education is not suitable.
71. Under s.437 (1) of the Education Act 1996, local authorities must act if it appears that parents are not providing a suitable education. This section states that: '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'.
72. A warning letter under section 437 (1) of the Education Act 1996 will be sent to parents notifying them that the local authority believes that their child is not in receipt of a suitable education. Parents will have 15 days from the serving of the letter to provide evidence that a suitable home education is in place for their child, or to confirm that they are making other arrangements such as enrolling the child in a school.
73. The local authority will consider the parent's response and any other relevant information available to it. Information provided by the parent should demonstrate that the education provided is suitable and address issues such as progression expected and achieved. It should not simply be a statement of intent about what will be provided or a description of the educational approach taken.

School Attendance Order process

74. If there is no response, or after considering information the local authority remains unsatisfied that a suitable education is being provided, the statutory process for issuing a School Attendance Order will be initiated by the Education Inclusion Team in the Family Early Help service following completion of a full Attendance and Inclusion consultation with a Senior Education Welfare Officer.
75. A School Attendance Order is an order issued under Section 437(3) of the Education Act 1996 which names a specific school at which parents must register their child. Southwark Council will identify a suitable school to name within a School Attendance Order through the Fair Access Panel, taking into account recommendation from Education Inclusion Team about what is required.
76. As a first step, a letter known as the Notice of Intention to Issue a School Attendance Order will be issued. This notice indicates the Local Authority's intention to formally order the parent to register the child at a school. It will identify school(s) the Local Authority deems suitable and allow the parent fifteen days to propose alternatives. If the parent does not respond, or does not make satisfactory arrangements elsewhere, the Local Authority may issue a School Attendance Order in accordance with its stated intention. Failure to comply with a SAO is a criminal offence for which the parent(s) can be issued with a penalty notice or prosecuted in the Magistrates' Court.
77. At any stage following the issue of a SAO, parents may present evidence to the Local Authority that they are now providing suitable education and apply to have the SAO revoked. If this is refused, parents can choose to refer the matter to the Secretary of State for Education. If, as a last resort, the Local Authority prosecutes parents for failure to comply with a SAO, the parents may be acquitted if they can prove that the child was receiving a suitable education otherwise

than at school at the time of the offence. If the parents are acquitted, the court may direct that the SAO shall cease to be in force.

78. If it transpires that information has been deliberately withheld from the Local Authority, and the parent is easily able to satisfy the court, the Council will 'seek legal advice about the prospect of obtaining a costs order against a successful defendant on the basis that the prosecution would have been unnecessary if not for the defendants' unreasonable conduct' (Department for Education, EHE Guidance for Local Authorities, 2019).
79. Failure to comply with the SAO will lead to court action, under section 443 Education Act 1996, for Breach of the SAO. Parent/carers will be liable to a fine of up to £1000. If upon completion of any court action following the Breach of a SAO, the child in question remains out of school and continues to be deemed a child missing from education, the Education Inclusion Team will be required to begin the SAO process again in the hope that parent/carer will choose to comply/engage with the process and enrol their child at a school or put a suitable home education in place.
80. The SAO process provides parents with several opportunities to satisfy the local authority that their child is in receipt of an education, either via attendance at a school or otherwise than at a school. The onus, throughout the process, is on parent/carers to be proactive in securing a school place OR evidencing a suitable education for their child.

Contacts

Pupil Tracking and Licensing Team, electivehomeeducation@southwark.gov.uk

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References

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- Department for Education (2019), [Elective home education: departmental guidance for parents.](#)
- Department for Education (2021), [School Admissions Code.](#)
- Department for Education (2016), [Children Missing Education: Statutory Guidance for Local Authorities](#)
- Department for Education (2021), Keeping Children Safe in Education: Statutory Guidance for Schools and Colleges
- [Ofsted \(2019\), Education Inspection Framework](#)

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