



# **SWINDON BOROUGH COUNCIL**

## **ELECTIVE HOME EDUCATION (EHE)**

### **POLICY**

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## 1. Introduction

- 1.1 This document applies to those children whose parents have chosen to educate their children at home. The document sets out parental rights and responsibilities, the current legal position and enables Swindon Borough Council to fulfil its statutory functions regarding children who are being educated at home under Section 7 of the 1996 Education Act.
- 1.2 Elective Home Education (EHE) is the term used to describe a choice by parents to provide education for their children at home instead of sending them to school. This is different to home tuition provided by the local authority 'Otherwise Than at a School' (OTAS) because the electively home educated child does not appear on any school roll, or access provision made through Swindon Borough Council's 'Educated Otherwise Than at School' (EOTAS) arrangements. Throughout this Policy, 'parents' should be taken to include all those with parental responsibility, including guardians (and foster carers, although in this case the local authority may be the corporate parent).
- 1.3 Home education is an option that families may consider for their children's education. Parents have the legal responsibility for ensuring that their children are properly educated and SBC respect their right to electively home educate their child for many reasons. These reasons may include decisions based on ideological or philosophical views, religious or cultural beliefs or because the parents believe, their child's needs may be better met in this way. It may be due to dissatisfaction with the school system or as a short-term intervention for a variety of reasons. These reasons for undertaking home education are not mutually exclusive. For some children, several of these factors might apply.
- 1.4 A parent's right to educate their child at home applies equally, where a child has special educational needs (SEN) and disabilities. It is recommended that parents of any child subject to the statutory provisions of an Education Health and Care Plan (EHCP), who are considering whether to make their own arrangements, should discuss this with the 'Special Education Needs and Disability (SEND) Service'.

This will ensure that they are fully aware of alternatives (amended provision and/or change of placement) and their statutory rights of appeal. Therefore, it is recommended that an early annual review is called to discuss and plan for the possible amended provision and/or change of placement, subject to paragraph 5.4 below.

- 1.5 Educating children at home works well when it is a positive, informed and dedicated choice, but there is evidence that not all children who are educated at home are in receipt of suitable education. It is important that parents obtain sufficient information when making that decision. The local authority has a moral and statutory obligation to ensure that children are safe and are being suitably

educated. Swindon Borough Council's aim is to ensure that all children receive a good education that enables them to reach their potential and prosper into adulthood. If it is not clear that that is the case, the government advises local authorities to act to remedy the position.

- 1.6 As there is no compulsory registration scheme for children who are electively home educated, the number of children who are educated in this way remains unknown. Nationally, the number of electively home educated children is believed to be growing steadily and this is reflected in Swindon.
- 1.7 Parents who choose to educate their child at home, including those who incorporate part-time provision at Further Education (FE) Colleges for children aged 14 and over, rather than sending the child to school full-time, take on the full financial responsibility of the cost of doing so. This includes the cost of any external assistance used such as tutors, parent groups or part-time alternative provision. However, if the child attends a Further Education (FE) college that can access funding, and are able to accept under 16 yr olds for part of the week, there is no cost to the parents. This is additional education, and cannot be viewed as the sole education provider for a child who is EHE. If a child has an EHCP, they may be able to apply for a personal budget. Examination costs are the responsibility of the parent if a child does not attend school full-time.

## 2. Background

2.1 This policy is based on the 2019 guidance provided by the Department for Education (DfE).

2.2 Section 7 of The Education Act 1996 states that:

"The parent of every child of compulsory school age shall cause them to receive sufficient full-time education suitable:

- (a) to their age, ability and aptitude, and
- (b) to any special educational needs they may have,  
*either by regular attendance at school or otherwise.*

This means that the responsibility for children's education rests with their parents.

