

DRAFT



Department  
for Education

# **Elective home education**

**Draft departmental guidance for parents**

**October 2023**

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## About this departmental guidance

This is departmental guidance from the Department for Education. It is non-statutory and has been produced to help parents to understand their obligations and rights in relation to elective home education.

This parental guidance and the parallel guidance for local authorities have been developed with input from a group of home educating parents, representatives from the home educating community, and local authorities through informal consultation and a series of roundtables. We are grateful for the valuable feedback and contributions from this group, which have been used to inform the updates to both sets of guidance, and to try and make clearer the respective responsibilities of parents and local authorities, as well as parental rights, in relation to elective home education.

## Review date

This guidance will next be reviewed by xxxxx 2026.

## Audience

This guidance is for parents, especially those educating children at home or considering doing so.

Parents may also find it useful to consult the local authority version of the Department's guidance on elective home education, published alongside this document.<sup>1</sup>

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<sup>1</sup> [Elective home education guidance](#)

## Introduction

The Government's priority is to level up education standards so that children and young people in every part of the country are prepared with the knowledge, skills and qualifications they need to reach their potential, and to live a more fulfilled life; and for education to be provided in a safe environment, whether that be at school or at home.

You, as parents, have a right to educate your child at home, and it works well when it is a positive choice and carried out in a way that meets the needs of your child. Elective home education (EHE) is not of itself a safeguarding risk and most parents will provide suitable efficient full-time education to their children; however, this is not the case for everyone. Local authorities have fed back to the Department that growing numbers of children are receiving unsuitable education at home. (Hereafter, unless indicated otherwise, "suitable education" will be used as shorthand to include all elements of section 7 of the Education Act 1996: suitable, efficient, and full-time. (See [Chapter 2](#) for more information on section 7)).

This guidance (and the parallel local authority guidance) is intended to help you, as parents, who have chosen to home educate or are thinking of doing so to understand what your responsibilities are and; how those fit with the role of the local authority; and to support you to home educate your child well. If you are in a position where you are educating your child at home but would prefer not to be doing so – or feel pressure to start educating your child at home, but know this will present difficulties – the guidance aims to set out what you need to consider and when you should seek help.

It is important for you to understand, from the beginning, the amount of work that needs to go into meeting your legal obligation to ensure that your child's education is full-time, efficient and suitable to your child's age, ability, aptitude, and any special educational needs (SEN).<sup>2</sup> This means that every child's education should match their individual needs and capability. Prior to choosing to home educate your child, you should know that all costs will likely have to be covered by you, including accessing and paying for examinations for any qualifications you want your child to get. The local authority support provided to home educating parents can vary between each local authority area. We would suggest that you familiarise yourself with the EHE page on your local authority's website so that you are aware of what support is available.

If you withdraw your child from a school to home educate, only to change your mind, there is no guarantee that the school will have held a place open and so the (re)admission process<sup>3</sup> will need to start from the beginning. You can [contact your local authority](#) for advice on the admissions process for state-funded schools in their area.

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<sup>2</sup> See Section 7 of the Education Act 1996 which sets out the duty on parents to secure education of children of compulsory age. (See also [paragraph 2.2](#) of this guidance)

<sup>3</sup> Separate processes apply if your child has an Education, Health and Care plan. You will need to discuss with your local authority how they will review the plan, including naming a new setting for your child to attend.

If you are deliberating over EHE, you should consider:

- why you are thinking of educating your child at home?
- what your child thinks about the idea?
- whether you have the time, resources and ability to educate your child properly?
- whether your home environment is suitable for educating and learning?
- what support you have from others? What would happen if you were unable to provide education for your child for a period of time?
- Whether you can provide social and cultural experiences and physical exercise, to help your child to develop?
- whether you envisage educating your child at home for the whole of their time of compulsory school age, or only temporarily? What are your long-term intentions for the education of your child?
- if your child has SEN or a disability, and if so how you can ensure that their needs are best supported?

The guidance represents the Department's interpretation of how the current legal framework affects the provision of EHE. It does not create new powers or duties, and only the courts can make authoritative decisions on the law. Readers with legal questions should seek independent legal advice.

# 1. What elective home education (EHE) is

1.1 EHE is a term used to describe the practice of a parent<sup>4</sup> choosing to provide education for their child at home, or at home and in some other way they choose (for example, using tuition centres), instead of choosing to send their child to school.

1.2 As a parent, you can choose to engage private tutors or other adults, or online tuition, to assist in providing a suitable education, but there is no requirement to do so. There are other settings which may also be used, not just the family home. This could include out-of-school settings such as supplementary schools, tuition centres, or sports clubs, arts schools, or community clubs. Such settings may not be regulated, meaning that there is no external assurance that they comply with basic standards, such as proper vetting of staff and safeguarding of children. Similarly, most of these out-of-school settings are unlikely to be subject to independent checks which ensure that they are safe and suitable for children. The onus is on you, as parents, to ensure that you are satisfied with the quality and safety of the provision being made when choosing settings for your children.<sup>5</sup>

1.3 In Spring 2023, the Department launched an online education accreditation scheme, open to full-time online-only providers which provide a full curriculum or represent a child's main or only source of education.<sup>6</sup> Successful applicants to the scheme will have been subject to inspection by Ofsted against standards comparable to those which apply to independent schools. Whilst the Department does not support the idea that full-time online education is a suitable alternative to traditional settings for most children, the accreditation scheme should give some assurance as to the quality of education offered.

1.4 Although children being home educated are not normally registered at any school, you may choose to make arrangements for your child to receive part of their total education at a school ("flexi-schooling")<sup>7</sup> – or at a Further Education (FE) college or other 16-19 provider. The purpose of this will often be to provide education in specific subjects more easily than is possible at home. Schools and colleges are under no obligation to agree to such arrangements, but some are willing to do so.

