

<b>Report to:</b>	<b>EXECUTIVE CABINET</b>
<b>Date:</b>	18 December 2019
<b>Executive Member:</b>	Councillor Leanne Feeley – Executive Member (Lifelong Learning, Equalities, Culture and Heritage)
<b>Reporting Officer:</b>	Tim Bowman, Assistant Director, Education
<b>Subject:</b>	<b>ELECTIVE HOME EDUCATION POLICY REVIEW</b>
<b>Report Summary:</b>	The report outlines for schools, parents, carers, guardians and related agencies, the policy and procedures to be observed when a parent elects to home educate their child who is of compulsory school age. The policy sets out parents' rights to educate their child at home, together with the legal duties and responsibilities of Head teachers and Tameside Council. It also sets out the arrangements Tameside Council will make in order to carry out its legal duties.
<b>Recommendations:</b>	That the Board agree the content of the report and forward the report to Executive Cabinet for approval
<b>Corporate Plan:</b>	The report supports three elements of the Community Strategy - Prosperous, Learning and Supportive Tameside.
<b>Policy Implications:</b>	This is a new policy for the Council as this information was previously issued as guidance to schools.
<b>Financial Implications:</b>	There are no financial implications with this report
<b>(Authorised by the statutory Section 151 Officer &amp; Chief Finance Officer)</b>	
<b>Legal Implications:</b>	Elective home education is subject to statutory provision and Department of Education guidance. The primary responsibility for ensuring that a child is properly educated rests with the parents, with Tameside Council having an obligation to ensure that the child is safe and being suitably educated. The Elective Home Education Policy reflects the respective legal obligations placed upon the parents and Tameside Council.
<b>(Authorised by the Borough Solicitor)</b>	
<b>Risk Management:</b>	Failure to have a clear policy on Elective Home Education could result in the Council not meeting its statutory responsibility to identify children in their area who are not receiving a suitable education
<b>Background Information:</b>	The background papers relating to this report can be inspected by contacting Catherine Moseley, Head of Access Services
	 Telephone:0161 342 3302
	 e-mail: catherine.moseley@tameside.gov.uk

## **1 CONTEXT**

- 1.1 Tameside MBC believes that children are best educated in school. Notwithstanding this fact, Elective Home Education officers understand that there is no one 'correct' way of learning. All children learn in different ways and at varying rates. It is vital that parents and children choose a type of education that is right for them.
- 1.2 Tameside MBC has no formal powers or duty to monitor the provision of education at home. However, it does have a statutory duty (under s.436A of the Education Act 1996) to make arrangements to enable it to establish the identities, so far as it is possible to do so, of children in its area who are not receiving a suitable education. The simple fact that a child is being educated at home does not mean that he or she is not receiving a suitable full-time education. However, in order to fulfil their Section 436A duty, local authorities are entitled to make informal enquiries of parents to establish what education is being provided
- 1.3 Education Welfare is therefore likely to make such enquiries if they become aware that parents are educating a child at home - or may be doing so. As parents are under no legal obligation to respond, but if parents do not, they are entitled to conclude from the absence of any response that it appears that their child is not receiving a suitable education, with all the consequences which can follow from that (see below).

## **2 THE PROCESS**

- 2.1 When the Council is notified that a parent wishes to home educate their child, Education Welfare and/or Pupil Support Services will ask to see the child at home or in another location (within 10 to 15 days of being notified) as well as seeing examples of work done. As parents, they are under no legal obligation to agree to such a meeting or to produce specific evidence but parents should consider carefully the reasons for not doing so, what is in the best interests of the child, and what may be the most sensible approach. If they do not do enough to satisfy Tameside MBC about the sufficiency of education being provided at home it may have no option but to conclude that the education does not meet the S.7 requirement.
- 2.2 Tameside MBC understands that, in the early stages, parent's plans may not be detailed and they may not be in a position to demonstrate all the characteristics of an "efficient and suitable" educational provision. Parents may want to ask the local authority for advice and support. A reasonable timescale should be agreed for parents to demonstrate that all aspects of the provision is in place, but this does not mean that there can be any significant break between the end of formal schooling and the provision of good education at home.
- 2.3 Tameside Officers contact parents within 14 days to arrange an initial visit, a further visit will be made by the Pupil Support Service within the following 12 weeks. Once Tameside MBC is satisfied that the child is receiving a suitable education, further yearly visits will be arranged by telephone, email, or letter. The purpose of the visits is to assess the level of education being provided and to offer advice and support and to signpost families to other agencies if necessary. The Local Authority's Elective Home Education officers are available to provide more frequent support if required.
- 2.4 If Tameside MBC decides it has not had sufficient information about the home education being provided, or has had no information, and it appears to the authority that the child is not receiving a suitable education at home, it must serve a notice (known as a S.437 (1) notice), requiring the parents to satisfy the authority that the child is receiving a full-time and efficient education at home that is suitable to the child's needs. Again, it would be sensible for parents to respond to such a notice if they receive one; parents will have at least 15 days to respond so that they have time to gather suitable material that they may wish to supply.

