



Department
for Education

Elective home education

**Draft departmental guidance for local
authorities**

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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 local authorities understand their role in relation to elective home education.

This guidance for local authorities and the parallel guidance for parents 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 of both sets of this guidance, and to try and make clearer the respective responsibilities of parents and local authorities in relation to elective home education.

Expiry or review date

This guidance will next be reviewed by xxxxxx 2026.

Audience

This guidance is for:

- Local authorities
- Schools
- Parents, although a separate document for parents is published alongside this one.¹

¹ [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 live a more fulfilled life; and for education to be provided in a safe environment, whether that be at school or at home.

Parents have a right to educate their children at home. The Government respects this right and wants to ensure that parents are supported to do this well. Most parents who take up the weighty responsibility of elective home education do a great job, and many children benefit from being educated at home.

Educating children at home works well when it is a positive, informed and dedicated choice and decision. The past few years have seen a significant increase in the number of children being educated at home, especially as a result of the Covid-19 pandemic.² While this increase is not a concern in of itself, there is evidence from local authorities and other stakeholders that some of these children are not receiving a suitable efficient full-time education, including that some of these children are not being educated in safe environments.³ (Hereafter, "suitable education" will be used as shorthand to include all element of section 7 of the Education Act 1996: suitable, efficient, and full-time. (See [Chapter 3](#) for more information on section 7).

Although the primary responsibility for ensuring that children are properly educated belongs to parents, a local authority has obligations intended to ensure that a child is safe and being suitably educated. Local authorities have a legal duty to make arrangements to identify children not registered at schools who are not receiving suitable education, and then to act if it appears that a child is not in receipt of suitable education.⁴ It is crucial the authority acts promptly should they become aware that a child is not receiving suitable education.

This guidance is intended to help local authorities understand their existing powers and duties in relation to children who are being educated at home, and how those relate to the obligations of parents.

² The Association of Directors of Children's Services annual [elective home education surveys](#) showed that child numbers increased from 37,500 in 2016 to 81,196 in 2021, which includes a large increase of 38% between 2019 and 2020 due to the Covid pandemic. The Department has also published aggregate [data on elective home education](#) which was requested from local authorities. Authorities reported an estimated 80,900 children in home education on Autumn 2022 census day and 86,200 in Spring 2023.

³ [Home education: call for evidence](#); [Education Committee Home Education Inquiry](#); the Department's EHE data (linked above) also provides data on the number of school attendance orders issued by local authority, which are the number of children that local authorities believe are not in receipt of suitable education or on which they have received insufficient information to make such a conclusion, and so have commenced proceedings to rectify this.

⁴ The general statutory scheme for the education of children, including but not limited to provisions such as ss. 13, 13A, 19, and 436A to 447 of the Education Act 1996, makes it clear that Parliament intends local authorities to take a leading role in ensuring that suitable education is available for all children of compulsory school age and that the parents of such children are making sure that their children receive such education.

The Government encourages authorities to develop mutually respectful and trusting relationships with home educating families. By doing so, children and parents can be better supported and resources targeted to where they are most needed.

Where it is clear that parents are educating a child well at home, local authority contact may, in some cases, be brief. As a rule of thumb, we would expect local authority / parent contact to be at least annual.⁵ However, this does not mean that contact will be minimal indefinitely. The guidance aims to enable local authorities to identify children not receiving a suitable education and do something about it. The result should be that every child is receiving a suitable education in a safe and appropriate setting.

Whilst elective home education is not inherently a safeguarding matter, if it is evident that a child is not receiving suitable education at home and the use of school attendance powers is not achieving a change in that situation, the local authority should be ready to use its safeguarding powers, as explained in [Chapter 8](#) of this guidance. The overriding objective in these cases is to ensure that the child's development is protected from harm.

The Government remains committed to introducing statutory local authority registers for children not in school, as well as a duty for local authorities to provide support to home-educating families.⁶ This will help local authorities undertake their existing duties which aim to ensure that all children receive a suitable education and are safe, by helping to better identify children not in school. Authorities will therefore be better able to identify those children missing education (CME) and offer the right support to those who want it.

This guidance represents the Department's interpretation of how the current legal framework affects the provision of home education. The guidance is not intended to provide legal advice. 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.

⁵ If the child has an Education, Health and Care plan, the local authority is under a separate duty to review this at least annually. See [Chapter 9](#) below.

⁶ [Children Not in School consultation response](#)

1. What elective home education is

1.1 Elective home education (EHE) is a term used to describe the practice of a parent⁷ providing a child's education at home full-time, or at home and in some other way that a parent chooses (for example, using out-of-school settings such as tuition centres) instead of choosing to send the child to school.

1.2 Educating a child (or children) full-time at home is a rewarding but challenging task. Parents may choose to engage private tutors or other adults to assist in providing a suitable education, but there is no requirement to do so.⁸ There are other settings which may be used, for example parental support groups which offer tuition, and companies which give part-time tuition. This can also include provision made at further education colleges for children aged 14 and over.

1.3 Some parents may choose to use online education providers as part of their EHE arrangements. In Spring 2023, the Department launched an online education accreditation scheme, open to full-time online-only providers.⁹ Membership of this accreditation scheme should give some assurance on the quality of education offered.

1.4 Parents sometimes choose to make arrangements for a home-educated child to receive part of their total provision at a school. The purpose of this could be to provide education in specific subjects more easily than is possible at home. Such arrangements are sometimes known as 'flexi-schooling'. Schools are under no obligation to agree to such arrangements. When a child is flexi-schooled, the parents must still ensure that the child receives a suitable education but the element received at school must be taken into account in considering whether that duty is met, just as it should be when a child attends other settings on a part-time basis as described above. This guidance applies to children who are flexi-schooled, however children who are flexi-schooled are not deemed as receiving EHE as they are on a school roll. For further information on flexi-schooling see paragraph 10.7.

1.5 Parents who choose to educate a child in these ways, rather than sending the child to school full-time, take on financial responsibility for the cost of doing so, including the cost of any external assistance used, such as tutors, parent groups or other out-of-school provision. However, if the child attends a state-funded school or FE college for part of the week, that will have no cost to the parents. Examination costs are the responsibility of parents if a child does not attend school full-time, although some local authorities may have a policy of assisting with such costs.

⁷ 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.

⁸ Please refer to the [Out-of-school setting parent guidance](#), which outlines good practice when engaging such settings for education, such as safeguarding checks.

⁹ [Accreditation for online education providers](#)

1.6 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 in a School (EOTAS) by those working in the field of special educational needs (SEN).¹⁰ 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 otherwise receive suitable education. This education arranged by the local authority, commonly called alternative provision¹¹ can take place in non-school settings.

1.7 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 the 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).

1.8 EHE children whose education is suitable are not classified as 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.¹² CME include children who are awaiting a school place but are not in receipt of suitable education in the interim.

¹⁰ See [section 61 of the Children and Families Act 2014](#) which sets out special educational provision otherwise than in schools, post-16 institutions etc.

¹¹ 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.

¹² See [Children missing education: Statutory guidance for local authorities](#).

2. Reasons for EHE

2.1 There are many reasons why parents do choose to educate children at home, including those set out below:

- Philosophical views which favour EHE
- Religious or cultural beliefs, and a wish to ensure that the child's education is aligned with these
- Lifestyle choices, and a wish to ensure that the child's education is aligned with these
- Dissatisfaction with the school system, or the school(s) at which a place is available
- Bullying of the child at school
- Physical health reasons
- Mental health reasons
- A child's unwillingness or inability to go to school
- Perceived lack of suitable special educational needs and disability (SEND) provision in the school system
- Disputes with a school over the education, or behaviour of the child, in some cases resulting in 'off-rolling'¹³ or exclusion
- Permanent exclusion, or risk of exclusion
- Difficulty in accessing a school place or non-school based alternative provision.

2.2 These reasons for undertaking EHE are not mutually exclusive, and the initial reason to elect to home educate may be different to the reason why parents continue to provide EHE. When local authorities engage with home-educating families they should consider the context of individual situations. EHE should always be undertaken as a positive choice which is expected to lead to better outcomes for the child. Local authorities have made the Department aware that, in some cases, EHE may be attempted as a last resort or without the child's education at the heart of the decision. This is likely to have implications for the quality of EHE provided. Where the decision to home educate is not a positive one, families may require more support and/or guidance.

2.3 Whenever possible, local authorities and schools should encourage parents to discuss an intention to home educate children with the local authority EHE team and, where appropriate, any relevant professionals supporting the family (such as those in

¹³ '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. If a local authority or parent feels that a child has been 'off-rolled' then they should report this to Ofsted.

education (e.g. teachers), health and social care (e.g. social workers)), before putting it into effect, especially if the child has SEN and disabilities (SEND)¹⁴ or is known to children's social care. Local authorities and schools should offer information and advice based on the individual family's motivations, for example by explaining the substantial time commitments involved in delivering EHE properly and discussing potential alternatives to EHE. While it can be beneficial for education and health and social care professionals to be involved in discussions, it will depend on individual contexts and, in some cases, parents may decide not to engage with them. Supportive discussion is likely to reduce the number of children who receive unsuitable education at home. Many parents considering the prospect of EHE may not understand the extent of the time commitment involved, the costs (such as exam fees), or the practicalities such as accessing exam centres and doing coursework/non-exam assessment. In most cases, parents have undertaken EHE in what they consider to be the best interests of the child, even if they require additional support.

2.4 The local authority should consider trends in EHE in a wider strategic context, for example in identifying shortcomings in local school provision and non-school based alternative provision settings, including failure to meet requirements relating to SEND, or failures by schools to manage attendance and behaviour.

2.5 Parents' EHE provision 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 which keeps to school hours and terms (e.g. homeschooling¹⁵). Other parents may decide to make more informal provision which is responsive to the developing interests of their child (e.g., unschooling¹⁶). One approach is not necessarily any more efficient or effective than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, local authorities should not specify a curriculum or approach which parents must follow.

