

## **Elective Home Education: Scrutiny Report** (September 2019)

### **Overview of Legislation**

**1.1** The 1996 Education Act (Section 7) made it explicit that education for children aged between 5 and 16 is compulsory but schooling is not. The legal duty placed on parents is to ensure the regular attendance of their child at school or to assume full legal responsibility for their educational provision known as '*Education Otherwise*'.

**1.2** DfE Guidance for EHE was drawn up in 2007 and has not been revised since despite the radical changes to the national educational landscape. The guidance emphasises that ***'parents should neither be encouraged nor discouraged by schools or local authorities to electively home educate'***.

**1.3** The Badman Report (2009) made a series of recommendations about EHE including a **requirement for parents/carers to register their child as EHE with their LA**. This and other recommendations were not implemented by the incoming coalition government in 2010. ***The Children's Commissioner for England recommended that all parents should register their child/children as being EHE.*** The DfE issued a national consultation document to all LAs during the Summer Term 2019 focusing on the desirability of requiring that parents should register as EHE with their LA. NELC strongly supports this recommendation.

**1.4** Parents who elect to home educate their child are required by law to provide ***'an efficient and full-time education which is suitable for their age, ability and aptitude including any special educational needs if relevant'***. Parents of children who are on roll at a special school do need to seek the agreement of the LA before the withdrawal from roll can proceed. The legal definition of '*efficient*' is that the education provided '*achieves what it sets out to achieve*'. For example, if parents provide an education which largely prepares their child to continue living within their immediate community then this can be viewed as '*suitable*'.

**1.5** Whilst the DfE Guidance refers to the desirability of a '*broad and balanced*' educational provision to prepare young people for their post 16 progression to further study, training and work, there is no requirement to follow the National Curriculum or for them to be prepared for national key stage tests or GCSE examinations. Neither is there any requirement for parents to assess their child's academic progress in similar ways to school assessment methods.

**1.6** The LA only has a legal power to intervene when it is clearly evident that parents are not providing a suitable education. However, **English case law does indicate that LAs are reasonably entitled to make '*informal enquiries*' to ascertain that a child is receiving a suitable education.**

**1.7** DfE Attendance Guidance (October 2014) explicitly states that ***'EHE should not be seen as a way of avoiding the use of fixed penalty notices and prosecution for persistent absence or behaviour sanctions – including permanent exclusion - by either schools or parents.'***

**1.8** In March 2013, the DfE confirmed that '*Flexi-Schooling*' can be agreed with parents at the discretion of an individual headteacher. The child remains on the school roll and the headteacher has the legal responsibility for reporting their attendance and achievement.

NELC does not have a formal monitoring role for any child who becomes 'flexi-schooled' but does offer information and guidance to parents, schools and partner agencies. No children are currently flexi-schooled in NEL.

## National Context

**2.1** There has been a significant increase in the levels of interest in EHE since 2016:

- The DfE, Children's Commissioner for England and the Regional Leads have requested data for EHE referrals by schools and academy trusts
- Ofsted Single Inspection Framework for LAs and data requests
- Association of Directors of Children's Services (ADCS) issued surveys in February 2016 and October 2017 & 2018 requesting statistical trend data and information from each LA. ***These are the first comprehensive national surveys in recognition that definitive EHE numbers across England and Wales are not known.***
- The data collected from the Autumn Term 2018 survey indicates that an historic high of at least 60,000 (45,000 estimate in October 2017) children & young people nationally are EHE. ADCS noted that 95% of respondents – including NELC - reported significant and sustained year-on-year increases in recent years. The cohort is very fluid with the survey suggesting between 35,819 and 49,154 children and young people were EHE at some stage during 2016-17 which represents a variation of 37% within the academic year. NELC and a majority of respondents reported that over 80% of their known EHE cohort had previously been on roll at one or more schools.
- The ADCS report has been shared with the DfE, Ofsted, the Children's Commissioner, the LGA and the Education Select Committee.
- A major NSPCC Report (2015) highlighted safeguarding concerns through citing incidences of EHE and Serious Case Reviews
- The National Association of EHE professionals was launched in February 2015 with representation from all the regional termly network meetings
- Significant increase in Freedom of Information requests for data and statistical trends
- Increased levels of interest from national and regional journalists and subsequent media coverage (*Channel 4 Dispatches Investigation: 04.02.2019*).
- The Home Education (Duty of Local Authorities) Bill (2017) was introduced in June 2017 and received its second reading in November 2017.
- DfE Consultation for both LA's and EHE families in the Summer Term 2018: ***still awaiting new Guidance***

**2.2** A central government Education Select Committee (December, 2012) identified 3 recommendations:

- i) Local Authorities should continue to provide support for children with Education, Health & Care Plans (EHCP)
- ii) The provision of registered exam centres for students to take public exams
- iii) Access to 14-16 provision offered by sixth form or further education colleges

*The Select Committee did not include safeguarding in relation to EHE within its remit.*

## NELC Context

The EHE data clearly indicates that the sustained upward trend in EHE numbers is not exclusive to NELC. The LA faces similar challenges to the national context in relation to:

- the limitations of the 2007 legislation
- significant concerns about off-rolling
- the level of autonomy of academies
- acute capacity issues in relation to the frequency of the monitoring visits which can be arranged.

