

TRAFFORD COUNCIL

Report to: Children and Young People's Scrutiny Committee
Date: July 2022
Report for: Information
Report of: Director of Education, Standards, Performance and Quality Assurance

Report Title

Overview of Elective Home Education (EHE)

Summary

All children, regardless of their circumstances, are entitled to an efficient, full time education which is suitable to their age, ability, aptitude and any special educational needs they may have. Parents have a duty to ensure that their children of compulsory school age are receiving suitable full-time education. Some parents may elect to educate their children at home and may withdraw them from school at any time to do so.

This report provides an overview of Trafford's practice and principles of Elective Home Education (EHE), the current position in the Borough and future governmental changes.

Recommendation(s)

That the contents of the report are noted.

Contact person(s) for access to background papers and further information:

Name: Karen Samples: Director of Education, Standards, Quality and Performance
Karen McCallum: Head of the Education of Vulnerable Children Service
Michael McLaughlin: EHE Officer

1. Introduction: What is elective home education?

Elective home education is a term used to describe a choice by parents to provide education for their children at home instead of sending them to school full-time. 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. 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 part-time alternative provision.

2. Reasons for elective home education - why do parents choose to provide it?

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

- Ideological or philosophical views which favour home education, or wishing to provide education which has a different basis to that normally found in schools
- Religious or cultural beliefs, 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
- Health reasons, particularly mental health of the child
- As a short term intervention for a particular reason
- A child's unwillingness or inability to go to school
- Special educational needs, or a perceived lack of suitable provision in the school system for those needs
- Disputes with a school over the education, special needs or behaviour of the child
- Familial reasons which have nothing to do with schools or education (eg using older children educated at home as carers)
- As a stop-gap whilst awaiting a place at a school other than the one allocated

These various reasons for undertaking home education are not mutually exclusive. For some children, several of these factors might apply.

Whenever possible, Trafford officers will encourage parents to discuss an intention to home educate children with school, before putting it into effect. We will also offer support and advise based on the individual family's motivations.

3. How do Trafford Local Authority know that a child is being educated at home?

Trafford Council encourages parents who withdraw a child from school for home education to notify the school and/or the authority, although there is no legal obligation on parents to provide such notification, either in writing or otherwise, or indeed to provide any reason for withdrawal. Where a parent notifies the school in writing that they are home educating, the school must delete the child's name from the admission register and inform the local authority.

4. Suitability of education at home

There are no specific legal requirements as to the content of home education, provided the parents are meeting their duty in s.7 of the Education Act 1996. This means that education does not need to include any particular subjects, and does not need to have any reference to the National Curriculum; there is also no requirement to enter children for public examinations. There is no obligation to follow the 'school day' or have holidays which mirror those observed by schools.

Local authorities must make arrangements to find out so far as possible whether home educated children are receiving suitable full-time education. Questions as to the suitability of home education provision most often arise

either when a child is first being home educated, or alternatively when there is a change in the circumstances of a child whose education was previously satisfactory.

The EHE Officer provides each family with a questionnaire to complete. In our consideration of parents' provision of education at home, we may reasonably expect the provision to include the following characteristics:

- consistent involvement of parents or other significant carers - it is expected that parents or significant carers would play a substantial role, although not necessarily constantly or actively involved in providing education
- recognition of the child's needs, attitudes and aspirations
- opportunities for the child to be stimulated by their learning experiences
- access to resources/materials required to provide home education for the child, such as paper and pens, books and libraries, arts and crafts materials, physical activity
- ICT
- the opportunity for appropriate interaction with other children and other adults

Where a concern is raised regarding unsuitable education we will try to deal with it sensitively to ascertain whether there is a genuine issue or not. If there is an issue, we would try to support the parents wherever possible to meet the Government criteria for a suitable education. We would only issue an attendance order if all other strategies had failed and it was clear that the parents were not able, at that time, to provide an efficient and suitable education.

Our first step would be to arrange an informal meeting at a mutually acceptable location to address any specific concerns and to give the parents the opportunity to provide any further information as to how they are providing a suitable education. We would like the child to be given the opportunity to attend, but if they didn't wish to, or it was inappropriate, we would like them to have the opportunity to express their views. We would then consider and agree what future contact there will be between us, recognising that in many instances such contact might be beneficial but is not legally required.

We would only send a formal letter requesting further information if it still appeared to the authority that the child was not receiving a suitable and efficient education. A written report would be made after such contact and copied to the parents stating whether the authority has any concerns about the education provision and specifying what these are, to give the child's parents an opportunity to address them. Where concerns about the suitability of the education being provided for the child have been identified, more frequent contact may be required while those concerns are being addressed. Where concerns merit frequent contact, we would discuss them with the child's parents, with a view to helping them provide a suitable education that meets the best interests of the child.

