



## Elective Home Education (EHE) Policy

### 1. Background

1.1 Elective home education (EHE) is a term used to describe a choice by parents to provide education for their child at home, rather than providing education for their child by sending them to school. Throughout this guidance, the term '**parents**' includes all those with parental responsibility, including guardians (and foster carers, although in this case the Local Authority may be the corporate parents).

1.2 This document aims to clarify for schools, parents, carers, guardians and related agencies, the policy and procedures to be observed when a parent elects to home educate their child who is of compulsory school age. The policy sets out parents' rights to educate their children at home, together with the legal duties and responsibilities of parents, schools and Blackburn with Darwen Borough Council. It also sets out the arrangements Blackburn with Darwen Borough Council will make in order to carry out its legal duties.

### 2. Elective Home Education and the Law (Rights and Responsibilities)

2.1 The responsibility for children's education rests with their parents. In England, education is compulsory, but attending school is not. Parents have a right to educate their children at home.

**Section 7 of the Education Act 1996** 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.

2.2 Your child must start full-time education once they reach compulsory school age. This is on 31 December, 31 March or 31 August following their fifth birthday - whichever comes first. If your child's fifth birthday is on one of those dates then they reach compulsory school age on that date. For example, if your child reaches compulsory school age on 31 March, they must start full-time education the term that starts after that date (i.e. the summer term). The child remains of compulsory school age until the last Friday of June in the academic year in which she or he becomes 16. Children may also be educated at home in order to participate in education and training until the age of 18.

2.3 The Department for Education recommends that every Local Authority has a written policy statement on EHE which is clear, transparent and easily accessible. This document is designed to ensure that Blackburn with Darwen Borough Council complies with this requirement. It is intended to

provide a helpful summary of the rights and responsibilities of parents, schools and the Council as far as EHE is concerned.

2.4 It also sets out the procedure Blackburn with Darwen Borough Council will follow in the event that it appears that a child of compulsory school age is not receiving a 'suitable education.' Blackburn with Darwen Borough Council sees its role in relation to ensuring all children are receiving suitable education (including home education) as part of its wider safeguarding responsibilities for all children living in Blackburn with Darwen.

### **3. Parents' Rights, Responsibilities and Considerations**

3.1 In England, the responsibility for a child's education rests with his or her parents. Section 7 of the Education Act 1996 states 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.*' However, whereas education is compulsory, school is not. Section 7 goes on to say; '*this [education] must be achieved either by regular attendance at school or otherwise.*' In other words, parents have a right to educate their children by means other than attendance at school, so long as the education is 'efficient,' 'full-time' and 'suitable'.

3.2 The term 'suitable' and 'efficient' is not defined in the Education Act 1996. However, it should enable a child to participate fully in life in the UK by including sufficient academic education. This means that home education can be suitable "if it primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole as long as it does not foreclose the child's options in later life to adopt some other form of life if he wishes to do so and to be capable of living on an autonomous basis, so far as he or she chooses to do so".<sup>1</sup>

3.3 The term 'full-time' is not defined in the Education Act or in case law. However, it may be useful to note that most schools provide around 4.5 – 5.00 hours of education a day, for about 190 days a year. In reaching decisions about whether action is necessary in relation to a home educated child, Blackburn with Darwen Borough Council will consider the length of time spent on a child's education.

3.4 Blackburn with Darwen Borough Council recognises parents' rights to home educate but also recognises the time and commitment required to ensure a suitable education is received. We therefore suggest parents consider the following questions before making this decision.

- a) Is your child positive about the suggestion of being educated at home?
- b) Are you convinced it is the best for your child?
- c) Do you have the time to devote to your child's education?
- d) Do you have the ability to teach your child effectively?
- e) Are you prepared to buy the necessary resources?
- f) Are there opportunities for your child to participate in physical exercise?
- g) Will social experiences with other children be available?

Blackburn with Darwen Borough Council's Inclusion Team seeks to work in collaboration with families home educating and welcomes contact from parents for advice, at any stage in a child's education.

