

Elective Home Education (EHE) Policy and Processes

1. Introduction

Parents have a right to educate their children outside the school system if they wish. Elective Home Education (EHE) is the term used to describe a parental decision to provide education for their children at home instead of sending them to school. This is different to home tuition provided by a local authority or education provided by a local authority other than at school. Rotherham Metropolitan Borough Council (RMBC) recognises and respects the rights of parents to Electively Home Educate.

2. Elective Home Education and Local Authority (LA) duties are described in the Education Acts of 1996 and 2002 with references to other related regulations, including safeguarding children. Details of relevant pieces of legislation are described below (Section 4) and in Appendix A.

<http://www.legislation.gov.uk/ukpga/1996/56/contents>

<http://www.legislation.gov.uk/ukpga/2002/32/contents>

3. This policy revision has been prompted by two key changes:

- 3.1. New guidance issued by the Department for Education (DfE) in April 2019 henceforth referred to as '2019 Guidance'. Although the legal position has not changed, the 2019 Guidance offers further clarity to all parties.

<https://www.gov.uk/government/publications/elective-home-education>

- 3.2. Updated organisation of processes related to education enforcement locally.

4. This document outlines policy and procedures governing the management of cases where parents or those with parental responsibility for a child or young person, have opted to educate their child at home (EHE) instead of sending them to an Ofsted registered education provider. 2007 Government guidance explained that: Children whose parents elect to educate them at home are not registered at mainstream schools, special schools, independent schools, academies, Pupil Referral Units (PRUs), colleges, children's homes with education facilities or education facilities

provided by independent fostering agencies. Some parents may choose to engage private tutors or other adults to assist them in providing a suitable education, but there is no requirement for them to do so. Learning may take place in a variety of locations, not just in the family home. 2019 Guidance further clarifies Local Authority (LA) duties and includes a new Guidance for Parents document.

5. Partners involved in developing and maintaining Elective Home Education (EHE) procedures and processes.

- 5.1. Children and young people
- 5.2. Parents/Carers
- 5.3. Education Service
- 5.4. Schools/Academies
- 5.5. Early Help and Family Engagement Service
- 5.6. Social Care
- 5.7. Rotherham National Health Service (NHS) Foundation Trust
- 5.8. Rotherham Clinical Commissioning Group (CCG) NHS England
- 5.9. Local Safeguarding Children Board (LSCB)

6. Objectives

- 6.1. The objectives of this policy document are to outline how RMBC meets its statutory duties and sets out the agreed framework for information sharing and joint working by:
 - 6.1.1. All partners having regard for the legal framework that governs a parent's/carer's decision to elect to home educate their children.
 - 6.1.2. All partners having regard to issues of cultural diversity and how religious or ethnic factors may impact on a parent's decision to educate their child outside of DfE registered education provision.
 - 6.1.3. All partners accepting that the procedures in this document will provide a secure framework for sharing information where parents have elected to home educate.
 - 6.1.4. All partners accepting that each must take appropriate action, compliant with their statutory responsibilities.
 - 6.1.5. All partners ensuring that the requirements of the General Data Protection Act (GDPR) 2018 are met in relation to information exchange and that information sharing agreements are adhered to.

7. Safeguarding Children

- 7.1. The welfare and protection of all children and young people (both those who attend school and those who are educated by other means) are of paramount

concern and the responsibility of the whole community. As with school educated children and young people, safeguarding issues may arise in relation to home educated children and young people. If any safeguarding concerns come to light in the course of engagement with children and families, or otherwise, these concerns should immediately be referred to First Response in accordance with the Rotherham Safeguarding Children Board (RSCB) procedure, 'Referring Safeguarding Concerns about Children'.

http://rotherhamscb.proceduresonline.com/chapters/p_ref_concern.html

7.2. The 2019 Guidance clarifies that *'Where necessary - because it is evident that a child is simply not receiving suitable education at home and the use of school attendance powers is not achieving a change in that situation - the local authority should be ready to use its safeguarding powers (as explained in the 2019 Guidance). The overriding objective in these cases is to ensure that the child's development is protected from significant harm.'*

7.3. Parents may choose to employ other people to educate their child, though they will continue to be responsible for the education provided. They will also be responsible for ensuring that those who they engage are suitable to have access to children. Parents may therefore wish to satisfy themselves by taking up appropriate references and/or by requesting a potential tutor to consent to a Disclosure and Barring Service (DBS) check. For more information see The RSCB procedure, Safer Recruitment and Employment pages.