1.5 EHE is different to special educational provision arranged by a local authority otherwise than in a school, post-16 institution or early years setting. This is often referred to as "Education Otherwise Than At School" (EOTAS) by those working in the field of SEN.<sup>8</sup> EHE is also different to education arranged by a local authority due to a child's illness, exclusion from school, or for another reason why a child might not

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<sup>4</sup> Throughout this guidance, 'parents' should be taken to include all those with parental responsibility and / or who have care of a child, including guardians and foster carers. This means that a local authority may also be a parent in some cases.

<sup>5</sup> If you are considering using out-of-school settings or private tutors as part of the education arrangements for your child, you may wish to refer to the [Department's guidance for parents on choosing safe out-of-school settings](#).

<sup>6</sup> [Accreditation for online education providers](#)

<sup>7</sup> Although this guidance applies to children who are flexi-schooled, children who are flexi-schooled are not deemed as receiving EHE as they are on a school roll.

<sup>8</sup> See [section 61 of the Children and Families Act 2014](#) which sets out special educational provision otherwise than in schools, post-16 institutions etc.

otherwise receive suitable education. This education arranged by the local authority, commonly called “alternative provision”,<sup>9</sup> can take place in non-school settings.

1.6 EHE is not the same as remote education, which is when the child remains on a school roll but it has been deemed necessary for education to take place away from school (e.g., due to school closures or individual cases where a pupil is unable to attend school but is able to learn).

1.7 EHE children whose education is suitable are not classified as children missing education (CME). CME are defined as children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school.<sup>10</sup> CME include children who are awaiting a school place but are not in receipt of suitable education in the interim.

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<sup>9</sup> See [section 19 of the Education Act 1996](#) which requires local authorities to arrange education for children of compulsory school age who, because of exclusion, illness or other reasons, would not otherwise receive suitable education.

<sup>10</sup> See [Children missing education: Statutory guidance for local authorities](#).

## 2. The legal position of parents who wish to home educate their child

2.1 As parents, you are responsible for ensuring that your child is properly educated if your child is of compulsory school age (see paragraph 2.3 below). Despite the term "compulsory school age", education does not have to take place through attendance at school. Parents of any child living in England can choose to educate their child at home or they can request a state-funded school place. If you, as parents, request a school place, the local authority is obliged to find one or it must make alternative arrangements for education of your child.

2.2. There is no legislation that deals with EHE as a specific approach. However, section 7 of the Education Act 1996 (hereafter referred to as the 1996 Act) provides 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  
 (b) to any special educational needs he may have,  
 either by regular attendance at school or otherwise.’

EHE is a form of education which is received “otherwise” than “by regular attendance at school” and this section is the basis for the parent’s duty. It is also the starting point for local authorities’ involvement.

2.3 A child becomes of compulsory school age from the first of three specific dates (31 August, 31 December or 31 March) which occurs after they become five years old (or if the fifth birthday falls on one of those dates, on that day). The child remains so until the last Friday of June in the academic year in which they become 16.

2.4 Children who do not already hold sufficient level 3 qualifications,<sup>11</sup> have to participate in education or training up to age 18, by either staying in full-time education or training, starting an apprenticeship or traineeship, or spending 20 hours or more a week working or volunteering whilst in a minimum level of part-time education or training.<sup>12</sup> EHE is a way for a young person to meet their duty to participate in education and training until the age of 18.

2.5 You may also decide to exercise your right to educate your child at home before they reach compulsory school age. In that case, there are no requirements on what the content of that education is, since there is no legal requirement for any education to take place at all.<sup>13</sup>

2.6 Unless otherwise stated, the rest of this guidance is concerned with the

<sup>11</sup> [Participation of young people in education, employment or training](#)

<sup>12</sup> [When you can leave school](#)

<sup>13</sup> State-funded places of between 15 and 30 hours a week would normally be available in early years settings for children of an appropriate age. See [Find free early education and childcare](#)



provision of EHE for children who are of compulsory school age.

## Efficient education

2.6. There is no definition of “efficient education” in legislation. However, it is often explained as meaning education which “achieves what it sets out to achieve”. This is not the same as the education being suitable, because it is possible to deliver an education efficiently which is not suitable for the child. Equally, it is possible to deliver a suitable education very inefficiently.

## Full-time education

2.7 There is no legal definition of “full-time” in terms of education at home, or at school. You may find it useful as a benchmark that children attending school normally have about five hours of tuition a day for 190 days a year, spread over about 38 weeks. For registration of an independent school, the Department considers “full-time” to be 18 hours or more of education per week.<sup>14</sup>

2.8 In EHE, there can be almost continuous one-to-one contact and this education can sometimes take place outside normal “school hours”. Consequently, there is no expectation on you, as home-educating parents, to mirror school hours.

2.9 As a home-educating parent, you are not required to:

- have a timetable;
- set hours during which education will take place;
- observe school hours, days or terms.

2.10 However, you should be able to provide information to your local authority so that they can assess the overall time devoted to the education of a child (number of hours per week, and weeks per year). This information can then be set alongside that relating to suitability, to ensure that the EHE meets section 7 requirements.

2.11 In practice, the question of whether education for a child is full-time will depend on the facts of each case (such as whether a child has underlying health issues which would prevent them from being able to work for extended period of times), but education which clearly is not occupying a significant proportion of a child’s life (taking into account holiday periods) will probably not meet the section 7 requirement (see paragraph 2.2).

## Suitable education

2.12 There is no legal definition of “suitable” education, although, as stated in section 7 of the 1996 Act, it must be suitable to the age, ability and aptitudes of the child, and any SEN the child may have. This means that education must be age-appropriate; enable your child to make progress according to their level of ability; it should take account of

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<sup>14</sup> [Departmental guidance for proprietors and prospective proprietors of independent schools in England](#)

any specific aptitudes (for example, if your child is very good at mathematics, you might focus more on that than some other subjects); and consider any SEN your child may have. More generally, you should bear in mind that:

- even though there is no requirement to follow the National Curriculum or other external curricula, there should be an appropriate minimum standard which is aimed for. The education should include sufficient secular education enabling your child, when grown-up, to function as an independent citizen in the United Kingdom beyond the community in which they were brought up. An education which is entirely religious without any secular element is highly unlikely to be considered suitable;
- local authorities may ask for information that helps demonstrate your child's acquisition of literacy and numeracy to an appropriate level, whilst bearing in mind the age, ability and aptitude of your child and any SEN they may have;
- education at home should not directly conflict with the fundamental British values, which are "democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs"<sup>15</sup>, although there is no requirement to teach these values;
- education may be deemed unsuitable if it leads to your child being isolated from their peers, and therefore hinders their social development;
- education may not be considered suitable even if it is satisfactory in terms of content, if it is delivered in circumstances which make it very difficult to work (for example in excessively noisy or unsafe premises). An effective way for you to show that your EHE is taking place in a suitable environment is by agreeing to a meeting in the location where your child is being educated, although there is no legal obligation to agree to this and the local authority should not penalise you for not agreeing to a meeting. However, if the local authority is unable to judge the learning environment in some way, then it may not be able to conclude that education appears suitable. Local authorities will also be alert to any indication that the home or setting in which education is being provided has defects which, whilst not affecting the education directly, suggest that the child is at risk of harm.<sup>16</sup> This may require further investigations by the local authority.

2.13 As parents, you can choose the way in which you provide education to your child, providing it is suitable. There are no legal requirements for you, as parents, educating your child at home to do any of the following:

- gain specific qualifications for the task
- have premises equipped to any particular standard as you would do as a registered

<sup>15</sup> [Promoting fundamental British values through SMSC](#)

<sup>16</sup> [As set out in section 97 of the Education and Skills Act 2008](#)

school

- aim for your child to undertake examinations or acquire qualifications
- teach the National Curriculum
- provide a 'broad and balanced' curriculum
- make detailed lesson plans in advance
- give formal lessons
- mark work done by your child
- formally assess progress, or set development objectives
- reproduce school type peer group socialisation
- match school-based, age-specific standards.

2.14 Many home-educating families do some of these by choice. It is likely to be much easier for you to show that the education provided is suitable if the curriculum is broad, and you are monitoring and assessing the progress in your child's ability.

## **Children's rights**

2.15 The United Nations Convention on the Rights of the Child (UNCRC) is an international agreement that protects the rights of children and provides a child-centred framework for the development of services to children. The UK Government ratified the UNCRC in 1991 and, by doing so, recognises children's rights to education. Article 12 of the UNCRC requires member states to recognise a right for children to express their views and for these views to be taken into consideration, in accordance with the age and understanding of the child. This does not give children authority over parents, and a decision to educate a child at home is a matter for you as parents. You should consider whether EHE is possible in your family's circumstances, and if your child is happy to be educated in this way. The local authority may also wish to gain your child's opinion on the suitability of the EHE received, as this can be relevant to any decision the local authority needs to make on whether the section 7 requirements are met.

### 3. Things to consider before deciding to home educate your child

3.1 Deciding to educate your child at home instead of sending them to school is a step which should not be taken lightly. It will mean a major commitment of your time, energy and money. Your decision should have your child's best interests and education at the heart of it. It is especially important that you as parents consider the nature of the education you intend to provide for your child before you begin to educate them at home. Think about the education and/or curriculum you will provide, and whether it will allow your child to reach their potential now and in the future, including whether you expect your child to sit public examinations such as GCSEs and A levels.

3.2 Reasons why you may be considering educating your child at home might include:

- Ideological or philosophical views which you feel would be better promoted through education at home
- Religious or cultural beliefs
- Lifestyle choices
- Dissatisfaction with the school system or the school(s) at which a place is available
- Bullying of your child
- Child health reasons, both physical and mental
- Your child's unwillingness or inability to go to school
- SEN or needs relating to disability not being met within the school system
- Disputes with a school over the education, behaviour of your child, in some cases resulting in 'off-rolling'<sup>17</sup> or exclusion
- Permanent exclusion, or risk of exclusion
- Difficulty in accessing a school place or non-school based alternative provision

3.3 Some of the reasons listed above may provide a stronger basis than others as a foundation for successful EHE, but EHE should always be a positive choice. If you are considering EHE because the school system is not currently working well for your child, or because your child has health problems which make it difficult to ensure school attendance for your child, you may wish to consider what other steps you could

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<sup>17</sup> 'Off-rolling' is 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.

take to secure a more satisfactory education and to reach out to your local authority to help inform your decision or for potentially additional support.

3.4 If you are considering EHE for your child due to a disagreement with the school or a teacher, you may wish to reach out to your local authority in addition to talking to the teacher concerned, or to the head teacher, if appropriate, before making your decision. This is particularly important for children in years 10 and 11 who are already preparing for examinations. It is also unwise to consider temporary EHE as a means of getting your child into a school other than the one at which they are currently registered. If you believe that your child's current school is not suitable, then you should discuss with your local authority education services what alternatives might be available before taking any decision to home educate your child.

3.5 Pressure should never be put on you as parents by a school or local authority to remove your child from a school to avoid formal exclusion, or because your child is having difficulty with learning or behaviour. This practice – known as 'off-rolling' – is unlawful. Schools should never try to pressure or persuade you, as parents, to educate your child at home. If pressure of this sort is put on you by any state-funded school you should inform Ofsted or your local authority. For further information on 'off-rolling', please see paragraphs 10.5 and 10.6 of the EHE guidance for local authorities.

3.6 If you choose to educate your child at home, you, as parents, must be prepared to assume full financial responsibility for the child's education, including bearing the cost of any examinations (which would have to be entered via an external examinations centre, which may be some distance from your home).<sup>18</sup> Some local authorities may provide assistance to home-educating families for public examinations, but it is up to each local authority whether they are willing to provide this on a case-by-case basis. Other costs to consider include books, paper, IT, other stationery and equipment, educational visits and sporting activities. Local authorities may consider giving support, funded from its high needs budget, when SEN or needs relating to disability are being met through EHE and additional costs are incurred as a consequence of meeting those needs. Some local authorities operate support groups or forums for home-educating families, or provide access to advice; but again, this is discretionary.