- 2.5 The local authority must consider the response, if any, which a parent(s) make to the notice, in order to decide whether their child is receiving an education, which meets the parents responsibilities under S.7, taking account of any evidence the parent(s) have provided and any other information it has about the education the child is receiving. If parents make no response at all, then the local authority is entitled to conclude that the child is not receiving a suitable education.
- 2.6 If the parent(s) fail to satisfy Tameside MBC that their child is receiving a suitable education, and the local authority considers that it is expedient that s/he should attend school, then the local authority has a legal obligation to serve on the parents a school attendance order (SAO). This will name a specific school and require the parent(s) to register your child at that school. There are provisions in the Education Act 1996 (sections 438-441) which provide for this.

### 3 OFSTED

- 3.1 Ofsted conducts periodic inspections of local authorities and this includes a way in which they carry out duties in relation to vulnerable children. Although home educated children are not intrinsically 'vulnerable', such reviews will include children missing education and therefore cover the work of the authority on those children who are being educated at home (or may be educated at home). Reports of local authority inspections are available on the Ofsted section of the gov.uk website.
- 3.2 Ofsted has no role in the oversight of education received by individual children who are educated at home.
- 3.3 The Ofsted inspection that was carried out in in Tameside in 2019 reported that  
*"EHE - children are seen and supported appropriately, there are stringent tracking procedures in place and TMBC are aware who those young people are."*

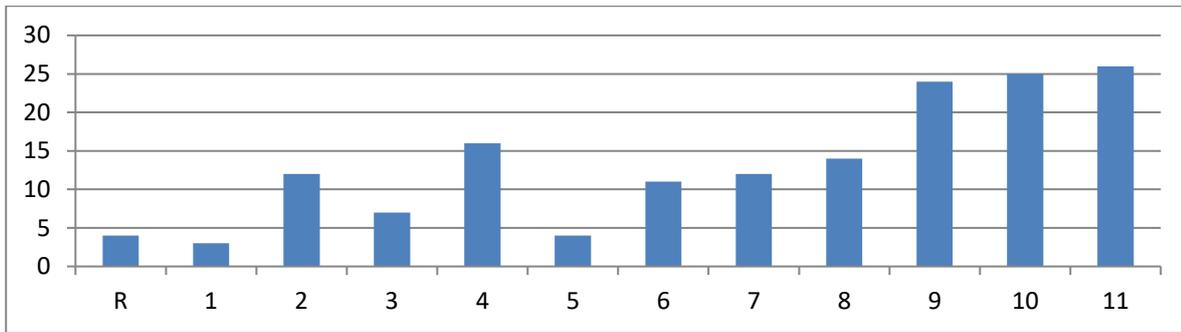
### 4 NUMBER OF ELECTIVELY HOME EDUCATION PUPILS IN TAMESIDE

- 4.1 The elective home education figures have steadily increased over the last few years this is in line with national data. Following a BBC Freedom of Information request to all local authorities the increase represented an increase of around 40% sine 2014/2015.
- 4.2 There is currently no requirement for home educated children to be registered. As a result the LA figures at any given time are likely to be underestimated.

**The table below shows the increase of pupils that are now electively home educated in Tameside**

Year	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17	17/18	18/19
Number	54	55	51	66	71	94	149	214	184	256