(http://rotherhamscb.proceduresonline.com/chapters/p_safer_recruitment.html)

NB - Parents should make sure that they protect their child's safety on the internet. Advice and guidance is available for parents/carers on this issue via the Child Exploitation and Online Protection (CEOP) Centre website at:

<https://www.ceop.police.uk/safety-centre/>

8. Legal Framework and responsibilities

8.1. Parents' or Carers' Responsibility (See Appendix A below)

8.1.1. Parents/carers have a legal responsibility to ensure that their children receive an education.

8.1.2. *The parent/carer of every child of compulsory school age shall cause him/her to receive efficient full time education suitable:-*

to his/her age, ability and aptitude;

and

to any special educational needs he/she may have either by regular attendance at school or otherwise. (Education Act 1996, Section 7)

8.1.3. The word 'otherwise' means that parents take responsibility for providing the education themselves. This is known in law as Elective Home Education (EHE) (Appendix A below)

8.1.4. Parents/carers can either teach the child(ren) themselves or employ private tutors or access distance learning packages that may be available, for instance.

8.2. Local Authority Responsibilities (Appendix A below)

8.2.1. Local Authorities have a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, *to make arrangements to enable them to establish the identities, so far as is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision). See below for operational details.*

8.3. School Responsibilities

8.3.1. On receipt of a withdrawal letter from parents, schools are required to remove the child from roll not later than informing the LA of a parental decision to remove a child. (Department of Education, Children Missing Education, Statutory Guidance September 2016:

<https://www.gov.uk/government/publications/children-missing-education>)

See below for operational details.

8.4. RMBC organisation of Elective Home Education (EHE)

- 8.4.1. Elective Home Education duties sit within the Children and Young Peoples Services Directorate.
- 8.4.2. Governance arrangements for EHE duties are provided through an internal governance group which meets at least on a termly basis or as and when required.
- 8.4.3. RMBC aims to build effective working relationships with families to promote the best possible outcomes for all Rotherham's children and young people.
- 8.4.4. RMBC will ensure that delegated EHE Officer(s) access relevant training and network opportunities with regard to EHE practice, safeguarding, health and safety and other relevant procedures and practices relevant to their EHE duties.
- 8.4.5. EHE Officers are responsible for initial visits (advising parents about their education options, the implications and responsibilities, including in relation to EHE) and ongoing contact, visits and support to EHE families.

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9. RMBC Operational Processes and Procedures for Elective Home Education **(Ref: Appendix C)**

9.1. Where EHE Officer(s) receive information from parents and/or other partners when families are considering alternatives to school education:

9.1.1 Basic checks are made, using centralised information management systems to clarify contact details of the family, schools attended (if any), and current or previous RMBC support offered.

9.1.1 Parents are advised to contact EHE Officer(s) directly or via the child's school or another service to discuss the implications before making a final decision on education alternatives such as to home educate.

9.2 **Where a decision has not yet been made about how a child will be educated** the EHE Officer(s) will liaise with the parents, the current school/setting, and other appropriate services or agencies to:

9.2.1 Offer a home visit to outline the options available including EHE and associated processes. The majority of families welcome the opportunity for a face-to-face discussion to ensure that they can make a fully informed decision. Parents may be asked to complete Form EHE1 (Appendix B) in preparation for a home visit. Alternatively, the EHE Officer(s) may outline the implications and expectations of the range of options available to parents/carers by telephone where appropriate.

9.2.2 Where appropriate, families can be supported with meetings in schools to consider resolving issues; to make referrals to other relevant services for support; to discuss the implications and expectations of options such as Elective Home Education; to consider additional support required for learning and how to access such support (e.g. Education, Health and Care Plan (EHCP); applying to University Technical Colleges (UTC) or to apply and appeal for a place in a different school or facility. Flexibility in this initial conversation is crucial.

9.2.3 Confirm if parents wish to progress to EHE or to be supported with a different choice.

9.2.4 Throughout the information gathering process, the child can remain on the school roll until such time that a parent submits a written withdrawal letter. Parents must not be coerced to write withdrawal letters. The decision to change education setting should be a carefully considered parental decision.