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<sup>1</sup> R v Secretary of State for Education ex parte Talmud Torah Machzikei Hadass: 12 Apr 1985

3.5 If you are considering home education, please note the following:

(a) If your child is registered at a school as a result of a school attendance order (SAO), then before your child can be taken off the school's admission register and educated at home, you (the parents) must get the SAO revoked by the Local Authority on the grounds that arrangements have been made for your child to receive suitable education otherwise than at school.

(b) If your child attends a special school and this was arranged by a local authority, then before your child can be taken off the special school's admission register and educated at home, you must obtain the permission of the local authority.

c) If you are educating your child at home, and the Local Authority serves a notice on you under section 437 (1) Education Act 1996, you must comply with that notice and satisfy the Local Authority that your child is receiving a suitable education at home. If you fail to do this, the Local Authority will be obliged to take further action (see 4.3 below).

## 4. Local Authorities' Responsibilities

4.1 The Local Authority has a duty to make arrangements to enable them to establish the identities, so far as it is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school, for example, at home or privately. (Section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006).

4.2 The Local Authority has a duty to take action if it appears that parents are not providing a suitable education. Section 437(1) Education Act 1996 stipulates that if it appears that a child of compulsory school age in a Local Authority's area is not receiving suitable education, either by regular attendance at school or otherwise, the Local Authority is required to take action. The Local Authority is therefore under a duty to have a system of making informal enquiries as necessary to satisfy itself that all children in its area who are not being educated by attending school regularly are still receiving a suitable education.

4.3 Parents are under no legal duty to respond to enquiries from the Local Authority about the educational arrangements they have put in place. However, it is likely to be in their best interests to do so because if the Local Authority cannot be satisfied that suitable education is being provided, it may have no choice but to issue a School Attendance Order.

4.4 Section 437(1) of the Education Act 1996 states that: "If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education."

4.5 Section 437(2) of the Act provides that the period shall not be less than 15 days beginning with the day on which the notice is served. Prior to serving a notice under section 437(1), Blackburn with Darwen Borough Council will do its utmost to address the situation informally. Section 437(3) refers to the serving of school attendance orders:

"If - (a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and

(b) in the opinion of the authority it is expedient that the child should attend school, the authority shall serve on the parent an order (referred to in this Act as a "school attendance order"), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order."

4.6 A school attendance order will only be served after all reasonable steps have been taken to try to resolve matters. At any stage following the issue of the Order, parents may present evidence to the Local Authority that they are now providing an appropriate education and apply to have the Order revoked. If the Local Authority refuses to revoke the Order, parents can choose to refer the matter to the Department for Education.

4.7 In the event that the parents fail to comply with the Order, the Local Authority may choose to prosecute the parents for breach of the order (Section 443, Education Act 1996), in which case it will be for the court to decide whether any education being provided by the parents is suitable and efficient. The court can revoke the Order if it is satisfied that the parents are actually providing suitable education. The Court can also revoke the Order if it imposes an education supervision order.

## 5. Schools' Responsibilities

5.1 There is no legal requirement for parents to discuss home education with the school, but if a parent does approach the school to discuss the possibility of home education the Local Authority expects the school to respond positively. If parents are considering home education because of a dispute with the school the Local Authority expects the school to take all the necessary steps to resolve the issues.

5.2 When the Headteacher receives formal, written notice from a parent stating that *'the pupil will cease to attend the school and will now receive education otherwise than at school (EHE)'*, the Headteacher should ensure that the child's name is removed promptly from the admissions register in accordance with Section 8 (1) (d) of The Education (Pupil Registration) (England) Regulations 2006. [NB - If the child is on the roll of a special school, then permission from Blackburn with Darwen Borough Council (Statutory Assessment Team) is required before removal can take place. Please contact the Statutory Assessment Team immediately if such a situation occurs] Likewise, if the child's name has been placed on the admissions register as the result of a School Attendance Order, the child's name may not be removed until the SAO is revoked. Please contact the Inclusion Team, using the details below, if this situation arises.

5.3 In addition to removing the child's name from the admission register, Section 12(3) of The Education (Pupil Registration) (England) Regulations 2006 states that *"the proprietor (Head Teacher) shall make a return to the Local Authority for every such pupil [whose name is being deleted from the admissions register] giving the full name of the pupil, the address of any parent with whom the pupil normally resides and the ground upon which their name is to be deleted from the admission register as soon as the ground for deletion is met in relation to that pupil, and in any event no later than deleting the pupil's name from the register.*

5.4 The Local Authority requests that schools complete an EHE Notification Form that will be provided by their link inclusion officer. The school is responsible for raising any safeguarding concerns relating to a child with the Children's Advice and Duty Service (CADS) immediately.