***SEE APPENDIX 1: FLOWCHARTS**

5. Special Educational Needs

The parents' right to educate their child at home applies equally where a child has SEND. This right is irrespective of whether the child has a statement of special educational needs or an Education, Health and Care Plan (EHC plan), or neither. Some parents educate, or attempt to educate, children at home because of dissatisfaction with local SEN provision.

When a child has a EHC plan, it is the local authority's duty to ensure that the educational provision specified in the plan is made available to the child - but only if the child's parents have not arranged for the child to receive a suitable education in some other way. If a child has an EHC plan and the parent/carer elects to home educate, then a joint meeting with the parents will take place which will consist of a SEND adviser and the Education Support Officer, to offer advice and guidance and assess whether the education that is being or will be provided is 'suitable and efficient' and that the child's needs are being met.

Following this, the usual SEND procedures will be followed, led by the SEND advisory service and the SEND casework team. If the child is a pupil at a Special School, the SEND Adviser will need to be satisfied that the education is suitable before the child can be removed from the school roll and an EHC plan/statement of SEN is amended accordingly.

In the case of a decision that the home education provision that is being made for a child with a EHC plan is not suitable, Trafford Officers will follow s.437 of the Education Act 1996 as they would for other children who are educated at home but are not receiving a suitable education.

The consideration of suitability may well be more complex and we may need to draw on a wider variety of information, for example educational psychologist reports. The naming of a school in the order will conform to the provisions of s.441.

Where parents who have withdrawn a child from a setting they regarded as unsatisfactory, Trafford will explore options which are different in nature from the previous setting.

6. Tracking and Monitoring / Safeguarding

Trafford's EHE officer manages a dashboard which holds the details of EHE children and young people.

Local authorities also have a duty under section 175(1) of the Education Act 2002 to safeguard and promote the welfare of children. This section states: "A local education authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children."

Parents are advised to take up appropriate references and ensure that any tutor used has a reasonably recent Disclosure and Barring Service (DBS) disclosure certificate. 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 and parents should confirm whether this is so with the body supplying the tutor.

School age children that are not receiving a suitable education will predominantly be responsibility of our Children Missing from Education (CME) Case Work which sits within our Pupil Absence Team.

Officers across Trafford Services may refer to Trafford First Response where:

- There is reason to believe the child may be at risk of harm
- There has been no contact despite all avenues being followed
- The lack of education means that the child is likely to or already is suffering from significant harm (either deliberately or unintentionally)
- There is not enough information received to determine whether or not a child is at risk of harm

When considering what steps to take, Trafford officers should be clear that the use of safeguarding powers is justified in line with the Elective Home Education Departmental Guidance for Local Authorities. Officers may also use legal powers available to them including School attendance orders and Education Supervision Orders.

7. Trafford School Attendance Orders (SAO)

Where a parent does not provide evidence or sufficient evidence for the EHE officer to make a judgement on the education provision being suitable, under s.437(1) Trafford will give notice with the intent of serving a SAO in line with Trafford's CME guidance.

Where a child is going to be the subject of a school attendance order, the case will be presented to the Fair Access Panel to establish the most suitable provision.

If the school named in an order which is made is an academy, and the academy does not agree with this, a direction may be sought from the Secretary of State. In some rare cases officers may reasonably take the view that an SAO is not in the best interests of the child:

- If the child is within a few weeks of ceasing to be of compulsory school age
- If the child has physical, medical or educational needs leading to extreme vulnerability in a school setting - 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 home education and seems likely to achieve suitability within a very short time

Following the issuing of the SAO, parents of the child may still work with the EHE Officer to present evidence that is suitable and apply for the order to be revoked. Parents can choose to refer the matter to the Secretary of State if they wish to contest Trafford's decision not to revoke the SAO.

If the child continues to be considered CME Under s.447(1) of the 1996 Act, Trafford can consider prosecuting a parent for non-compliance with a school attendance order must in any case consider, either as an alternative to

prosecution or as well as prosecution, making an application for an Education Supervision Order. The Court will decide whether or not the education being provided is suitable, full-time and efficient. The court can direct that the order shall cease to be in force if it is satisfied that the parent is fulfilling his or her duty. The Court has the power to issue a Parenting order if further non-compliance of the SAO occurs.