3.7 If you remove your child from a school to educate at home, but then change your mind, there is no guarantee that a place would still be available at the school. An application would have to be made in the usual way through the local authority's process for in-year admissions<sup>19</sup> – or if applicable, direct to the school. If no place was available at your child's former school, the local authority would then be obliged to find a state school place, or arrange for education to be provided otherwise than at school.

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<sup>18</sup> If you enter your child for examinations independently to a school, your child would be a 'private candidate'. For further information on examinations for private candidates, please see the relevant pages on the examination board websites: [AQA](#), [Pearson](#), [WJEC](#), [OCR](#).

<sup>19</sup> Separate processes apply if your child has an Education, Health and Care plan. You will need to discuss with your local authority how they will review the plan, including naming a new setting for your child to attend.

3.8 Local authorities are aware that some parents have attempted to use temporary EHE as a means of avoiding an undesired school place allocation at the start of primary or secondary education. If you are unable to gain a school place for your child at your desired school, you have the right to appeal and to join a waiting list. When an admission authority informs a parent of a decision to refuse their child a place at a school for which they have applied, it must include: the reason why admission was refused; information about the right to appeal; the deadline for lodging an appeal; and the contact details for making an appeal. Each admission authority must maintain a clear, fair, and objective waiting list until at least 31 December of each school year of admission, stating in their arrangements that each added child will require the list to be ranked again in line with the published oversubscription criteria.

3.9 If you are considering home educating your child and they have SEN or a disability, then you may wish to consider speaking to your local authority's statutory [Information, Advice and Support services](#) for families to help inform your decision. You may also wish to discuss with your child's current setting whether there is any different or additional support they would be able to put in place in case that might be relevant to your decision. The local authority will need to decide whether the education you put in place is suitable, and this will include consideration of how your child's needs relating to SEN and/or disability are met.

3.10 If your child has an education, health, and care (EHC) plan, the local authority will need to review the plan and decide what amendments are appropriate. Deciding to home educate may mean that you will no longer receive the special educational provision or health support to which you were entitled under the EHC plan as a result of the decision to home educate. Again, you may wish to discuss the implications of your decision and the options available to you with your local authority's statutory Information, Advice and Support services. If you decide to go ahead then the local authority will need to be satisfied that you have made suitable alternative arrangements for your child. It may mark the plan to reflect its conclusion that you have made appropriate educational arrangements, in which case the local authority and any health commissioning body cease to be responsible for securing any special educational provision or arranging any health care provision set out in the plan. Alternatively, where certain statutory criteria are met, the local authority may decide to put an EOTAS package in place which it will be responsible for arranging (see paragraph 1.6 above).

## 4. What must be done if you choose to educate your child at home

4.1 If your child has never been enrolled at a school, you are not required by law to inform the local authority that they are being home educated, or gain permission for this. However, it is strongly recommended that you do notify your local authority so that they can offer any advice and support available. Informing the local authority of your decision to home educate is the easiest way to make sure that your child is not mistakenly identified as not receiving suitable education and, therefore, not mistakenly labeled as a CME. Most local authorities operate voluntary registration schemes which are linked to support arrangements.

4.2 As with the above, if your child is on the roll of a school (except for a special school placement that the local authority has arranged for them to attend) you do not have a legal duty to inform the school that they are being removed from the school register<sup>20</sup> for EHE or gain consent for this. However, you should inform your school in writing that your child is being home-educated so they can remove your child from the school roll. Until a child is removed from the school roll you are at risk of prosecution for not securing their attendance (even if suitable EHE is being provided). The school is obliged to inform the local authority promptly of any child removed from its admission register and will give EHE as the reason.

4.3 If your child attends a special school and this was arranged by a local authority, then the permission of the local authority must be obtained before his or her name can be removed from the admission register. If the local authority refuses consent, you can ask the Secretary of State to settle the dispute. The other circumstance in which the local authority's consent is necessary is if your child is attending any school in accordance with the terms of a school attendance order (SAO); this order must be revoked by the authority before you can have your child's name removed from the admission register. If you want to change the school named on the SAO, you can ask the local authority to amend the SAO to name the different school without revoking it.

4.4 If, at any stage, it becomes clear to you that you cannot provide suitable EHE, you should contact the local authority as soon as possible to apply for a suitable school place for your child, minimising any interruption to education. As parents you have the right to apply for a place at any mainstream school at any time<sup>21</sup>. If your child is of compulsory school age, the local authority must find a suitable school place or ensure that education is provided in some other way. As pointed out above, this may not be in a school of your choice.

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<sup>20</sup> It is important to note that only a member of school staff can delete a pupil's name from a school's admission register, so a parent themselves cannot deregister a child from school.

<sup>21</sup> Separate processes apply if your child has an Education, Health and Care plan. You will need to discuss with your local authority how they will review the plan, including naming a new setting for your child to attend.

## 5. Local authority responsibilities

5.1 Your local authority<sup>22</sup> has a statutory duty under section 436A of the 1996 Act to make arrangements to enable it to establish the identities, so far as it is possible to do so, of children in its area who are not registered at a school and are not receiving a suitable education.<sup>23</sup> Section 437 of the 1996 Act then sets out what a local authority need to do if any child of compulsory school age appears not to be receiving a suitable education, which is to commence the SAO process by issuing a preliminary notice (see paragraph 5.6).<sup>24</sup>

5.2 Each local authority has its own published policy on EHE which should be accessible online. You should familiarise yourself with this to see what procedures are in place as, whilst the same legislation and departmental guidance applies to all local authorities, each local authority may do things slightly differently. Local authorities should be aware that in the early stages, whilst your child must be receiving suitable education immediately, it may be the case that your plans are not as detailed as they would be once education is more embedded.

5.3 The simple fact that your child is being educated at home does not mean that they are not receiving an suitable education. A reasonable timescale should be agreed for you to demonstrate that all aspects of your EHE provision are in place, but this does not mean that there can be a break between the end of schooling and the provision of suitable education at home. There is no period of grace to get education to an appropriate level of full-time suitability; whilst your plans may not be as detailed, a child must always be in receipt of suitable education. You may want to ask the local authority for advice and support.