**The table below gives a breakdown by year group of pupils in school for 2018/19**



**Number of pupils returning back to school from home education**

Year	2015/16	2016/17	2017/18	2018/19
Number	20	37	44	41

**5 RECOMMENDATIONS**

5.1 As set out at the front of the report

# APPENDIX 1

## Elective Home Education Policy November 2019

### 1 Policy context

- 1.1 Elective home education is a term used to describe the choice by parents to provide their children at home or in some other preferred way, instead of sending them to school full-time. This is different to education provided by a local authority other than at a school, for example for children who are too ill to attend school. Throughout this guidance, 'parents' should be taken to include all those with parental responsibility, including guardians and foster carers (in the latter case the local authority may also be a corporate parent). Although there is no requirement to do so, parents can choose to engage private tutors or other adults, or may use online tuition, to assist in providing a suitable education. Similarly, in addition to the family home, other settings may be used to deliver the education. However these settings may not be formally regulated there is no external assurance that they comply with basic standards, such as proper vetting of staff and safeguarding of children.
- 1.2 The reasons for deciding on this approach are many, as are the styles of education undertaken. For some families it is a decision on their philosophical, spiritual or religious outlook, for others it is to meet the specific needs of a child or children. It may be because of dissatisfaction with "the system" or used as a short-term intervention for a particular reason. Tameside MBC officers understand and are supportive of many different approaches or ways of educating which are feasible and legally valid.
- 1.3 Although children being home educated are not normally registered at any school or college, you may choose to make arrangements for a child to receive part of his or her total education at a school ('flexi-schooling') - or at an FE college or other 16-19 provider if the child is aged 14 or above. The purpose of this will often be to provide education in specific subjects more easily than is possible at home. Schools and colleges are under no obligation to agree to such arrangements, but some are happy to do so.
- 1.4 The purpose of this document is to clarify for schools, parents, carers, guardians and related agencies, the policy and procedures to be observed when a parent elects to home educate their child who is of compulsory school age. The policy sets out parents' rights to educate their child at home, together with the legal duties and responsibilities of Head teachers and Tameside MBC. It also sets out the arrangements Tameside Council will make in order to carry out its legal duties.
- 1.5 In compiling this document the Local Authority has drawn on the information and guidance provided by the:
- Children Act 1989
  - The Education Act 1996
  - The Education Act 2002
  - The Children Act 2004
  - Special Education Needs and Disabilities (SEND) Code of Practice last updated 2014
  - Elective Home Education Departmental guidance for local authorities (April 2019)
  - Elective Home Education Departmental guidance for parents (April 2019)
  - Tameside inter-agency Threshold Guidance 2019

## **2 What is the legal position of parents who wish to home educate their child??**

- 2.1 As parents, you - not the state - are responsible for ensuring that your child, if he or she is of compulsory school age, is properly educated. Despite the term 'compulsory school age', education does not have to be undertaken through attendance at school, even though the parents of any child living in England can request a state-funded school place and the local authority is obliged to find one - or make alternative arrangements for education of your child.
- 2.2 There is no legislation that deals with home education as a specific approach. However, 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.  
Elective home education is a form of 'education otherwise than at school' and this piece of legislation is the basis for the obligations of parents. It is also the starting point for local authorities' involvement.
- 2.3 A child becomes of compulsory school age from the first of the following dates (31 August, 31 December or 31 March) which occurs after she or he becomes five years old (or if the fifth birthday falls on one of those dates, on that day). The child remains so until the last Friday of June in the academic year in which she or he becomes sixteen. Children may also be educated at home in order to participate in education and training until the age of 18 years.
- 2.4 You may also decide to exercise your right to educate your child at home from a very early stage, before he or she reaches compulsory school age. There are no requirements in that case as to the content of any home education provided - since there is no legal requirement for any education to take place at all, although state-funded places of between 15 and 30 hours a week would normally be available in early year's settings for children of an appropriate age.

### What is an 'efficient' education?

- 2.5 There is no definition of an efficient education. However, it can be interpreted as meaning education which 'achieves what it is intended to achieve'. This is not the same as the education being 'suitable' - because it is possible to efficiently deliver an education which is definitely not suitable for a child. Conversely, it is possible to deliver a suitable education very inefficiently.

### What is a 'full-time' education?

- 2.6 There is no legal definition of "full-time" in terms of education at home, or at school. Children attending school normally have about five hours of tuition a day for 190 days a year, spread over about 38 weeks. However, home education does not have to mirror this. Elective home education typically comprises almost continuous one-to-one contact and education may sometimes take place outside normal "school hours".
- 2.7 Home-educating parents are not required to have a timetable, set hours during which education will take place, or observe school hours, days or terms
- 2.8 In practice, the question of whether education for a specific child is full-time will depend on the facts of each case; but you should at least be able to quantify and demonstrate the amount of time for which your child is being educated. Education which clearly is not

occupying a significant proportion of a child's life (making due allowance for holiday periods) will probably not meet the S.7 requirement (see 2.2 for clarification).