2.6 Children learn in different ways and at different times and speeds. It should be appreciated that parents and their children may require a period of adjustment before finding their preferred mode of learning and that families may change their approach over time, however, whilst plans may not be as detailed, the education must always be suitable. Parents are not required to have any qualifications or training to provide their children with a suitable education. Parents from all educational, social, linguistic, religious and ethnic backgrounds successfully home educate children and these factors should not in themselves raise a concern about the suitability of education provided.

¹⁴ Parents may also wish to discuss their options over educating their child with the local SEND [Information, Advice and Support Service](#).

¹⁵ Where education takes place at home and is led by the parent, often working towards a form of curriculum or selection of subjects.

¹⁶ A form of home education that is led by the child and directed by their interests rather than following any set curriculum or programme of subjects.

3. Section 7 requirements

3.1 Section 7 of the Education Act 1996 (hereafter referred to as the 1996 Act) 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,

either by regular attendance at school or otherwise."

Efficient

3.2 An efficient education is one which achieves what it sets out to achieve. It is important that this concept is not confused with suitability. A wholly unsuitable education can be efficiently delivered – but is still unsuitable. When a local authority is considering whether a child's education is efficient it may be relevant to compare the education being delivered with what the child's parent says they are trying to achieve.

Full-time

3.3 There is no legal definition of what constitutes 'full-time' education, either at school or in the home. Although there is no need for EHE to replicate school timetables, it may, nonetheless, be useful for it to be borne in mind that in state schools, children of compulsory school age normally receive around 4.5-5 hours of education a day, for about 190 days a year. The Department's registration guidance for independent schools sets 18 hours of operation a week as the baseline for registration of the school. However, in EHE there is often continual one-to-one contact; education may take place outside normal 'school hours' and term time, and the type of educational activity can be varied and flexible.

3.4 Despite this greater flexibility inherent in EHE, parents should enable local authorities to assess the overall time devoted to the education of a child (number of hours per week, and weeks per year), so that this information can be set alongside that relating to suitability, to ensure that the EHE meets s.7 requirements. As with suitability, the issue as to whether education is 'full-time' should be viewed on a spectrum, but education which manifestly is not occupying a significant proportion of a child's life (making due allowance for holiday periods) will probably not meet the s.7 requirement.

Suitable

3.5 There is no definition of a 'suitable' education in English statute law. What is considered suitable will vary according to the age, ability and aptitude and needs of each individual child. When suitability is considered by a court, it will reach a view of

what is suitable based on the circumstances of each child and the education provided.

3.6 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, but it does not mean that parents are the sole arbiters of what constitutes a suitable education.

3.7 The Department does not believe that it is in the interests of home educated children, parents or local authorities for there to be a formal definition of suitable education. This issue should be viewed on a spectrum, and although there will be clear conclusions to be drawn at either end of that spectrum, each case must rest on a balance of relevant factors depending on the circumstances of each child.

3.8 Local authorities should, nonetheless, attempt to make clear in their EHE policies what overall factors they will consider and how they will go about assessing suitability. In individual cases, authorities should set out, in writing, the reasons why EHE does not appear to be suitable at the point of serving a s.437(1) notice, hereafter referred to as a 'preliminary notice', so parents respond constructively to the notice. The case of *R v Gwent County Council ex parte Perry* (1985) says that when a preliminary notice has been served and a local authority are unsatisfied on some specific point that may not be apparent to the parent, there can be a duty on the local authority to give some indication of what that point is (please see [Chapter 6](#) for information on the process for local authorities when education does not appear to be suitable).

3.9 S.436A of the 1996 Act sets out the duty on local authorities to make arrangements to identify children not receiving suitable education and s.437 of the same Act sets out the actions required should education appear not to be suitable. A local authority could consider the following in its assessment of suitability:

- a. a suitable education enables a child to participate fully in life in the UK by including sufficient secular education. This means that even if the EHE is primarily designed to equip a child for life within a smaller community it should not foreclose the child's options in later life to adopt some other mode of living, and to be capable of living on an autonomous basis so far as the individual chooses to do so.¹⁷ For instance, a suitably educated child should be literate in English and numerate appropriate to the child's age, ability and aptitude and any SEN they may have;
- b. notwithstanding (a), the EHE provision does not need to follow specific content such as the National Curriculum, or the requirement in academy funding

¹⁷ See relevant case law such as *Harrison & Harrison v Stevenson* (Appeal, 1981, Worcester Crown Court, unreported) and *R v Secretary of State for Education and Science ex parte Talmud Torah Machzikei Hadass School Trust* (April 1985, unreported)

agreements for a 'broad and balanced' curriculum, nor the independent school standards prescribed by the Secretary of State¹⁸. Conversely, however, if the EHE does consist of one or more of those, then that would likely constitute strong indication that it was 'suitable' in terms of s.7;

- c. parents should be able to provide information to the local authority so they can establish the child's levels of literacy and numeracy and whether they are appropriate to the child's age, ability, aptitude and SEN. This information may include detail on how the parents plan to support the child's acquisition of literacy and numeracy skills. Although it may be a good starting point to assess whether the EHE has produced attainment in line with the national expected norms for children of the same age, it must be borne in mind that the s.7 requirement is that the education is suitable to the child's ability and aptitude as well as their age. If a child's aptitude is significantly above or below what might be regarded as 'average' then allowances must be made for that; and similarly, the EHE may legitimately cater specifically for particular aptitudes which a child has, even if that means reducing other content;
- d. local authorities should interpret 'suitable' in the light of their general duties, especially that in s.13 of the 1996 Act, relating to the development of their community, and that in s.175 of the Education Act 2002, requiring that education functions are exercised with a view to safeguarding and promoting the welfare of children. Whilst these duties are very broadly drawn, it will be evident that if EHE provided by a family taught children values or behaviour which were in conflict with 'Fundamental British Values' as defined in government guidance¹⁹ (for example by seeking to promote extremism, or advocating violence towards people on the basis of their protected characteristics under equality law), then it would not be in accordance with the authority's general duties to regard that education as being 'suitable'. However, there is no requirement on parents to actively promote the Fundamental British Values in the same way as there is for schools;
- e. factors such as isolation from a child's peers can indicate possible unsuitability. Suitable education is not simply a matter of academic learning but should also involve social opportunities;
- f. any assessment of suitability should consider the environment in which EHE is being provided. Most obviously, home accommodation and/or learning environments which are unsafe, excessively noisy and/or cramped are likely to make it very difficult for a child to learn and make satisfactory progress. Environmental factors such as these may therefore prevent a child receiving suitable education and should be considered in assessing suitability in a specific case if present on a significant scale. Environmental factors may also affect consideration of whether the education is 'efficient' and indeed whether it is being 'received' at all in s.7 terms. Local authorities should also be alert to any

¹⁸ In regulations made under [s.94 of the Education and Skills Act 2008](#)

¹⁹ [Fundamental British Values Government Guidance](#)

information 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. For instance, if an unregistered independent education inspection (as set out in s.97 of the Education and Skills Act 2008) uncovers potentially unsafe premises (such as due to health and safety concerns) then this will be considered when assessing the suitability of a child's education if that child attends the setting as part of their EHE provision. Any such information may be relevant in considering the use of safeguarding powers;

- g. local authorities should not set rigid criteria for suitability which have the effect of forcing parents to undertake education in particular ways, for example in terms of the pattern of a typical day, subjects to be followed and so on. It would not be appropriate for local authorities to only view suitable EHE as essentially 'school at home'. Some parents may decide that a formal approach is necessary; others may decide to make a more informal provision that is more appropriate to the child. Whatever the views of the parents, the key focus for the authority should be on suitability for the child in question and progress that is being made.

4. Local authorities' responsibilities for children who are, or appear to be, educated at home

Legal requirements

4.1 All children have a right to education.²⁰ If a local authority is aware that a child of compulsory school age²¹ is not attending a state or registered independent school full-time and it is unclear how that child's education is being provided, the local authority has a duty to try to establish whether the child is receiving suitable education otherwise. This includes considering the possibility that the child is being educated at home by their parents (possibly in combination with part-time attendance at another setting). In such a case, the local authority's task is to find out how a child is being educated and whether this education appears suitable. This will involve local authorities contacting parents to obtain information about the child's education. Whilst parents do not have a legal duty to respond to such enquiries, providing information about the education provision is the easiest way to demonstrate to the local authority that a child is in receipt of suitable education.

4.2 S.7 of the 1996 Act sets out that responsibility for children's education rests with their parents. In England, education is compulsory, but going to school is not. State-funded education is made available for all children of compulsory school age whose parents request it. Every child should be in school, a post-16 institution or receiving other provision arranged by the local authority or the child's school, unless parents have made suitable arrangements or local authorities have arranged provision otherwise than in a school. If parents do educate children at home, s.7 means that the child should be getting a suitable education.

4.3 There are no specific legal requirements regarding the content of EHE, provided that the parents are meeting their duty in s.7 of the 1996 Act. This means that education does not need to include any particular subjects and does not need to have any reference to the National Curriculum; and there is no requirement to enter children for examinations. However, for education to be suitable, it should feature elements of literacy and numeracy, and the learning should be sufficient to equip the child for life in wider society. There is no obligation to follow the 'school day' or have holidays which mirror those observed by schools. Many home educating families do follow a clear academic structure and regular timetable, but it should not be assumed that a different approach, such as autonomous and self-directed learning which does not resemble conventional schooling and its patterns, is unsatisfactory or constitutes unsuitable education.

4.4 Some children who are home educated have never attended school, however the

²⁰ Article 28 of the [United Nations Convention on the Rights of the Child](#) (UNCRC)

²¹ Children over compulsory school age may also be educated at home to meet the requirements on them to participate in education or training until the age of 18.

majority will have attended school previously.²²

4.5 The current legal framework is not a system for regulating EHE *per se* or forcing parents to educate their children in any particular way. Instead, s.436A of the 1996 Act sets out that local authorities must make arrangements to identify children of compulsory school age who, for any reason and in any circumstances, are not registered as school pupils and are not receiving a suitable education. If a child is not attending school full-time, the law does not assume that the child is not being suitably educated. It requires the local authority to make enquiries as to what education is being provided and authorities have these responsibilities for all children of compulsory school age. Local authorities should ensure that their enquiries are timely, effective and that they enable them to form a view on whether the child appears to be receiving suitable education or not. Depending on the results of those enquiries, s.437 of the 1996 Act sets out that local authorities must serve a preliminary notice, where it appears that suitable education is not being received, and subsequently, a school attendance order (SAO) if the local authority remain unsatisfied. In some instances, local authorities may need to use other safeguarding powers reasonably. Local authorities have the same wellbeing and safeguarding responsibilities for children educated at home as for other children.

