

# **London Borough of Bexley - Elective Home Education Policy 2023**

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## 1. Introduction

Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe the education provided by parents at home, rather than providing education for their children by sending them to school. This is different to home tuition or education provided by a Local Authority other than at a school. It is recognised that parents may choose home education for a variety of reasons and deliver it in a variety of ways.

For the purposes of this document, the term “parent”, unless the context requires otherwise in relation to a child of young person, includes any person:

- who is not a parent of, but who has parental responsibility for a child or young person, or
- who has care of the child or young person, except that in section 499(8) of the Education Act 1996, it only includes such a person if he is an individual

This document sets out our policy and procedures that enable the London Borough of Bexley (LB Bexley) to comply with its duties towards children and young people living in the borough whose parents have elected to educate them otherwise than at school. It is published for parents, schools and other agencies with an interest in elective home education.

The London Borough of Bexley’s Elective Home Education Team can be contacted:

- By phone, calling 020 8303 7777 and asking for “Elective Home Education”.
- By email, sent to [EHE@bexley.gov.uk](mailto:EHE@bexley.gov.uk)
- By post, addressed to:
  - Elective Home Education  
Education and Services for Children  
London Borough of Bexley Civic Offices  
2 Watling Street  
Bexleyheath  
Kent, DA6 7AT

## Complaints

The London Borough of Bexley’s complaints procedure, including the form to submit a complaint online, can be found at [www.bexley.gov.uk/feedback](http://www.bexley.gov.uk/feedback). Alternatively, complaints can be made by email to [complaints@bexley.gov.uk](mailto:complaints@bexley.gov.uk), by calling 020 8303 7777, or by writing to “The Complaints Team” at the Civic Offices address above.

## 2. Policy statement

The DfE “Elective Home Education Guidelines for Local Authorities”, published in April 2019, emphasises the importance of local authorities building effective relationships with home educators that function to safeguard the educational interests of children and young people: to ensure relationships are rooted in genuine mutual understanding, trust and respect.

This policy seeks to build improved relationships with home educators and provide a means to effectively protect the educational and safeguarding interests of children being electively home educated where vulnerabilities are identified.

This policy and procedure was last reviewed in September 2023 will next be reviewed in September 2024, or as required should legislative amendments be realised. Consultation with home educators will take place where there are significant changes to policy or procedure.

## 3. The law relating to Elective Home Education

The definition within section 7 of the Education Act 1996 provides that:

*“The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable*

- (a.) to his age, ability and aptitude, and*
- (b.) (b) to any special educational needs he may have,*

*either by regular attendance at school or otherwise.”*

There is no legal definition of what constitutes a “full-time” education. Measurement of “contact time” in this way is not relevant in the context of elective home education, where the child often has continuous one-to-one contact with the educator and the types of educational activity which the child follows may be varied and flexible. Relevant case law<sup>1</sup> confers very broad discretion on the state in how this is to be implemented. For example, a local authority may specify requirements as to effectiveness in such matters as literacy and numeracy, in deciding whether education is suitable, whilst accepting that these must be applied in relation to the individual child’s ability and aptitudes.<sup>2</sup>

Compulsory school age begins on the next prescribed day following a child’s fifth birthday (or on their fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March and 31 August each year. A child continues to be of compulsory school age until the last Friday of June in the school year that they reach the age of sixteen.

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<sup>1</sup> E.g., Konrad v Germany (2006) European Court of Human Rights app. 35504/03

<sup>2</sup> DfE Elective Home Education Departmental Guidance for Local Authorities page 31

## 4. Parental rights, responsibilities and considerations

Parents have a legal right to educate their child at home and are not required to have any qualifications or training to provide their children with a suitable education. The 1996 Education Act clearly states that it is a parent's duty to ensure child receives suitable education in accordance with section 7<sup>3</sup>. In addition, the Act provides that, generally, children are to be educated in accordance with the wishes of their parents.

Parents are not required to inform LB Bexley that they intend to elect, or have elected, to home-educate although they are strongly advised to do so, so the borough can better ensure parents are making an appropriately informed decision. They are not required to seek approval from LB Bexley unless the child has an Education, Health and Care Plan and attends a special school.