### What is a 'suitable' education?

- 2.9 There is no definition of 'suitable' education in statute law, although as stated in s.7 as quoted above, it must be suitable to the age, ability and aptitude of the child, and have regard to any special educational needs. This means that it must be age-appropriate, enable the child to make progress according to his or her particular level of ability, and should take account of any specific aptitudes, more generally, you should bear in mind that:
- a. even if there is no specific link with the National Curriculum or other external curricula, there should be an appropriate minimum standard which is pursued, and the education should aim at enabling the child, when grown-up, to function as an independent citizen in the UK - and furthermore, beyond the community in which he or she was brought up, if that is the choice made in later life by the child;
  - b. to be 'suitable', education at home should not directly conflict with the Fundamental British Values as defined in government guidance (link at end of document), although there is no requirement to teach these;
  - c. local authorities may use minimum expectations for literacy and numeracy in assessing suitability, whilst bearing in mind the age, ability and aptitude of the child and any special educational needs he or she may have;
  - d. education may not be 'suitable' even if it is satisfactory in terms of content and teaching, if it is delivered in circumstances which make it very difficult to work (for example in very noisy premises). This might also affect whether it is 'efficient' and indeed, whether it is 'received' at all for the purposes of S.7; and
  - e. education may also not be deemed suitable if it leads to excessive isolation from the child's peers, and thus impedes social development.
- 2.10 There are no legal requirements for you as parents educating a child at home to do any of the following:
- acquire specific qualifications for the task
  - have premises equipped to any particular standard
  - aim for the child to acquire any specific qualifications
  - teach the National Curriculum
  - provide a 'broad and balanced' curriculum
  - make detailed lesson plans in advance
  - give formal lessons
  - mark work done by the child
  - formally assess progress, or set development objectives
  - reproduce school type peer group socialisation
  - match school-based, age-specific standards
- 2.11 However, many home-educating families do some of these, at least, by choice. Furthermore, it is likely to be much easier for you to show that the education provided is suitable if attention has been paid to the breadth of the curriculum and its content, and the concepts of progress and assessment in relation to your child's ability.

### Children's rights

- 2.12 The United Kingdom has ratified the United Nations Convention on the Rights of the Child (UNCRC). Article 12 of the UNCRC requires states to provide a right for children to express

their views and for due weight to be given to those views, in accordance with the age and maturity of the child. This does not give children authority over parents, and a decision to educate a child at home is a matter for you as parents. You should, however, consider whether home education is realistically possible in your family's particular circumstances, and if your child is happy to be educated in this way. The local authority may wish to gain the child's opinion on the suitability of the home education received (as distinct to the question of the child's preference for being educated at home rather than at school), as this can be relevant to any decision it needs to make on whether the s.7 requirements are met

### **3. What should be considered before deciding to educate my child at home?**

3.1 Deciding to educate your child at home instead of sending him or her to school is a step which should not be taken lightly. It requires a major commitment of your time, energy and money. Think hard before making a final decision. It is especially important that you consider the nature of the education you intend to provide for your child before you begin to teach him or her at home. Think about the curriculum you will provide, and whether it will allow your child to reach his or her potential now and in the future, including whether you expect your child to sit public examinations such as GCSEs or not. Also consider whether home education is in your child's best interests, including their social development.

3.2 There are a range of reasons why you might consider educating your child at home, including:

- Ideological or philosophical views which you feel would be better promoted through education at home
- Religious or cultural beliefs
- Dissatisfaction with the school system
- Distance to a local school
- Bullying
- The child's unwillingness or inability to go to school
- Special educational needs not being met within the school system
- Health reasons, particularly mental health

3.3 Some of the reasons listed above may provide a stronger basis than others as a foundation for successful home education. In particular, if you are considering home education because the school system is not currently working well for your child, or because you have other family problems which make it difficult to ensure regular school attendance for your child, you should consider what other steps you could take to secure a more satisfactory education. It is recommended at this stage that you request a meeting with the relevant school staff to discuss a satisfactory way forward. Officers from the Education Welfare Service offer an intervention meeting in school with Staff, parents, carers and pupils to enable a discussion around the issues the pupil may be facing and how these barriers to learning can be removed.

3.4 If you are considering home education for your child due to a disagreement with the school or a teacher, talk to the teacher concerned, or to the head teacher if appropriate, before you make your decision. This is particularly important for children in years 10 and 11 who are already preparing for public examinations. It is also unwise to consider temporary home education as a means of getting your child into a school other than the one he or she is currently registered at.