8. Education Supervision Orders (ESO)

An Education Supervision Order (ESO) can be made under s.36 of the Children Act 1989 and gives Trafford a formal supervisory role in the education of children who are subject to them. The High Court or the Family Court can make an order if satisfied, that a child of compulsory school age is not receiving efficient full-time education suitable to the child's age, ability and aptitude and to any special educational needs they may have. Where a school attendance order 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 supervision order can be in place for so long as determined by the court (which may extend it beyond the initial one-year term); it is not a 'one-off' like prosecution for non-compliance with a school attendance order.

The use of an ESO should in any case be considered as an alternative to, or as well as, prosecution for non-compliance with a school attendance order.

Trafford has 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 home education.

An ESO imposes a duty on parents to allow Trafford Council (the supervisor) 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. Persistent failure to comply with direction given under an ESO is an offence unless the parent can show that he has taken all reasonable steps to comply, or that the direction is unreasonable. But in such cases the authority should be prepared to first make clear to the parents that the result of this may be an application to the court for a care order under s.31 of the Children Act 1989.

Where a young person is deemed to be at risk of harm Trafford will look towards its wider legal powers and statutory duties to protect young people as set out in the DfE's Working Together to Safeguard Children statutory guidance

9. Gypsy, Roma and Traveller Children

Trafford is sensitive to the distinct ethos and needs of Gypsy, Roma and Traveller communities. It is important that these families who are educating their children at home are treated in the same way as any other families.

When a Gypsy, Roma and Traveller family with children of school age move to Trafford we strongly encourage families to contact the admissions team for help to access local educational settings if school places are desired, or the EHE Officer if families wish to continue or begin home educating.

10. Looked-after children

Trafford is acting as the corporate parent of looked-after children and recognises that we assume the duties of parents under s.7 of the 1996

Education Act to ensure that the child receives a suitable full-time education; this also applies where such children are placed by other authorities in Trafford and we 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 (for example by foster carers) if the local authority as corporate parent decides this is appropriate after discussion with the carers.

In Trafford the Virtual school will work closely with the EHE Officer to ensure that the child is receiving a suitable education.

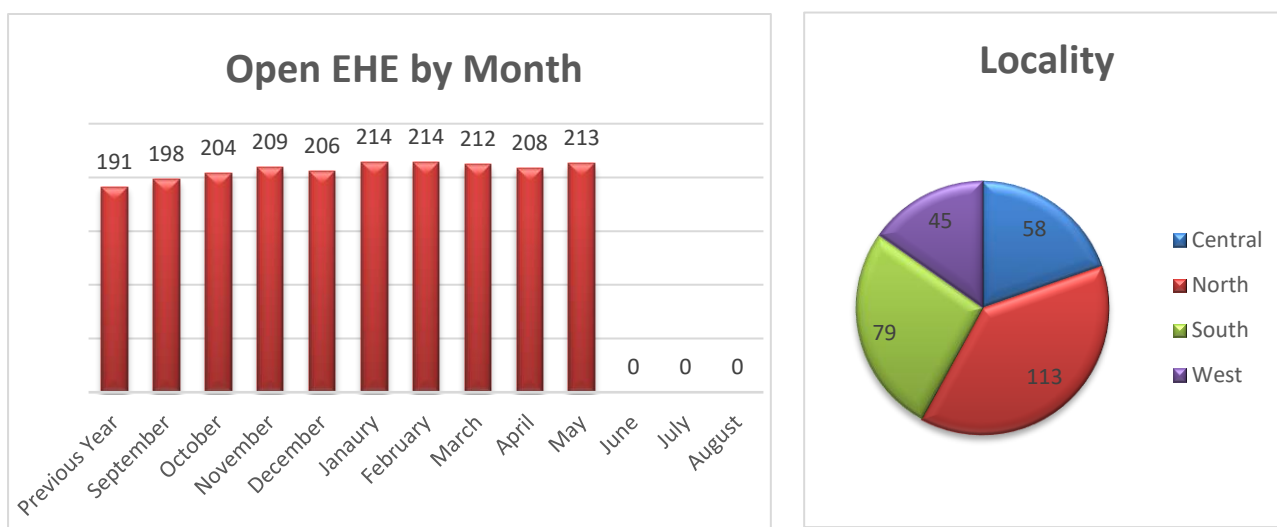
11.Children who have a Social worker

Sections 10 and 11 of the Children Act 2004 give local authorities general duties for promoting the well-being 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. Section 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 home education should take steps to ensure that relevant information on individual children is shared.

Where a social worker is attached to a family, officers will inform them that the parents have chosen to home educate.