Parents whose child is enrolled at a school are advised to write to the Headteacher to inform them that they elect to home educate, unless:

- the school is a special school named on the child's Education, Health & Care Plan, in which case parents are required to seek approval from LB Bexley first
- a child is enrolled at a school in accordance with a school attendance order, when LB Bexley must revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll

Schools cannot de-register a child for the purpose of elective home education without notice from parents in writing that they are accepting responsibility for their child's education. Until such notice is received, a school will continue to record a child's absence which may lead to penalty fines or legal action related to school attendance.

Parents whose child is not enrolled at a school have no obligation to inform LB Bexley that they are home educating their child, however LB Bexley encourages contact from all home educating families and may make enquiries with parents.

Although parents must provide education in accordance with section 7 of the Education Act 1995, the type of educational activity can be varied and flexible.

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<sup>3</sup> Section 7 of the 1996 Act requires parents to provide an efficient, full-time education suitable to the age, ability and aptitude of the child and any special educational needs which the child may have.

Recommendations parents may consider, but are not required to:

- Have a timetable
- Set hours during which education will take place
- Observe school hours, days or terms
- Give formal lessons
- Teach the national curriculum
- Mark work completed by their child
- Formally assess progress or set development objectives
- Reproduce school type peer group socialisation
- Match school based, age specific standards
- Have premises equipped to any particular standard
- Have any specific qualifications

Parents may arrange for other people to tutor their child, though parents themselves continue to be responsible for the education provided. It is recommended that parents ensure such people are qualified and suitable, including Disclosure and Barring Service (DBS) checks.

Parents who elect to home educate assume full financial responsibility for their child's education, including the costs of private tuition, courses and public examinations. However, colleges can claim the cost of course fees directly from the Education Skills Funding Agency on an individual basis for home educated young people under 16 (when parents and colleges are able to reach suitable individual arrangements). These individual arrangements are not brokered by LB Bexley but directly between parents and colleges and are typically only available for home-educated children of academic ages 14 and 15. LB Bexley's EHE Officers can advise parents of colleges with such provision.

## **5. The Local Authority's responsibilities**

LB Bexley is supportive of parents who elect to educate their child at home, however it has a statutory duty under section 436A of the Education Act 1996 to make arrangements to enable them to establish (so far as it is possible) the identities of children in their area who are not receiving a suitable education. This duty applies to all children of compulsory school age who are not on a school roll and do not appear to be receiving a suitable education other than being at school.

It is appropriate that parents and children choose a type of education that is right for them. It is equally important that EHE officers understand and are supportive of the many differing "ways of educating" that are all feasible and legally valid. The role of the EHE Team is to respond to concerns that a child is not receiving suitable education for his or her age, ability and aptitude and, where appropriate, to provide support and information for parents. It is not the role of the EHE Team to tell parents how to educate their children.

A further statutory duty requires LB Bexley to serve a formal notice under section 437 of the Education Act 1996 if it appears that a child of compulsory school age is not receiving a suitable education. The formal notice requires the parent to satisfy the Local Authority that the child is in fact receiving suitable education.

If LB Bexley cannot be made confident that the child is receiving a suitable education, it has the power to commence the statutory process for the issue of a School Attendance Order ('SAO') requiring the parent to register the child at a named school.

LB Bexley has no legal power or duty to monitor home education on a routine basis, although it will make enquiries if it is not clear that a child is receiving suitable education. LB Bexley sees its role in relation to home education as part of its wider responsibilities, including safeguarding, to all the children in its area.

## 6. Responsibilities of schools in the London Borough of Bexley

There is no legal requirement for parents to discuss home education with the school; however, if a parent approaches the school to discuss the possibility of home educating LB Bexley expects the school to respond constructively. If parents are considering home education because of a dispute with the school, LB Bexley expects the school to take all necessary steps to resolve the issue. The school should signpost the parent to LB Bexley's EHE Team for further advice and guidance to enable parents to make an informed choice.

Departmental guidance for local authorities April 2019 (10.4) states:

*'Schools should not seek to 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, they must follow the relevant legislation and have regard to the statutory guidance. If the pupil has a poor attendance record, the school and, if appropriate, local authority should seek to address the issues behind the absenteeism and use the other remedies available to them'.*

LB Bexley will contact all electively home educating parents who remove their child from a school roll. If it is found that a parent has been 'encouraged' by a school to remove their child from roll for the purposes of elective home education this will be challenged.