- 9.3 **When a decision has been made to remove a child from a school to home educate**, the parent is advised to notify the school in writing of the decision and to request that the child's name is removed from the school roll. A letter signed by all adults with parental responsibility is recommended.
- 9.4 RMBC reminds schools that on receiving a parental withdrawal letter, they must remove the child from the school roll in-line with the parental letter after notifying the LA, by email or telephone conversation with the EHE Officer(s). The LA would advise that, as good practice, the school allows a 'cooling off' period of 10 school days to allow the parent to be given advice, independent of school, (by the EHE Officer(s)) about their options and the implications of any decision before the school place is available for reallocation.
- 9.5 In line with 2019 Government guidance, where a child has never attended a school, parents may choose to notify the LA of the EHE status of a child. Normal EHE support will be offered. (ref: section 8 above)
- 9.6 Other partners may also become aware of children not known to the LA. Partners are required to refer this information to the LA in order that the education status of the child can be confirmed.
- 9.7 **Removal a child from a school roll to Elective Home Education:**
- 9.7.1 Parents are advised to send a signed and dated letter to confirm that they are educating their child(ren) at home. This should be sent directly to the Head Teacher of the school. The LA recommends that where possible, all adults with parental responsibility sign the withdrawal letter.
- 9.7.2 School must deregister the child, paying regard to the advice relating to the cooling-off period of 10 days (see section 9.4 above).
- 9.7.3 School will contact EHE Officer(s) and forward a copy of the parental letter with known contact details.
- 9.7.4 EHE Officer(s) will work with the school to ensure that Capita ONE records are accurate.
- 9.7.5 EHE Officer(s) may offer visits to the parents/carers more frequently in the early stages of EHE to give advice and support.
- 9.7.6 Over time, EHE Officer(s) visits may become less frequent where appropriate.

9.7.7 However, visits may be offered more frequently where necessary to support a family to meet their legal duty to provide a suitable education.

9.7.8 Timescales for ongoing contact with families are not set in law giving RMBC staff and families the flexibility to work with a child's best interests at the centre.

9.7.9 Parents can request a Rotherham EHE card for the child as assurance against non-school attendance enquiries in the community.

9.8 Where appropriate and beneficial, a report of Officer visit(s) is sent to parents which can be used as the family wishes. E.g. supporting information in EHCP requests, for instance.

10 Establishing provision of a suitable education

10.1 2019 Guidance reminds stakeholders that: Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that: *"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable - (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise."*

10.2 The purpose of on-going home visits and contacts at whichever frequency is appropriate is to maintain a positive relationship and assurance that the education provided is not unsuitable for the age, ability and aptitude of the child.

10.3 Where appropriate, less clear cases will be discussed by the Governance Group to determine the LA's next steps.

10.4 The remit of the O&A group is to establish the suitability of education at home. Section 4.2 of the 2019 Guidance states that: *Until a local authority is satisfied that a home-educated child is receiving a suitable full-time education, then a child being educated at home is potentially in scope of this duty. The department's children missing education statutory guidance for local authorities applies. However, this should not be taken as implying that it is the responsibility of parents under s.436A to 'prove' that education at home is suitable.*

10.5 RMBC will continue to take a proportionate approach, offering home visits to share outcomes and to discuss advice etc. which is acceptable to and welcomed by the majority of families of children known to be EHE.