4.6 In discharging their responsibilities in relation to home education, local authorities should bear in mind that they are subject to the Public Sector Equality Duty contained in s.149 of the Equality Act 2010 and must ensure that their policy and practice in relation to EHE is consistent with that duty. For example, a local authority should not assume that EHE is any less likely to be successful when carried out by people with a particular protected characteristic. Equally, the fact that a parent has certain protected characteristics should not deter the local authority from taking action should they believe a child is not receiving suitable education.

Local authority policies and practices

4.7 All local authorities should have a EHE policy statement. This policy needs to be clear about the processes to be used to investigate whether a child is receiving a suitable education and the steps to be taken if they appear not to be. Policies should also make clear how the authority interacts with families where a suitable education is being provided and both parties wish to maintain a suitable level of contact and assurance. Local authorities' arrangements should be proportionate and not seek to exert more oversight than is needed where parents are successfully taking on this task. As set out in s.13A of the 1996 Act, local authorities have a duty to carry out their relevant education functions in a way that promotes high standards toward *all* the children living in their area.²³ In this context, relevant education functions include those under ss.436A to 447 of the 1996 Act and the authority should act accordingly.

²² See Government [elective home education data](#) published in May 2023 under heading 'Elective home education – at any point during the academic year 2021-22' which shows at least 77.5% of children were previously in an academy, school, pupil referral unit, alternative provision or early years setting.

²³ See [s.13A of the Education Act 1996](#)

4.8 There are no detailed legal requirements as to how such a system of oversight should work. Providing it is reasonable, it is for each local authority to decide what it sees as necessary and proportionate to assure itself that every child is receiving a suitable education, or action is being taken to secure that outcome. Establishing a positive relationship between the local authority and home-educating parents will allow authorities to better understand parents' educational provision and preferences and offer them appropriate support.

4.9 The Department recommends that each local authority should:

- have a written EHE policy statement which is clear, transparent and easily accessible online. This policy should be regularly reviewed to maintain consistency with the current legal framework and guidance. It should take into account local circumstances and set out how the authority will engage with parents;
- have an EHE page on the local authority website which provides key contact details, and useful information for parents to home educate, including the written policy statement outlined above;
- operate a voluntary registration scheme for children in receipt of EHE. With such schemes, local authority support can be given more readily to those parents who wish to receive it, and registration can result in additional, useful information being provided to local authorities on home educated children in their locality, which could help inform educational policy, delivery, and to support home educating families. Such schemes can help authorities discharge their responsibilities which they have under ss. 436A and 437 of the 1996 Act. The Department therefore believes registration is valuable and is committed to legislate at a future opportunity for mandated local authority Children Not in School registers;²⁴
- contact parents on at least an annual basis²⁵ so the authority may reasonably inform itself of the current suitability of the education provided. It is possible that more frequent engagement may be necessary, depending on the context of the child's education. For example, where the child has specific vulnerabilities. In cases where there were no previous concerns about the education provided, and no reason to think that this has changed, because the parents are continuing to do a good job, such contact may be brief;
- set aside the resources necessary to implement its policy effectively and consistently. This is not always easy at a time of constrained resources; but effective implementation in conjunction with work in related areas such as education welfare, CME and admissions, can reduce spend in the longer term on

²⁴ [Children not in school consultation](#)

²⁵ If the child has an Education, Health and Care plan, the local authority is under a separate duty to review this at least annually. See [Chapter 9](#) below.

families where engagement is difficult;

- consider their policies and organisational structures for dealing with EHE and related areas. Within the boundaries established by data protection legislation, local authorities should ensure that they have mechanisms in place for effective collaboration across internal teams, and have clear multi-agency approaches in place for engaging with external partners (e.g. the NHS and the police) where it is proportionate and when there is a need to do so; for instance, to promote the education, welfare and safety of a child. This requires being aware of the local authority's wider responsibilities (e.g., attendance, welfare and safeguarding). Where appropriate, multi-agency voices should be considered when assessing whether education is suitable;
- provide parents with a named contact who is familiar with EHE policy and practice and understands a range of pedagogies. This officer should organise relevant training on the law and the diversity of EHE methods for all officers who have contact with home-educating families;
- have a named senior officer with responsibility for EHE policy and procedures. That officer should be familiar with other work on related issues such as CME, unregistered schools, vulnerable children, and welfare. This officer should ensure that those local authority staff who may be the first point of contact for a potential home-educating parent should understand the right of the parent to choose EHE. It is important that parents are provided with accurate information from the outset to establish a positive foundation for the relationship;
- seek to build positive relationships with the EHE community, including with local EHE groups and representatives, working collaboratively where possible. At a minimum, we would expect local authorities to offer guidance to all known home-educating families in their area about their rights and obligations, and provide advice on good practice and available resources for parents who request it. Local authorities may also wish to consider hosting engagement events as a means to engage with, and listen to, local home educators. The Department supports the use of these types of forums as they can be valuable in promoting effective communication and collaboration between local authorities and the EHE community. Parents are under no obligation to accept support or advice from a local authority, and refusal to do so is not in itself evidence that the education being provided is unsuitable;
- provide clear details of their complaints' procedure and deal with all complaints fairly, in a sensitive and timely manner. This should include details of the internal complaint process as well as the external complaint options following this (namely, the Local Government and Social Care Ombudsman, and the Department for Education).

Ofsted's role

4.10 Ofsted has no responsibility for inspecting the provision of EHE, only the way local authorities deal with it in the context of their statutory responsibilities. Therefore, local authorities should bear in mind that, when Ofsted carries out inspections of local authority children's social services,²⁶ it may look at the information the local authority uses to monitor children's welfare whilst they are being home educated. Ofsted may look at the ways in which the local authority identifies children who are not receiving suitable education, particularly those who are vulnerable,²⁷ and what steps the local authority takes to rectify that.

4.11 Ofsted's/Care Quality Commission's SEND local area inspection framework²⁸ also sets out how inspectors may gather evidence in relation to the oversight for children and young people with SEND who are not attending a school or alternative provision. This includes children and young people with SEND who are educated somewhere other than a school, are not on a school roll or are home educated.

²⁶ Under [s.136 of the Education and Inspections Act 2006](#).

²⁷ Home-educated children are not automatically 'vulnerable'; but some children educated at home do fall into that category (such as those on a child protection plan or a child in need), and evidence from our engagement with local authorities is that the proportion who are considered vulnerable or have SEN is increasing. Local authorities should use their early help resources to help or support vulnerable children, to avoid more drastic intervention later down the line.

²⁸ [Area SEND inspections: framework and handbook](#)

5. How local authorities know a child is being educated at home

Children who have never attended school

5.1 Identification of children who have never attended school, and who may be home educated, forms a significant element of fulfilling an authority's statutory duty under s.436A of the 1996 Act – to make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children in its area who are not receiving a suitable education.²⁹ 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 at school (for example, at home, or in non-school based alternative provision). Until a local authority has established that a home-educated child is receiving a suitable education, then a child being educated at home is potentially in scope of this duty.

5.2 There is no legal duty on parents to inform the local authority that a child is being home educated, but if a local authority does not know how a child is being educated then it will have to take steps to assure itself the child is in receipt of suitable education, starting with informal enquiries. Parents informing their local authority of their child's EHE would avoid children potentially being defined as CME unnecessarily. If a child never attends school, an authority may be unaware that the child is being home educated. The Department therefore recommends local authorities maintain voluntary registers of children who are not in school, including those electively home educated and missing education. This will enable local authorities to better undertake their statutory responsibilities and potentially offer support.

5.3 It should be noted that the caveat in s.436A 'so far as it is possible to do so' should not be interpreted as meaning 'so far as the authority finds it convenient or practical to do so'. The authority should do whatever is actually possible. The Department's statutory CME guidance³⁰ outlines the policies and procedures local authorities should have in place to enable them to meet this duty. If the Department receives a complaint that a local authority is not doing enough to meet its duty under s.436A, or that a local authority is being unreasonable in discharging its duties, it will consider whether there is sufficient basis for making a direction under s.496 or s.497 of the 1996 Act so that outcomes for children in that local authority's area can be improved.

5.4 To increase the shared knowledge of children who are not attending school, local authorities should collaborate with appropriate partners (for example GPs, health professionals, housing providers, police, Youth Justice Services, UK Visas and Immigration and other public sector bodies). Local authorities should aim to develop data

²⁹ In addition, [s.22 of the Children and Families Act 2014](#) (Identifying children and young people with SEND) requires local authorities to exercise their functions with a view to securing that they identify all the children and young people in their area who have or may have SEN and all the children and young people in their areas who have a disability.

³⁰ [Children missing education: statutory guidance for local authorities](#)

and information sharing agreements to provide an appropriate framework for sharing appropriate, relevant information in accordance with the Information Commissioner's Office data sharing code of practice.³¹ Relevant information could include instances where there is reason to believe that a vulnerable child or one at risk of harm may be home educated, or where unsuitable education could amount to educational neglect and therefore harm. For example, local authorities should encourage doctors and hospitals to notify a local authority where there is reason to think that a vulnerable child or one at risk of harm may be home educated; although, this does not mean such professionals should share information on every home-educated child they come across, as EHE is not itself a risk. Local authorities should also use this engagement with health professionals as an opportunity to inform these professionals about the right to home education and how it is not an inherent risk of harm. Under s.10 of the Children Act 2004, local authorities should have arrangements in place to promote cooperation between the authority and its partners who deal with children. These arrangements should include information sharing protocols, and it is possible for these to allow sharing of data, on children who appear to be home educated, and about whom there is a concern as to the suitability of that education, which amounts to possible neglect causing significant harm.