3.5 The Tameside MBC Fair Access Policy for Secondary pupils expects schools to take back pupils who were removed from their school roll, with the intention to home educate, that are not receiving a suitable education unless there are extenuating circumstances. It is the responsibility of the school and parents/carers to arrange an admissions meeting to ensure the pupil is placed back on a school roll as early as possible. Follow link for further information <https://www.tameside.gov.uk/schools/schooltransfers>

- 3.6 It is important that families, pupils and schools are fully informed of the expectations and implications of home educating before committing to making this important decision. Tameside MBC recommends that parents are given contact details to seek advice from Tameside Education Welfare Service 0161 342 3258 before formally asking school to remove their child from the school roll. Schools must not seek to persuade parents to educate their child at home to avoid legal proceedings or because the child has a poor attendance record.
- 3.7 Remember that pressure should never be put on you by school staff to remove your child from a school to avoid formal exclusion, or because your child is having difficulty with learning or behaviour. This practice - sometimes called 'off-rolling' - is illegal, and if pressure of this sort is put on you by any state-funded school you should inform the local authority immediately on 0161 342 2293.
- 3.8 If you genuinely believe that your child's current school is not suitable, then you should also discuss with the local authority what alternatives might be available before taking any decision to home educate your child.
- 3.9 Remember that if you choose to educate your child at home, you must be prepared to assume full financial responsibility for your child's education, including bearing the cost of any public examinations, Tameside MBC does not provide financial or other assistance to home-educating families for public examinations. Other costs to consider include learning resources: books, paper, IT and other equipment, and educational visits and sporting activities. Tameside may consider giving support when special educational needs are being met through home education and additional costs are incurred as a consequence of those special needs.
- 3.10. Pupils wishing to return to mainstream schools from home education are allocated school places through the Tameside Fair Access Protocols for primary and secondary schools. This is an automatic process regardless of the length of time the child has been educated at home. High school age pupils are returned to the school they last attended. Parents may subsequently be offered a managed move to their preferred school if the In-Year Fair Access Panel (IYFAP) decides this to be in the pupil's best interests. Primary age pupils are allocated to their previous school in the first instance. Should that school successfully object to the allocation under the terms of the Primary Fair Access Protocol an alternative school will be allocated up to 2 miles from the pupil's home address. Department for Education advice is clear on Fair Access Protocols and states parental preferences do not have to be taken into account, and instead it is more important to find an appropriate school or provision that best meets the pupil's needs. Applications for mainstream schools are made using the Tameside In-Year School Transfer Form:  
<https://www.tameside.gov.uk/TamesideMBC/media/education/primarytransfer.pdf>
- 3.11 In summary, therefore, as parents you should consider:
- Why are you thinking of educating your child at home?
  - What does your child think about the idea?
  - Do you have the time, resources and ability to teach your child properly?
  - Is your home suitable for undertaking teaching and learning, in terms of noise, space and general environment?
  - What support do you have from others? What would happen if you were unable, perhaps through illness, to provide teaching for your child for a period of time?
  - Can you provide social experiences, access to cultural and aesthetic experiences and physical exercise, to help your child develop?
  - Do you envisage educating your child at home for the whole of their time of compulsory school age, or only temporarily?

- What are your long term intentions for the education of your child?

#### **4 What must Parents do before starting to Home Educate?**

- 4.1 Where a child has been registered at school, parents are required to notify the school in writing when withdrawing a child for EHE. This is to confirm the provision is being made for the child's education otherwise than at school and requesting removal from the school roll. Parents are not required to register or seek approval from the Local Authority to educate their children at home; however, they must obtain the consent of the Local Authority to de-register pupils placed at special schools under arrangements made by a Local Authority. Where a child is registered at a school as a result of a school attendance order parents must ask the Local Authority to revoke the order. Some local authorities operate voluntary registration schemes, registration can be made by emailing your child's details through to [ehe@tameside.gov.uk](mailto:ehe@tameside.gov.uk). Following your email, an Officer will contact you to gather further information.
- 4.2 The school is obliged to inform the local authority of children removed from its admission register and will state home education as the reason, if notified of this by the parent. Parents of children withdrawn from school for home education are not legally obliged to inform the local authority themselves - but it is sensible to do so, by emailing [ehe@tameside.gov.uk](mailto:ehe@tameside.gov.uk). A copy of the letter should be scanned and emailed on receipt by the Head teacher to the Local Authority's Education Welfare Service
- 4.3 These points also apply to children with an Education, Health and Care (EHC) Plan attending mainstream schools. However, if a child attends a special school and this was arranged by a local authority, then the permission of the local authority must be obtained before his or her name can be removed from the admission register. If the local authority refuses consent, you can ask the Secretary of State to settle the dispute. The other circumstance in which the local authority's consent is necessary is if your child is attending any school as a result of a school attendance order; this order must be revoked by the authority before you can have your child's name removed from the admission register.
- 4.4. As set out above, you must ensure that your child receives an efficient and suitable full-time education so long as he or she is of compulsory school age. If he or she is not attending a state-funded school - or being educated under alternative arrangements made by the local authority - you assume the full financial responsibility for the provision of education. You should therefore consider how you can do this if you intend to educate at home. Such costs may not just be direct but also indirect (for example, loss of income if a parent is at home educating their child).
- 4.5 If at any stage, it becomes apparent you cannot provide a suitable home education, you should contact the local authority 0161 342 3258 as soon as possible with a view to securing a suitable school place for your child, and minimising any interruption to studies. Every pupil is allocated a 'link officer' and will support you. If your child is of compulsory school age, the local authority must find a suitable school place; however, as pointed out above, this may not be in a school of your choice.