*"If it appears that the child/young person is not receiving suitable education, either by regular attendance at school, or otherwise...(the local authority) shall serve a notice, in writing, on the parent requiring them to satisfy.... that the child is receiving such education".*

2.3 The United Nations Convention on the Rights of the Child (Article 28) recognises the right of all children to an education without discrimination. Article 29 of the United Nations Convention on the Rights of the Child states that Education must develop '...the child's personality, talents and mental and physical abilities to

their fullest potential.’ In addition, it states that education must develop the child’s respect for human rights, as well as respect for their parents, their own cultural identity and that of other cultures or civilisations and the natural environment.

2.4 Article 2 of Protocol 1 of the European Convention on Human Rights states that:

*“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions”.*

In brief:

- You have a right, if you choose to do so, to educate your children at home
- You do not have to inform Swindon Borough Council that this is your choice
- Schools must advise SBC where a child is removed from the school roll within 10 working days

### **3. Aims of the Policy**

3.1 The aim of this policy is to ensure that as a local authority, we have clear and consistent procedures in place for working in partnership with schools and parents who choose to Electively Home Educate their children and discharges its statutory duties in relation to the education of all children living within Swindon.

3.2 The local authority, in its role as champion for all children and young people whether they are educated in school or elsewhere, has a duty to promote the achievement of all children and young people. In doing so it will seek to establish the identities (so far as possible), of the children in Swindon who are home educated, and offer information, advice and guidance to parents. The duty under s.436A states local authorities must make arrangements to find out so far as possible whether home educated children are receiving suitable full-time education. The local authority will intervene where there are concerns that a child is not receiving a suitable education or there are concerns about a child’s well-being or safety.

3.3 The policy seeks to affirm the principles upon which the local authority undertakes its duty towards Electively Home Educated (EHE) children and young people.

3.4 The policy aims to give parents who are considering removing their child from school to home educate them, the opportunity to fully explore the implications, and to assist them in making an informed decision that is an active and positive step in the best interests of their child. This information is in a supplementary

leaflet. Further information on additional resources can be found via the Swindon Borough Council's website <https://www.swindon.gov.uk/xfp/form/564>

- 3.5 Through this policy the local authority is committed to working in partnership with parents, children and young people and the wider EHE community. The local authority will uphold the principles described below in discharging its duty towards children and young people.

#### **4. Principles underpinning the Swindon Borough Council policy**

- 4.1 The local authority's ambition is for Swindon to be a place where children are safe, healthy and happy, where everyone enjoys a good quality of life and where everyone can achieve their potential.
- 4.2 All children and young people have a right to an education that is appropriate to their age, ability and aptitude which takes into account any special educational needs and disabilities they may have.
- 4.3 The local authority recognises that parents have the legal responsibility for ensuring that their children are suitably educated and respects the rights of parents who choose EHE for their child. The local authority seeks to work in partnership with and offer support to all parents who make this choice.
- 4.4 The local authority acknowledges that children learn in different ways and at different times and speeds. It appreciates that parents and their children might require a period of adjustment before finding their preferred mode of learning and that families may change their approach over time.
- 4.5 The decision by parents to elect to educate their child other than at school should be an informed, active and positive one. It is important that parents obtain sufficient information about home education when making the decision and the local authority recognises its role in making this information available.
- 4.6 Where a parent is considering withdrawing their child from school as a result of conflict, bullying or emotional problems, the school should work closely with the parents and the appropriate Elective Home Education (EHE) Support Team, to resolve the issues wherever possible and at the earliest opportunity. This may include a meeting with the family, the school and the EHE Support Officer to ensure that all avenues of meeting the students' needs have been explored.
- 4.7 Every effort must be made to ensure that the child continues their education in school if that is in their best interest. The local authority will work with all maintained schools, academies and independent schools to ensure that they adhere to statutory guidance in relation to attendance, exclusions and the removal of children from a school roll to reduce the potential for children to be displaced into EHE by default or go missing.