**3.1 Ofsted** (July/August 2017) commended our good practice in the final report: ***effective and clear procedures are in place to support children and their families***. Although not recorded in the report, the inspector commented on '*the high numbers for a relatively small unitary LA*'.

**3.2** Discussions with DfE and Regional Schools' Commissioner with follow-up data returns on EHE requests at individual school and multi-academy trust levels.

**3.3 LSCB** focus on EHE:

- Quarterly data monitoring reports
- Turning the Curve Exercise in May 2016
- Audit of EHE children with Single Assessments, CIN or CP Plans: the EHE Audit Task & Finish Group has made a series of recommendations. The Audit Team is following up the progress of these for Scrutiny.

#### **3.4 Scrutiny Panels & follow-up 'closed' workshop**

Elected Members expressed the following concerns:

- Given the magnitude of the decision and the potential consequences for children & young people, concern was highlighted as to the relative 'ease' with which a parent can elect to home educate their child on the basis of a signed letter requesting withdrawal from a school roll.
- The balance of legal rights and responsibilities for parents and the council respectively
- The right of children and young people to receive an education
- The standards of EHE being provided by parents and the LA's monitoring arrangements to assess the suitability of provision
- Outcomes for young people at age 16: the Adviser emphasised that the only outcome which could be 'measured' is in the form of post 16 destination data monitored by the Young People's Support Service. YPSS information, advice and guidance – at an individual level through home visits - significantly reduces the risks of young people becoming NEET.

**Actions:**

1. Portfolio Holder: letter sent to the Secretary of State requesting that consideration be given to changes in legislation. *She received a generic reply acknowledging the increase in EHE numbers nationally.*
2. Scrutiny Panel members receive the LSCB Quarterly EHE Monitoring Report
3. EHE capacity to be considered as part of the Phase 2 Review of Education Services

***The newly formed Inclusion Service has created the key role of Lead Inclusion Officer. This includes the responsibility to further improve EHE monitoring.***

#### **Other local updates:**

0–19 Phase One has impacted on EHE support and delivery systems. The Schools' Nursing Service and YPSS no longer have a designated EHE lead. Instead several professionals from both services contribute to monitoring and support roles on a locality basis. Four YPSS personal advisers provide support to Year 11 EHE enabling them to plan their post 16 progression routes. This direct intervention and support minimises the risk of EHE young people becoming NEET and contributes positively to the NELC's commitment to promote learning and skills for all young people.

***10 young people are taking GCSE exams as external candidates in May & June 2019.***

***A growing number of Year 11 EHE attend supported online literacy & numeracy sessions at Grimsby Institute's Learning Centre.***

#### **4.2 Fair Access Protocol**

Since September 2017, an increasing number of referrals were for young people who were previously EHE. All these young people have accessed appropriate educational provision either in mainstream schools, PRUs or personalised tuition. The FAP referrals have been invoked when a parent has been declined places at local academies following the completion of applications using In Year Admissions and Appeals procedures.

**4.3 School Attendance Orders (SAO):** to develop an agreed protocol for academies to be named on a SAO so it can proceed to Legal Services and become a Court Order.

#### **NELC Policy & Procedures**

**5.1** NELC's EHE Policy was revised in January 2016 (following consultations with social care senior managers) to emphasise more clearly the fundamental importance of safeguarding. It highlights how – for the overwhelming majority of children - attending school is the most effective way to achieve a rounded educational experience and minimise the risks linked to social exclusion and invisibility from professionals.

**5.2** NELC does recognise that parents/carers have a legal right to electively home educate their child and officers seek to work in partnership with families in a positive and supportive way. Parental consent and partnership working are central at all stages of the EHE process. The policy refers to home visits and reports as education reviews rather than *inspections*.

**5.3** In the limited time available during an individual visit, officers read a sample of the child's work which will, ideally, provide consistent evidence that a broad and balanced learning programme has been planned and achieved. Reports are completed following home visits. The format covers National Curriculum areas of learning as well as opportunities for social interaction. It includes a judgement about the suitability of the educational provision as well as offering advice and recommendations.

**5.4** Unsuitable provision is challenged through discussion and interim visits are arranged with recommendations for improvement. If the education remains unsuitable, a return to school is recommended as the most supportive and timely way of addressing the concerns. For families who are unable to provide a suitable education (and where a parent is unwilling to support their child's return to a school through universal admissions, appeals procedures and/or via the Fair Access Protocol) the local authority should seek advice from Legal Services regarding the use of a School Attendance Order. Experience indicates that – in practice – this is a protracted and adversarial process.

