



Department
for Education

Elective Home Education Guidance Review

Government consultation

Launch date 26 October 2023

Respond by 18 January 2024

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Introduction

Elective home education (EHE) is a term used to describe the practice of parents to provide or arrange education for their children at home, or at home and in some other way they choose, instead of choosing to send their child to school full-time.

The purpose of this consultation is to seek views about proposed changes to the Department for Education's EHE guidance for local authorities and parents, which was last reviewed in 2019.

About this consultation

This consultation document seeks views on revised versions of the Department for Education's non-statutory EHE guidance for local authorities¹ and parents. These guidance documents are a vital resource for parents and local authorities to help them understand their respective roles in relation to EHE.

The changes made to our guidance documents are with the aim to help parents and local authorities better understand what they are required to do and what should be done to ensure all children receive a suitable education. The proposed changes are intended to: improve the clarity of the EHE guidance for local authorities and parents to promote greater accessibility and transparency of the process; encourage a more collaborative approach between local authorities and home educating parents; and focus more on available support.

The Department has worked closely with stakeholders to develop this revised, draft guidance, engaging with home educators, representatives from the EHE community, and local authorities. The consultation asks questions about the changes we are proposing to a broader audience and whether these changes achieve our aims. The responses to this consultation will inform the final version of EHE guidance for local authorities and parents.

Who this is for

- Parents, especially those who educate their child otherwise than at a school (e.g. EHE)
- Local authorities
- Children who are educated otherwise than at a school
- Settings which provide education to children who are in receipt of EHE

¹ Throughout the consultation, reference to "guidance" will refer to both local authority and parents guidance documents unless otherwise specified.

- Schools and colleges
- Other organisations with an interest in EHE

Issue date

The consultation was issued on 26 October 2023.

Enquiries

If your enquiry is related to the policy content of the consultation you can contact the policy team by email:

electivehomeeducation.consultation@education.gov.uk

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: Consultations.Coordinator@education.gov.uk or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in Spring 2024.

How to respond

Respond online

To help us analyse the responses please use the online system wherever possible. Visit [DfE consultations on GOV.UK](#) to submit your response.

Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may request and complete a Word document version of the form.

By email

electivehomeeducation.consultation@education.gov.uk

By post

EHE guidance review, Non-School Education Division
Department for Education
Sanctuary Buildings, Great Smith Street
London SW1P 3BT

Deadline

The consultation closes on 18 January 2024.

Section 1: About you

1. In what capacity are you responding?

- On behalf of a local authority
- As a parent/carer of a child not registered at a school or college (e.g., home educated, non-school AP settings, etc.)
- As a parent/carer of a child registered at a school or college (e.g., mainstream school or college, alternative provision schools, or independent schools)
- As a child/young person
- On behalf of a school or college
- On behalf of a out-of-school education provider (e.g., tutoring organisation, supplementary education etc.)
- On behalf of a charity / voluntary or community organisation
- Prefer not to say
- Other – please specify (max. 10 words)

2. Please specify your local authority (if you are a parent or child, provide the local authority in whose area you live; if you are a professional, please provide the local authority in whose area you work.

[Insert list of all local authorities]

[Prefer not to disclose]

Section 2: Proposed changes to the elective home education (EHE) guidance for local authorities and parents

The Government respects the right of all families to home educate where it is done in the best interests of the child. Section 7 of the Education Act 1996 sets out that responsibility for children's education rests with their parents. Should parents not wish to send their child to a school, post-16 institution or alternative provision, they can make other suitable arrangements in the form of EHE. The EHE must be efficient, full-time, and suitable, according to the age, ability and aptitude of the child, and to any special educational needs (SEN) they may have.

Local authorities have a legal duty to make arrangements to identify children not registered at schools who are not receiving suitable education, and to act if it appears that a child is not in receipt of suitable education.²

The Government aims to support parents and local authorities secure an effective and suitable education for all children through improved EHE guidance that will help them to carry out their duties with more ease and accuracy. We are proposing changes to the EHE guidance that will provide greater clarity on concepts and processes relating to EHE and best practice.