Children who have attended school

5.5 Local authorities should encourage parents, who withdraw a child from school for EHE, to notify the school and/or the authority to help the authority fulfil their s.436A duty. Departmental guidance to parents also encourages this.

5.6 At present, there is no legal obligation on parents to provide such notification of withdrawal, either in writing or otherwise, or indeed to provide any reason for withdrawal. However, a child may not be removed from the roll of a special school without the consent of the local authority if enrolled there under arrangements made by the local authority.³² In cases where a child is enrolled at any type of school in accordance with a SAO, the authority must revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll.³³ However, until a child is removed from the school roll (which can only be when one of the trigger points specified in the Education (Pupil Registration) (England) Regulations 2006, as amended, is reached), the parent is at risk of prosecution for not securing attendance at the school. This means that it is in a parent's interests to notify the school in writing of withdrawal for home education.

5.7 Schools must inform local authorities of all deletions from their admission registers when these take place at non-standard transition times. A school must also inform the local authority of deletions relating to pupils who leave at the school's standard transition times, if the authority has requested this. Local authorities should consider making that request, to help ensure that there is knowledge at local authority level of a child's schooling status. Ofsted is likely to ask local authorities about withdrawal rates at

³¹ [Information sharing advice for safeguarding practitioners](#)

³² [Regulation 8\(2\) of the Education \(Pupil Registration\) \(England\) Regulations 2006.](#)

³³ Regulation 8(1)(a) of the same Regulations.

schools and whether action has been taken to identify patterns, and to provide a suitable strategic response. Local authorities are entitled to ask schools whether there is any further information available which would suggest that a child may now be home educated, but a school may genuinely not know the reason for withdrawal. A state-funded school must respond reasonably to any request from the local authority for any information it has about the reasons for withdrawal.

5.8 As set out in the [statutory guidance on CME](#), local authorities should be working with each other to identify children who are not registered pupils at school and are not receiving suitable education otherwise than in a school, and share data about those who have left a school in one local authority area but have moved to another. Where a child has been deregistered from school to be home educated, the local authority should refrain from classifying that child as CME at that stage. The classification of a home-educated child as a CME should only occur when the local authority has exhausted both informal enquiries, and the s.437 process in the 1996 Act, and is not satisfied that that child is receiving a suitable education.

5.9 Data protection legislation allows sharing of personal information and data by local authorities and partner agencies for safeguarding purposes, to protect children from harm. Any data sharing for the purposes of safeguarding needs to comply with the [Information Commissioner's Office data sharing code of practice](#).

6. How local authorities decide whether a child appears to be receiving suitable EHE

6.1 As should be made clear throughout this guidance, most home educators will be providing a good education to their child. Therefore, we would expect most EHE provided by parents to appear suitable to the local authority. A local authority is only required to commence more formal proceedings, in the form of a preliminary notice (see [Chapter 7](#)), should a child appear not to be receiving suitable education. The Department would expect local authorities to first engage with parents through informal enquiries. Such enquiries may be sufficient for the local authority to come to a view. An authority's duties under s.436A and 437 of the 1996 Act form sufficient basis for informal enquiries, and s.436A creates a duty to adopt a system for making such enquiries. The focus of these enquiries is to establish whether the child appears to be receiving suitable education, and there is not a requirement to satisfy a local authority that education is suitable at this stage.

6.2 Whilst information requested from parents does not need to be as extensive as what would be required in response to a preliminary notice (as explained in the next section), local authorities should be asking home educating parents for information that demonstrates to the local authority the child is receiving education that is suitable. This includes cases where the local authority does not yet know how the child is being educated (e.g. a new home educating parent) and cases where the local authority has been given information in the past but is carrying out its ongoing responsibility to check that the child's education continues to be suitable. A parent being able to demonstrate what education is taking place is usually the easiest way to establish whether suitable education is being received. This could include engagement with the child or seeing examples of work.³⁴ As part of a local authority's ongoing engagement with parents to ensure education remains suitable, local authorities may wish to advise parents what would be useful to be shared at the next informal engagement to aid their ongoing judgement of suitability.

6.3 What is considered informal enquiries can be varied and will be subject to individual circumstances. For instance, it could be a simple phone conversation outlining progress of learning or it could include a request to see the child, either in the home or in another location. The Department is of the view that seeing the child can be an effective means to judge whether it appears that the child is not receiving suitable education. The parent is under no legal obligation to agree to this simply to inform the local authority's judgement as to the suitability of EHE. However, seeing the child in their educational

³⁴ When reviewing information that includes examples of a child's work, if this includes the child's personal data or includes the personal data of another living individual this will be an example of processing personal data within the definition of the UK GDPR. Any processing of personal data has to comply with the requirements of data protection legislation. This includes the need for a lawful basis for the processing of personal data and only processing the minimum level of personal data required. Each local authority is the data controller for the personal data it collects and holds and it is their responsibility to ensure compliance with data protection legislation.

setting can be very valuable as part of considering whether it appears that the child is not receiving suitable education. In some instances, it may be reasonable to conclude that it appears that a child is not receiving suitable education if the local authority is unable to assess the learning environment. This is not to say that the child and/or educational setting must be seen as part of every annual engagement. The approach to informal enquiries will need to be proportionate to the level of doubt about whether the child is receiving suitable education. Access to the child in relation to safeguarding powers is dealt with in [Chapter 8](#) of the guidance.

Case study 1: A parent report deemed sufficient to assess suitability

Aisha has always home educated her son Saad aged 9. She uses a very structured approach where she sets him an hour each of mathematics and English every morning, followed by science/humanities lessons after lunch and outdoor opportunities later in the day. When asked for information about Saad's education by her local authority, Aisha provides detailed information of the work Saad has produced, including examples of work. In addition, Aisha has meetings with the EHE officer in her home with Saad present where his education is discussed.

The following year, when asked for information on Saad's education in relation to its suitability, due to a personal bereavement Aisha submits only a report to the local authority. This report sets out Saad's educational programme and progress being made. The local authority prefers to receive information that clearly demonstrates that the work is taking place. However, because there were no education or safeguarding concerns and because Aisha's education to Saad has always been clearly demonstrated as suitable, the local authority has sufficient confidence that suitable education is being received. The local authority considered the report and found it sufficient to establish that Saad's education continues to be suitable.

The local authority felt this was a proportionate approach, based on the progress observed during previous engagements with Saad and previous information provided by Aisha. In this instance, a light-touch approach was considered appropriate. However, there is no guarantee that such an approach would continue to remain appropriate on an ongoing basis.

6.4 Local authorities should be mindful of the different approaches to EHE and so providing information to show a suitable education is taking place may not always be possible in the form requested by the local authority. At the same time, if a parent is unable to provide information which details suitable education in the requested form (e.g. examples of work) due to their pedagogy then they will need to find appropriate, alternative means to demonstrate suitable education taking place, perhaps in dialogue with the local authority.

Case study 2: Different approaches to EHE and suitable education

Alfie's parents decide to withdraw him from primary school and elect to home educate using an 'unschooling' pedagogy, as they feel that it suits Alfie's learning needs more. Alfie is aged 8 and is an inquisitive child, but he has struggled in a classroom setting. Alfie's parents believe 'learning by doing' is the best way to educate Alfie and want Alfie to direct his own learning.

Alfie's former school inform the local authority that they have removed Alfie's name from the school roll. The local authority's EHE team write to Alfie's parents to introduce them to their EHE department. They also propose a meeting the following month to hear about Alfie's parents' approach to his education. A telephone conversation takes place where his parents set out their approach and how education is currently, and will continue to be, suitable to Alfie's age, ability, aptitude and SEN. The local authority deem the education as appearing efficient, full-time and suitable from this initial engagement and set a date in three months' time to receive information on suitable education from Alfie's parents once Alfie's EHE has become more embedded. After three months, the local authority requests detailed information of suitable education and how progress is being made. Due to Alfie's parents' more practical and child-led approach to education, it is rare that Alfie produces written examples of work and so his parents submit a written report.

While the local authority is content with the unschooling approach, knowing it is up to parents to decide how they want to teach their child, they deem the report as insufficient to be able to judge whether Alfie's education appears to be suitable. This is because the local authority feel they have not seen evidence of the education taking place and the progress being made. They, therefore, ask Alfie's parents for information showing that the education described in the report is being provided. Alfie's parents invite the local authority EHE officer to observe a session of Alfie's outdoor learning where they take Alfie to a local park to develop his interest in birds and other woodland animals. They outline their conditions for the visit and ask that the meeting be no longer than 30 minutes.

At the visit, Alfie counts different birds using tally charts, writing down the names of the birds, and talks eloquently about his interest of birds to the EHE officer. The officer also has a conversation with Alfie about the books he has been reading with his parents about woodland creatures. Separately, the officer also has a conversation with the parents about what has been taught and what is going to be taught going forward. It becomes clear to the EHE officer during this engagement that there is evidence of suitable education being undertaken. Using the report and information compiled from the visit, the officer assesses that Alfie's parents have a clear plan in place, with suitable education being provided and progress made.

6.5 Parents are not under a duty to respond to local authorities' informal enquiries. However, where a parent does not respond to informal enquiries, or responds without providing sufficient information for the local authority to conclude that the child appears to be receiving suitable education, formal steps must be taken by the local authority – see [Chapter 7](#). In many cases, making such informal enquiries will allow the situation to be resolved by information being provided that the EHE is suitable.

6.6 If local authorities reach a point where it appears that the child is not receiving suitable education, including due to a lack of information provided, then authorities should not hesitate to begin formal enquiries and commence the SAO process by issuing a preliminary notice. Although informal enquiries are the preferred route to establish that education appears to be suitable, instances of long-running inconclusive informal enquiries should be avoided and local authorities must act at the point it appears that the child is not receiving a suitable education.