- 4.8 There are a variety of approaches to providing a suitable, full-time education and an EHE child may not necessarily follow a programme of study designed for the school sector nor do they have to follow the National Curriculum; and there is no requirement to enter children for public examinations. There is no obligation to follow the 'school day' or have holidays which mirror those observed by schools.
- 4.9 The local authority is required as far as possible, to identify children who are not in receipt of a suitable education and appropriate enquiries shall be made to this end in respect of children who are electively home educated. Local authorities must take such action where it is required, within the constraints of the law. Local authorities have the same safeguarding responsibilities for children educated at home as for other children. They should be ready to use safeguarding powers appropriately, when warranted.
- 4.10 If it appears through appropriate enquiries, that suitable provision is not being made for the child, the local authority will recommend a return to school. Please refer to Appendix A EHE Flowchart which outlines the legal process and the responsibilities of parents/carers, schools and the LA.

## **5. Parental rights and responsibilities**

- 5.1 Parents may elect to home educate at any stage up to the end of compulsory school age. They must ensure that their children receive suitable full-time education for as long as they have elected to educate them at home. Please refer to government guidance for further information using the following link:  
[www.gov.uk/government/publications/elective-home-education](http://www.gov.uk/government/publications/elective-home-education)
- 5.2 The education provided by parents will reflect a diversity of approaches and interests. Some parents may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to school hours and terms. Other parents may decide to make more informal provision that is responsive to the developing interests of their child.
- 5.3 Parents' right to educate their child at home applies equally where a child has SEND. This right applies, irrespective of whether the child has an Education Health and Care Plan (EHCP) or not.
- 5.4 Parents are not required to register or seek the approval from the local authority to educate their child at home, if they are attending a mainstream school. However, parents who choose to EHE in Swindon are advised to register their child with Swindon Borough Council's EHE Support Team.
- 5.5 Children with an Education, Health and Care (EHC) Plan can be home educated. Parents must have the local authority's agreement to withdraw their child from school if the child has an EHCP **and** attends a special school. Where

the EHC plan gives the name or type of school where the child will be educated and parents decide to educate at home, the local authority is not under a duty to make the special educational provision set out in the plan, provided it is satisfied that the arrangements made by the parents are suitable. Where the local authority and parents agree that home education is the right provision for a child or young person with an EHC plan then the local authority must arrange the special educational provision set out in the plan, working with the parents. In either situation, the local authority must review the plan annually to assure itself that the provision set out in it continues to be appropriate and that the child's SEND continue to be met.

- 5.6 Parents are not required to have any qualifications or training to provide their children with a suitable education.  
Parents may choose to employ other people to educate their child, though they themselves will continue to be responsible for the education provided. They will also be responsible for ensuring that anyone they engage is a suitable person to have access to children and that their child is not attending an unregistered setting.
- 5.7 Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the cost of any public examinations.
- 5.8 Home educating parents are not required to have any ongoing contact with the local authority in relation to their child's education unless there is a cause for concern. However, the EHE Support Team remains available for advice, guidance and support.

## **6. Local Authority Responsibilities**

- 6.1 Local authorities have a statutory duty under section 436A of the Education Act 1996, to make arrangements to enable them to establish the identities, as far as it is possible to do so, of the children in their area who are not receiving a suitable education. The duty applies to children of compulsory school age who are not on a school roll, and who are not otherwise receiving a suitable education at home, privately, or in alternative provision.
- 6.2 Under section 436A, children missing education are defined as 'children of compulsory school age who are not on a school roll, not placed in alternative provision by the local authority and not receiving a suitable education at home'.
- 6.3 Local authorities have no statutory duties in relation to monitoring the quality of EHE on a routine basis. However, under section 437(1) of the Education Act 1996, local authorities shall intervene if it appears that the parents are not providing a suitable education. If it appears to a local authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve notice in writing on the parent requiring them to satisfy them within the period specified in the notice that the child is receiving such education." Parents must have at least 15 days to respond to such a notice.



- 6.4 If parents do not make a response, or if they fail to satisfy the authority that the child is receiving a suitable education, and it is expedient that the child attends school, then the authority will serve a School Attendance Order (SAO) requiring the parent to cause the child to become a registered pupil at the school named in the order. The basis on which schools are selected for this purpose is outlined in Sections 438 to 441 of the Education Act 1996.
- 6.5. Where a child has an Education Health and Care Plan (EHCP) and is EHE, it remains the local authority's duty to ensure that the child's needs are met and to maintain the EHCP. The EHCP should be reviewed annually.