When a parent reports that they have been encouraged to remove their child from roll for the purposes of elective home education and then finds they are unable to fulfil the duties they have assumed, the expectation is that the Fair Access Panel will name the previous school for placement. This does not negate the parents right to apply for a place of their preference where a parent considers the relationship with the 'home school' has broken down.

When a school receives formal, written notice from a parent that a child is being withdrawn from school in order to be home educated and the child has ceased to attend, the Headteacher should ensure that the pupil's name is removed promptly from the admissions register in accordance with Education (Pupil Registration) (England) (Amendment) Regulations 2016. Section 5, paragraph 6:

*"where the name of a pupil is to be deleted from the admission register, the proprietor must make a return to the local authority for that pupil as soon as the ground for deletion under regulation 8 is met in relation to that pupil, and in any event no later than the time at which the pupil's name is deleted from the register."*

To comply with the Regulations, the school must inform LB Bexley of any child leaving school for elective home education as soon as a school removes a child from the school register. This is done through LB Bexley 'Notice of Declaration' process and enables LB Bexley to review if the child is known to LB Bexley services and address any risks identified.

In the interests of the child, recommended good practice is for the school to allow a period of 15-schools days for parents to reflect on their decision, seeks further advice, and to change their mind if they so wish and return their child to the school.

The school must retain the child's school file in line with their legal requirements. Parents may request a copy of this file from the school to assist them in planning their child's education.



## **7. Elective Home Education and safeguarding**

All professionals should remember that elective home education as a parental choice is not of itself a risk to children. We have to be concerned about the extent to which already vulnerable children are further compromised where this is assessed to be the case.

Section 175 of the Education Act 2002 imposes a duty on LB Bexley to make arrangements for ensuring the functions conferred on them are exercised with a view to safeguarding and promoting the welfare of all children resident in the borough.

The EHE Team will follow LB Bexley's SHIELD safeguarding procedures and work with relevant agencies and individuals to proactively safeguard and promote the welfare of children and, in the event of any concerns about the welfare of a home educated child, initiate and follow established procedures.

Children's services will work collaboratively to proactively safeguard and promote the welfare of children and in the event of any concerns about the welfare of a home educated child, initiate and follow through established safeguarding procedures, which will include sharing information with GPs, health visitors and other health professionals in the interest of a child or young person.

LB Bexley EHE Team will liaise with LB Bexley's Multi-Agency Safeguarding Hub (MASH) where there is uncertainty about the welfare of a child or young person. The EHE Team will explain the reasons for any welfare concerns to the parents in accordance with referral procedure, unless where there is a significant reason not to.

Where there is ongoing lack of response from a parent, including after an attempted home visit to confirm the child's wellbeing, the EHE Team will liaise with relevant services to confirm if the family are known to have changed address and, if the family is believed to still reside at the address on record, work with services to ensure the child is safe and well.

### **Children subject to a Child Protection Plan**

LB Bexley acknowledges that parents can decide to electively home educate at any time; however, its policy is that where a child is currently subject to, or becomes subject to, a Child Protection Plan, the child could be considered unsafe as a consequence and so the child must be registered at and attending a school setting.

Where a home educated child becomes subject to a Child Protection Plan, the LB Bexley EHE Officer will:

- Update the child's record to cease elective home education
- Liaise with LB Bexley's School Admissions Team to identify appropriate Bexley schools with available places
- Refer the child as a Child Missing Education
- Write to the parents confirming these actions and information, and request that the parent makes an in-year application to one of the named schools, or evidences application to another school if preferred by the parent, within 10-working days
- Work with the allocated Social Worker to provide advice, guidance and support to return the child to a school

Where an appropriate school is available and the parent does not provide evidence of an in-year application, LB Bexley will issue a formal notice under section 437 of the Education Act 1996.

This notice indicates LB Bexley's intention to formally order the parent to register the child at a school. It will identify school(s) deemed suitable and allow the parent 10-working days to make an in-year application or propose alternatives. If the parent does not respond, or does not make satisfactory arrangements elsewhere, LB Bexley may issue a SAO in accordance with its stated intention.