Since the guidance was last reviewed in 2019 there have been several developments that are important to consider as part of the review, including the outcome of the *Goodred v Portsmouth City Council* judicial review;³ the growing number of parents who are electing to home educate their children, with significant increases seen over the course of the Covid-19 pandemic,⁴ and the Children Not in School consultation response and continued commitment to legislate for a form of registration for children not in school.⁵ The changes in the guidance also aim to promote a more positive relationship between local authorities and home educators. The Department has had several engagements with local authorities and the EHE community throughout the

² Local authorities have a statutory duty under section 436A of the 1996 Act to make arrangements to enable it to confirm the identities, as far as possible, of children in its area who are not receiving a suitable education. Section 437 of the same Act sets out the actions required of local authorities if education appears not to be suitable.

³ *R (Goodred) v Portsmouth City Council* [2021] EWHC 3057 (Admin) (16 November 2021)

⁴ The Association of Directors of Children's Services (ADCS) annual [elective home education surveys](#) showed that child numbers increased from 37,500 in 2016 to 81,196 in 2021, which includes a large increase of 38% between 2019 and 2020 due to the Covid pandemic. The Department has also published aggregate [data on elective home education](#) which was requested from local authorities. Authorities reported an estimated 80,900 children in home education on Autumn 2022 census day.

⁵ [Children Not In School Consultation Response](#)

process of reviewing the EHE guidance, and we have taken on board the feedback received at these engagements to produce the current draft of our guidance documents.

The key themes of our proposed revisions to the EHE guidance for local authorities and parents are as follows:

- Ensuring a parent's right to home educate their children, and respect for this choice, is reflected throughout the guidance
- Providing further clarity on the elements of 'suitable education' and informing local authorities how these elements could be considered when establishing whether education appears suitable
- Providing further clarity on the process of preliminary notices and School Attendance Orders (SAOs)
- Providing improved clarity on EHE-related responsibilities should a child have SEN or a Disability (SEND)
- Guidance on how to provide further support to home educating parents.

Questions on the tone and overarching content of the EHE guidance for local authorities and parents, including consideration of people’s protected characteristics

Proposal and rationale

We have worked to ensure that the right of parents to home educate their children is reflected throughout the EHE guidance for local authorities and parents, and that the guidance encourages local authorities to respect this right. We would like to promote positive relations between parents and local authorities and believe that emphasising the positive nature of EHE throughout the guidance, where appropriate, will allow for an improved understanding between the two parties.

Furthermore, we want to ensure that all protected characteristics are fairly considered in the guidance to ensure no group is unfairly disadvantaged by the revised guidance. Under the Equality Act 2010, the public sector equality duty⁶ requires public authorities to have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The ‘protected characteristics’ for the purpose of this duty are:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership (although this is only ‘relevant’ in relation to eliminating unlawful discrimination, harassment and victimisation)
- Pregnancy and Maternity
- Race (including ethnicity, nationality and national origin)
- Religion or belief
- Sex
- Sexual orientation

Question 1.1. Does the guidance convey positively the Government’s position of supporting the parent’s right to elect to home educate?

Answer 1.1.1. Strongly agree

Answer 1.1.2. Somewhat agree

⁶ [Public Sector Equality Duty](#)

Answer 1.1.3. Neither agree nor disagree

Answer 1.1.4. Somewhat disagree

Answer 1.1.5. Strongly disagree

Question 1.2. Does the guidance convey the flexible nature of EHE and respect for different education methods and pedagogies?

Answer 1.2.1. Strongly agree

Answer 1.2.2. Somewhat agree

Answer 1.2.3. Neither agree nor disagree

Answer 1.2.4. Somewhat disagree

Answer 1.2.5. Strongly disagree

Question 1.3 Does the guidance consider relevant protected characteristics and ensure none are disadvantaged by the revised guidance?

Answer 1.3.1. Strongly agree

Answer 1.3.2. Somewhat agree

Answer 1.3.3. Neither agree nor disagree

Answer 1.3.4. Somewhat disagree

Answer 1.3.5. Strongly disagree

Question 1.4. Do you have any comments regarding the tone or general content of the guidance, including consideration of protected characteristics or further information that illustrates your answers above?

Answer 1.4.1. If you wish to, please provide any comments, to further expand on or explain your responses to the questions in this section. If your answer is no, please leave this blank.

Questions on the EHE guidance for parents

Proposal and rationale

We propose to keep separate EHE guidance for parents as we believe this provides a more simplified and straightforward guidance document for parents, thus, promoting greater accessibility and transparency. We have worked to simplify the language describing concepts and processes relating to EHE in the parents' guidance, to provide further clarity and help avoid misunderstandings between local authorities and home educators. In the parents' guidance, we have also included references to relevant sections within the local authority guidance for those looking for additional information.

Question 2.1. Is the EHE guidance for parents clear and easy to understand?