### Whether a child appears not to be receiving suitable education

5.4 To fulfil their duties, local authorities have the right to make informal enquiries of you to find out what education is being provided and whether it is suitable. The local authority should make informal enquiries if it becomes aware that you are educating a child at home. To aid a local authority's judgment as to whether education appears suitable, this could include, for example, requests for face-to-face meetings (with or without your child), phone conversations, examples of work produced, or reports outlining educational process. You may wish to suggest to the local authority ways to effectively demonstrate how education is full-time, efficient, and suitable, including how the learning environment is suitable. As parents you have no legal duty to respond to those enquiries, but if you fail to do so, or provide minimal information, it is highly

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<sup>22</sup> The relevant local authority with responsibility for education will either be the single-tier authority for the area in which you live (e.g., a unitary authority or London borough) or the upper-tier authority for the area in which you live (e.g., the county council).

<sup>23</sup> See [section 436A](#) which sets of the duty to make arrangements to identify children not receiving education.

<sup>24</sup> See [section 437](#) which sets out the process for school attendance orders, which requires local authorities to make enquiries about individual children. Sections 438-443 further set out arrangements related to school attendance orders.



probable that the local authority will conclude that it appears that your child is not receiving a suitable education.

5.5 Once the local authority has deemed that your child appears to be receiving a suitable education, it will want to update, periodically, the information it has on your child, and to ensure that suitable education is ongoing. The local authority's EHE policy should set out the arrangements for this. This will often be an annual engagement, with an opportunity to discuss your child's progress with a local authority EHE officer but may be more or less frequent depending on individual circumstances. For those children with EHC plans, an annual review must also take place. It may be possible to align the two processes, to minimise the call on families' time. You should engage with your local authority in such reviews to help demonstrate the suitability of education being provided, as well as potentially access advice and support which may be available through such cooperation.

## **When a child appears not to be receiving suitable EHE**

5.6 If, after making informal enquiries, it appears to the local authority that your child of compulsory school age is not receiving a suitable education or the local authority has no or insufficient information to reach such a conclusion, formal enquiries should then commence, with the local authority serving a preliminary notice on you (known also as a section 437(1) notice, see paragraph 5.1). This notice requires you, as parents, to satisfy the authority that your child is receiving an efficient full-time suitable education at home in line with your child's age, ability, aptitude, and any SEN. It is advisable to respond to such a notice if you receive one. You will have at least 15 days to respond so that you have time to gather suitable material and/or get necessary advice.

5.7 Local authorities may ask for further information, to see your child at home or in another location, or to see examples of work done.<sup>25</sup> Again, as parents you are under no legal obligation to agree to such requests, but you should carefully consider the reasons for not doing so and what is in the best interests of your child.

5.8 The local authority must consider the response, if any, which you make to the notice, to decide whether your child is receiving an education which meets your responsibilities under section 7, taking account of any information which you have provided and any other information it has about the education your child is receiving. For further information on this process, please see chapter 7 of the EHE guidance for local authorities. If you, as parents, make no response at all, or continue to provide insufficient information then the authority is entitled to decide that it is not satisfied. While third party reports may be used to complement information provided by you, they are unlikely to be accepted as definitive evidence of suitable education as it is important

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<sup>25</sup> If your child's work includes their personal data or includes personal data of another living individual, this will be processing personal data within the definition of the UK GDPR. This includes the need for a lawful basis for the processing of personal data and only processing the minimum level of personal data required. Any child's work which does not include personal data would not need to follow the processing requirements as set out in data protection legislation.

local authorities receive information from those with the responsibility – you, the parents.

5.9 If, following the local authority serving a preliminary notice, you fail to satisfy the local authority that your child is receiving a suitable education and the local authority considers that it is expedient that they should attend school,<sup>26</sup> then the local authority has a legal obligation to serve you, as parents, with a SAO. This will name a specific school and require you to have your child registered at that school. There are provisions in the 1996 Act governing the basis on which a school is selected to be named in the order.<sup>27</sup>

5.10 Failure to comply with a SAO issued by the local authority is a criminal offence. If you comply with it and send your child to the school named in the order you can still seek to have your child attend another school. This would be done by requesting a place at that other school; and, if that is available, asking the local authority to change the order and, if that request is agreed, sending your child to that school. If your child has an EHC plan, you will need to request the local authority to review the plan, whereupon you can ask for the preferred school to be named. Alternatively, you can ask for the order to be revoked by presenting evidence to the local authority that satisfactory arrangements have been made for suitable education to be provided at home. If the local authority accepts this, your child will not need to attend school and you may continue to educate at home. If the local authority refuses to revoke the order, you can refer the matter to the Secretary of State by writing to the Department (see paragraphs 5.12).<sup>28</sup>

5.11 Whether or not you ask for the SAO to be revoked, if you do not comply with it in the meantime, the local authority may prosecute you. A criminal case will be heard at the Magistrates' Court. If the SAO has not been complied with, a conviction is likely unless you can prove to the court that you are meeting your legal duty to provide efficient, full-time, suitable education. If the court is satisfied that you are fulfilling your legal duty to provide a suitable education, you may be found not guilty of the offence and the court will direct that the SAO is no longer in force. If the court is not satisfied, you may be convicted for breach of the terms of the SAO, the punishment for which is a fine of up to £1,000. In the event of a conviction, the local authority can apply for a parenting order which carries requirements as to counselling and other conditions designed to reduce the likelihood of a further offence.

## Oversight of local authorities in relation to EHE

5.12 Under section 442 of the 1996 Act, the Secretary of State has the power to give a direction to the local authority as to whether a SAO should remain in force or be revoked. The Secretary of State will consider the question in the same terms as the local authority,

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<sup>26</sup> Circumstances in which the local authority might not consider it expedient could include the child being only a few weeks off the end of compulsory school age; or having medical or similar reasons why school attendance is not advisable. In the latter case, the local authority would need to make alternative arrangements to secure suitable education for your child.

<sup>27</sup> See sections 438 to 441 of the Education Act 1996.