#### **5 Local Authority responsibilities and outline of procedures**

- 5.1 Tameside MBC believes that children are best educated in school. Notwithstanding this fact, Elective Home Education officers understand that there is no one 'correct' way of learning. All children learn in different ways and at varying rates. It is vital that parents and children choose a type of education that is right for them. Tameside MBC has no formal powers or duty to monitor the provision of education at home. However, it does have a statutory duty (under s.436A of the Education Act 1996) to make arrangements to enable it to establish the identities, so far as it is possible to do so, of children in its area who are not

receiving a suitable education. The simple fact that a child is being educated at home does not mean that he or she is not receiving a suitable full-time education. However, in order to fulfil their Section 436A duty, local authorities are entitled to make informal enquiries of parents to establish what education is being provided

- 5.2 Education Welfare is therefore likely to make such enquiries if they become aware that you are educating a child at home - or may be doing so. As parents you are under no legal obligation to respond, but if you do not, they are entitled to conclude from the absence of any response that it appears that your child is not receiving a suitable education, with all the consequences which can follow from that (see below).
- 5.3 Education Welfare and/or Pupil Support Services will ask to see the child at home or in another location (within 10 to 15 days of being notified) as well as seeing examples of work done. As parents, you are under no legal obligation to agree to such a meeting (but see section below on safeguarding) or to produce specific evidence but you should consider carefully the reasons for not doing so, what is in the best interests of your child, and what may be most sensible approach is. If you do not do enough to satisfy Tameside MBC about the sufficiency of education being provided at home it may have no option but to conclude that the education does not meet the S.7 requirement.
- 5.4 Tameside MBC understands that, in the early stages, your plans may not be detailed and you may not be in a position to demonstrate all the characteristics of an "efficient and suitable" educational provision. You may want to ask the local authority for advice and support. A reasonable timescale should be agreed for you to demonstrate that all aspects of your provision in place, but this does not mean that there can be any significant break between the end of formal schooling and the provision of good education at home. Some parents have historically adopted a period of de schooling; this would signify a period in which a significant break in education is evident.
- 5.5 Tameside Officers contact parents within 14 days to arrange an initial visit, a further visit will be made by the Pupil Support Service within the following 12 weeks. Once Tameside MBC is satisfied that your child is receiving a suitable education, further yearly visits will be arranged by telephone, email, or letter. The purpose of the visits is to assess the level of education being provided and to offer advice and support and to signpost families to other agencies if necessary. The Local Authority's Elective Home Education officers are available to provide more frequent support if required.
- 5.6 If Tameside MBC decides it has not had sufficient information about the home education being provided, or has had no information, and it appears to the authority that your child is not receiving a suitable education at home, it must serve a notice (known as a S.437 (1) notice), requiring that you as parents satisfy the authority that the child is receiving a full-time and efficient education at home that is suitable to your child's needs. Again, it would be sensible to respond to such a notice if you receive one; and you will have at least 15 days to respond so that you have time to gather suitable material that you may wish to supply.
- 5.7 The local authority must consider the response, if any, which you make to the notice, in order to decide whether your child is receiving an education which meets your responsibilities under S.7, taking account of any evidence you have provided and any other information it has about the education your child is receiving. If parents make no response at all, then the local authority is entitled to conclude that the child is not receiving a suitable education.
- 5.8 If you fail to satisfy Tameside MBC that your child is receiving a suitable education, and the local authority considers that it is expedient that he or she should attend school, then the local authority has a legal obligation to serve on you as parents a school attendance order (SAO). This will name a specific school and require you to register your child at that school. There are provisions in the Education Act 1996 (sections 438-441).

