SWINDON BOROUGH COUNCIL

ELECTIVE HOME EDUCATION (EHE) POLICY

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Introduction

This document applies to those children whose parents have chosen to educate their children at home. The document sets out parental rights and responsibilities, 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 and as outlined in Elective Home Education, Guidance for LAs, DfE, April 2019.

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).
This policy is based on The Education Act 1996 and guidance provided by the Department for Education (DfE 2019). 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".

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."*

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."

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 Educating children at home works well when it is a positive, informed and dedicated choice.

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 education provided by the local authority 'Education Otherwise Than at a School' (EOTAS). Children who are electively home educated do not appear on a school's roll.

Parents have the legal responsibility for ensuring that their children are properly educated. Home education is an option that families may consider for their children's education. Choice of home education maybe based on ideological, philosophical views, religious or cultural beliefs or because the parents believe, their child's needs may be better met in this way. It may also be due to dissatisfaction with the school system or as a short-term intervention for a variety of reasons. Swindon Borough Council respect parents' rights to educate their child at home.

A parent's right to educate their child at home applies equally, where a child has special educational needs and disabilities (SEND). 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, must discuss this with the Special Education Needs and Disability (SEND) Services, who will ensure that they are fully aware of alternatives (amended provision and/or change of placement) and their statutory rights of appeal.

Some parents will choose for their children to access part time provision through local groups or FE (further education). It is for the parents to decide what provision they choose to make for their child. Swindon Borough Council will take all provision into consideration when determining if a suitable education is in place.

However, 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 before making the decision to electively home educate. Swindon Borough Council have a statutory obligation to ensure that children are safe and are being suitably educated. If it is clear a suitable education is not being provided Swindon Borough Council must act in line with DfE advice and guidance Elective home education: departmental guidance for local authorities (publishing.service.gov.uk)

There is no compulsory registration scheme for children who are electively home educated, however all children who have previously been on a school roll will be identified to ensure that they are in receipt of suitable education. Swindon offers a voluntary scheme for registration and includes access to the Attendance and Inclusion team for ongoing support and guidance.

Parents who choose to educate their child at home take on the full financial responsibility of the cost of doing so including examination costs, any external assistance used such as tutors, parent groups or part-time alternative provision. If a child has an EHCP and the Local Authority through the SEND service have agreed to EHE parents may be eligible for a personal budget.

Some Further Education (FE) colleges make provision for children under 16 and may have funding that the College can access. This is additional education and cannot be viewed as the sole education provider for a child who is EHE.

Principles underpinning the Swindon Borough Council policy

Swindon Borough Council'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 every child can achieve their potential.

All children and young people have a right to an education that is appropriate to their age, ability and aptitude which considers any special educational needs and disabilities they may have.

Swindon Borough Council 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 and seek to work in partnership with, and offer support to, all parents who make this choice.

Swindon Borough Council 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.

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.

Swindon Borough Council is committed to working in partnership with parents, children and young people and the wider EHE community.

Aims of the Policy

The aim of this policy is to ensure that clear guidance roles and responsibilities, as well as consistent procedures are in place for working in partnership with schools and parents who choose to Electively Home Educate (EHE) their children, and in order to discharge Swindon Borough Council's statutory duties in relation to the education of all children living within Swindon.

Swindon Borough Council is a champion for all children and young people and has a duty to promote the achievement of all children and young people whether they are educated in school or elsewhere. In doing so Swindon Borough Council 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.

Local Authorities must take actions wherever possible to find out whether home educated children are receiving suitable full-time education under s436A. The Local Authority must 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.

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.

Parental rights and responsibilities

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

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.

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 reflects school hours and terms. Other parents may decide to make more informal provision that is responsive to the developing interests of their child.

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.

Parents are not required to register or seek the approval from the local authority to educate their child at home. A voluntary registration scheme is operated in Swindon and all parents who provide home education are encouraged to notify the Attendance and Inclusion Team.

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.

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.

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.

Where a parent is considering withdrawing their child from school because of conflict, bullying or emotional problems, the school should work closely with the parents, to resolve the issues wherever possible and at the earliest opportunity. This may include a meeting with the family, the school and the Attendance and Inclusion Team to ensure that all avenues of meeting the students' needs have been explored.

Parents are encouraged to inform the school, where the child is registered, in writing, that they intend to educate their child at home.

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 Attendance & Inclusion Team remains available for advice, guidance and support.

Swindon Borough Council's Responsibilities

Swindon Borough Council 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. Swindon Borough Council must act where it is required.