Failure to comply with a SAO is a criminal offence for which the parent(s) can be issued with a penalty notice or prosecuted in the Magistrates' Court.

Where no suitable schools with available places can be identified, the allocated LB Bexley Social Worker will ensure that the Child Protection Plan will include increased home visits to regularly check that the child is safe whilst not in education. In such cases, the LB Bexley Inclusion Officer will notify the relevant Chair of the Primary or Secondary Fair Access Panel and ensure the child is presented for a school place at the next meeting.

### **Child in need**

Where a home educated child is identified as a Child in Need (CIN), the CIN Review Chair will make clear that continuing home education is a worry. It will be for the Chair to decide whether a strategy meeting is required where the child is at risk of harm and this risk is escalated by the child being educated at home. The strategy meeting will include representation from LB Bexley Education and Services for Children, and relevant partners, and assess whether continuing home education would be an impairment to the child's health, well-being and development.

Where it is deemed so, a Child Protection Plan meeting will be arranged to discuss the next steps and the Chair will make clear the increased risks to the child, and the associated causes, to enable a decision to be made.

Where the child is made subject to a Child Protection Plan, the process in the previous sub-section will take place.

Where home education for a Child in Need is continued, this does not preclude escalation to Child Protection Plan status following a child and family assessment.

## 8. Children/young people with an Education, Health and Care Plan

Parents' right to educate their child at home applies equally where a child has an Education, Health and Care Plan (EHCP).

Parents of any child subject to the statutory provisions of an EHCP who are considering whether to make their own arrangements should discuss this with their child's school SENCO and / or the named LB Bexley SEND Case Officer to ensure that they are fully aware of alternatives (amended provision and / or change of placement) and their SEN statutory rights of appeal.

Parents considering to Electively Home Educate may wish to familiarise themselves with paragraphs 10.30 to 10.38 of the SEND Code of Practice (January 2015).

Under Section 42 of the Children and Families Act (2014) the local authority is responsible for securing the specified special education provision within a child's EHCP, however this only applies if the child's parents have not arranged a suitable education in some other way.<sup>4</sup> Therefore if the home education is suitable the local authority has no duty to arrange any special educational provision for the child.

Where a child or young person is a registered pupil and the parent decides to home educate, schools should liaise with their LB Bexley SEND Case Officer as soon as they are aware of the parent's intention so that an emergency annual review can be offered. This will include a review of the EHC Plan and determine the support needs and options, in case this is the cause for the parent's declaration.

Where a child or young person is a registered pupil, the parent must notify the school in writing that the child or young person is receiving education otherwise than at school and the school must then remove the pupil's name from the admission register. However, the school should be minded that, while they are named on the EHCP, section 66 of the Children and Families act imposes a duty on the appropriate authority to 'use its best endeavours to ensure that the special educational needs are met'.<sup>5</sup>

If the school is a special school, LB Bexley must give consent for the child's name to be removed. Such cases will be brought before the LB Bexley SEN Panel for evaluation and the parent informed of the Panel decision.

In either case, parents should be aware that there is no provision in law for a 'trial period' of home education.<sup>6</sup>

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<sup>4</sup> Section 66 Children and Families Act 2014 - in the case of a maintained school, maintained nursery school or institution within the further education sector, the governing body.

<sup>5</sup> Section 42 Children And Families Act 2014 (5) Subsections (2) and (3) do not apply if the child's parent or the young person has made suitable alternative arrangements.

<sup>6</sup> 10.33 SEN Code of Practice 2015

LB Bexley has a duty to review EHC Plans annually, following procedures set out in the 'SEND code of practice: 0 to 25 years'. Annual Review meetings for electively home educated children will be convened and chaired by the SEND Case Officer and Elective Home Education Officer; parents are welcome to be present, but they are not obliged to do so.

In order to assess whether home provision is suitable for the special education needs of the child, parents will be asked to provide information regarding the home education provision. LB Bexley will only be relieved of its duty to arrange the provision specified in the child's EHCP if it is satisfied that the arrangements are suitable.

If LB Bexley is satisfied with the parents' arrangements, it will continue to have a duty to maintain and review the EHCP annually until it decides to cease the EHCP or the EHCP is transferred to another local authority.