## **7. Roles, Responsibilities and Procedures**

- 7.1 Parents inform the school, where the child is registered, in writing, that they intend to educate their child at home. The school should then immediately inform Swindon Borough Council's Elective Home Education (EHE) Support Adviser by submitting an EHE referral via the Elective Home Education link on Schoolsonline or via the following link to Swindon Borough Council's website: <https://www.swindon.gov.uk/xfp/form/564>.
- 7.2 A voluntary registration scheme is operated in Swindon and all parents who provide home education are encouraged to notify the EHE Support Team. The Children Act 2004 places a duty on all stakeholders to share information for the purposes of safeguarding and promoting the welfare of children. All children brought to the attention of Swindon Borough Council as being in receipt of elective home education will be recorded and referred to Swindon's EHE Support Team in order that the local authority is able to discharge its duty under section 436A of the Education Act 1996.
- 7.3 Schools should explore with parents all the immediate and longer-term implications of taking their child off roll. In line with DfE guidance (2019) it is strongly advised that parents confirm in writing to the school their intention to home educate to avoid misunderstanding; if no such written confirmation is provided to the school then Swindon Borough Council requires the school to provide a written confirmation to the EHE Support Team of the decisions made.
- 7.4 The school must inform the EHE Support Officer within 15 working days of the parents' decision to deregister their child. They should follow the legal requirements and the agreed local authority protocols for taking children off roll. Any safeguarding concerns must also be reported. The practice of removing a pupil from the school roll by encouraging a parent to remove their child from the school, when the removal is primarily in the interests of the school rather than in the best interests of the pupil would be considered 'off-rolling' and is to be avoided at all times.
- 7.5 Whilst there is no provision in law for a 'trial period' of home education, the local authority recommends that parents seek agreement with the school to keep the child's school place 'open' for ten (10) working days whilst the EHE Support Officer verifies with the parent that they have made an informed choice about

educating their child at home. These meetings are not compulsory but are seen as best practice.

- 7.6 Should a parent/carer choose to EHE following the receipt of a decision in writing from a head teacher to permanently exclude their child then a head teacher has the right to decide whether to withdraw the permanent exclusion or to continue with the process. In most circumstances, it is likely that the permanent exclusion process will continue.
- 7.7 The EHE Support Officer will send the parent a copy of Swindon Borough Council's Elective Home Education Guidance Booklet as well as the DfE Departmental Guidance for Parents.
- 7.8 The EHE Support Officer will then make contact with the family to offer an informal meeting to review the proposed arrangements. This meeting will not be more than three weeks from the initial contact. The purpose of the meeting will be to establish:
- Why the parent has decided to home educate their child
  - What they hope to achieve by home educating their child
  - How they intend to achieve this objective
  - What resources do they have available
- 7.9 The EHE Support Officer does not have an automatic right of access to a parent's home therefore; parents may wish to offer an alternative way of demonstrating that they are providing suitable education i.e. by showing examples of their child's work; agreeing to a meeting at an alternative venue; providing a detailed report; an educational philosophy with examples of work; or an assessment by a qualified third party.
- 7.10 Where the EHE Support Officer is satisfied that a parent is complying with their Section 7 duty (to demonstrate that education provided is suitable) ideally, the review of educational provision should take place every 12 months unless an earlier review is required or requested by the parent/carer.
- 7.11 If it appears, at subsequent meetings, to the EHE Support Officer, that a child of compulsory school age is not receiving efficient or suitable full-time education, either by regular attendance at school or otherwise, as advised by DfE guidance (2019), the local authority should work to address the situation informally. The EHE Support Officer will explain their concerns to the family and will then confirm in writing to the parent stating that this is the case. The reasons for the decision will be specified and the parent will have the opportunity to improve their arrangements over 15 days.
- 7.12 A date for further contact will be set, at which the EHE Support Officer will determine whether the education now reaches the given standard. If there is no evidence or in the absence of other information that suitable progress is being made, a referral will be made to the Senior Education Officer (EWO) who will then determine whether a School Attendance Order (SAO) is appropriate. If a

SAO is deemed appropriate, the Senior EWO will liaise with the parent and a SAO may be issued.