7. What local authorities do when it appears that suitable EHE is not being received

7.1 This section of the guidance deals with the sequence of action which has to be undertaken when a child of compulsory school age appears not to be receiving suitable education. Informal enquiries will lead a local authority to judge that a child appears not to be receiving suitable education, either because the information the authority has about the child's education suggests that it is inadequate, or because there is insufficient information to demonstrate that the child is receiving any significant education at all.

7.2 Families beginning EHE sometimes state that they are entitled to a period during which the EHE provided for the child may not meet the requirements in s.7 because they are still building up the provision to a satisfactory level. Some parents may go further and describe this period as being necessary for 'de-schooling'. There is no legal basis for such a position. Any statement along these lines could be an indication that the child is not being properly educated. It is not unreasonable that good EHE develops with experience, as a child becomes used to being in a different learning environment and parents 'find their feet'; and it would be unrealistic to make a judgement about the suitability of EHE provision only a few days after it is started. However, families are required by law to ensure suitable EHE from the outset, and they should have made preparations with that aim in mind, as time lost in educating a child is difficult to recover. In such cases, a reasonable timescale should be agreed for the parents to develop their provision; it is easier to do this if the parents are engaging constructively with the local authority but, in any event, there should be no significant period in which a child is not receiving suitable education, other than reasonable holiday periods at appropriate points.

Preliminary Notices

7.3 Under s.437(1) of the 1996 Act, a local authority must serve a preliminary notice if it appears that a child is not receiving a suitable education. This section states that:

"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 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."

S.437(2) of the Act provides that the period specified for a response shall not be less than 15 days beginning with the day on which the notice is served.

7.4 Local authorities considering whether they are required to serve a preliminary notice in a specific case should note that a refusal by parents to provide any information in response to informal enquiries will in most cases mean that the authority has a duty to serve a preliminary notice. This is because, where no other information suggests that the child is being suitably educated, and where the parents have refused to answer or have

provided no information about the child's education, the only conclusion which an authority can reasonably come to is that the child does not appear to be receiving suitable (or any) education. A local authority should not be serving a preliminary notice purely based on a parent declining a meeting or not providing information of work, and should instead be making their judgement as to whether suitable education appears to be being received with all of the information that they have available. A refusal to allow a visit can, in exceptional circumstances, justify service of a preliminary notice.³⁵ Local authorities should take care to ensure that the family has received any letters or enquiries, and is not simply absent.

7.5 The local authority must consider any response made by the parent to the preliminary notice, in light of s.437(3). S.437(3) refers to the serving of SAOs:

"If –

(a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local 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 school³⁶ named in the order."

7.6 In considering whether it is satisfied by the parent's response to the preliminary notice, the authority will need to consider any other relevant information available to it – not only through its own contacts with the family, but also information provided by other agencies and other sources and the child's former school (if any), as to the child's circumstances and needs. The authority should make arrangements to gather and record as much information as possible from these alternative sources. Of course, the local authority should give reasonable weight to information provided by parents, on its own merits. For example, an authority should not dismiss information provided by parents simply because it is not in a particular form preferred by the authority (e.g., a report, when a meeting was requested). Whilst third party reports may be used to complement information provided by parents, such reports may not be accepted as definitive evidence of suitable education. The local authority may ask the parents to provide additional information but, if it is not satisfied that suitable education is being received and in the opinion of the local authority it is expedient that the child should attend school, they must serve a SAO, unless the time limit for the parents to provide information has not yet expired. Local authorities should not continue to request further information after

³⁵ *Tweedie v Pritchard* [1963] Crim LR 270; *R v Surrey Quarter Sessions Appeals Committee ex parte Tweedie* [1963] Crim LR 639.

³⁶ If the school in question is an academy, the authority should seek the academy trust's agreement to that school being named in the order. If an academy is then named in an order which is made, and the academy trust refuses to admit the child to the school, the local authority may seek a direction from the Secretary of State.

that deadline has passed.

Case study 3: EHE appears not to be suitable

Louise and John have been home educating Ellie, aged 13, for the past three years and their education has been seen by their local authority as suitable during this time. Their educational provision is due for a routine, annual review. At the previous two engagements, Louise and John's written report regarding Ellie's education had been deemed sufficient for the local authority to make a judgment as to whether Ellie appeared to be receiving suitable education.

At this review, when their local authority EHE officer, Angela, engages with Louise and John, she is concerned that there is no information provided about Ellie's numeracy and literacy learning and the progress being made. Louise therefore deems the report insufficient on this occasion and asks for information on literacy and numeracy progress. Louise and John are only willing to provide the submitted report. Efforts to resolve this informally are unsuccessful and so Angela issues a preliminary notice (section 437(1) of the 1996 Act) to Louise and John.

As part of the local authority's consideration of other sources of information to aid their assessment of suitability, Angela becomes aware of an alleged Early Help concern regarding the family. Louise and John are unwilling to meet in person but suggest a detailed virtual call and provide detailed examples of literacy and numeracy work produced by Ellie. Following this meeting and additional information provided, Angela is satisfied that the education is suitable and so informs Louise and John of this, and how she will be in touch again in approximately a year. Angela shares her judgement with Early Help to aid their work. Shortly after, Early Help follow up with their own investigation, and upon finding no concerns, close their case.

7.7 The information provided by parents should demonstrate that the education being received is suitable and address issues such as the child's progress and (unless the EHE has only just started) what has been achieved. In the case of a child with SEND, it should also describe how their needs are being met. It should not simply be a statement of intent about what will be provided, or a description of the pedagogical approach taken as this would not enable the authority to reach a legitimate conclusion that a suitable education is actually being provided and received. This is often a key point in separating out families who are genuinely providing a suitable education at home from those who are not, because the latter often cannot demonstrate satisfactory content or measurement of progress.

7.8 The information needed to satisfy the test in s.437(3)(a) depends on the facts of the case and the judgement of the local authority. However, if the parent refuses to make any substantive response to a preliminary notice that refusal is likely to satisfy the test in s.437(3)(a) – and such a parent should expect to be served with a SAO.

7.9 The other limb of s.437(3) relates to whether the authority considers that it is expedient for the child to attend school. If the EHE is not suitable to the child's age,

ability, aptitude and SEN, then normally it would be expedient.³⁷ There are, however, cases in which the authority might reasonably take the view that it is not expedient. Examples where this position could be justified include:

- if the child is within a few weeks of ceasing to be of compulsory school age;
- if the child has physical, medical or SEN leading to extreme vulnerability in a school setting – and the local authority should then consider alternatives, such as tuition provided by the authority itself;
- the parent is actively working with the authority to improve the EHE and seems likely to achieve suitability within a very short time.

7.10 When both limbs of section 437(3) are met – i.e., that the local authority is not satisfied that the child is receiving suitable education and it believes it would be expedient for the child to attend school – the local authority must serve the SAO as soon as is reasonably practicable. Any delay will further exacerbate the length of time a child may not be receiving a suitable education.

After a school attendance order is served

7.11 At any stage following the issue of the order, parents may present evidence to the local authority that they have now made satisfactory arrangements for the child's education and apply to have the order revoked. This evidence must be considered, and the order must be revoked unless the authority is of the opinion, having considered that evidence, that the parents have not made satisfactory arrangements.

7.12 If the local authority refuses to revoke the order, parents can choose to refer the matter to the Secretary of State, who will give a direction to the local authority which either requires revocation of the order or confirms it (s.442 of the 1996 Act).

7.13 The Secretary of State will consider the question in the same terms as the local authority, i.e., if there are arrangements for suitable education to be provided otherwise than at school, a direction shall be given to revoke the order. Once a decision is made, the direction will be made to the local authority and the parents notified. The Department will respond to the initial request within 10 working days and in its response will set out a timeframe for the Secretary of State to make a decision. Where cases are more complex and require more detailed consideration, the applicants will be notified and kept updated as to when a decision is expected to be made. The Secretary of State will make a decision based on the evidence provided by the parents and will also contact the local authority that served the SAO to request any further relevant information that will aid their decision.

7.14 Whether or not the parents have sought revocation and intervention by the

³⁷ In *Phillips v Brown* [1980], 'expedient' was defined as 'advantageous, fit, proper or suitable to the circumstances of the case'

Secretary of State, if they do not cause the child to be registered at a school, and regularly attend it, then the authority should promptly consider prosecution, and should proceed with this unless there is very good reason not to do so. Costs should not be considered such an exception, and where there are such concerns, local authorities should seek legal advice on cost recovery from the defendant, on the basis that the prosecution would have been unnecessary if not for the defendant's unreasonable conduct. An example of such an exception might be because the circumstances point to seeking an Education Supervision Order (ESO) instead of prosecution (see following section on safeguarding). Under s.447(1) of the 1996 Act, a local authority considering prosecuting a parent for non-compliance with a SAO must in any case consider, either as an alternative to prosecution or as well as prosecution, making an application for an ESO.

7.15 If the local authority does prosecute the parents for not complying with the SAO, then it will be for a court to decide whether the order has been breached. The parents can seek to prove that they are causing the child to receive suitable education, in which case the court will also decide whether they have succeeded in proving that. The court can direct that the order shall cease to be in force if it finds the parent not guilty.

7.16 Where a parent is convicted and fined but still does not send their child to school local authorities should, in addition to recommencing the s.437(1) process, also consider using other powers at their disposal: such as their safeguarding powers, for example, where failure to provide a suitable education could be a form of educational neglect. See the following section on safeguarding.

7.17 Under s. 369 of the Sentencing Act 2020, when a person is found guilty of breaching a SAO, the court can make a parenting order. A parenting order requires the parent to attend up to three months of counselling or guidance (which can be specified by the local authority via the court). The court can add other requirements intended to prevent the parent committing the offence again. Such an order can only be made if the Secretary of State has confirmed that there are local arrangements in place for implementing parenting orders. A breach of the order can result in a fine. Local authorities should consider whether there is scope for seeking such an order in appropriate cases.

