

Policy & Procedures for Elective Home Education

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Contents

Policy Aims, Introduction & Policy Principles	3
The Duty & Role of the Local Authority	4
Funding	4
Pre-decision meeting	4
NYCC's Duty	4
Funding	4
NYCC's Overall Factors & Arrangements	5
Education found suitable & Education found unsuitable	5
Section 437 (1) & School Attendance Order	6
Education Supervision Order	6
Safeguarding & Welfare Concerns	6
Parents rights & responsibilities & funding	6
Removing a child from a school roll	7
Non-registered children & children registered on a school roll	7
Head Teachers Duty	8
Special Educational Needs & High Needs Block Funding	8
Looked After Children	9
Flexi-schooling	9
Off-rolling	10
Unregistered Settings	10
Useful Contact Details	10
Appendix A	11
Appendix B	11
Appendix C	13
Appendix D	14
Appendix E	15
Appendix F	15

Policy Aims

This policy has been written to set out the Local Authority's (LA's) duty to ensure all children in North Yorkshire are receiving an efficient suitable full-time education for the child's age ability and aptitude as set out in DfE Guidance 2019 [Elective home education - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/elective-home-education) This policy outlines how North Yorkshire County Council (NYCC) intends to fulfil this duty.

It relates to the following legislation:

- European Convention of Human Rights, of Protocol 1 Article 2
- Education Act 1996, Section 7

Review Date

This policy will be reviewed when there is a significant update from the DfE, or in Autumn 2023, whichever is the sooner.

Introduction

This policy aims to inform schools, parents, local authority advisors and other related agencies across North Yorkshire about the policy and procedures to be followed where parents/carers make the choice to educate their children otherwise than at school, usually at home. This practice is known as Elective Home Education (EHE).

The term "parent" is used throughout this policy to include all those with parental responsibility and carers. The policy does not apply to children receiving alternative educational provision from the Local Authority (LA) or because they are not attending school as a result of illness, exclusion or any other reason.

NYCC recognises that EHE is a key aspect of parental choice and is equal, in law, to education provided in school, however NYCC, as the Local Authority (LA), has a duty to be satisfied that all children in North Yorkshire are receiving suitable education.

Policy Principles

North Yorkshire County Council

- Respects the rights of parents and carers to elect to educate their children at home;
- Recognises that there are many approaches to educational provision;
- Believes that all children should be involved in a learning process which meets their individual needs
- Will work to promote positive relationships and mutual respect with parents for the benefit and educational well-being of children.

This document sets out

- The legal duties and responsibilities of the LA.
- Parents' rights to educate their children at home and their responsibilities,
- The legal duties and responsibilities of Head teachers

It also sets out the arrangements the NYCC will make in order to carry out our legal duties under Sections 437 – 443 Education Act 1996 i.e. if it appears that a child of compulsory school age is not receiving education suitable to age, ability, aptitude and special needs, to take steps to ensure that this is remedied.

The Duty & Role of the Local Authority

Funding

If parents do elect to home educate they assume full financial responsibility for the child's education, including the cost of any external assistance used such as tutors, parent groups or part-time alternative provision. Parents assume to bear the cost of any public examinations, resources such as books, stationery, IT, educational visits and sporting activities. The LA has no duty to support parents with this financial responsibility. For information relating to children who are EHE and have an EHCP please see 'Special Education Needs & High Needs Block Funding' below.

Pre-Decision Meeting

In November 2020, the DfE strongly recommended that 'LAs work with schools, parents and other key professionals to coordinate a meeting before the parent makes a final decision (*DfE EHE: Your duties, our expectations*). The decision by a parent to EHE is a serious one and it imposes onerous obligations on the parent to arrange and pay for the education of their child. As such, NYCC wishes to support parents to arrive at an informed decision before taking this step.

In North Yorkshire, there are EHE Advisors who meet with parents who are considering EHE prior to them making their final decision. This meeting is chaired by the EHE Advisor and is attended by parents, school and any relevant professionals who are also working with the child or family such as Social Workers, Early Help Workers and Health Specialists. The purpose of the meeting is to:

- Discuss why EHE is being considered
- Explore all options available to parents
- Help overcome any issues which may have arisen in relation to school
- Ensure parents have all the information available to them regarding EHE including access to the DfE Guidance
- Introduce parents to a named contact who they can get in touch with regarding any queries

If parents do decide to EHE, section 7 of the Education Act 1996 means that the child must be receiving an '**efficient, suitable full-time education**' (See Appendix A)

NYCC'S duty

If a child is being EHE NYCC is required to enquire what education is being provided. Identification of children who are EHE forms a significant element of fulfilling NYCC's duty under *s.436A of the Education Act 1996* – **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.** Until NYCC is satisfied that a child who is EHE is

receiving a suitable full-time education, then a EHE child is potentially in scope of this duty (S.4.2 EHE: departmental guidance for LA's, DfE, 2019).