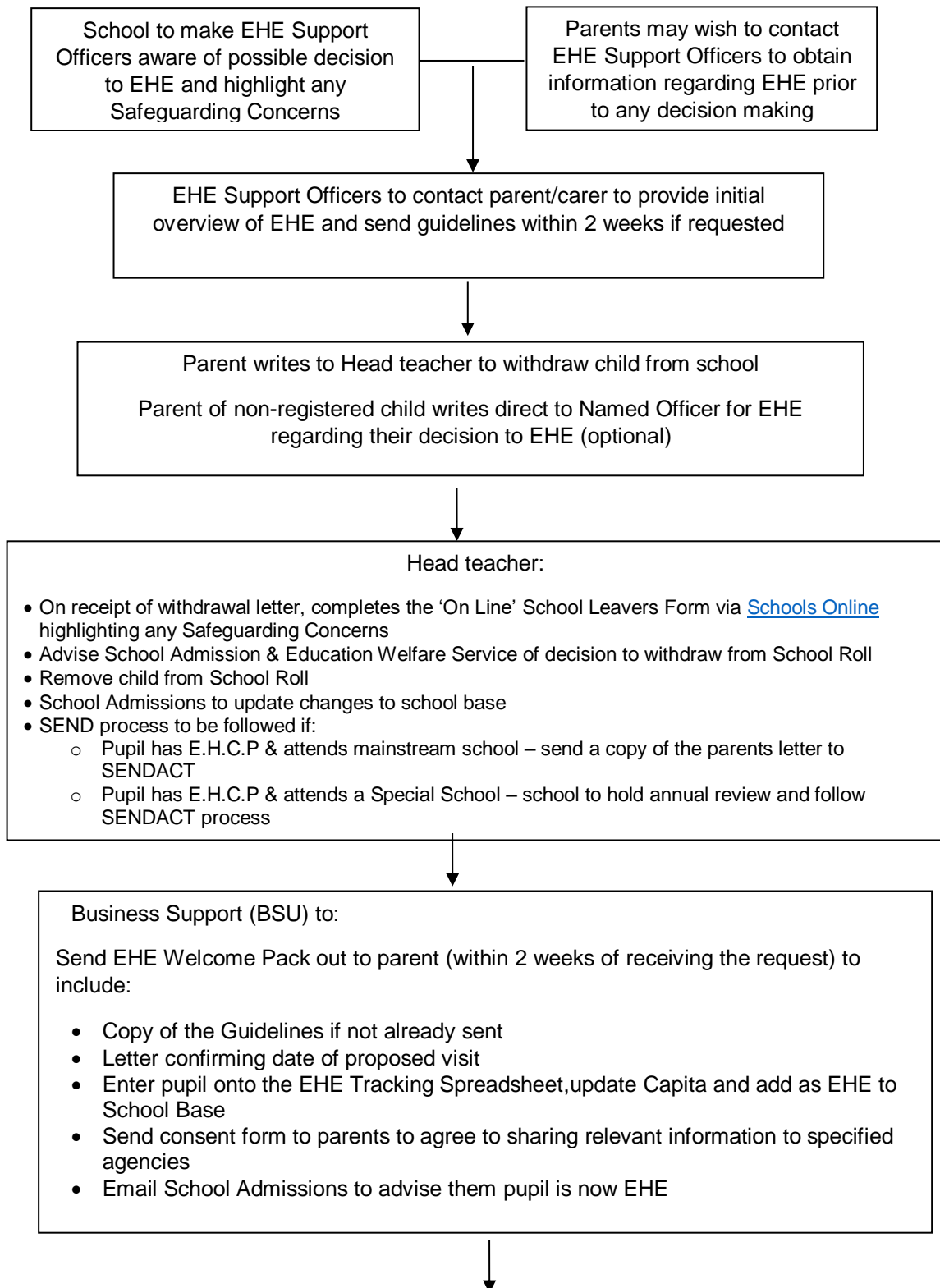
- 7.13 If a child has an EHCP, the parent has the same rights as other families to educate their child at home. However, the Local Authority has to be satisfied that the parent can meet the needs of the child as outlined in the statement. In the case of a pupil who attends a special school, deregistration is not permitted without the consent of the local authority or if the local authority refuses consent without a direction of the Secretary of State. The Council considers that a Review Meeting will be essential, as part of its considerations when determining whether or not to permit deregistration of the pupil.
- 7.14 In the course of the functions placed upon Local Authorities (LA) by the Education Act 2002, the EHE Support Officer will ensure that children/young people's interests are safeguarded and their welfare promoted by them not being at risk of significant harm (see safeguarding section below).
- 7.15 Where parents decline a visit and do not provide other evidence of a suitable education, Swindon Borough Council's EHE Support Officer will ask the parents for further information about the education that is being provided. 'Parents are under no duty to respond to such enquiries. However, if a parent does not respond, or responds without providing any information about the child's education then a referral to the Senior EWO will be made and it will normally be justifiable for the authority to conclude that the child does not appear to be receiving suitable education' (DfE Guidance 2019), and a School Attendance order will be applied for.