8. Safeguarding: the interface with EHE

8.1 Ss. 10 and 11 of the Children Act 2004 give local authorities general duties for promoting the wellbeing, and (in relation to their non-education functions) safeguarding and promoting the welfare of children in their areas. This includes children educated at home as well as those attending school. S.175 of the Education Act 2002 requires authorities to make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting children's welfare. Therefore, the general duties of local authorities in relation to safeguarding are the same for all children, however they are educated. Social services teams in local authorities and those dealing with EHE should take steps to ensure that relevant information on individual children is shared, complying with relevant data protection legislation.

8.2 A situation in which a child is not receiving a suitable education requires action by a local authority under education law, as described in [section 7](#) of this guidance. It is important to bear in mind that unsuitable education can be a form of educational neglect and can impair a child's intellectual, emotional, social or behavioural development. Therefore, local authority child safeguarding powers may be required to address this neglect. This will depend on the facts of the case, but local authorities should consider whether they ought to take action under safeguarding law, especially where the steps described above have not been, or seem unlikely to be, sufficient to address a risk to a child's welfare.

8.3 There is no known correlation between EHE and safeguarding risk. In some serious cases of neglect or abuse in recent years, the child concerned has been home educated but that has not usually been a causative factor. However, some children being educated at home are not necessarily being seen on a regular basis by professionals, such as teachers, and this logically increases the chances that neglect and abuse could fail to be identified. It's important to note that safeguarding is not simply a matter which arises in relation to the family. Some parents who educate at home are doing so on the basis of safeguarding the child from risk in the school system (e.g. through serious bullying).

8.4 Local authorities should approach all cases where the suitability of EHE is in doubt using their powers in the 1996 Act. They should also be ready, if a lack of suitable education appears likely to impair a child's development, to fully exercise their safeguarding powers and duties to protect the child's wellbeing, which includes their suitable education. In the light of this, local authorities should ensure that their published EHE policies, and their staff, clearly state the circumstances where safeguarding action is likely to be appropriate in cases where a child is not, or may not be, receiving suitable education. Such clarity will reduce the likelihood of disputes with parents caused by ambiguity over the powers which local authorities have, and how they can be applied to EHE children in certain circumstances.

8.5 A failure to provide suitable education can satisfy the threshold requirement contained in s.31 of the Children Act 1989 that the child is suffering or is likely to suffer

significant harm. 'Harm' can include the impairment of health or development, which means physical, intellectual, emotional, social or behavioural development and the provision of unsuitable education clearly can amount to this. The causing of significant harm need not be intentional or deliberate, but case law³⁸ indicates that it must be 'considerable, noteworthy or important'. This is a key point for local authorities in considering whether the use of safeguarding powers is appropriate in a case relating to the EHE of a specific child. Local authority staff should be clear that when the use of safeguarding powers is justified, they should be used.

8.6 Whether the provision of unsuitable education does amount to significant harm must always depend on the particular circumstances of the child, and whether those circumstances mean that the child's development are being, or are likely to be, significantly impaired. Case law does provide examples where lack of suitable education has amounted to significant harm.³⁹ Although some cases will be relatively clear-cut (for example if a child was being provided with no education at all for months), in other cases a local authority may need expert advice from teachers or educational psychologists, preferably those with some familiarity with educational approaches which are wider than conventional schooling.

8.7 Sometimes the local authority may not have been able to obtain sufficient information to determine whether the significant harm threshold is met and the authority should consider employing its powers under Part 5 of the Children Act 1989. The starting point for this would normally be an investigation under s.47 of the 1989 Act, which requires an authority to make enquiries to enable it to decide whether action should be taken to protect the child's welfare, if it has reasonable cause to suspect that the 'significant harm' threshold referred to above is met. Reasonable cause can include the lack of any substantive information about a child's education, so if the 'if it appears' test in s.437(1) is satisfied, then there will usually be reasonable cause in terms of s.47. These enquiries can include taking steps to gain access to the child.

8.8 Such enquiries may yield enough information. If they do not, and in particular because the parents refuse access to the child during the s.47 assessment, then the authority has a number of options available. It can apply to a court for a child assessment order under s.43 of the 1989 Act. For such an order to be made there must be reasonable cause to suspect that the significant harm threshold is met, the assessment must be necessary to determine whether the threshold is met, and it must be unlikely that an assessment would be satisfactorily made without such an order.

Education Supervision Orders

8.9 In some cases, the use of an ESO under s.36 of the Children Act 1989 will, in any case, be appropriate and sufficient. These orders give local authorities a formal

³⁸ *In re B (A Child)(Care proceedings: Threshold Criteria)* [2013] 1 WLR 1911.

³⁹ *Re S (A Minor) (Care Order: Education)* [1978] QB 120 and *Re O (A Minor) (Care Proceedings: Education)* [1992] 1 WLR 912.

supervisory role in the education of children who are subject to them. The High Court or the Family Court can make an ESO if satisfied that a child of compulsory school age is not receiving a suitable education to the child's age, ability and aptitude and to any SEN they may have. Where a SAO is in force for the child but has not been complied with, there is a presumption that the child is not receiving a suitable education unless the contrary is demonstrated. The advantage of an ESO is that it continues to be in force so long as determined by the court (which may extend it beyond the initial one-year term); it is not a 'one-off', compared to a prosecution for non-compliance with a SAO.

8.10 The use of an ESO should be considered as an alternative to, or as well as, prosecution for non-compliance with a SAO. Use of an ESO does not depend on the 'significant harm' threshold being met, and under s.36(5) of the 1989 Act, unless it is proved that a child who is currently subject to a SAO is being properly educated, then it is assumed that they are not, for the purposes of deciding whether an ESO should be made. Applying for an ESO may be the proportionate response when parents are not complying with a SAO.

8.11 The local authority is under a duty, if an ESO is made, to give 'due consideration' to the 'wishes and feelings' of the child and the parent(s); and this might result in improved EHE. However, an ESO imposes a duty on parents to allow the supervisor (the authority) reasonable contact with the child, though this need not necessarily be at the child's home - unless the court imposes a visit at home as a specific condition of the order (paragraph 16 of Schedule 3 to the 1989 Act). Persistent failure to comply with a direction given under an ESO is an offence unless the parent can show that they have taken all reasonable steps to comply, or that the direction is unreasonable. In such cases of persistent failure, the authority should make clear to the parents that failure to comply with an ESO may result in an application to the court for a care order under s.31 of the 1989 Act. This makes ESOs, if appropriate, potentially useful in ensuring that a child is suitably educated.

Care orders

8.12 Whether or not an ESO is made, if it is concluded that the significant harm threshold is met but the parents continue to refuse to remedy the situation, it may be necessary in certain cases to apply for a care order under s.31. The effect of such an order is that the local authority is given parental responsibility for the child and has him or her in its care while the order remains in force. The authority also has power to determine the extent to which a parent may meet his or her parental responsibility for the child. It is not necessarily the case that the child is removed from the parental home; the care plan filed with the court by the local authority would set out where it was proposed the child would live and it is for the court to approve that, or not. If the child did live at home but the parents did not comply by causing the child to attend school – assuming the authority has decided they should – then the child could be removed from the home into the local authority's direct care.

8.13 The use of such an order is of course a last resort, but the key point for local authorities

to bear in mind – and make clear to parents – is that this could be the end result of continued failure to provide suitable education and a continued obstruction of an authority's efforts to ensure that the child receives suitable education. By demonstrating a determination to use last resort powers when necessary, the likelihood of having to deploy them is generally greatly reduced.

8.14 Statutory guidance on these provisions of the 1989 Act and ss.10 and 11 of the 2004 Act, among other child safeguarding and welfare matters, is set out in [Working Together to Safeguard Children](#).

9. Home-educated children with special educational needs or a disability (SEND)

9.1 The parents' right to educate their child at home applies equally where a child has SEND. This right is irrespective of whether a child has an Education, Health and Care (EHC) plan. It may be the case that a local authority has no knowledge of a child's SEND. However, local authorities have a duty under s.22 of the Children and Families Act 2014 to try to identify all children in their areas who have SEND. This includes home-educated children.

9.2 Local authorities and their statutory partners must have regard to the statutory guidance, the [SEND code of practice: 0 to 25 years](#), when carrying out their functions under Part 3 of the Children and Families Act 2014. The Code emphasises the importance of local authorities and their partners working closely with parents and provides specific information about SEN in relation to EHE and EOTAS under s.61 of the 2014 Act.

9.3 Some parents decide to educate their child at home because of dissatisfaction with local provision for meeting SEN or needs relating to disability. However, educating a child at home who has SEND can bring challenges which are different and/or additional to those involved in home educating children without SEND. Local authorities should give reasonable consideration to requests for support from parents who are home-educated children who have SEND to help toward ensuring that education is suitable and remains so. The decision to offer support remains at the discretion of local authorities. Local authorities should be ready to discharge their duty to serve a preliminary notice should the education appear to be unsuitable.

9.4 If a child currently on a school roll has an EHC plan and parents are considering EHE, parents should contact the local authority at an early stage to discuss amendment of the plan. In relation to children and young people with SEN (whether or not they have an EHC plan), a local authority should explore with parents and the educational setting the extent to which additional support can be put in place to keep the child in that educational setting, providing this is what the parents ultimately want.

9.5 When a child has a EHC plan, it is the local authority's duty to secure that the special educational provision, specified in the plan, is made available to the child (s.42(2)). However, "secure" does not mean to force the family to receive this provision. There is a parallel duty on a health commissioner to arrange any health care provision, set out in the plan, in these circumstances (s.42(3)). Neither body is subject to these duties if the child's parents have made suitable alternative arrangements (s.42(5)), which will be the case when the parent is home educating and those arrangements are suitable. The plan should simply set out, in Section F, the educational setting of the special educational provision that the authority thinks the child requires. It should amend Section I of the plan so that it just names the *type* of school that would be suitable. The authority will continue to check the suitability of the EHE as required by ss. 436A and 437 of the 1996 Act and

s.42(5) of the Children and Families Act 2014, and it also has a separate duty under s.44 of the 2014 Act to continue to review an EHC plan at least annually for as long as the plan is maintained by the local authority. If, at any point, the local authority considers that the EHE is no longer suitable, it must take appropriate action including considering conducting an early review of the EHC plan.