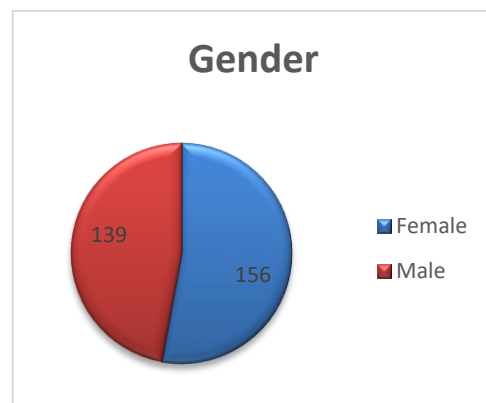
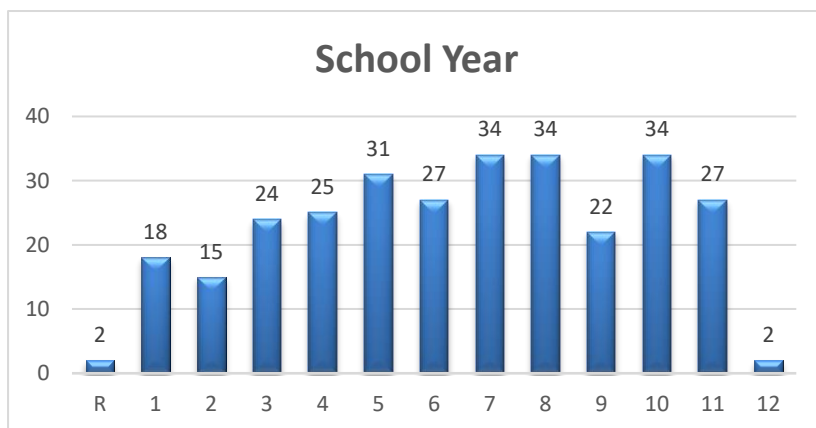
12.The current Trafford position

Breakdown of elective home education notifications 2021/2022



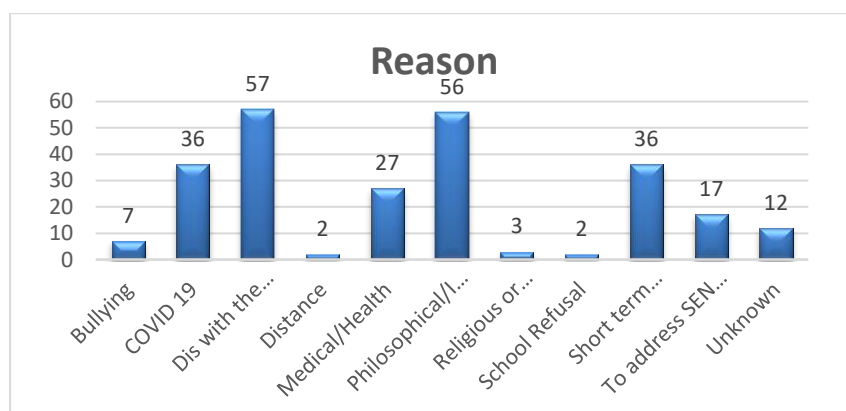
Trafford has continued to see higher numbers of electively home educated pupils since the start of the pandemic, which is not dissimilar to the picture nationally and across Greater Manchester.

Currently, there are 213 children on the EHE register, with the majority living in the North of the Borough.



There are a higher number of EHE pupils in the older year groups, with a greater proportion being female.

Reasons for Electively Home Education in Trafford



The main reasons cited for families to choose to electively home educate are:

- Dissatisfaction with the system
- Philosophical/Ideological reasons
- Short term intervention

13. Next steps for EHE

In February 2022, the government confirmed the introduction of an elective home education (EHE) register. They stated that whilst there are a wide range of reasons why some families might prefer to home educate children and in the vast majority of cases home educating parents do an excellent job, at the same time, it's really important that home education doesn't result in children dropping off the radar and becoming vulnerable to poor standards of education or risks to their safety and wellbeing.

Therefore, the government have announced plans to go ahead with the creation of local authority administered registers for children not in school to allow support for local authorities to make sure they know where every child is being educated, that it is of the right quality, and that support is offered to home educating families.

There are plans to start the process to set up the registers at the earliest legislative opportunity. At that point, government will set out the details of what is proposed. The aim is for the registers to be a comprehensive record of where every child is being educated in a local area, which at the moment doesn't exist consistently. Having that will allow local authorities to know where home education is happening and check that families have the support they need.

APPENDIX 1: FLOWCHARTS

Summary flow chart

This chart summarises the main features of the legal options open to a local authority if it is satisfied that a child is not receiving a suitable education at home.