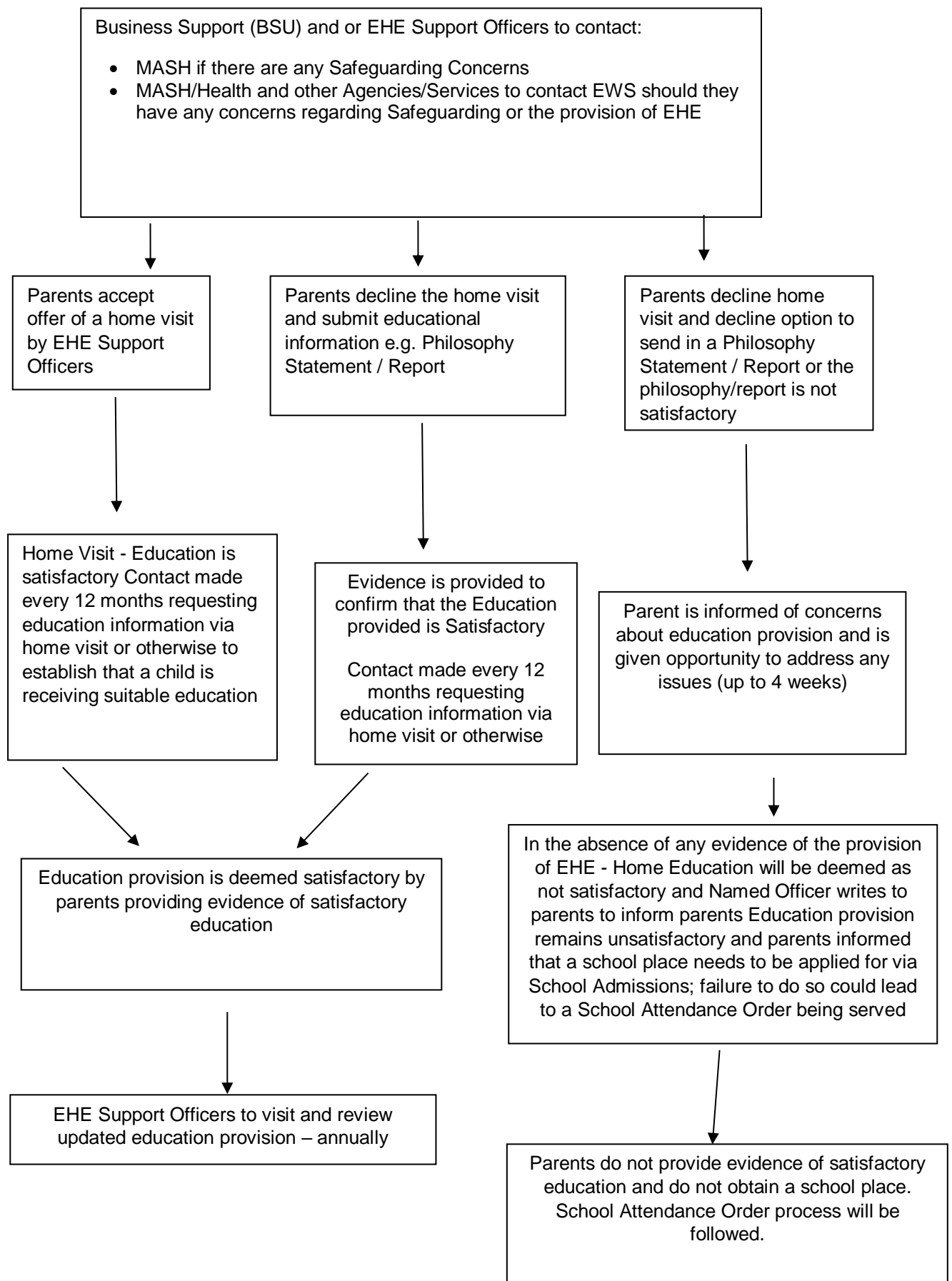
## **8. Safeguarding**

- 8.1 Local authorities have a duty under section 11 of the Children Act 2004 and section 175 (1) of the Education Act 2002. Please access the link to the legislation: <http://www.legislation.gov.uk/ukpga/2002/32/section/175>
- 8.2 The welfare and protection of all children, both those who attend school and those who are educated at home, are of paramount concern and the responsibility of the whole community. Working Together to Safeguard Children 2018 states that all agencies and individuals should aim to proactively safeguard and promote the welfare of children. To view the guidance please follow the link: [Keeping Children Safe in Education, 2020](#)
- 8.3 Every practitioner, and school in Swindon working or in contact with a child has a responsibility to follow the process to report this as described in the Swindon Borough Council Children Missing Education Policy if they know or suspect that a child is not receiving a suitable education via the following link: <https://www.swindon.gov.uk/schoolsonline/downloads/file/1401/cme-policy-april-2020>

- 8.4 As with school educated children, safeguarding issues may arise in relation to electively home educated children. If concerns become known in the course of engagement with children and families, or otherwise, they shall be addressed in accordance with the process set out in Swindon Borough Council's Safeguarding Children Child Protection procedures available on the Swindon Safeguarding Partnership website:  