<sup>28</sup> See section 442 of the Education Act 1996.

i.e., if there are arrangements for suitable education to be provided otherwise than at school. You may provide the Secretary of State with whatever evidence you consider to be important or relevant to help them to reach their decision. The Secretary of State may also contact your local authority to notify them that a referral has been made and to request any evidence they wish to submit regarding the order and their reasons for issuing it. The Secretary of State will consider each case and reach a final decision based on the evidence that is supplied by you and the local authority that issued the order. The decision will be made based on whether the Secretary of State is satisfied that arrangements have been made for your child to receive a suitable education otherwise than at school. Once a decision has been made, the direction as to whether the order should be revoked will be communicated both to you and to the local authority.

5.13 Ofsted has no role in the oversight of education received by children who are educated at home. Ofsted conducts periodic inspections of local authorities, and this includes a review of the way in which they carry out duties in relation to vulnerable children. Although home educated children are not automatically 'vulnerable', such reviews will include children missing education, and therefore cover the work of the authority in relation to those children who are (or may be) being educated at home but where the authority is not satisfied they are receiving a suitable education.

5.14 Ofsted's / Care Quality Commission's SEND local area inspection framework also sets out how inspectors may gather evidence in relation to the oversight of children and young people with SEND who are not attending a school or attending non-school based alternative provision.<sup>29</sup> This includes children and young people with SEND who are home educated.

5.15 If you believe that a local authority has not acted according to law and guidance, you may wish to first complain to that local authority using the authority's own complaints process. If that complaint has not been resolved within twelve weeks you are then able to contact the Local Government and Social Care Ombudsman,<sup>30</sup> who will make a decision on the complaint. If upheld, it may result in recommendations to the local authority, including in relation to their processes and procedures. The local authority may also be asked to: apologise to you; provide support that you should have had; improve procedures; or recommend that the staff receive training. You, as the parent, and the local authority will have an opportunity to provide information, evidence and comment on a draft decision before a final view is reached. The Ombudsman may refer the matter back to the local authority if the complaints process has not been exhausted or decide to consider it themselves. Finally, if made aware that a local authority is not doing enough to meet a duty that is set out in the 1996 Act, or that a local authority is being unreasonable in discharging its duties, the Department for Education will consider whether there is sufficient basis for making a direction under section 496 or 497 of the 1996 Act so that outcomes for children in that local authority's area can be improved.

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<sup>29</sup> [Area SEND inspections: framework and handbook](#)

<sup>30</sup> [Local Government and Social Care Ombudsman](#)

## 6. The safeguarding role of the local authority and how this interlinks with parents educating children at home

6.1 Local authorities have a general duty to make arrangements to safeguard and promote the welfare of children in relation to their local authority education functions.<sup>31</sup> This applies to all children, both those educated at home and those attending school. Parents providing unsuitable education can be a form of educational neglect, which can impair a child's intellectual, emotional, social or behavioural development. This duty does not entitle a local authority to insist on visiting your home, or seeing your child, simply for the purposes of monitoring the provision of EHE. However, a local authority may take such steps as are reasonable to gain access to your child if they have significant safeguarding concerns.<sup>32</sup>

6.2 The local authority may decide that the circumstances justify applying to a court for an education supervision order (ESO) or even a care order made under the Children Act 1989. Both give the local authority the right to have contact with your child. To obtain information in preparation for an application for either type of order, the local authority may initiate an investigation under section 47 of the 1989 Act if it has reasonable cause to suspect that your child is suffering, or is likely to suffer, significant harm.<sup>33</sup> If you do not comply with the investigation under section 47 the local authority may ask a court to grant an order under section 43 of the 1989 Act for a child assessment to be made to gather further information to determine if the significant harm threshold is met.<sup>34</sup> Your local authority's published policy on EHE may explain the circumstances in which the authority may decide that use of the 1989 Act powers are justified.

6.3 If a SAO is not complied with, the local authority can apply to the court for an ESO,<sup>35</sup> made under section 36 of the 1989 Act.<sup>36</sup> To do so, the local authority must show that the education being provided is not suitable. However, if your child is subject to a SAO and that order is not being complied with, the court will assume that the education is not suitable unless you prove that it is. An ESO enables the local authority to give directions as to the way in which your child is to be educated and will require your child to be seen by the local authority, although not necessarily in the family home unless the court has made that a specific condition of the order.

6.4 If an ESO is granted, any SAO in force will no longer have any effect. If the court refuses to make an ESO (for instance, because you have shown that your child's education is suitable), then it may also direct that the SAO stops having effect.

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<sup>31</sup> See [section 175 of Education Act 2002](#) for duties in relation to welfare of children.

<sup>32</sup> See [section 47 Children Act 1989](#).

<sup>33</sup> See [section 47 of the Children Act 1989](#), which sets out the local authority's duty to investigate.

<sup>34</sup> See [section 43 of the Children Act 1989](#), which sets out child assessment orders.

<sup>35</sup> This can be done in place of, or in addition to, a prosecution for non-compliance, as described in section 6 of this guidance.

<sup>36</sup> See [section 36 of the Children Act 1989](#), which sets out education supervision orders.

6.5 If an ESO is not followed by you, as parents, the local authority can prosecute you and/or apply to a relevant court for a care order under section 31 of the 1989 Act.<sup>37</sup>

6.6 To apply successfully for a care order, the local authority must satisfy the court that the lack of suitable education (alone or in combination with other factors) is causing 'significant harm' to your child. This would likely be educational neglect and would mean that your child's intellectual and social development was being, or was likely to be, substantially impaired.

6.7 A care order makes the local authority a child's corporate parent, which means that they become responsible for decisions about your child's education even if the child continues to live with you as his or her actual parents. If you, as parents, then go against the wishes of the local authority as the corporate parent (for example, by preventing the child from attending school) then your child can be removed from the family home and put into the direct care of the local authority. This would only happen in the most difficult safeguarding cases.

6.8 It is best for all parties to not let any disagreement about a child's education get to the stage described above (which is a last resort). As parents, you should enter into informal discussions with local authorities by contacting their EHE officer or using existing engagements with them. This should enable most difficulties to be resolved and demonstrates willingness to cooperate to secure suitable education for your child.

