

# HILLINGDON'S ELECTIVE HOME EDUCATION POLICY

<b>Cabinet Member(s)</b>	Councillor Susan O'Brien
<b>Cabinet Portfolio(s)</b>	Cabinet Member for Education, Children and Youth Services
<b>Officer Contact(s)</b>	Dan Kennedy, Director Housing, Environment, Education, Performance, Health & Wellbeing
<b>Papers with report</b>	Appendix 1 - Draft Elective Home Education Policy

## HEADLINES

<b>Summary</b>	<p>Elective Home Education (EHE) is a term used to describe a choice by parents to provide education for their children at home - or in some other way which they choose - instead of sending them to school full-time.</p> <p>The current Elective Home Education Policy was last reviewed in 2012. The purpose of the review is to update the policy in line with the Department for Education's latest guidance and to ensure that the increase in home education provisions are taken into consideration before a final policy is approved.</p> <p>The review also reflects a more balanced approach to both safeguarding issues and the rights of parents, as well as considering a number of other ways to improve information and communication between the Council and EHE parents.</p>
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<b>Putting our Residents First</b>	<p>This report supports the following Council objectives of: <i>Our People</i>.</p> <p>The recommended changes in the policy will help to provide continued support for our electively home educated families and demonstrate a clear understanding on how the Council can ensure safeguarding for all children.</p>
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<b>Financial Cost</b>	There are no direct cost implications arising from this report.
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<b>Relevant Policy Overview Committee</b>	Residents, Education and Environmental Services Policy Overview Committee.
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<b>Relevant Ward(s)</b>	All
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## RECOMMENDATIONS

That the Cabinet:

1. Notes the findings from a review by officers of the Elective Home Education Policy and current external factors.
2. Considers the proposals for changes to be made to the Elective Home Education Policy and authorises officers to undertake a full consultation exercise in relation to them and the draft policy attached in Appendix 1.
3. Agrees to receive a further report at its February 2021 meeting for the purpose of considering the consultation responses and deciding whether to implement a revised Elective Home Education Policy.

### Reasons for recommendation

The aim of the review is to update the existing policy which was determined in 2012. When reviewing the Council's Elective Home Education Policy, particular attention was made to examine the balance of both safeguarding issues and the rights of parents who choose to home educate their children, providing an update on processes in-line with the latest guidance released by the Department for Education in April 2019.

The Elective Home Education Policy is a valuable document in supporting those parents that choose to home educate. The outcomes of the review will offer the prospect of developing the relationship with parents that home educate.

### Alternative options considered / risk management

None. The proposals presented in this report are intended to be reasonable, clear, objective, procedurally fair and comply with all relevant legislation.

### Policy Overview Committee comments

The Residents', Education and Environmental Services Policy Overview Committee has regularly monitored this subject and will participate in the consultation on this policy, feeding back their views to Cabinet in February 2021 before decision.

## SUPPORTING INFORMATION

1. The purpose of the Elective Home Education policy is to clearly set out the Council's responsibilities and involvement with families that choose to provide elective home education for their children.

2. There is no legislation that deals with home education as a specific approach. However, 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.

Elective home education is a form of 'education otherwise than at school' and this piece of legislation is the basis for the obligations of parents. It is also the starting point for local authorities' involvement.

3. The review by officers considered the following areas:

- Changes to the layout and continuity of the policy.
- Proposal for dedicated Social Care involvement and support, when a child has an open referral to their service
- Introduction of a flow chart, showing the process followed by the EHE officer once receiving notification of a family wanting to home educate their children.

#### **A. Layout of the policy**

4. The current Elective Home Education Policy 2012 is now outdated and the layout can be considered as being difficult to follow making it complicated to understand.

#### Proposal

5. To remove repetitive sentences and ensure that the policy is clear, effective, parent focused and misinterpretation cannot be made.

#### **B. Dedicated social care involvement and support, when a child has an open referral to their service**

6. Due to the current Coronavirus pandemic, the Council has received an increase in requests for pupils to be removed from their school roll to be electively home educated. Data from the 14 October 2020 indicates that 335 pupils are receiving EHE in the Hillingdon (that the Council has been notified of). This is a 48% increase on the pupils recorded at the same time last year. The increase is in line with the national and regional trend.