<https://safeguardingpartnership.swindon.gov.uk/swindonlscb/info/5/procedures/12/procedures>
- 8.5 The duties of Swindon Borough Council's Elective Home Education Service in respect of safeguarding children are described in the Swindon Borough Council's 'Guidance to parents'.

## Appendix A - Swindon Elective Home Education Process





**Please Note:**

- **Should you ever have any concerns about a child or young person contact [MASH](mailto:swindonmash@swindon.gov.uk) at [swindonmash@swindon.gov.uk](mailto:swindonmash@swindon.gov.uk) or call **01793 466903** during office hours and **101** outside of office hours. For more information visit [our website](#)**
- **Ideally, if both parents have PR, both parents are requested to sign the letter confirming their joint decision to Electively Home Educate their child[ren]. However, if this is not possible, then notice from one parent will suffice.**
- **If a child has an EHCP and attends a special school, parents/carers must seek permission from the LA before they are able to Electively Home Educate their child**
- **If a child has never attended school then the parent does not need to inform the LA of decision to Electively Home Educate. However, should they choose to do so, this will enable support to be offered by the Education Welfare Service**
- **Should MASH, Health, other Agencies/Services or members of the public become aware that a child that appears to not be in receipt of an education via a school place or otherwise, please contact Education Welfare Service**
- **If a child has an E.H.C.P – please contact SEND for further information and guidance**