Answer 2.1.1. Strongly agree

Answer 2.1.2. Somewhat agree

Answer 2.1.3. Neither agree nor disagree

Answer 2.1.4. Somewhat disagree

Answer 2.1.5. Strongly disagree

Question 2.2. Would there be value if there was an additional short (one- or two-sided) document for parents summarising the key points for parents to be aware of should they wish to home educate?

Answer 2.2.1. Strongly agree

Answer 2.2.2. Somewhat agree

Answer 2.2.3. Neither agree nor disagree

Answer 2.2.4. Somewhat disagree

Answer 2.2.5. Strongly disagree

Question 2.3. Is the complaints process, as outlined in the guidance, clear?

Answer 2.3.1. Strongly agree

Answer 2.3.2. Somewhat agree

Answer 2.3.3. Neither agree nor disagree

Answer 2.3.4. Somewhat disagree

Answer 2.3.5. Strongly disagree

Question 2.4. Please provide further details of any sections within the guidance for parents that need to be simplified further or further information that illustrates your answers above?

Answer 2.4.1. Please specify sections within the guidance you would like further clarity. If you feel there are no sections that need further simplification, please leave blank.

Question 2.5. It is vital that the parent guidance is consistent with the local authority guidance. If you believe there to be any inconsistencies between the two documents, then please detail these below.

Answer 2.5.1. Please provide details of any inconsistencies between the local authority and parents guidance. If you feel there are no inconsistencies, please leave blank.

Question 2.6. If you know of local authority EHE guidance which you believe to be good practice, please provide details so it can be considered for inclusion as an example of good practice in the guidance.

Answer 2.6.1. Please provide details of good practice in EHE. If you have no comments for this section, please leave blank.

Questions on 'suitable education'

Proposal and rationale

Parents have a duty under section 7 of the Education Act 1996 to ensure the provision of efficient, full-time, suitable education for their child of compulsory school age, either at school or otherwise (e.g. EHE). A suitable education is one that is suitable to a child's age, ability, aptitude and SEN. Under section 436A of the 1996 Act, local authorities are required to make arrangements to identify children who are not registered at a school and are not receiving suitable education. Section 437 of the 1996 Act sets out what a local authority needs to do should a child appear not to be receiving a suitable education; where it appears to a local authority that a child is not receiving a suitable education, they must commence the school attendance order process by issuing a preliminary notice.

Parents therefore must make sure their child receives a suitable education, and local authorities have duties to try to ensure that this is the case. Setting out what makes a suitable education is therefore a vital element of the EHE guidance. We do not seek formally to define 'suitable education' as we understand that each EHE case is unique and local authorities should consider individual circumstances when assessing suitability. However, we have made several edits to the guidance to aid in the understanding of suitable education and how to ensure its provision. The following are some key revisions to the guidance on suitable education:

- The guidance now separates out the processes for how local authorities decide whether a child appears to be receiving suitable education and what should be done when education appears unsuitable. It makes clearer that formal proceedings should only commence when a child appears not to be receiving suitable education.
- At the informal enquiries stage, we encourage local authorities to let parents know what concerns they have about the home education. This is so that parents are aware of specific areas for improvement and enable appropriate action to be taken to resolve issues.
- More emphasis is placed on the importance of considering the approach to literacy and numeracy, when making a judgement on suitability, to ensure progress is being made and that certain standards are being met, whilst noting allowances for a child's aptitude that may be above or below peers. This is because ensuring that a child is able to read and write, and that they are confident using maths, are vital components to them being able to lead an independent life in the United Kingdom.
- Stronger acknowledgement of different EHE methods and pedagogies, and making clear that local authorities should not assume that education is

unsuitable, where it does not follow conventional school practices. Parents have a right to educate their child as they see fit, providing it is suitable.

Question 3.1. Does the guidance clearly set out the factors that should be considered when assessing whether education appears suitable?

Answer 3.1.1. Strongly agree

Answer 3.1.2. Somewhat agree

Answer 3.1.3. Neither agree nor disagree

Answer 3.1.4. Somewhat disagree

Answer 3.1.5. Strongly disagree

Question 3.2. Is it helpful to provide separate sections on (i) how local authorities decide whether a child appears to be receiving suitable education and (ii) what to do when it appears that suitable education is not being received?