9.6 Under s.19 of the 2014 Act, a local authority must have regard to the views, wishes and feelings of the child and parents when exercising its functions under Part 3 of that Act. Where parents feel strongly that their child with SEND (with or without an EHC plan) should 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 state-funded early years setting, the authority may, under s.61 of the 2014 Act, arrange for the special educational provision that it has decided is necessary to be made otherwise than in a school, post-16 institution or relevant early years setting (often referred to as 'EOTAS'). If a local authority does this for a child with an EHC plan, the plan should clearly explain the arrangements, and the authority will have a duty under s.42(2) to ensure that the special education provision specified in the plan is provided. It is important to distinguish between a situation like this, in which a local authority itself arranges the special educational provision, it has decided is necessary, in a place such as a child's home because it considers it would be inappropriate for the provision to be made in a school, post-16 institution or a place where relevant early years education is provided, and a situation in which a child's parents arrange their own EHE as described in the paragraph above. EOTAS under s.61 of the 2014 Act is not 'EHE'.

9.7 If a school already attended by a child is a special school, and the child is attending it under arrangements made by the local authority (which in practice means that they have an EHC plan), the local authority's consent⁴⁰ is necessary for the child's name to be removed from the admission register. This should not be a lengthy or complex process and consent must not be withheld unreasonably. If the child is to be withdrawn to be educated at home, then the local authority, in deciding whether to give consent, should consider whether the EHE to be provided would meet the SEN of the child, and if it would, the local authority should give consent. The local authority should consider the additional difficulties of providing education at home to a child whose SEN are significant enough to warrant a place at a special school. If the local authority refuses consent, then the parent can ask the Secretary of State to make a direction. There is no equivalent requirement for children with an EHC plan who attend a mainstream school; the parents of a child may withdraw him or her without the local authority's consent, although they should be encouraged to engage with the authority before doing so, whenever possible. Communication with the local authority allows the plan to be updated and any extra support needed considered, and also avoids the child potentially being declared a child missing education.

9.8 As with other children educated at home, local authorities do not have a right of entry to the family home to check that the provision being made by the parents for a child with

⁴⁰ Regulation 8(2) of the Education (Pupil Registration) (England) Regulations 2006.

SEND is suitable. Parents should be encouraged to see a process of engagement with the child as part of the authority's overall approach to EHE of pupils with SEND, including the provision of appropriate support. Local authorities should not assume that, because the provision being made by parents is different from that which was being made or would have been made in school, the provision is unsuitable.

9.9 Where a child's parents choose to make their own arrangements, the local authority has no duty to assist the parents with the costs which they incur, and many local authorities do not do so. However, even if a local authority's policy is not to provide such support, it must give reasonable consideration to any request for assistance to help parents make suitable provision – including considering whether it has any legal power to comply with the request and whether in the circumstances it ought to do so.

9.10 The high needs funding block of the Dedicated Schools Grant (DSG) to local authorities is intended to fund special and alternative provision for all relevant children and young people in the authority's area, including home-educated children. The majority of this high needs funding is for those with complex needs, typically those with EHC plans attending schools and colleges, but the local authority can also use their DSG to provide any support services for children who have attained compulsory school age with SEN, whether or not they have an EHC plan, and in relation to education otherwise than at school under section 19 of the 1996 Act. Direct support to the parents, if given at all, should relate only to costs incurred by parents as a result of the SEN of the child, insofar as these can reasonably be identified. Costs which would be incurred anyway by the parents in providing EHE, even if there were no SEN (for example the cost of day-time heating), should not be funded, in line with the general position that parents who choose to educate children at home bear the financial responsibility for doing so.

9.11 In some cases, a local authority will conclude that the EHE provision that is being made for a child with a EHC plan is not suitable. In such cases, the procedure to be followed in s.437 of the 1996 Act is the same as for other children who are educated at home but are not receiving a suitable education, although the consideration of suitability may well be more complex and need to draw on a wider variety of information, for example educational psychologist reports. Furthermore, the naming of a school in any SAO must conform with the provisions of s.441 of the 1996 Act. Parents who have withdrawn a child from a setting which they regarded as unsatisfactory may cooperate more willingly with this process if the authority is willing to explore options which are different in nature from the previous setting.

9.12 When a home-educated child's EHC plan names a school, some local authorities instruct the school to add the child's name to its admission register without the parent's agreement, with the result that the parent is committing an offence if the child does not attend the school. It is not lawful for a local authority or a school to do this, and create a situation where a parent is committing an offence without their knowledge and bears the burden of trying to remove their child from that school. It is up to the child's parent whether to arrange for the child to be a registered pupil at the school. If the parent does not, the local authority should consider whether a preliminary notice should be issued.

9.13 Information about the right to request an EHC needs assessment should be available to all parents including those who are considering EHE because they feel that the SEND support being provided in the school is insufficient to meet the child's needs. The authority should be ready to help explore with parents and the school the extent to which additional support can be put in place at the school, even if initial efforts to secure this have not worked. At a minimum, the local authority should help ensure that parents know about their local SEND Information, Advice and Support service.⁴¹

⁴¹ [Find your local IAS service](#)

10 Further information

Children's rights and views

10.1 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 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 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 parents, in the same way as a decision to send a child to school. If information and views provided by the child cast doubt on whether the education provided is actually suitable in terms of the 1996 Act s.7 criteria (for example, the child indicates that the parent is not providing suitable education because the parent does not sufficiently understand the subjects in question) then that opinion might be part of the information leading to a conclusion by the authority that the education is not suitable. However, if the child's attitude to EHE is only negative for reasons which are not directly relevant to the s.7 criteria (for example, a child's preference for a change from the home environment during the school day) then it should not bear on the authority's conclusions as to suitability. Nonetheless, if it is clear to the local authority that a child does not wish to be educated at home although the education provided meets the s.7 requirement and there are no safeguarding concerns, it should seek to discuss the reasons for this with the parents and child (if the parents agree) and encourage them to consider whether EHE is ultimately likely to be successful if their child is unhappy to be educated in this way.

10.2 S.17(4A) of the Children Act 1989 puts a duty on local authorities to, so far as reasonably practicable, consider a child's wishes and feelings about the provision of services for a child in need. However, s.17(4A) does not extend beyond local authorities' functions. For example, no obligation is placed on local authorities by that provision to ascertain the child's wishes about EHE, as that is not a service provided by the local authority. Local authorities, in the exercising of their functions under Part 3 of the Children and Families Act 2014, in the case of a child or young person, have a duty to have regard to the views, wishes and feelings of the child/young person and their parents.

Disputes between parents

10.3 In some cases, two parents (usually divorced or separated, but both having parental responsibility) may disagree as to whether EHE is desirable, or at least is being provided properly. The local authority should do its best to obtain full details of who has parental responsibility in such cases. The parent with whom the child lives for most of the time is

normally in effective control of the education provided and whether the child attends school (although that can be subject to a specific issue order made by the Family Court). If the local authority believes that the education being provided in the home in these circumstances is not suitable, it should act and keep both parents informed of what is happening, unless there is a specific reason (usually arising from safeguarding considerations, including instances of domestic abuse) to limit this information to one parent.

10.4 If there is no relevant order by the Family Court, the parent who does not agree with the provision of EHE may succeed in getting a child's name entered onto the register of a school. If the child then does not attend that school, both parents may be committing an offence. This situation can arise because the law of education generally assumes that parents will agree on the education of their child. Clearly, it is desirable for matters to be resolved without recourse to the courts, and local authorities should encourage parents to reach a common view on what is in their child's best interests, drawing on support from those who know the child – such as staff at a school that they attend or have previously attended – although such mediation may not always be possible.

Off-rolling

10.5 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. The practice of off-rolling is unacceptable. Schools should never seek to pressure or persuade parents to educate their children at home as a way of avoiding an exclusion or because the child has a poor attendance record. In the case of exclusion, on disciplinary grounds, state schools must follow the relevant legislation and have regard to the statutory guidance⁴². If the pupil has a poor attendance record, the school and, if appropriate, the local authority should seek to address the issues behind the absenteeism and use the other remedies available to them. The School Discipline (Pupil Exclusions and Reviews) (England) Regulations 2012, as amended in 2022, now require the local authority to be informed without delay of all school exclusions under those Regulations regardless of the length of the exclusion. Local authorities may wish to check in stances where electively home educated children have received multiple suspensions from their previous school(s), that their parents' decision to home educate is not due to pressures or persuasion from the school.

10.6 The practice of 'off-rolling' pupils through pressure on parents to withdraw them for EHE is thought to be a contributor to the increase in numbers of home educated children, particularly those aged 14-16.⁴³ Local authorities should seek to reach agreements

⁴² [Suspension and Permanent Exclusion from maintained schools, academies and pupil referral units in England, including pupil movement](#)

⁴³ The [data published by the Department for Education in May 2023](#) estimate that approximately 1,000 children are home educating at the suggestion of their school, during the 2021-22 academic year. Given that data collection in this area is still developing on a voluntary basis, this is likely to be an under-estimation.

through schools' forums which discourage pressure on parents to educate children at home, and address this issue directly in discussion with relevant schools. Local authorities should inform Ofsted of schools where off-rolling appears to be happening so that this can be looked into at the school's next inspection.

Flexi-schooling, and college attendance

10.7 Although most children educated at home have all the provision made at home, or alternatively partly at home and partly in other ways such as attendance at privately-run part-time tuition settings, it is not essential that this be so. Some children who are educated at home most of the time are also registered at school and attend school for part of the week, known as flexi-schooling. Flexi-schooling is not considered EHE as children remain on a school roll. The purpose of this is usually to ensure that the provision in specific subjects is satisfactory, although it can also help in other ways such as socialisation. If a child is of compulsory school age they must, overall, be receiving full-time education even if components of it are part-time.