- 5.9 If an SAO is issued by the local authority it must be complied with, and failure to do so is a criminal offence. If you comply with it and send your child to the school named in the order you can still seek to have your child attend another school. This should be done by requesting a place at that other school; and if that is available, asking the local authority to vary the order and if that request is agreed, sending your child to that school. Alternatively you can seek to have the order revoked by presenting evidence to the local authority that satisfactory arrangements have been made for suitable education to be provided at home, so that your child need not attend any school. If the local authority refuses to revoke the order, you can choose to refer the matter to the Secretary of State to settle the dispute by contacting the Department for Education.
- 5.10 Whether or not you seek to have the order revoked, if you do not comply with it, in the meantime the local authority may prosecute you. It would then be for a magistrates' court to consider the case. If the order has not been complied with, a conviction for non-compliance is inevitable unless you can prove to the court that you are currently meeting your duty under S.7 to provide efficient full-time suitable education.
- 5.11 The court can end the order by directing that the order be no longer in force, if it is satisfied that the parents are fulfilling their S.7 duty, and acquits them; or it may convict the parents of an offence. If parents are convicted, the local authority can apply for a parenting order which carries requirements as to counselling and other conditions designed to reduce the likelihood of a further offence.

#### How does the safeguarding role of the local authority affect parents educating children at home?

- 5.12 Local authorities have a general duty to make arrangements to safeguard and promote the welfare of children (section 175 of the Education Act 2002) in relation to their education functions. This applies equally to children who are being educated at home, as it does to children attending school. This duty does not entitle a local authority to insist on visiting a child's home, or seeing the child, simply for the purposes of monitoring the provision of home education.
- 5.13 As outlined in the sections below, the local authority may decide that circumstances justify applying to a court for an education supervision order or even a care order made under the Children Act 1989. Both of these give the local authority the right to contact with a child. In order to obtain information in preparation for an application for either type of order the local authority may initiate an investigation under S.47 of the Children Act 1989 if it has reasonable cause to suspect a child is suffering, or likely to suffer, significant harm. If this does not yield the information needed, the local authority may ask a court to grant an order under s.43 of the 1989 Act for a child assessment to be made to gather further information in order to determine if the significant harm threshold is met.
- 5.14 In order to apply successfully for a care order, the local authority must show to the satisfaction of the court that the 'significant harm' threshold is met because of the lack of suitable education – this would mean that your child's intellectual and social development was being, or was likely to be, substantially impaired. Lack of a suitable education is capable of being construed as 'significant harm' for the purposes of S.31.
- 5.15 A care order makes the local authority responsible for decisions relating to the education of your child because it becomes the child's corporate parent even if the child continues to live with you as his or her actual parents. If you as parents then frustrated the wishes of the local authority in its role of corporate parent (for example, by physically preventing the child from attending school) then the child can be removed from the family home and put into the direct care of the local authority. Only in the most intractable of cases would this be expected to occur in relation to home education, as opposed to other types of safeguarding concern.

- 5.16 Plainly, it is in the interests of all parties not to let any dispute about a child's education get to the stage described in paragraphs 5.8 – 5.14 above. Informal discussion should enable most difficulties to be resolved, and a willingness to co-operate so as to secure the proper education for your child should be shown by everyone involved.

#### What is the local authority's role if my child has special educational needs?

- 5.17 Under Section 7 of the Education Act 1996 parents have the right to educate children, including children with Special Educational Needs (SEN) at home. Home education must be suitable to the child's age, ability, aptitude and SEN. Local authorities should work in partnership with, and support, parents to ensure that the SEN of these children are met where the local authority already knows the children have SEN or the parents have drawn the children's special needs to the authority's attention. Further information is available in the SEN Code of Practice, which has a chapter on home education.
- 5.18 Parents may educate children who have SEN but do not have an Education Health Care plan (EHC) at home. The local authority should work with parents and consider whether to provide support in the home to help the parents make suitable provision.
- 5.19 Local authorities have power under s.61 of the Children and Families Act 2014 to arrange to make the special educational provision that they consider necessary for a child with special educational needs in the form of education provided at home (e.g medical panel, through tutors), that is not the same as parents deciding to educate the child at home. The latter is not a matter for a local authority to 'arrange'.
- 5.20 Where a child or young person with an EHC is on roll at a mainstream school and the parent decides to home educate, 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. The parent does not need consent from the local authority, although they should be encouraged to engage with the authority before doing so, whenever possible. If the school is a special school, the local authority must give consent for the child's name to be removed, it should be considered whether the home education to be provided would meet the special educational needs of the child, but this should not be a lengthy or complex process.
- 5.21 If you are already educating your child at home and come to later believe that he or she has special educational needs, you can contact the local authority for advice. Parents have the right to request from the local authority a statutory assessment of your child's special educational needs. The local authority must consider the request within the same statutory timescales and in the same way as for all other such requests. (Information can be found on the Tameside's local offer)
- 5.22 Where children have an EHC plan it is the local authority's duty to ensure that the educational provision specified in the plan is made available to your child.
- 5.23 Where the EHC plan gives the name of a school or type of school where the child will be educated and the parents decide to educate at home, the local authority is not under a duty to make the special educational provision set out in the plan provided it is satisfied that the arrangements made by the parents are suitable. The local authority **must** review the plan annually to assure itself that the provision set out in it continues to be appropriate and that the child's SEN continue to be met. Where the local authority has decided that the provision is appropriate, it should amend the plan to name the type of school that would be suitable but state that parents have made their own arrangements under Section 7 of the Education Act 1996.
- 5.24 Where the local authority and parents agree that home education is the right provision for a child or young person with an EHC plan, the plan should make clear that the child or young