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<sup>37</sup> See section 31 of the Children Act 1989, which sets out local authority or authorised person care and supervision of a child suffering, or likely to suffer, significant harm.

## 7. The local authority's role if your child has special educational needs and/or a disability

7.1 If a child has SEN or a disability (SEND), the role of the local authority can be more complex. Further information is available in the SEND Code of Practice<sup>38</sup>, which has content on EHE when your child has SEND. Your right to educate your child at home applies equally where your child has SEND. This right is regardless of whether your child has an EHC plan. Neither does the local authority have any right to enter your home to check EHE suitability just because your child has SEND.

7.2 When your child has an EHC plan, it is usually the local authority's duty to secure that the special educational provision specified in the plan is made available for your child. "Secure" does not mean to force you to receive this provision. Where you have made suitable alternative arrangements, this duty on the local authority falls away. If you have made such arrangements, for example through EHE, then the plan should simply set out the type of special educational provision that the local authority thinks your child requires, and should also state that you, as parents, have made your own arrangements under section 7 of the 1996 Act.

7.3 The local authority will continue to check the suitability of the EHE annually as set out in sections 436A and 437 of the 1996 Act, and must continue to review the EHC plan at least annually for as long as the plan is maintained by the local authority.<sup>39</sup> The local authority may be able to align the two review processes, to reduce the calls on your family's time. If at any point it considers that the EHE is unsuitable, the authority must conduct an early review of the EHC plan, as well as taking the steps described above in relation to school attendance.

7.4 When you, as parents, would like your child with SEND (with or without an EHC plan) to be educated at home, and the local authority is satisfied that it would be inappropriate for the special educational provision to be made in a school, post-16 institution, or a place at which relevant early years education is provided, then the local authority itself may arrange for the special educational provision, that it has decided is necessary, to be delivered otherwise than in a school. This can – if you as parents agree – mean that it is provided in the home, but not by you as parents. Where this occurs, and your child has an EHC plan, the local authority will need to ensure that those arrangements are set out in Section F of the plan. It is important to distinguish between a situation like this, which is referred to as EOTAS, in which a local authority arranges special educational provision in places, such as your child's home, because it considers education in a school or other institution inappropriate, and a situation in which you as parents elect to home educate your child and arrange it yourselves. Whilst EHE is education otherwise than by regular attendance at school, it is not the same as EOTAS as outlined above.

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<sup>38</sup> The [SEND Code of Practice](#) is available on GOV.UK.

<sup>39</sup> See [section 44 of Children and Families Act 2014](#), which sets out details of reviews and re-assessments of EHC plans.

7.5 Local authorities should not assume provision is unsuitable because the provision you make at home is different to how your child's SEN or needs relating to disability might be met in a school. In some cases, the local authority may decide that, even after considering their own power to arrange provision in the home (EOTAS), education taking place in the home cannot meet your child's SEN or needs relating to a disability, and therefore your child is not receiving a suitable education. In that case, or any other where the education is judged unsuitable, if you, as parents, still continue to wish to educate your child at home rather than sending him or her to school, the local authority must follow the SAO process outlined earlier in this guidance.

7.6 If you are educating a child at home already and come to believe that they have SEN and need an EHC plan, you can ask the local authority to carry out a statutory assessment of your child's SEN. The local authority must consider the request within the same statutory timescales and in the same way as for all other such assessment requests.

## 8. Further information

### Safeguarding – using tutors and out-of-school settings

8.1 If you choose to employ other people to educate your child or choose to send your child to out-of-school settings for part of their education arrangements you will continue to be responsible for the education being provided to your child and for their wellbeing. You are responsible for ensuring that anyone you engage to help you provide EHE is suitable to have access to children.

8.2 You should be aware that many of these settings and individuals are unlikely to be regulated under education and childcare law. This means they will not typically be inspected, overseen or assessed on their safety, or the content of provision, by any regulatory organisation; and volunteers and staff may not be subject to checks, such as Disclosure and Barring Service (DBS). It is therefore important that you ask questions to assure yourself of your child's safety. You may wish to refer to [the Department's safeguarding guidance for parents on choosing out-of-school settings for their children](#), which is intended to help support you, as parents, make informed choices when considering out-of-school settings (including tutors and coaches) for your children. The guidance sets out the safeguarding arrangements you should expect, as well as warning signs to look out for.

8.3 You can take various steps to help satisfy yourselves on the safety of the people you are employing or settings which you are using as part of your child's education, including requesting appropriate references and ensuring that the tutor, or those providing tuition to your child, has a recent and valid DBS disclosure certificate. If the provider works from their home, you may wish to check if any other adults will be present. If these adults are staff or volunteers, consider asking if they have been DBS checked. You may also wish to ask for their names, and whether they will be in the room alone with your child at any point.

8.4 Local authorities should encourage you to do this and refer you to the parental safeguarding guidance above. Many tutors also work with children attending school and may be able to provide references from other parents who have home educated children and/or children attending school.<sup>40</sup>

8.5 Tutors employed by a local authority, school, or an agency may also take on work for home-educating parents, in which case DBS checks should have been made already and you should ask the relevant organisation (i.e., local authority, school or an agency) for confirmation that the necessary safeguarding checks have been made, in addition to taking other steps to satisfy yourself of their suitability.

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<sup>40</sup> You may also find it useful to refer to the Department's [Keeping Children Safe in Education](#) guidance which provides details on the types of DBS and the relevance to a given activity.



## Attending schools or FE colleges part-time

8.6 Children who are being educated at home sometimes attend schools and colleges to supplement their education.

8.7 If you wish to make such arrangement with a school, you should discuss this with the school concerned. The school is under no obligation to accept such an arrangement. If your child does go for this form of 'flexi-schooling', you will need to get a leave of absence from school for the times when your child is being educated at home by the school in the same way as parents of full-time pupils do for other planned absence. The school should mark your child in the attendance register as having leave of absence when not at school.

8.8 It is possible for children aged 14-16 who are educated at home for most of the time to attend state-funded FE colleges or sixth form colleges on a part-time basis to receive tuition in specific subjects. If you are interested in this, you should ask the college concerned if it has any such arrangements. The college is under no obligation to make such provision.