**CADS**

- Monday to Friday: 08:45 to 17:00 telephone: 01254 666400
- Emergency out-of-hours (evenings and weekends) telephone: 01254 587547

Home Education is not in itself to be considered a safeguarding concern.

5.5 The school must retain the child's school file. Parents have the right to request a copy of the file from the school to assist them with their child's education.

## 6. Special Education Needs

6.1 The parents' right to educate their child at home applies equally where a child has special educational needs. However, if a child is on the roll of a Special School, the child's name may not be removed from the school's register without Local Authority consent.

6.2 If a child has an Education Health and Care Plan (EHCP) and the parents signal their intent to EHE, then the school will be asked to bring forward the Annual Review and to invite the LA SEN Officer and an LA Inclusion Officer. This meeting will give parents and professionals the opportunity to offer advice and guidance around the parents' desire to EHE and to discuss how the parents intend to meet their child's needs. Home education must be suitable to the child's age, ability, aptitude and SEN. The meeting will also give parents the opportunity to seek additional support or discuss alternatives to home education.

6.3 If the LA is satisfied that the child's needs (including their SEN) will be appropriately met by the proposed arrangements, then the Local Authority will amend the child's EHCP so that it specifies a type of school that Blackburn with Darwen Borough Council considers appropriate (rather than a particular school) and will state that parents have made their own arrangements under section 7 of the Education Act 1996.

6.4 The Local Authority has an annual duty to maintain and review the EHCP until it decides to cease the EHCP, the EHCP automatically lapses, or the EHCP is transferred to another Local Authority. The Local Authority has no duty to assist parents with the cost they incur to EHE their child. The annual review will be jointly undertaken with the link EHE officer.

## 7. Blackburn with Darwen Borough Council Procedures

7.1 In order for Blackburn with Darwen Borough Council to establish the identities of children in their area who are of compulsory school age, but who are neither registered pupils at a school, nor receiving suitable education otherwise than at school, the link EHE officer will request to meet with the family and the child to discuss the education provision.

7.2 We aim to be proportionate in all our dealings and recognise there are many approaches to providing education and will judge suitability based on outcomes rather than teaching methods. In

determining whether an education is suitable, Blackburn with Darwen Borough Council will review and assess progress on literacy and numeracy, **as a minimum**, which must feature in any programme of education delivered by parents. This, in conjunction with aspects of socialisation, environment, and length of time spent on education will usually enable us to determine suitability.

7.3 In considering the parents' provision of education Blackburn with Darwen Borough Council will consider the following characteristics:

- **Broad:** It should introduce the young person to a wide range of knowledge, understanding and skills.
- **Balanced:** Each subject taught should be allocated sufficient time to enable the young person to explore essential parts of their learning.
- **Relevant:** Subjects should be taught relating to a young person's own experiences and interests with an emphasis on practical aspects.
- **Differentiated:** What is taught, and how it is taught needs to match the young person's abilities and aptitude.
- **Efficient:** Whether the education being provided achieves what it sets out to achieve.
- **Full-time:** Whilst there is no legal definition of full-time education, we will expect parents to be able to quantify and demonstrate the amount of time spent on education.

A good curriculum may also include other aspects at an appropriate level such as personal and social education, health education, careers, and outdoor education. Opportunities to mix and relate with other children and adults are considered to be important to a child's personal and social development.

7.4 When the link EHE officer is confident that a parent is complying with Section 7 of the Education Act 1996 duty, the EHE officer and family will agree a date for the next review of educational provision. Parents may contact the link inclusion officer at any time during this period for advice.

7.5 Following contact with the parent and child the link EHE officer will write to parents within two weeks summarising the matters discussed/presented and will provide any additional information or advice requested by parents.