Please see Appendix B for 'Defining Full-Time, Suitable and Efficient Education'.

NYCC'S Overall Factors

NYCC takes into account the overall factors below when assessing whether an education is suitable:

- Where the education takes place
- When the education takes place
- Resources/ Materials used
- Educational Content
- Evidence of Learning & Progress
- Appropriate for child's ability, interests & future choices
- Access to accreditation as appropriate
- Access to learning that will benefit adulthood
- Opportunities for socialisation & interaction

NYCC's Arrangements

The named contact for EHE within NYCC is The Lead of Education Other Than At School (EOTAS).

In North Yorkshire there are four EHE Advisors who each work in one of the locality hubs:

- Hambleton & Richmondshire
- Ripon, Knaresborough, Harrogate & Craven
- Selby
- Scarborough, Ryedale, Whitby & Filey

The EHE Advisors make contact with parents around one month after they have chosen to EHE their child to give them the opportunity to share the education that is in place and to discuss any queries they have in relation to educating their child at home. The EHE Advisors use NYCC's Overall Factors and the *DfE's 2019 guidance* on what constitutes a 'suitable education', outlined above, to establish whether the education being delivered meets the suitability threshold.

Education found suitable

Where the threshold is being met the EHE Advisors will arrange further contact around 12 months later but this will be subject to the specific circumstances of the child including for example when/if they are due to sit exams. Parents can make contact with their EHE advisor at any point in between should they have any queries. Parents are also encouraged to contribute to the Local Offer page by sharing any recommended resources.

Education found unsuitable

If the education is not found suitable the EHE Advisor will let parents know in what areas the education is falling down and will recommend what changes need to be made for the education to become suitable. Parents will be given 4 weeks to act on the recommendations. At week 4 if the education is still not suitable an EHE panel will take place in a minimum of 15 days, they will look at the record of education in place plus any additional evidence parents wish to submit. Parents can choose to attend the panel or someone can represent them or alternatively they can submit electronic evidence or hard copies. The panel is made up of the Lead EOTAS, a Principal Advisor and a Medical Education Service (MES) Coordinator.

S.437 (1) & School Attendance Order (SAO)

If the EHE panel find the education is not suitable the parents will be served a **notice under s.437 (1) &** will have 4 further weeks to satisfy NYCC that suitable education is in place before a **SAO** is served. The EHE Advisor will work alongside parents to ensure they understand why the education is not meeting the suitability threshold and will make recommendations regarding what changes need to be made to prevent a SAO from being served. If the recommendations are not acted upon and the education remains unsuitable a SAO will be served which will name the school the child needs to attend and from what date.

Education Supervision Order (ESO)

If the SAO is not complied with parents may face prosecution and NYCC may apply to the courts for an **ESO** which will require parents and their child to follow directions made in the order. For a flowchart which 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 please see *Appendix D*.

Safeguarding & Welfare

The EHE Advisors will follow North Yorkshire's Safeguarding Children Partnership (NYSCP) procedures. Where there are **significant immediate** concerns about the safety of a child, professionals will contact 999. If there is a safeguarding concern which is not significant or immediate professionals will make a referral to the North Yorkshire Multi-Agency Screening Team (MAST). Professionals will gain consent to make a referral unless this will place this child at significant risk of harm. Where this is a welfare concern the EHE Advisor will complete an Early Help (EH) Assessment with parents/carers to determine how welfare needs can be met and if appropriate a referral to MAST will then be made.

Parents' Rights and Responsibilities

The law states it is the duty of parents to ensure the education of their children. In England education is compulsory, but schooling is not. Parents may choose to educate their children at home instead of sending them to school and are not required to register or seek approval in order to educate their child at home, unless their child attends a special school, in which case the consent of NYCC is required.

The parents' legal duty is set out in Section 7 of the Education Act 1996 (*Appendix A*) and

The European Convention for the Protection of Human Rights and Fundamental Freedoms (*Appendix C*)

Parent's responsibility regarding Funding

If parents do elect to home educate they assume **full financial responsibility** for the child's education, including the cost of any external assistance used such as tutors, parent groups or part-time alternative provision. Parents assume to bear the cost of any public examinations, resources such as books, stationary, IT, educational visits and sporting activities. The LA has no duty to support parents with this financial responsibility.