In cases where it is agreed that home education is the right provision for a child or young person with an EHCP, the plan should make clear that the child or young person will be educated at home.

Where it appears to the LB Bexley that a child is not receiving education suitable to age, ability and aptitude and SEN, the procedures set out in "10. Where formal notice is required" will be followed. If the EHCP remains in place, it will be maintained and reviewed annually and amended where appropriate.

A parent who is educating their child at home may ask LB Bexley to carry out a statutory assessment of their child's special educational needs. LB Bexley will consider the request within the same statutory timescales and in the same way as all other requests.

## **9. Children in care**

Not all children will be under the care of their biological parents. Some may live with other relatives or adults under special guardianship orders or as a foster child. Where home education is declared for a child known to be in the care of adults other than their biological parents, LB Bexley will seek to confirm the declaration has been made by adults with the legal right to do so. This will include contact with LB Bexley's Looked After Children, Placements and Specialist Services team or LB Bexley Children's Social Care. Doing so will ensure awareness of a child in care being removed from school for home education. Should this give cause for concern from these service areas, LB Bexley's EHE Service will work in partnership to share information on the progress and outcome of enquiries regarding the child's home education.

Where a child in care has been placed in Bexley by another Local Authority, LB Bexley will engage with that Local Authority in line with its in-borough practice.

## 10. London Borough of Bexley's EHE procedures

### Administration

Within 15-working days of notice from a school via the LB Bexley 'Notice of Declaration' process, or directly from a parent, that a child is being home educated, the EHE Team will:

- Update the child record to reflect home education
- Upload onto the LB Bexley Capita Education system a copy of the Notice of Declaration form and written parental declaration of Elective Home Education
- Check LB Bexley's Capita Education and Liquid Logic social care systems for any other services engaging with the child to ensure they are aware of the change in education
- Confirm with the school that the child has been removed from the school roll
- Check for siblings and confirm their education if of statutory school age
- Attempt to speak with the parent to confirm understanding of the responsibilities they have assumed and answer any initial questions about Elective Home Education in Bexley
- Send an email and / or letter acknowledging the parent's intention to home educate, introducing their assigned EHE Officer and requesting the parent share information about the home education being provided so the Officer may be confident it is suitable and efficient in-line with Government guidance

Please note:

- EHE declarations will not be accepted for children who are subject to a Child Protection Plan (see relevant sub-section of section 7)
- EHE declarations will not be processed for children in a special school until agreement is received from the LB Bexley SEN Panel (see section 8). In such cases, the 13-weeks in which parents must enable the EHE Officer to be confident that the child is receiving a suitable education will start from the date of the SEN Panel decision
- EHE declarations will not be accepted for children in term 6 of academic year 6 unless the parent has confirmed they will be home educating in year 7 and have formally declined a secondary school place, allowing the school to offer the place to those on the waiting list. Where the secondary school place has not been formally declined, these children will be recorded as Children Missing Education until it is confirmed they have taken up a place offered at secondary school for September or have formally declined an offer in favour of elective home education
- EHE declarations will not be accepted for children who have returned to school following a School Attendance Order, and / or where they were returned to school through the local authority. These children will be recorded as Children Missing Education unless there is evidence of a substantive change in circumstances

## **Initial contact from the London Borough of Bexley EHE Officer**

The EHE Officer will make contact with the parent within 15-working days of receipt of the 'Notice of Declaration' to introduce themselves, initiate a positive and constructive relationship with parents and ensure their understanding of, and capacity to fulfil, the duties they are assuming.

Parents are under no legal obligation to respond to these contact attempts, but LB Bexley will encourage them to do so, particularly if new to home education, to ensure understanding of the education duties being assumed by the parent and to improve chances of the child being returned to school if the parent finds they cannot meet the duties they would take on.

Once a 'Notice of Declaration' is received, the EHE Officer will make a written informal education enquiry requesting the parent shares information which will enable the EHE Officer to be confident that the child is or will be receiving a suitable education within 13-weeks and 1-day of the 'Notice of Declaration' being received.