- 10.6 Section 6.4 of the 2019 Guidance says that: *The department's advice is that in all cases where it is not clear as to whether home education is suitable (including situations where there is no information available at all), the authority should initially attempt to resolve those doubts through informal contact and enquiries. This is likely to be the most productive initial approach even when a child is not being suitably educated. An authority's s.436A duty (and that under s.437, see below) forms sufficient basis for informal enquiries. Furthermore, s.436A creates a duty to adopt a system for making such enquiries. Local authorities should be in no doubt about the necessity for doing this in order to make an early move to formal procedures under s.437 if necessary, thus avoiding delay in securing a suitable education when it is not being provided.*
- 10.7 Where home visits or meetings are declined, the EHE Officer(s) will write to parents to ask for information about the education being provided. (Appendix D: Example informal request for information)
- 10.8 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 take the necessary consequent steps. This is confirmed by relevant case law. In many cases, making such informal enquiries will allow the situation to be resolved, either by information being provided that the home education is suitable or by agreement on alternative approaches to educating the child based on the local authority's initial assessment (for example, by catering for special needs in a different way).
- 10.9 When the O&A group is not able to satisfy itself about the education being provided, the O&A group will end informal enquiries and escalate cases for discussion at Local Authority School Attendance panel (LASAP) which may result in formal action being initiated.
- 10.10 Section 4.2 of 2019 Guidance clarifies that: *Identification of children who have never attended school and may be home educated forms a significant element of fulfilling an authority's statutory 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. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than at school (for example, at home, or in alternative provision). (Ref section 5.6)*
- 10.11 The 2019 Guidance clarifies that informal enquiries can include a request to see the child, either in the home or in another location (Section 6.6). The parent however, is under no legal obligation to agree to this simply in order to satisfy

the local authority as to the suitability of home education, although a refusal to allow a visit could in some circumstances justify service of a notice under s.437(1) by services associated to, but separate from the EHE Officer(s).

- 10.12 Where there are concerns around the education provided or the welfare of a child, the EHE Officer(s) must liaise with other services, including Early Help and others to try to resolve the situation. For more information see LSCB Procedure, Early Help Guidance: Integrated Working With Children, Young People and Families With Vulnerable or Complex Needs

http://rotherhamscb.proceduresonline.com/chapters/g_early_help.html

and the RLSCB procedure, Referring Safeguarding Concerns about Children

http://rotherhamscb.proceduresonline.com/chapters/p_ref_concern.html

- 10.13 Where EHE Officer(s) visits are declined by parents, or there is a lack of parental engagement such that children are not seen by EHE staff or other CYPS staff, a note of a child being EHE but visits being declined will be recorded on RMBC secure information systems so that colleagues across CYPS are aware of the parental choice.

10.14 For the purposes of this policy:

“Informal” refers to support, advice and requests for information to demonstrate that a suitable education is being provided, prior to any action under section 437 of the Education Act.

“Formal” refers to notice and action served under section 437 of the Education Act (Appendix A).

11 Pupils Returning to School

11.1 There are a number of reasons why a pupil might return to school. Examples include:

11.1.1 The parent or the child wishes a return to a school.

11.1.2 The EHE officer(s), Early Help and Family Engagement Officers or a relevant professional such as a Social Worker recommends that the child returns to school as adequate education is not being provided.

11.2 A school application can be made for a Rotherham resident child on-line at:

https://www.rotherham.gov.uk/homepage/344/apply_for_a_school_place

Alternatively, an application form can be sent to the parents/carers by post by contacting School Admissions on 01709 823777 to request an application form.

12 Record keeping and annual review of records

12.1 The EHE Officer(s) will maintain, with restricted access within CYPS, records of all known children and young people who are Electively Home Educated and the dates of any home visits / contacts.

12.2 After the official school leaving date in June, all Year 11 pupil records will be archived as these pupils become over compulsory school age in line with GDPR and record retention schedules.

12.3 Young people over compulsory school age are supported, where necessary, by relevant services to ensure that Education, Employment or Training (EET) advice and guidance is available.

12.4 Dedicated Outreach Officers are available to support children in schools or in EHE to ensure that they are supported to achieve a positive learning destination beyond compulsory school age.

13 Reporting

13.1 The EHE Officer(s) will produce reports, in line with statutory and RMBC requirements, and contribute to national/formal requests eg Freedom of Information (FOI) requests for anonymous data as necessary.

13.2 The EHE Governance Group will maintain an overview of all reports and FOI responses produced.

14 Reviewing policies and procedures

14.1 The Local Authority will review the policy and procedures of EHE on a regular basis (at least every 3 years) unless there are significant changes in legislation or Department for Education guidance relating to EHE or significant changes in RMBC organisation which impact on the current policy and practice and require a review to be completed.