It is worth noting that during lockdowns when schools were closed due to Covid-19 although children on roll of a school received support with home education from their school this did not apply to children who are EHE and this support has now ceased as schools have re-opened.

Whichever course a parent decides to take it is a good idea for them to talk to the child and take their wishes and feelings about their education into account. NYCC have also issued Guidance for parents who EHE.

Removing a child from a school roll

There is no legal obligation on parents/carers to notify a school or NYCC if they decide to withdraw a child from school to EHE, save in the case of a child who attends a special school, in which case the consent of NYCC is required before the child can be removed from the school roll. However, NYCC strongly encourages parents/carers to let the school and NYCC know. This will ensure the school does not pursue attendance procedures and will allow NYCC to ensure parents/carers are aware of how to access the resources available on EHE, and are fully aware of their rights and responsibilities

The school cannot remove a child from roll without receiving written notification about the parents' decision to provide education otherwise than at school (Pupil Registration Regulations 2006). The school must inform NYCC of the Parents/carers decision as soon as possible and should aim to do so on the same day.

As part of the LA duty to monitor placements in school, the LA maintains a record of those children who have been removed from a school roll to be electively home educated.

Non-registered Children

If a child has never been registered at a school, parents/carers are recommended to inform NYCC of their decision to home educate.

Where children are registered with a school:

If a child is registered at a school, then a decision to home educate may not be the best way to solve an issue with a school or to overcome difficulties with attendance. Parents/carers may be able to resolve these issues through collaboration with the Headteacher or governors at the school, or through speaking to an EHE Advisor. NYCC's EHE Advisors provide advice if parents/carers feel that any pressure is being put on them to take their child out of school to home educate.

The Headteacher's Duty

It is the duty of the Headteacher (Education (Pupil Registration) (England) Regulations 2006) to inform the Local Authority (LA) when a parent has confirmed in writing his or her decision to educate his or her child otherwise than at school. The pupil's name will be deleted from the school admission register and the child will be recorded on a register kept by North Yorkshire County Council of children being home educated. (See *Appendix E* for detail).

If the child attends a special school or is subject to a School Attendance Order parents/carers will need NYCC's consent to remove their child's name from the school roll. Consent from NYCC may not be unreasonably withheld. If NYCC refuses consent, parents/carers can ask the Secretary of State to settle the dispute (See *Appendix F*). Refusal would only follow where the LA considers that parents could not provide a suitable education to meet their child's needs at home – the child would remain on the special school roll until either the Secretary of State ruled in favour of home education or parents were able to demonstrate how home education would be suitable.

The school should provide an up to date record of the child's attainment to NYCC by completing the Notification to EHE form and the prior attainment section should be sent to both parents. The EHE Advisors will use this information when assessing the suitability of the education being delivered and it will enable the parents to use this assessment in drawing up an education plan for the child moving forward.

Special Educational Needs & High Needs Block Funding

If the child has an Education Health and Care Plan, parents /carers still have the right to home educate. Parents / carers should discuss their decision to home educate with their SEN Caseworker as soon as possible so that the SEN Caseworker can explain the implications of this for the EHCP.

If parents / carers choose not to notify their SEN Caseworker, this will still be picked up in the annual review. If the education arranged by the parents is suitable, the local authority has no duty to arrange any special education provision for the child. The EHCP should set out what provision the Local Authority thinks is required but state that parents have made their own arrangements under section 7 of the Education Act 1996.

In accepting responsibility for the provision, parents do not receive the High Needs Block funding that would otherwise be provided to their child's school or setting to deliver the provision in the EHCP. However, High Needs Block funding is allocated to each Local Authority to meet the highest levels of special educational needs which includes children who are Electively Home Educated. Funding will not be provided for any input or intervention which could be classified as the 'suitable education provision' parents accept responsibility for. However, it may be that the Local Authority agrees that a specific special education need is a barrier for the child to access that 'suitable provision' made by parents and in which case may agree to fund some support / intervention to overcome that barrier. This funding would come from within the child's allocated high needs block resource were they to be in a school / setting. An example of this may be to provide some 1:1 support to enable a young person to access a "preparation for college" course which the parent is paying for and which the young person otherwise couldn't access. It will not be for teaching / tuition e.g. maths / English / music / sports lessons which would constitute

the 'suitable education' parents have responsibility to provide. The SEN Caseworker can advise if something may be a specific SEND provision which could be funded in this way.