DfE guidance for local authorities states:

*'Parents are under no duty to respond to such enquiries, but if a parent does not respond, or responds without providing any information about the child's education, then it will normally be justifiable for the authority to conclude that the child does not appear to be receiving suitable education and it should not hesitate to do so and take the necessary consequent steps. This is confirmed by relevant case law.'*<sup>7</sup>

DfE guidance for local authorities also states:

*"Families beginning home education sometimes state that they are entitled to a period during which the home education provided for the child may not meet the requirements in s.7 because they are still, as it were, building up the provision to a satisfactory level.*

*However, families should be aiming to offer satisfactory home education from the outset, and to have made preparations with that aim in view, 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."*

It is the policy of LB Bexley that it must be confident that a child is receiving a suitable and efficient home education no later than 13-weeks and 1-day from the date the notice of elective home education was received or from the date subsequent check-in requests are made (this is the equivalent to two academic terms, including a one-week half-term holiday). This date will be clearly stated on the letter / email requesting information from the parents and any subsequent reminder letter / email.

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<sup>7</sup> Phillips v Brown [1980] Lexis Citation 1003

## **Informal education enquiries and home/public location visits**

In making an informal education enquiry, the EHE Officer will ask the parent to share information by whichever means the parent feels most able. This may include an offer to meet with the parent and child at their home address. The parent may exercise their right not to allow the EHE Officer access to the home, the child, or the child's work; however, they are encouraged to do so, and a meeting can be held at a mutually convenient time and public place if the family prefer not to hold the visit in their home. LB Bexley reserves the right to not offer physical face-to-face meetings where parents have demonstrated abusive behaviour towards its staff and will act in accordance with LB Bexley's 'Zero Tolerance Statement' should any staff become subject to abuse, aggression, discriminatory behaviour or violence.<sup>8</sup>

Where parents do not respond to the request, a written reminder will be issued after 6-weeks reminding the parent of the 13-week and 1-day date by which the EHE Officer must be confident in the education provided and how the parent may share this information with LB Bexley. This will be accompanied by telephone call attempts to ensure the written communications are being received and are understood.

Where a response is received which does not enable the EHE Officer to be confident that a suitable education is being provided, they will contact the parent to ask questions to improve their understanding of the education being provided, and / or make recommendations and agree and carry out actions which will enable the Officer, by the end of the 13-weeks, to be confident the child is receiving a suitable and efficient full-time education.

When the EHE Officer is made confident in the education being provided to the child, they will confirm this with the parents and agree when the next informal enquiry will be made so as to ensure confidence that the child is continuing to receive a suitable and efficient education.

## **Removing children from the home education register**

LB Bexley will remove a child from its home education register when:

- The child ceases to be of statutory school age
- The child starts or returns to school-based education
- The child moves to another local authority area (upon which the new local authority will be notified of the child's residence and potential continuation of home education)
- The child moves from the recorded address and reasonable action to secure the new address has been unsuccessful (upon which the child will be recorded as a Child Missing Education)
- The child's parents provide notice in writing that they are withdrawing their elective home education declaration and provide evidence of application to, or offer from, a school setting (upon which the child will be recorded as a Child Missing Education with a pending school application)
- The child becomes subject to a Child Protection Plan (see relevant sub-section of section 7)

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<sup>8</sup> [LB Bexley Zero Tolerance Statement](#)

- The child's parents have not enabled confidence in the home education provision (see section 11)
- LB Bexley is notified that the child has died

## **11. Where formal notice is required**

DfE guidance for local authorities states:

*"Families beginning home education sometimes state that they are entitled to a period during which the home education provided for the child may not meet the requirements in s.7 because they are still, as it were, building up the provision to a satisfactory level.*

*However, families should be aiming to offer satisfactory home education from the outset, and to have made preparations with that aim in view, 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."*

It is the policy of LB Bexley that it must be confident that a child is receiving a suitable and efficient home education no later than 13-weeks and 1-day from the date the notice of declaration is received (this is the equivalent to two academic terms, including a one-week half-term holiday).

Where no information suggests the child is receiving a suitable education within 13-weeks and 1-day of the 'Notice of Declaration', because sufficient information has not been shared and including where parents have refused to respond, the only conclusion which an authority can reasonably come to is that the home education does not appear to be suitable.