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Appendix A

Legal frameworks: EDUCATION ACT 2002 (Section 175 (1) to (3)) Section 175 Education Act 2002 provides that:

A local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children (s.175(1));

The governing body of a maintained school shall make arrangements for ensuring that their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school (s.175(2));

The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution (s.173(3));

and An authority or body mentioned in any of subsections (1) to (3) shall, in considering what arrangements are required to be made under the subsection, have regard to any guidance given from time to time (in relation to England) by the Secretary of State or (in relation to Wales) by the National Assembly for Wales (s.175(14)).

The above, therefore requires LA's and governing bodies of maintained schools and further education institutions to have regard to Circular 10/95. Essentially, Circular 10/95 has been given statutory effect thereby strengthening child protection measures.

Local Authorities and schools must ensure that school staff are aware of their new duties and receive appropriate Child Protection training. EDUCATION ACT 1996, reflected in 2007 DfE Elective Home Education 'Guidelines for Local Authorities' indicate that:

"Local Authorities have a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to enable to establish the identities, so far as is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision).

Section 2.7 states that: Local Authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis. However, under section 437(1) of the Education Act 1996, local authorities shall intervene if it appears that parents are not providing a suitable education. This section states that:

'If it appears to a local authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they

shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education'.

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

2.15 states: local authorities have general duties to make arrangements to safeguard and promote the welfare of children (section 175 Education Act 2002 in relation to their functions as a local authority and for other functions in section 10 and 11 of the Children Act 2004). These powers allow local authorities to insist on seeing children in order to enquire about their welfare where there are grounds for concern (sections 17 and 47 of the Children Act 1989). However, such powers do not bestow on local authorities the ability to see and question children subject to elective home education in order to establish whether they are receiving a suitable education.

Note: s.436A of the Education Act, above, '*so far as it is possible to do so*' should not be interpreted as meaning '*so far as the authority finds it convenient or practical to do so*'. In-line with 2019 Guidance, this LA will endeavour to do whatever is actually possible because if the department for education receives a complaint that a local authority is not doing enough to meet its duty under s.436A, it will consider whether there is sufficient basis for making a direction under s.496 or s.497 of the Education Act 1996 so that outcomes for children in that local authority's area can be improved.

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Appendix B: Form EHE1 (For parent/carers) Rotherham Metropolitan Borough Council (RMBC) is committed to supporting parents who choose to educate their child(ren) outside the school system. To enable RMBC to provide suitable support, please complete this form and return to:

Elective Home Education, Access to Education, Floor 2C Riverside House Main Street
Rotherham S60 1AE

Telephone: 01709 823804 Email: electivehomeeducation@rotherham.gov.uk

If you have any questions about completing the form please contact the EHE Officer(s) for advice. Please feel free to expand your answers by using additional sheets where required.

Name(s) of Child(ren)	
Date(s) of Birth	
Ethnicity	
First Language	
Names of parents/carers who have legal responsibility	
Address	
Post code	
Telephone numbers	
Email address	
Last school attended by child	
Local Authority	

Date last attended school	
Date of commencement of Elective Home Education	

It would be helpful if you could give some background to your decision to provide education at home, please tick as appropriate:

Please give an indication of your aims and the outcomes you hope to achieve through education at home and details of how you intend to approach the education provision.

Please give a brief outline of the proposed initial plan of study, mentioning (where appropriate) details of subject areas to be covered e.g. particular project areas.