If it appears, through appropriate enquiries, that suitable provision is *not* being made for the child, Swindon Borough Council will recommend a return to school in line with government guidance Elective Home Education – Departmental Guidance for Local Authorities (2019).

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 Attendance & Inclusion Team, in order that the local authority is able to discharge its duty under section 436A of the Education Act 1996. This includes sharing the child's home education status with other professionals, as required.

Swindon Borough Council has 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, Swindon Borough Council must intervene if it appears that the parents are not providing a suitable education, either by regular attendance at school or otherwise, and must 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.

If parents do not make a response, or if they fail to satisfy Swindon Borough Council that the child is receiving a suitable education, and it is expedient that the child attends school, then a School Attendance Order (SAO) will be served, 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.

Where a child has an Education Health and Care Plan (EHCP) and is EHE, it remains the duty of Swindon Borough Council to ensure that the child's needs are met and to maintain the EHCP. The EHCP will be reviewed annually.

Where a child has a social worker, either as a Child in Need or is on a Child Protection plan, visits will continue in line with statutory time scales and provision of suitable education will be considered as part of the statutory plans. Joint visit may take place involving the social worker and EHE officer.

Schools Responsibilities

Schools should explore with parents all the immediate and longer-term implications of taking their child off roll. They should also offer contact information of the duty EHE Officer, from Swindon Borough Council, who can be contacted for advice. 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 Attendance & Inclusion Team of the decisions made.

The school must inform the Attendance & Inclusion Team as soon as practicable of the parents' decision to deregister their child. Schools should follow the legal requirements and the agreed local authority protocols for taking children off roll. Any safeguarding concerns must also be reported.

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.

Procedures

Parents inform the school, where the child is registered, in writing, that they intend to educate their child at home.

School to inform Swindon Borough Council's Attendance and Inclusion Team by submitting an EHE notification.

The Attendance and Inclusion Team 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.

The duty EHE Officer from Swindon Borough Council will contact the family to offer support and advice and to gather any relevant information to assist in reaching a properly informed view that home education is suitable. If it is established the parent does *not* wish to continue to pursue elective home education, the duty EHE Officer will liaise with school to arrange a meeting to discuss further.

If it is parental wish to continue with EHE the allocated EWO will ring the parent/s to complete a questionnaire and arrange a home visit. If preferred, a meeting via Teams/Zoom/telephone call to review the proposed arrangements can be made. This meeting should not be more than three weeks from the initial contact. The purpose of the meeting will be to:

- Build a positive and constructive relationship with parents/carers, to ensure that EHE is a positive choice and that the educational needs of their child are being met.
- Discuss what they hope to achieve by home educating their child.
- See how they intend to achieve this objective?
- Establish what resources they have available?

The Attendance & Inclusion Team 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 or providing a detailed report.

Where the Attendance and Inclusion Team 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 at least every 12 months unless an earlier review is required or requested by the parent/carer or a new concern is raised as part of statutory social care involvement.

If it appears, at subsequent meetings, to the Attendance & Inclusion Team, 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 Attendance & Inclusion Team 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.

A date for further contact will be set, at which the Attendance & Inclusion Team 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 Welfare Officer (EWO) who will then determine whether a School Attendance Order (SAO) is appropriate. If a SAO is deemed appropriate, a Senior Education Welfare Officer, from the Attendance& Inclusion Team the will liaise with the parent and a SAO may be issued.

If a child has an Education Health and Care Plan (EHCP), the parent has the same rights as other families to educate their child at home. However, the Local Authority must be satisfied that the parent can meet the needs of the child as outlined in the EHCP. 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. In such circumstances an annual review will be called to determine whether to permit deregistration of the pupil.

During the functions placed upon Swindon Borough Council by the Education Act 2002, the Attendance & Inclusion Team 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).

Where parents decline a visit and do not provide other evidence of a suitable education, Swindon Borough Council's Attendance & Inclusion Team 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 a Senior EWO, and where following enquiries' 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.

Safeguarding

Swindon Borough Council has 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

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 2023: statutory guidance (publishing.service.gov.uk) 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 - GOV.UK (www.gov.uk)

Every practitioner and school in Swindon working with 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 guidance. If any individual knows or suspects that a child is not receiving a suitable education please contact attendance@swindon.gov.uk for further information.

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

The duties of Swindon Borough Council's Attendance & Inclusion Team in respect of safeguarding children are described in the Swindon Borough Council's 'Guidance to Parents' available at Elective home education (EHE) | Educational welfare services | Swindon Borough Council