Answer 3.2.1. Strongly agree

Answer 3.2.2. Somewhat agree

Answer 3.2.3. Neither agree nor disagree

Answer 3.2.4. Somewhat disagree

Answer 3.2.5. Strongly disagree

Question 3.3. Is the guidance clear on what is considered a proportionate level of engagement between local authorities and parents when establishing whether home education appears to be suitable as part of the informal process?

Answer 3.3.1. Strongly agree

Answer 3.3.2. Somewhat agree

Answer 3.3.3. Neither agree nor disagree

Answer 3.3.4. Somewhat disagree

Answer 3.3.5. Strongly disagree

Question 3.4. Do you have any comments regarding how suitable education is outlined in the guidance or further information that illustrates your answers above?

Answer 3.4.1. If you wish to, please provide any comments to further expand on or explain your answers to the questions in this section. If your answer is no, please leave this blank.

Questions on Preliminary Notices and School Attendance Orders (SAOs)

Proposal and rationale

We have made changes to the guidance that clarify the formal process of assessing and establishing suitability of the education provided, and how it is distinct from the informal process. We want both parents and local authorities to be clear on the system of engagements and enquiries relating to the SAOs process, including preliminary notices (section 437(1) of the Education Act 1996), to help avoid misunderstandings during the process. We hope that an improved understanding of these processes will ensure a more consistent approach by local authorities and allow parents to better engage through the systems in place.

Question 4.1. Does the guidance make clear when and for what reason a preliminary notice must be issued?

Answer 4.1.1. Strongly agree

Answer 4.1.2. Somewhat agree

Answer 4.1.3. Neither agree nor disagree

Answer 4.1.4. Somewhat disagree

Answer 4.1.5. Strongly disagree

Question 4.2. Is the guidance clear why and at what stage a SAO must be issued?

Answer 4.2.1. Strongly agree

Answer 4.2.2. Somewhat agree

Answer 4.2.3. Neither agree nor disagree

Answer 4.2.4. Somewhat disagree

Answer 4.2.5. Strongly disagree

Question 4.3. Does the guidance clearly set out the process for SAO revocation?

Answer 4.3.1. Strongly agree

Answer 4.3.2. Somewhat agree

Answer 4.3.3. Neither agree nor disagree

Answer 4.3.4. Somewhat disagree

Answer 4.3.5. Strongly disagree

Question 4.4. Do you have any comments regarding what the guidance says about preliminary notices and SAOs or further information that illustrates your answers above?

Answer 4.4.1. If you wish to, please provide any comments to further expand on or explain your responses to the questions in this section. If your answer is no, please leave blank.

Questions on Special Educational Needs and Disabilities

Proposal and rationale

We want the updated EHE guidance to be a source of support for all EHE families, including those who have children with Special Educational Needs and Disabilities (SEND). Therefore, we have made changes to provide clearer and more accurate guidance on SEND with regard to EHE. This includes more focus on advice and support for parents and carers of children with SEND; clarification on processes and practices relating to Education, Health and Care (EHC) plans; and information about how EHE differs from other forms of Education Otherwise Than At School (EOTAS), such as that arranged by a local authority in accordance with an EHC plan. The guidance has also been updated to ensure more cohesion with the [SEND code of practice: 0 to 25 years](#).

Question 5.1. Is the guidance clear on the difference between EHE and EOTAS that is arranged by a local authority in accordance with an EHC plan?

Answer 5.1.1. Strongly agree

Answer 5.1.2. Somewhat agree

Answer 5.1.3. Neither agree nor disagree

Answer 5.1.4. Somewhat disagree

Answer 5.1.5. Strongly disagree

Question 5.2. Are you clear on how the law and guidance applies when a child with an EHC plan is or will be electively home-educated?

Answer 5.2.1. Strongly agree

Answer 5.2.2. Somewhat agree

Answer 5.2.3. Neither agree nor disagree

Answer 5.2.4. Somewhat disagree

Answer 5.2.5. Strongly disagree

Question 5.3. Do you have any comments regarding SEND in relation to EHE or further information that illustrates your answers above?

Answer 5.3.1. If you wish to, please provide any comments to further expand on or explain your responses to the questions in this section. If your answer is no, please leave blank.

Questions on support for EHE parents

Proposal and rationale

The updated guidance for local authorities places more focus on *potential* support options for EHE parents. It continues to be the case that, in choosing to home educate, EHE parents assume full financial responsibility for their child's education. However, we recognise that providing full-time, efficient and suitable education at home is not an easy undertaking. We have, therefore, tried to provide guidance to local authorities on possible ways they may wish to consider offering support to parents of EHE children.