#### Proposal

7. The amended policy will include the School Placement and Admissions team process to follow when safeguarding concerns are raised regarding a child who is receiving elective home education. The details can be located in the following sections of the proposed policy:

Section 7 Responsibilities of Schools in Hillingdon

Section 8 Hillingdon Council's EHE Procedures

Section 10 Elective Home Education and Safeguarding

### C. Introduction of a flowchart

8. The current policy contains information on the process that the Council follows when notified of a parent choosing to provide elective home education, however, this requires searching through the document which may be unclear and misinterpreted.

#### Proposal

9. To include a flowchart in the policy of the proposed procedure. This will provide clear guidance/steps that will be taken by the Local Authority when a parent makes the decision that they would like to provide elective home education for their child and cease their attendance in a school setting. The flowchart is provided in Annex B of the draft Elective Home Education policy.

### Financial Implications

There are no direct financial implications arising from this report.

## RESIDENT BENEFIT & CONSULTATION

### The benefit or impact upon Hillingdon residents, service users and communities?

#### The Human Rights Act

This Act confers a right of access to education for residents. 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." This means that the wishes of parents are relevant. However, it does not mean that parents are the sole arbiters of what constitutes a suitable education. There is no definition of a 'suitable' education in English statute law. A court will reach a view of suitability based on the particular circumstances of each child and the education provided. However, clearly a local authority must have a basis on which to reach the decisions called for in s.437 of the Education Act 1996 as to whether or not the education being provided is suitable.

The United Kingdom has ratified the United Nations Convention on the Rights of the Child (UNCRC). Article 12 of the UNCRC requires states to provide a right for children to express their views and for due weight to be given to those views, in accordance with the age and maturity of the child. This does not give children authority over parents, and a decision to educate a child at home is a matter for parents, in the same way as a decision to send a child to school.

#### The Equality Act

Local authorities are subject to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, and should ensure that their policy and practice in relation to home education is consistent with that duty.

Officers will prepare an Equalities Impact Assessment for Cabinet to consider at its February 2021 meeting. The assessment will fully take into account the consultation responses.

### **Consultation carried out or required**

The proposal is to consult on the changes to the policy for six weeks from 16 November to 27 December 2020. There are no statutory guidelines to determine the timescale of the consultation however; officers would like to allow sufficient time for the EHE community to respond.

The consultation will target parents/guardians who the council are aware of as providing elective home education for their child/children, seeking their views on the changes to the policy.

The draft policy will be presented to the Residents', Education and Environmental Services Policy Overview Committee in January 2021.

## **CORPORATE CONSIDERATIONS**

### **Corporate Finance**

Corporate Finance has reviewed the report and concur with the Financial Implications set out above, noting that there are no financial implications arising from the report recommendations.

### **Legal**

The Department for Education ["DfE"] issued guidance for local authorities in relation to elective home education in April 2019. The status of the guidance is that it is non-statutory which means that it does not have the force of law. Nevertheless, it is a helpful and informative document which sets out good practice and principles which it is in the interests of the Council to follow.

Cabinet authority is being sought to permit officers to consult on the proposals for changes to be made to the Council's current Elective Home Education Policy in line with the DfE guidance. There are no strict guidelines governing the length of the consultation period which needs to be undertaken but 6 weeks would appear to be a reasonable period.

There are a set of well-established common law rules which prescribe the requirements of a lawful public consultation which are commonly known as the 'Gunning principles'. They were endorsed by the Supreme Court in the Moseley case.

These principles can be briefly summarised as follows:

- consultations should occur when proposals are at a formative stage;
- consultations should give sufficient reasons for any proposal to permit intelligent consideration;
- consultations should allow adequate time for consideration and response;
- the product of consultation should conscientiously be taken into account by the decision maker.

The Council, in common with other local authorities, is subject to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. As a matter of law, the Council is required to have due regard to this duty in the context of revising its Elective Home Education Policy. Therefore, a full Equalities Impact Assessment will be prepared by officers for Cabinet's consideration at its February 2021 meeting.

### **Comments from other relevant service areas**

This proposed policy has been written in conjunction with the Head of Safeguarding for Hillingdon Council.

## **BACKGROUND PAPERS**

The Department for Education released a new Publication of the Elective Home Education Departmental Guidance for Local authorities and Elective Home Education Departmental Guidance for Parents in April 2019. [A link is available here](#) or upon request to Democratic Services.