The EHCP will need to be reviewed every year as this is a statutory process and progress towards educational outcomes should be monitored in that annual review to determine the ongoing suitability of home education. If at any point the local authority considers that home education is no longer suitable, it must name a setting for the child to attend and ensure that the special education provision specified in the EHCP is available.

Annual Reviews will continue for children who are EHE whilst the EHCP is maintained. If parents/carers wish to change to a school provision, the parents / carers can call a statutory review which is their right to do at any point in the year. They should contact their SEN Caseworker to enquire about this process.

If a Parent/carer feels their child needs an EHCP they may contact their EHE Advisor regarding this.

Further information about EHE for children with an EHCP is available in the *DfE Guidance for LA* and the *SEN Code of Practice*, which has a chapter on home education.

Looked after children and EHE

DfE Statutory Guidance makes clear that the Virtual School Head Teacher is the educational advocate for looked after children just as parents are to other children. Looked after children cannot be EHE without the agreement of NYCC, via the Virtual School Head Teacher, as Corporate Parent for that child. **Promoting the education of looked-after and previously looked-after children - GOV.UK (www.gov.uk)**

Flexi Schooling

The EHE: departmental guidance for LA's states that '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 – perhaps one day a week. The purpose of this is usually to ensure 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 he or she must, overall, be receiving full-time education even if components of it are part-time.

Schools are not obliged to accept such arrangements if requested by parents. If they do, then time spent by children being educated at home should be authorised as absence in the usual way and marked in attendance registers accordingly. 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 he or she is at home. The department does not propose to institute a new attendance code specific to flexi-schooling. Some schools have expressed concern that such absence may have a detrimental effect for the purpose of Ofsted inspection, but this is not the case; schools with significant flexi-schooling numbers have had good outcomes from Ofsted inspections. 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.

On some occasions a parent/carer may wish to request flexi-schooling in order for their child to receive a particular therapy or attend a particular activity. Again this will be at the discretion of the head teacher and parents/carers must be advised to ensure the activity is not running as an unregistered school (see below) and may choose to seek advice from their EHE Advisor.

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 or free schools. 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 will be taken into account by the EHE Advisors in deciding whether the education provided as a whole for the child meets the s.7 requirement.

Off-rolling

Schools should not seek to persuade parents/carers to EHE their child as a way of avoiding an exclusion or because their child has poor attendance or for any other reason. The practice of 'off rolling' children through pressure on parents/carers to withdraw them from roll and register as EHE will be looked into by Education and Skills and may be reported to Ofsted.

Unregistered Settings

The *DFE Guidance 2019* recognises that NYCC may encounter children who are said to be educated at home but in practice spend large amounts of time at various types of unregistered settings. These are distinct from the part-time settings mentioned previously which are genuinely supplementary to home education; the unregistered settings normally provide most if not all the education received by the child.

The DfE works with Ofsted and NYCC to have them shut down whenever they are found and, where necessary or appropriate, to bring prosecutions. If investigations into home education of children suggest the existence of an unregistered independent school, NYCC will inform the DfE of the 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 may not be meeting the educational standards required of registered independent schools and so by sending the child there, a parent may be failing to ensure the child is receiving a suitable education. NYCC will 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. NYCC may also need to consider whether any safeguarding issues arise from the child's attendance at the setting if it is not safe (*EHE: departmental guidance for LA's*).

Useful Contact Details

EHE

General Enquires

electivehomeeducation@northyorks.gov.uk

Tel: 01609 533080

Appendix A Section 7 Education Act 1996

S.2.4 of the 'EHE: departmental guidance for LA's, DfE 2019' states that 'there are no specific legal requirements as to the content of the 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 reference to the National Curriculum; and there is no legal requirement to enter children for public examinations. There is no obligation to follow the 'school-day' or have holidays which mirror those observed by school'.

Section 7 of the Education Act 1996 provides that:

'The parent of every child of compulsory school age shall cause him/her to receive efficient full-time education suitable –

- a) To his/her age, ability and aptitude, and*
- b) To any special educational needs he/she may have,*

either by regular attendance at school or otherwise'.