10.8 Schools are not obliged to accept such arrangements if requested by parents. If they do, children should be given leave of absence by the school in the usual way for any periods when it has been agreed they will be educated at home. It is not appropriate to mark this time as 'approved off-site activity' as the school has no supervisory role in the child's education at such times and also has no responsibility for the welfare of the child while they are at home. Schools which have flexi-schooled pupils should be ready to discuss with Ofsted inspectors the arrangements they have in place to deal with the requirements caused by such pupils. Schools are held to account through inspection for the performance of pupils, and that will include any who attend the school as part of a programme of flexi-schooling. Whilst the parent will have responsibility for the child's welfare when at home, and any education provider who is teaching the child at the time (at home or elsewhere) will have a duty of care, it's important for local authorities to be reminded that their duties in relation to the safety and welfare of children apply to all children in their areas, including those who are flexi-schooled. It is good practice for schools to inform local authorities on instances of flexi-schooling so that they can be aware in the context of their broader education and safeguarding responsibilities.

10.9 Another form of provision available to home educated children, aged 14-16, is part-time attendance at further education colleges, sixth form colleges and 16-19 academies. Again, this is normally to help with specific subjects and/or socialisation. When children who are educated at home attend such college settings part-time, then the provision made should be considered by the local authority in deciding whether the education provided, as a whole, for the child meets the s.7 requirement.

10.10 The [16 to 19 bursary fund](#) is not payable to young people whose parents elect to home educate them after the age of 16.

Unregistered settings

10.11 Some home-educating children will receive most, if not all of their education in various types of unregistered settings. Unregistered settings fall into the following groups:

- a. unregistered independent schools.⁴⁴ By meeting the criteria for registration yet electing to operate unregistered, such schools are operating illegally. If a setting's education provision is formal and long-term enough to amount to an educational institution; provides full-time education for five or more children of compulsory school age (or at least one child of that age with an EHC plan, or who is 'looked after'); and is not maintained by a local authority or a non-maintained special school, then it is likely to require registration as an independent school.⁴⁵ 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 investigations into EHE of children suggest the existence of an unregistered independent school, the Department would be grateful to receive relevant information. It is not illegal for parents to send their children to such settings simply because the setting itself is operating unlawfully; but such a setting has not been confirmed as meeting the educational standards required of registered independent schools and so by sending the child there, a parent may be failing to ensure their child is receiving a suitable education. The local authority must consider whether the education received by the child taken as a whole, at the setting and at home, is suitable, and take action as required. The authority may also need to consider whether any safeguarding issues arise from the child's attendance at the setting, if it is not safe.
- b. out-of-school education settings operating on a full-time basis. Some of these settings provide solely religious education to children of compulsory school age, in certain minority communities. These settings are not regulated. The children attending these settings are normally said to be educated at home for secular subjects. It is important to note that the Department does not consider the provision of solely religious education as meeting the relevant components to be considered a "suitable education". When a local authority is considering whether EHE provided is suitable, it should take into consideration the education provided both at home and at these out-of-school settings, and also the hours attended and whether in practice there is sufficient time available for 'secular' education, including literacy and numeracy.

⁴⁴ [Unregistered independent schools and out of school settings: Departmental advice](#)

⁴⁵ Enquiries on registering as an independent school may be made to registration.enquiries@education.gov.uk.

- c. alternative provision⁴⁶ from unregistered settings arranged by local authorities or schools that don't meet the requirement to register as an independent school. It includes a wide range of providers, from dedicated tutoring companies and online data providers to bespoke vocational training and therapeutic support, for example mechanics and farms. These settings are not regulated, although responsibility for the alternative provision used rests with the commissioner who should undertake checks to ensure that the provision is suitable for the child. In addition to the alternative provision arranged by local authorities and schools, parents can also sometimes arrange education in such settings, which would be described as an out-of-school setting.
- d. informal EHE groups. In many areas, groups of home educators will come together and share resources such as meeting spaces, learning materials and support, enabling their children to socialise and learn together. They can offer general support, activities, or more formal settings and arrangements, such as forest school learning, exam preparation and tuition. EHE groups can help families access certain subjects that 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 consider whether the provision is formal and long-term enough to require registration as an independent school. (Please refer back to paragraph 10.11a for more information on independent schools).

10.12 EHE children sometimes attend out-of-school education settings which operate part-time with a specific purpose. Examples of these would include tuition or learning centres offering classes or courses to children, for example in English and mathematics skills or languages; sports clubs; and dance/drama schools. Parents may have made arrangements for children to attend these settings as part of the child's overall EHE package; and in assessing whether education is suitable, local authorities should be prepared to take account of such attendance. Local authorities should, therefore, request details related to these settings from parents as part of their initial, informal enquiries about the education provision. We would encourage parents to provide this information, however parents are not legally required to do so. If the attendance is for only a short period each week and is of a specialised nature, it may in practice be marginal to the conclusion as to whether the child's education meets the s.7 requirement.

Safeguarding – using tutors and out-of-school settings

10.13 Parents may choose to employ other people to educate their child (such as tutors), or as mentioned above, choose to send their child to out-of-school settings for

⁴⁶ [The Alternative Provision Statutory Guidance](#) defines alternative provision as follows: education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a suspension; and pupils being directed by schools to off-site provision to improve their behaviour.

part of their education arrangements, though they themselves will continue to be responsible for the education provided. The suitability of those tutors and settings, in terms of access to children, is for the parents to ascertain. Parents need to make sure that the education their child is receiving is suitable to their age, ability, aptitude and any SEN and should be encouraged to investigate any settings they are thinking of using to make sure of that. Parents should be encouraged to make sure that the settings are safe by referring to [the Department's safeguarding guidance for parents on choosing out-of-school settings for their children](#), which helps to support parents make fully informed choices when considering out-of-school settings (including tutors) for their children, and to identify positive signs and red flags to look out for.

10.14 The above-mentioned out-of-school settings guidance recommends a number of steps that parents can take to help satisfy themselves on the safety of the people they are employing or settings they are using as part of their child's education, including taking up appropriate references and ensuring that the tutor, or those providing tuition to their child, has a recent Disclosure and Barring Service (DBS) disclosure certificate.⁴⁷ A small number of local authorities choose to assist home-educating parents in this task by undertaking DBS checks free of charge on independent home tutors, and the DfE endorses this helpful practice whilst recognising that it may not be practicable for all local authorities to do this.

10.15 Tutors employed by a local authority, a school, or an agency may also undertake work for home-educating parents, in which case DBS checks ought to have been made already.

Support for home educators

10.16 When parents choose to home educate their children they assume financial responsibility for their children's education, including for examinations. This, and the time involved in educating a child properly at home, form an onerous challenge for many parents.

10.17 Local authorities do not receive specific funding to support home-educating families although an authority's duties and powers under the Children and Families Act 2014 may involve support for such families with children who have SEN, which can be funded from the authority's high needs budget. The level and type of support will therefore vary between one local authority and another. The Department recommends that all local authorities should adopt a consistent, reasonable and flexible approach to support, although it is recognised that available resources will affect precisely what types of support may be available from each individual local authority and requests should be considered on a case-by-case basis.

10.18 As a minimum, local authorities should provide written information (accessible online) on EHE that is clear and accurate. Some local authorities may be able to offer

⁴⁷ Part 3 of [Keeping Children Safe in Education](#) explains the various types of DBS and their relevance to a given activity.

additional support to home-educating parents, but this will vary depending on their resources. Examples of additional support include:

- provision of a reading or lending library with resources for use with home educated children
- free, or discounted, admission into community programmes (including local authority owned community and sports facilities)
- access to resource centres (including local school resources where feasible)
- National Curriculum materials and curricula offered by other educational institutions
- information about educational visits and work experience
- providing assistance with identifying exam centres willing to accept external candidates.

National Careers Service

10.19 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 children 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

10.20 Work experience is not a statutory requirement for children. Although local authorities cannot arrange or inspect work experience in the same way schools do, if a work experience placement is secured for a home educated child via arrangements made by the local authority, the employer may contact the local authority's education department or education welfare service where the employment is based to find out if a child permit is required.

10.21 The parameters of any work experience to be undertaken should be clearly documented and should not be comparable to child employment.⁴⁸ Similarly, work-placed learning as part of delivery of suitable education should not amount to child employment. Where the child appears to be engaged in employment not permitted by child employment laws, local authorities should discuss any concerns with the employer and parent and, where unresolved, should consider safeguarding referrals. This is the case whether the employment is within a family business or an external

⁴⁸ [Child employment](#)

company.

Gypsy, Roma and Traveller (GRT) Children

10.22 Local authorities should have an understanding of and be sensitive to the distinct ethos and needs of GRT communities. Where these families are educating their children at home, it is important that they are treated in a comparable way to other families in that position. As mentioned in paragraph 4.7, local authorities are subject to the Public Sector Equality Duty and should ensure that their policy and practice in relation to EHE is consistent with that duty. EHE should not be regarded as less appropriate than in other communities. When a GRT family with compulsory children of school age move into an area, they should be strongly encouraged to contact the local Traveller Education Support Service for advice if one is in place, or the authority's admissions team for help to access local educational settings if school places are desired. Further guidance can be obtained from the DfE's report: [Improving the outcomes for Gypsy, Roma and Travellers pupils](#). The Advisory Council for the Education of Romany and other Travellers is another source of information.⁴⁹

Looked-after children

10.23 Local authorities acting as corporate parents of looked-after children should bear in mind that they assume the duties of parents under s.7 of the 1996 Act to ensure that the child receives a suitable education; and local authorities in whose areas such children are placed by other authorities should take the same steps to ensure that the child is not missing education as they would for any other child resident in their area. It is legally possible for a looked-after child to be educated at home if the local authority and/or foster parent, as the corporate parent, decides this is appropriate after discussion with the carers.

⁴⁹ [ACERT – Advisory Council for the Education of Romany and other Travellers](#)

Other relevant legislation and departmental guidance

- [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](#)
- [Unregistered independent schools and out of school settings](#)
- [Safeguarding guidance for out of school settings](#)
- [Education Act 1996](#)
- [Pupil Registration Regulations 2006](#). The regulations have been amended many times - see especially: [Pupil Registration Regulations 2016 amendments](#)



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