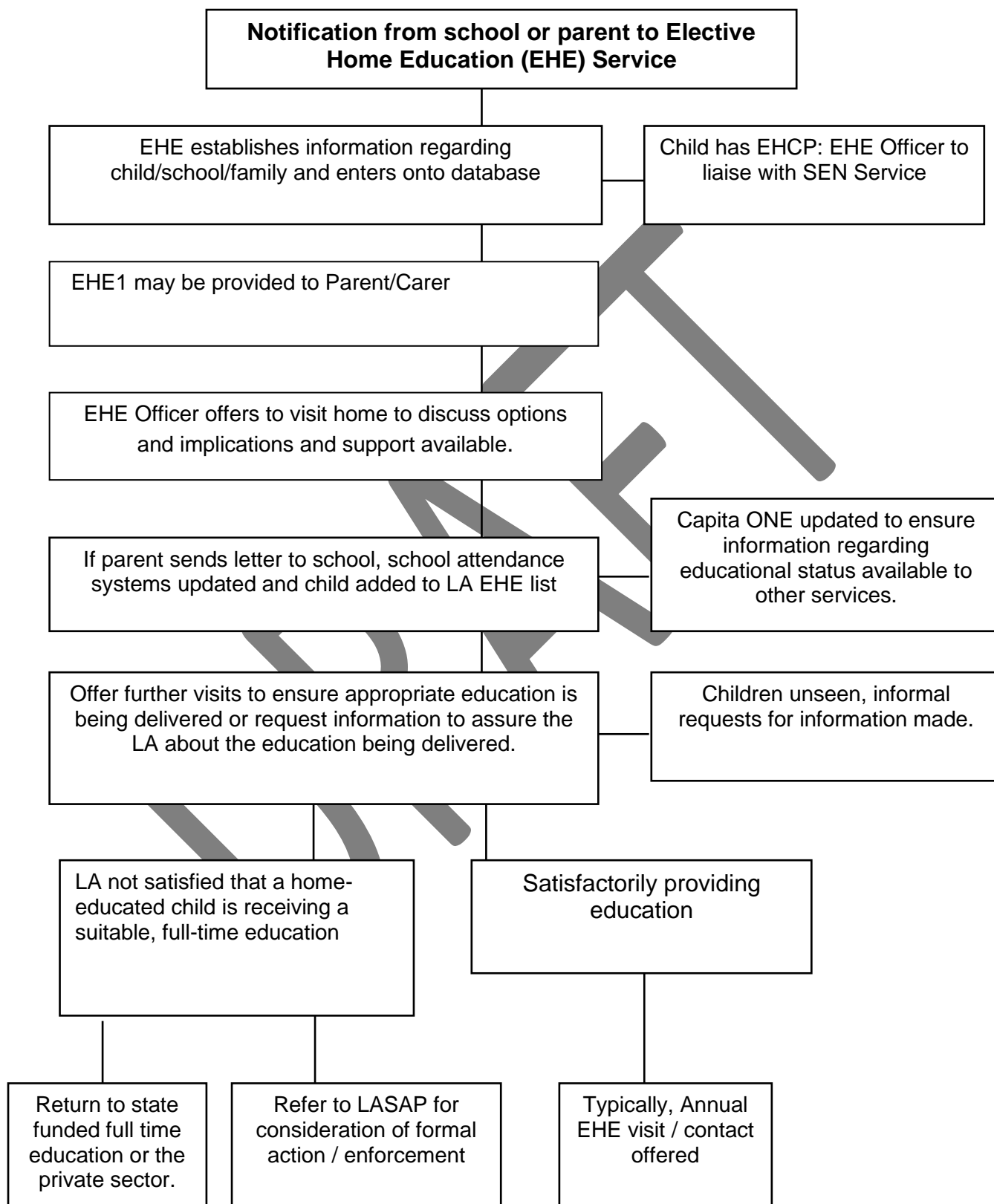
Name(s) of person(s) who will be educating the child(ren). This may involve tutors or other family members.	
If your child is of Secondary School age do you intend to work towards public examinations?	Yes/ No
Does the child(ren) have an Education, Health and Care Plan (EHCP)? Yes/No	

I understand that the Local Authority has a responsibility to ensure that my child(ren) is/are educated as required by law and that an Officer of the Authority, with my permission, may arrange to visit to view the educational provision being made for my child(ren).

Signed (Parent/Carer)

Thank you for taking time to complete the form.

If you change your address or your child returns to school please let us know in writing.

Initial contact Flow Chart: LA EHE team makes informal enquiries:

Flow chart 1 below, taken directly from the 2019 Guidance depicts the separation of roles and dovetailing of processes locally in that:

The EHE Officer(s) completes the left-hand side and the central flow process but hands on a case to LASAP for the right-hand side process flow. At any point through the right-hand side of the flow, the process towards enforcement can be halted by information being made available to satisfy the EHE Governance Group and LASAP that a suitable education is being provided.

Ultimately the decision about whether a suitable education is being provided or not will be made by a court of Law. If court accepts a parental explanation and information, cases can be, and are, discharged with no further action. RMBC endeavours to avoid the need to pursue any enforcement by working in partnership with the child's best interests at heart.

Flow chart 1, taken directly from the 2019 Guidance:

Flow chart 1