Appendix B: Defining 'full-time, suitable and efficient education'

Defining 'Full-Time Education'

EHE: departmental guidance for LA's, DfE, 2019 states that 'Full time' is not defined in the Education Act and it does not mean home educators are bound by school hours and terms. For information, however, full time education for children in school is considered to be between 23 and 25 hours of school time per week. Also 'education which is clearly not occupying a significant proportion of a child's life (making due allowance for holiday periods) will probably not meet the S.7 [Education Act] requirements.'

Defining 'Suitable' and 'Efficient Education'

*EHE: departmental guidance for LA's, DfE, 2019 confirms 'Suitable' and 'efficient' are not defined but the courts have given some legal guidance. They have said that education is efficient if it is **"achieving that which it sets out to achieve"** and it is suitable if it **"prepares the child for life in a modern civilised society and enables the child to achieve his full potential"**. A court will reach a view of suitability based on the particular circumstances of each child and the education provided. The term 'suitable' should be seen in the following light:*

a. 'it should enable a child to participate fully in life in the UK by including sufficient secular education. This means that even if the home education is primarily designed to equip a child for life within a smaller community within this country 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 he or she chooses to do so.

b. notwithstanding (a), the home education provision does not need to follow specific examples such as the National Curriculum, or the requirement in academy funding agreements for a 'broad and balanced' curriculum, nor the independent school standards prescribed by the Secretary of State¹⁵. Conversely, however, if the home education does

consist of one or more of those, then that would constitute strong evidence that it was 'suitable' in terms of s.7;

c. local authorities should interpret 'suitable' in the light of their general duties, especially that in s.13 of the Education Act 1996 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 home education provided by a family taught children values or behaviour which was in conflict with 'Fundamental British Values' as defined in government guidance¹⁶ (for example by seeking to promote terrorism, or advocating violence towards people on the basis of their race, religion or sex), 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.

d. the first sentence of ECHR Article 2 of Protocol 1 quoted above confers the fundamental right to an effective education, and relevant case law also 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;

e. although it may well be a good starting point in assessing suitability to assess whether the curriculum and teaching have produced attainment in line with the national 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. If a child's ability is significantly above or below what might be regarded as 'average' then allowances must be made for that; and similarly the home education may legitimately cater specifically for particular aptitudes which a child has, even if that means reducing other content;

f. factors such as very marked isolation from a child's peers can indicate possible unsuitability. Suitable education is not simply a matter of academic learning but should also involve socialisation;