While the decision to offer support remains at the discretion of the local authority, the Department makes the following recommendations. Local authorities should:

- Have an EHE statement/policy that sets out the process to establish whether a child appears to be receiving suitable education, and subsequent steps if it appears not to be so parents are clear about the local process
- Have an EHE page on the LA website so that parents can easily access information and be signposted to specific support that may be available in their local authority area
- Maintain voluntary registration schemes so local authorities have the necessary information to undertake their responsibilities and so that support can more readily be made available to EHE families who wish to receive it
- Contact parents at least annually to check the progress of EHE provision. There may be occasions where more frequent engagement is deemed necessary, and the guidance reiterates that contact can be brief when a local authority is confident that education is suitable and little has changed
- Seek to build positive relationships with their local EHE community, including by having clearer communication points for home educators

Question 6.1. Does the guidance provide sufficient information on potential support that could be offered to home educators?

Answer 6.1.1. Strongly agree

Answer 6.1.2. Somewhat agree

Answer 6.1.3. Neither agree nor disagree

Answer 6.1.4. Somewhat disagree

Answer 6.1.5. Strongly disagree

Question 6.2. Do the recommendations for support encourage positive relations between parents and local authorities?

Answer 6.2.1. Strongly agree

Answer 6.2.2. Somewhat agree

Answer 6.2.3. Neither agree nor disagree

Answer 6.2.4. Somewhat disagree

Answer 6.2.5. Strongly disagree

Question 6.3. Do you have any comments regarding support for parents in the EHE guidance or further information that illustrates your answers above?

Answer 6.3.1. If you wish to, please provide any comments to further expand on or explain your responses to the questions in this section. If your answer is no, please leave blank.

Questions on case studies

Proposal and rationale

We have updated the EHE guidance for local authorities to include case studies on EHE topics that can sometimes cause misinterpretation and result in queries being raised to the Department. Through these case studies, we have tried to clarify a few factors within the process of EHE, including:

- What is considered sufficient information for parents to provide to local authorities, in order to help them determine whether a child appears to be receiving suitable education
- What is considered a proportionate level of engagement between parents and local authorities
- Helping local authorities consider the different approaches to EHE provision aside from 'school-at-home'
- Navigating the informal process of establishing whether a child appears to be receiving suitable education.

Question 7.1. Have you found the inclusion of case studies in the EHE guidance for local authorities helpful?

Answer 7.1.1. Strongly agree

Answer 7.1.2. Somewhat agree

Answer 7.1.3. Neither agree nor disagree

Answer 7.1.4. Somewhat disagree

Answer 7.1.5. Strongly disagree

Question 7.2. Are there other issues you would like to see us address through case studies or further information that illustrates your answer above?

Answer 7.2.1. Please provide details of case studies you would like to see included in the EHE guidance. If your answer is no, please leave blank.

Questions on safeguarding

Proposal and rationale

We have provided more information on elements of safeguarding in the EHE guidance, in line with updates to other departmental policy documents since the publication of the 2019 guidance. However, we want the guidance to be clear that EHE should not inherently be considered a safeguarding matter.

Our updated guidance includes:

- Further information on what local authorities and parents need to consider when out-of-school settings, informal groups of home educators and unregistered independent schools are used as part of home educating arrangements, including how parents and local authorities can help assure themselves of the safety of these settings
- Further guidance on work experience and employment, including safeguarding considerations and the legal limitations with regard to work experience when children are being home educated.

Question 8.1. Do the changes made to the guidance give you an improved understanding of out-of-school settings, informal groups of home educators, and unregistered independent schools?

Answer 8.1.1. Strongly agree

Answer 8.1.2. Somewhat agree

Answer 8.1.3. Neither agree nor disagree

Answer 8.1.4. Somewhat disagree

Answer 8.1.5. Strongly disagree

Question 8.2. Does the guidance clearly set out the rules and expectations in regard to EHE children and work experience and child employment?

Answer 8.2.1 Strongly agree

Answer 8.2.2. Somewhat agree

Answer 8.2.3. Neither agree nor disagree

Answer 8.2.4. Somewhat disagree

Answer 8.2.5. Strongly disagree

Question 8.3. Do you have any further comments related to safeguarding in the EHE guidance or further information that illustrates your answers above?

Answer 8.3.1. If you wish to, please provide any comments to further expand on or explain your answers to the questions in this section. If your answer is no, please leave blank.



Department
for Education

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