LB Bexley will issue a formal notice under section 437 of the Education Act 1996 requiring the parent to share information which enables LB Bexley to be confident that the child is receiving a suitable and efficient full-time education. If LB Bexley cannot be made confident that suitable education is being provided, it will close the child's Elective Home Education record, refer them as a Child Missing Education, and the statutory process for issuing a School Attendance Order (SAO) will commence.

Where a child previously attended a Bexley school, and unless that child was permanently excluded or has moved or will be moving from primary to secondary phase education, LB Bexley will seek to name on the SAO the school they left for home education.

Where a child did not previously attend a Bexley school, were permanently excluded from a Bexley school, or have or will be changing education phase, LB Bexley will consult with schools in Bexley and identify a school to be named on the SAO.

Failure to comply with a SAO is a criminal offence for which the parent(s) can be issued with a penalty notice or prosecuted in the Magistrates' Court.



At any stage following the issue of a SAO, parents may present evidence to LB Bexley that they are now providing suitable education and apply to have the Order revoked. If this is refused, parents can choose to refer the matter to the Secretary of State for Education. If as a last resort, LB Bexley prosecutes parents for failure to comply with a SAO, the parents may be acquitted if they can prove that the child was receiving a suitable education otherwise than at school at the time of the offence. If the parents are acquitted, the court may direct that the SAO shall cease to be in force.

If it transpires information has been deliberately withheld from LB Bexley, and the parent is easily able to satisfy the court, LB Bexley will 'seek legal advice about the prospect of obtaining a costs order against a successful defendant on the basis that the prosecution would have been unnecessary if not for the defendants' unreasonable conduct'.<sup>9</sup>

## **12. Support, guidance and resources provided by London Borough of Bexley**

The London Borough of Bexley's Elective Home Education Team will provide support in the form of:

- Discussing the implications of elective home education with parents so they may make an informed decision to leave or enter the school system
- Signposting parents to resources and services and advising on examinations
- Publishing information that is clear, accurate and sets out the legal position, roles and responsibilities of both the local authority and parents
- Producing and providing accurate written records of engagement with parents and children
- Promoting positive relationships with elective home education families based on mutual understanding, respect and trust in order to safeguard the educational interest of children
- Referring to other agencies, such as Family Wellbeing and school nursing for support
- An annual networking opportunity relevant to the child's primary or secondary education phase or special educational needs status
- Careers guidance interviews for children in academic year 11, to support an informed decision on career goals and available post-16 education pathways.

## **13. London Borough of Bexley's EHE service**

EHE Officers must ensure that all reasonable care is taken to ensure their safety, be advised by any risk assessment information and report any concerns over health, welfare and safety issues to their manager in the first instant. They will adhere to all elements of LB Bexley's Lone Working Policy consistently.

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<sup>9</sup> EHE Departmental guidance for local Authorities 6.19

## 14. References

- Department for Education EHE guidance for Parents and Local Authorities:  
<https://www.gov.uk/government/publications/elective-home-education>
- Education Act 1996: [www.legislation.gov.uk/ukpga/1996/56/contents](http://www.legislation.gov.uk/ukpga/1996/56/contents)
- Education Act 2002: [www.legislation.gov.uk/ukpga/2002/32/contents](http://www.legislation.gov.uk/ukpga/2002/32/contents)
- Special Educational Needs Code of Practice 2015:  
<https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>
- The Education (Pupil Registration) (England) (Amendment) Regulations 2016:  
[www.legislation.gov.uk/uksi/2016/792/contents/made](http://www.legislation.gov.uk/uksi/2016/792/contents/made)
- The Education (Pupil Registration) (England) Regulations 2006:  
[www.legislation.gov.uk/uksi/2006/1751/contents/made](http://www.legislation.gov.uk/uksi/2006/1751/contents/made)
- Committee on the Rights of the Child: [https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC\\_General\\_Comment\\_1\\_en.pdf](https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/CRC_General_Comment_1_en.pdf)
- Education (Pupil Registration) (England) Regulations 2006:
  - [www.legislation.gov.uk/uksi/2006/1751/contents/made](http://www.legislation.gov.uk/uksi/2006/1751/contents/made)
  - [www.gov.uk/government/publications/school-attendance](http://www.gov.uk/government/publications/school-attendance)
- Children and Families Act 2014:  
<http://www.legislation.gov.uk/ukpga/2014/6/section/66/enacted>