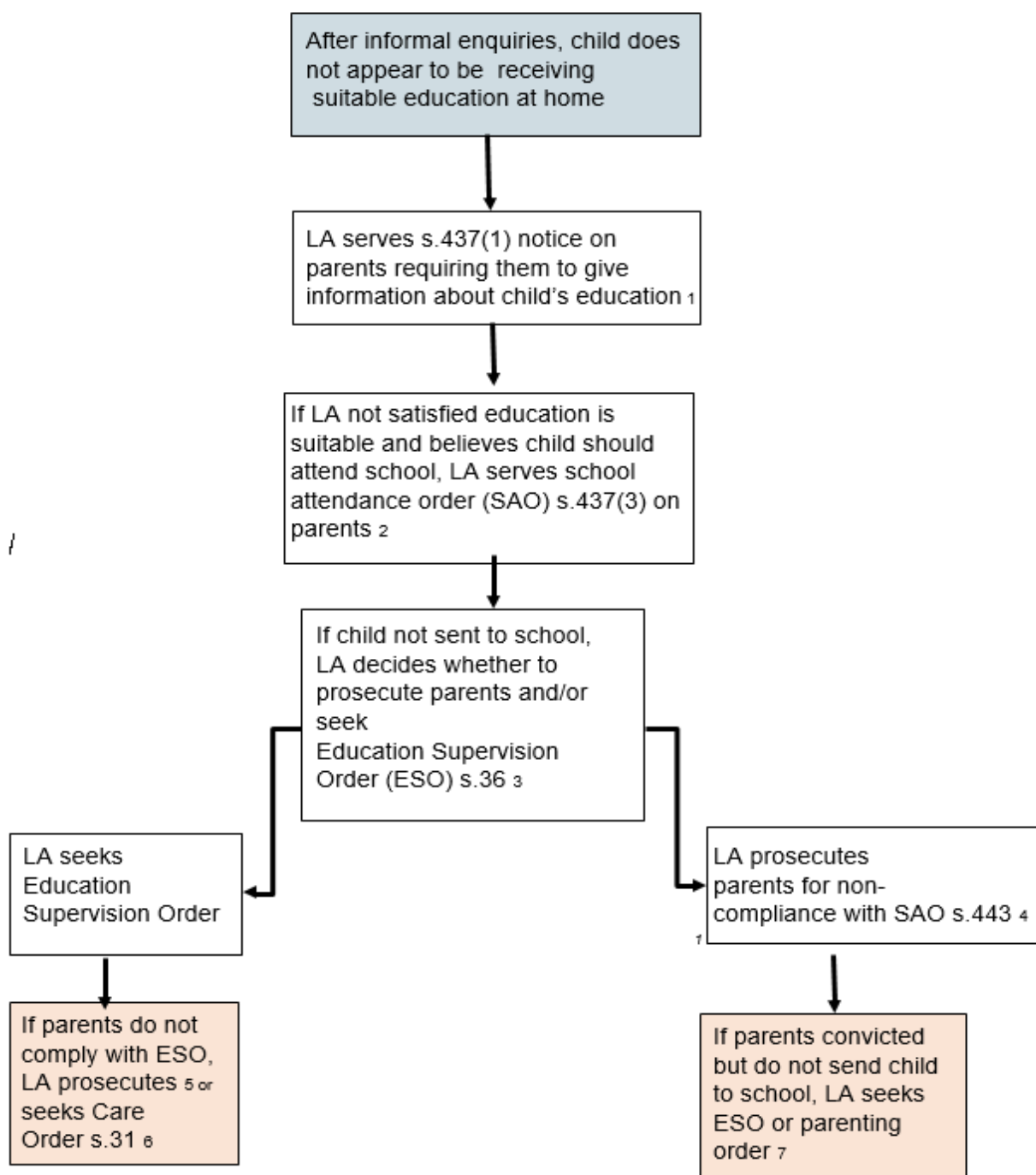
g. any assessment of suitability should take into account the environment in which home education is being provided. Most obviously, home accommodation which is noisy and/or cramped is likely to make it very difficult for a child to learn and make satisfactory progress. Environmental factors such as these may therefore prevent a child receiving suitable education and should be taken into account in assessing suitability in a specific case if present on a significant scale. They may also affect consideration as to 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 evidence that the home 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 because of fire hazards in the home. Any such evidence may be relevant in considering the use of safeguarding powers'

Appendix C: The European Convention for the Protection of Human Rights and Fundamental Freedoms Article 2 of Protocol No 1

“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 in conformity with their own religious and philosophical convictions.”

Appendix D**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.



1 Section 437 (1) Education Act 1996

2 Section 437 (3) Education Act 1996

3 Section 36 Children Act 1989

4 Section 443 Education Act 1996

5 Paragraph 18 (1), Schedule 3, Children Act 1989

6 Section 31 Care Order 1989

7 Section 8(2) Crime and Disorder Act 1998

Appendix E : Further Guidance for Schools when EHE is selected:

All schools have a duty to notify the Local Authority when a child is to be removed from their school. This includes for Elective Home Education.

The school must complete the following actions:

- Complete and submit Notification of EHE form which can be found at: [Insert Link](#)
- Complete and submit the Common Transfer File (CTF) which are uploaded to S2S using the DFE Secure Access Website:

<https://sa.education.gov.uk/idp/Authn/UserPassword>

as follows

o For a pupil that is moving to EHE the school should add 'North Yorkshire' as the destination in the CTF creation process which will produce a file with the following file name. 815SSSS_CTF_815LLLL_001.xml (Where SSSS is replaced with the school establishment number)

NB : These files should contain only one pupil per file

The LA are then notified that there are files waiting for them to download.

o For a pupil that is missing or their destination is unknown then schools would select 'Other Unknown' which will produce a file with the following file name

815SSSS_CTF_XXXXXXX_001.xml (where SSSS is replaced with the school establishment number)

This is as per the standard process for when a pupil moves from the schools: Eg For a pupil that is moving to an Independent school/abroad/Scotland/Ireland then the school should select 'Out of the maintained sector' as the destination which will produce a file with the following file name. 815SSSS_CTF_MMMMMMM_001.xml (where SSSS is replaced with the school establishment number)

Appendix F: The Education (Pupil Registration) (England) Regulations 2006 Regulation 8

The Education (Pupil Registration) (England) Regulations 2006 Regulation 8(2) states:

"a child who has under arrangements made by a local education authority become a registered pupil at a special school shall not be removed from the admission register of that school without the consent of that authority, or if that authority refuse to give consent, without a direction of the Secretary of State."