7.6 If it appears that a child is not receiving a suitable education, the link EHE officer will in the first instance address the situation informally by offering advice and support to help enhance the education being provided and seek to agree a follow up meeting, no later than 6 weeks, to monitor progress. Where this advice and guidance does not result in a child being provided with a suitable education, Blackburn with Darwen Borough Council will consider whether a school attendance order is required.

7.7 If Blackburn with Darwen Borough Council is made aware of a child being home educated within the local authority, the child's details will be added to the central EHE database. An officer will make written contact with the parent and share the EHE information pack which contains information and guidance, frequently asked questions and support services.

7.8 To promote children's health and welfare the Inclusion Team share EHE data with Lancashire and South Cumbria NHS Foundation Trust (LSCFT) on a termly basis in accordance with GDPR. (Usually done on the following dates: Autumn= 1<sup>st</sup> Monday in December/ Spring= 1<sup>st</sup> Monday in March/ Summer= 1<sup>st</sup> Monday in July)

7.9 The Inclusion Team is part of the Education Department within Children's Services. Overall responsibility for the Elective Home Education team sits with the Head of Service (School Systems Support).

7.10 Blackburn with Darwen Borough Council will review this Policy in relation to home education on a regular basis. The initial review will be within 12 months of the first date of publication and thereafter at least every two years.

## 8. Disputes Between Parents

8.1 Blackburn with Darwen Borough Council will always work closely with parents, this will include where one parent may disagree as to whether home education is desirable. However, the Local Authority cannot intervene where disputes or disagreements arise between parents in relation to the decision to choose EHE. This section explains what the Local Authority will do in such cases.

8.2 Where parents are separated and both have retained joint parental responsibility, the notification of EHE will be accepted from the parent with whom the child primarily resides. The Local Authority has an obligation to add the child to the EHE database when notification is received from that parent.

8.3 Where a child lives with separated parents who have shared responsibility and the child's time is split between two homes, the home address used will be that which is directed by the court or the address where the child lives for the majority of the week. If there is no decision from a court and the child's primary place of residence cannot be satisfactorily determined (e.g. because the child spends equal time at both addresses) then the Local Authority will only accept an EHE notification from the parent who receives child benefit for the child. The Local Authority reserves the right to request further proof in order to establish the home address, as necessary in individual cases.

8.4 If mediation between parents cannot resolve any disagreement, the parent who does not agree with the provision of home education is entitled to bring the matter to the Courts for consideration. If court proceedings take place, the Local Authority will comply with any decision made by the Courts about the child's education.

## 9. Safeguarding Concerns

9.1 All link EHE officers will at all times adhere to the requirements of the Department for Education ["Working Together to Safeguard Children" guidance](#).

9.2 A lack of suitable education could impair a child's development; if the local authority has concerns of this nature in relation to any child, the EHE officer will discuss their concerns with the family in the first instance. If remedial action is not undertaken by the family, a referral to children's social care may be an appropriate course of action. Families will be kept fully informed if this were to take place.

Policy agreed: January 2023

### **Contact Information for the EHE Team**

Email: [electivehomeeducation@blackburn.gov.uk](mailto:electivehomeeducation@blackburn.gov.uk)

### **Department for Education EHE Guidance**

<https://www.gov.uk/government/publications/elective-home-education>

### **National and Regional Organisations**

- Education Otherwise: [www.educationotherwise.org](http://www.educationotherwise.org)
- Ed yourself: [www.edyourself.org](http://www.edyourself.org)
- A Home Education: [www.ahomeeducation.co.uk](http://www.ahomeeducation.co.uk)
- Home Education Advisory Service: [www.heas.org.uk](http://www.heas.org.uk)
- Department for Education: [www.education.gov.uk](http://www.education.gov.uk)
- Home Education in the UK – Special Education Needs: [www.he-special.org.uk](http://www.he-special.org.uk)

### **Complaints Procedure**

If any parent/carer wishes to express dissatisfaction with any aspect of our management of EHE, they should firstly attempt to resolve the matter informally with officers.

However, if this does not succeed, they are entitled to complain by writing to:

Corporate Complaints Manager

Feedback Team

Blackburn with Darwen Borough Council

Town Hall

Blackburn

Lancashire

BB1 7DY

Tel: 01254 666800

Email: [feedback@blackburn.gov.uk](mailto:feedback@blackburn.gov.uk)