8.9 The 16 to 19 Bursary Fund is not payable to young people whose parents elect to home educate them after the age of 16.

## Attending informal EHE groups

8.10 Some organisations make part-time provision for a significant part of the week to assist parents who educate at home but cannot themselves provide a full-time education. If you use the services of such companies, you should ask about matters such as safeguarding and checks on staff.

8.11 Some groups of parents who home educate their children come together to support each other and to educate their children on a communal basis, sharing resources such as meeting spaces, learning materials and support, and enabling children to socialise and learn together. They can offer general support or activities or more formal settings and arrangements, such as forest school learning and exam preparation and tuition. EHE groups can help families access certain subjects which may be too complex or expensive to carry out at home. There is no reason why these groups should not take place, but such groups should be aware that if their intended provision is formal and long-term enough to amount to a full-time education institution, and it provides education for five or more children of compulsory school age (or just one if that child has an EHC plan,<sup>41</sup> or is 'looked after'), then it is likely to require registration as an independent school.<sup>42</sup> Enquiries on registering as an independent school may be made to [registration.enquiries@education.gov.uk](mailto:registration.enquiries@education.gov.uk).

<sup>41</sup> Or an individual development plan ("IDP"), in the case of a child from Wales being educated in England.

<sup>42</sup> [Regulating independent schools](#)

## Attending unregistered independent schools

8.12 A small minority of parents send their children to establishments which, despite the registration requirement mentioned in the paragraph above, are in fact operating as unregistered independent schools, providing a full-time education. Those running these settings are committing an offence. These settings may be inspected by Ofsted without notice and those responsible will be prosecuted if this is in the public interest. The Department works with Ofsted to identify suspected unregistered independent schools and will always prosecute those responsible for such a setting when it is in the public interest to do so. If you suspect that a setting you are considering for your child falls into this category, you should ask the local authority if it has any relevant information about the setting or contact Ofsted.

8.13 If your child is involved in any of the arrangements described above in this chapter 8, the local authority will look at the provision made as part of its assessment of whether you, as parents, are meeting your duty under section 7. You should ensure that the local authority is aware that you supplement EHE through attendance at another setting and that you are able to provide information about your child's learning in that setting. The local authority should also look at any attendance at other settings which provide more specialised education for a small proportion of the week (e.g., religious settings offering tuition in their own faith, sports clubs, dance schools). Although such arrangements will often be marginal to the issue of whether a child is receiving suitable education, in some situations it can help to show that the education is suitable (for example by providing opportunities for physical exercise, social interaction and development not available at home).

## National Careers Service

8.14 The National Careers Service is a free careers service for adults and young people aged 13 and over in England. Advice and guidance can be accessed via the telephone (0800 100 900) and [online](#). The [National Careers Service](#) provides confidential advice and guidance to help your child make decisions on learning, training and work opportunities. There are also [free careers resources available](#) for young people who are home educated. Further [support from the Careers and Enterprise Company](#) is available.

## Work Experience

8.15 Work experience is not a legal requirement for children, but you may feel that it is a useful addition to EHE, provided your children are of a suitable age. Children educated at home have no entitlement to participate in work experience under arrangements made by a local authority or schools, but some local authorities may be able to assist you. Where home educated children do participate in such schemes, you should ask to what extent they are covered by, for example, the health and safety, child protection, and insurance arrangements made on behalf of school children – often by intermediary bodies – which are necessary to safeguard the child.

8.16 The scope of any work experience to be undertaken by your child should be clearly recorded and should not be similar to child employment. Similarly, work-placed learning as part of suitable education provision should not amount to child employment. Where the child seems to be engaged in employment not permitted by child employment laws, local authorities will consider safeguarding referrals. This is the case whether the employment is within a family business or an external company.

8.17 If you are arranging work experience you should check if the employer has public liability insurance, and that they have safeguarding processes in place to ensure your child is adequately supervised. You should be aware that not all employers will have staff with DBS checks and that they may need to check to find out which DBS check is right for their employee,<sup>43</sup> or to understand whether they might be engaging in regulated activity, which means they will have extra safeguarding responsibilities to meet.<sup>44</sup> Some employers may employ people with previous spent convictions, so you may wish to check if this is the case and any implications this has for your child working there.

## **Gypsy, Roma and Traveller (GRT) Children**

8.18 Local authorities should have an understanding of, and be sensitive to, the specific ethos and needs of GRT communities. If you belong to one of these communities and move into a new area, you are strongly encouraged to contact your local Traveller Education Support Service for advice and potential support. Most local authorities provide such a service. If you do wish to educate your children at home, then the local authority's policies and procedures still apply to you.

## **Children in faith communities**

8.19 Local authorities should understand, and be sensitive to, the unique ethos and needs of children in specific faith communities and be able to consider the impact that faith has on the EHE priorities of parents. You should be able to expect this in your dealings with the local authority. Faith considerations should not in any way stop your child from receiving a suitable education, and that will remain the local authority's main concern. As stated earlier in this guidance, an education which is entirely religious without any secular element is unlikely to be considered suitable. It is likely to be helpful if you can explain how faith affects what you teach in EHE – if that is the case. There is no legal requirement for EHE to include any element of teaching about religion or faith.

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<sup>43</sup> [Find out which DBS check is right for your employee](#)

<sup>44</sup> [Regulated activity with children in England](#)

## Other relevant legislation and departmental guidance

- [Parental rights and responsibilities](#)
- [Children Missing Education statutory guidance](#)
- [School Attendance: guidance for schools](#)
- [School behaviour and attendance: parental responsibility measures](#)
- [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#)
- [Behaviour in schools](#)
- [Safeguarding guidance for out of school settings](#)
- [Unregistered independent schools and out of school settings](#)
- [Promoting Fundamental British Values](#)
- [Education Act 1996](#)
- [Pupil Registration Regulations 2006](#). The regulations have been amended many times- see especially: [Pupil Registration Regulations 2016 amendments](#)



Department  
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