**5.5** When parents/carers withdraw their child from a school roll they are required by law to send a signed letter to the head teacher stating their intention to take full legal responsibility for their education (known as '*education otherwise*'). The school notifies the LA Admissions Team through returning Leaver's Form SA5 including the parental letter.

**5.6** At this stage the Education Welfare Service (EWS) contacts the parents to arrange the initial home visit. The focus is to issue and explain information about the legal responsibilities of parents as well as to discuss how they will plan educational provision. A questionnaire is issued to support this discussion.

**5.7** The overwhelming majority of families consent to the initial welfare visit although the LA cannot insist that it takes place. A minority of these visits and subsequent education reviews (following parental request) take place at an alternative venue such as a children's centre or library. The LA can request but cannot insist that:

- A visit, meeting or discussion will take place or that it is held in the family home
- The child will be present and contribute to the discussion about their learning

Where parents/carers refuse a home visit – or a meeting at a 'neutral' venue – the LA can request (but not insist) that parents/carers provide information in other ways including:

- A statement of their educational philosophy
- A written report or self-assessment
- A report provided by a third party

**5.9** Current and accurate data on the EHE cohort is recorded on Capita and accessed by a range of officers. The EWO with responsibility for EHE opens new referrals and closes the cases for children who return to school or when we are informed that families leave the area. To support this recording and auditing process, there is close liaison with the LA admissions service which also has responsibility for tracking children missing from education (CME).

## **Data and Key Issues to Note**

Prior to 2012, **typically there were 50-55 children in NEL who were known to be EHE.** The sustained increase in referrals began during the Spring Term 2012 and numbers have continued to rise to the **current 184.** All the trend data clearly indicates that the number will continue to increase. At the end of June 2019, there were 207 on the database.

Before 2012, the majority of parents elected to home educate for philosophical, religious or cultural reasons. However, up to 40% of referrals in recent years are primarily based on families reporting high anxiety levels and/or school phobia. High numbers of these children were referred to CAMHS when on roll at school. An increasing number become EHE following the transition from primary to secondary education when parents/carers allege that the academy is not able to provide the level of personalised social or emotional support sustained through the child's primary school years.

<b>Reasons provided by parents</b>	<b>Percentage</b>
Anxiety/Emotional Health related issues	35 %
School Attendance/Behaviour issues	24 %
Alleged Bullying	15 %
Philosophical/Ideological	14 %
Religious/Cultural	9 %
Medical reasons impacting on learning	3%

***EHE Numbers (13.09.2019) are subject to continual change***

<b>Characteristics</b>	<b>Numbers</b>
SEN Support (when at school)	50%
Education, Health & Care Plans	5
Children who have never been to school	15 - 20
Gender	60% boys
Key Stage 1: Reception to Year 2	21
Key Stage 2: Years 3 - 6	30
<b>Primary cohort</b>	<b>51</b>
Key Stage 3: Years 7 - 9	49
Key Stage 4: Years 10 & 11	71
<b>Secondary cohort</b>	<b>120</b>
<b>Total EHE cohort</b>	<b>171</b>

Following an EHE referral, the EWO complete initial checks with the school and Capita database to identify any other agencies working with the child/family. Where appropriate, the potential safeguarding concerns, risks linked to social isolation and invisibility from professionals are discussed with colleagues in children's social care.

<b>EHE cohort with Children's Services Involvement</b>	<b>Key Stage</b>	<b>Number</b>	<b>Total</b>
<b>Single Assessment/Early Help</b>	1	0	5
	2	0	
	3	3	
	4	2	
<b>Child in Need</b>	1	0	1
	2	0	
	3	0	
	4	1	
<b>Child Protection</b>	0	0	0
<b>Looked After Children</b>	0	0	0

Effective information sharing between LA services and partners across NEL leads to integrated support depending on the assessed needs of the individual child/family. These include the following:

- Single Assessment plans and reviews
- Early Intervention & Prevention with access to children's social care services
- Families First Practitioners
- YPSS Advisers for 14-16 year olds to ensure the risks of EHE young people becoming NEET are minimised through post 16 planning and support.
- SENART, SENDIASS and NEL Parent Participation Forum: typically, 50% of EHE children/young people were placed at SEN Support prior to being withdrawn from their previous school

#### **Developments:**

1. YPSS: significant involvement to avoid young people becoming NEET at 16 +
2. Complex Case Pathway involving a senior social worker from CASS
3. One Secondary Academy is trialling a 'cooling offer' period during which parents can re-enrol their son/daughter
4. Differentiated home visits and levels of support ?

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