person will be educated at home. If it does then the local authority, under Section 42(2) of the Children and Families Act 2014, must arrange the special educational provision set out in the plan, working with the parents. Under Section 19 of the Act, the local authority must have regard to the views, wishes and feelings of the child and his or her parents, or the young person.

- 5.25 In some cases the local authority will conclude that, even after considering its power to provide support to home-educating parents, the provision that is or could be made for a child or young person with an EHC plan does not meet the child or young person's needs. The local authority is required to intervene through the school attendance order framework 'if it appears...that a child of compulsory school age is not receiving suitable education'. The serving of a school attendance order is a last resort if all attempts to improve provision are unsuccessful. 'Suitable education' means efficient full-time education suitable to the child or young person's age, ability and aptitude and to any SEN he or she may have.
- 5.26 The authority will of course continue to check the suitability of the home education as required by sections 436A and 437 of the 1996 Act, and if at any point it considers that the home education is no longer suitable, it must ensure that the special educational provision specified in the EHC plan is made available as well as taking the steps set out above in relation to school attendance.
- 5.27 Local authorities do not have the right of entry to the family home to check that the provision being made by the parents is appropriate and may only enter the home at the invitation of the parents. Parents should be encouraged to see this process as part of the authority's overall approach to home education of pupils with SEN, including the provision of appropriate support, rather than an attempt to undermine the parents' right to home educate. Local authorities should not assume that because the provision being made by parents is different from that which was being made or would have been made in school, the provision is necessarily unsuitable.
- 5.28 Even if the parent is making suitable alternative arrangements by the provision of home education the local authority is still under an obligation to conduct an annual review of the EHC plan, and that should provide an opportunity for parents to seek additional support or discuss alternatives to home education.
- 5.29 Children over compulsory school age may also be educated at home in order to meet the requirements to participate in education and training until the age of 18 years. Local authorities should involve you as parents in reviews of EHC plans of home educated children who are over compulsory school age.

## **6 Safeguarding at home**

- 6.1 You may choose to employ other people to educate your child, although, you will continue to be responsible for the education provided. You will also continue to be responsible for your child's well-being. This means you are responsible for ensuring that anyone you engage to help you provide home education is suitable to have access to children. Some companies or organisations make part-time provision for a significant part of the week to assist parents who educate at home but cannot themselves provide a full-time education. You will therefore wish to satisfy yourself by requesting appropriate references, and checking that any private tutors have a recent Disclosure and Barring Service (DBS) disclosure certificate. Local authorities should encourage you to do this. Many such tutors also work with children attending school and may be able to provide references from other parents who have home educated children and/or children attending school.
- 6.2 Children who are being educated at home sometimes attend other settings to supplement home education. If you wish your child to attend a state or independent school part-time for

this purpose you should discuss this with the school concerned. The school is under no obligation to accept such an arrangement. If your child does undertake this form of 'flexi-schooling', you will need to get absences from school which occur when your child is being educated at home authorised by the school in the same way as parents of full-time pupils do for other planned absence. The school should mark the child in the attendance register as being on authorised absence when not at school.

- 6.3 It is also possible for children aged 14-16 years who are educated at home for most of the time to attend state-funded FE colleges or sixth form colleges on a part-time basis, to receive tuition in specific subjects. If you are interested in this you should contact local colleges to see if it has any such arrangements. Again the college is under no obligation to make such provision.
- 6.4 Some groups of parents who home educate their children come together to support each other and teach their children on a communal basis. There is no reason why this should not take place, but such groups should be aware that if their intended provision will amount to full-time education of five or more children of compulsory school age (or just one if that child has an EHC Plan/statement of SEN, or is 'looked after'), then it may require registration as an independent school. Enquiries on registering as an independent school can be made using the email address given at the end of this document.
- 6.5 A small minority of parents send their children to establishments which despite the registration requirement mentioned in the paragraph above are in fact already operating as unregistered independent schools, providing a full-time education. The proprietors of these settings may be committing an offence, and the settings may be inspected by Ofsted and closed down. If you suspect that a setting you are considering for your child falls into this category you should ask the local authority if it has any relevant information about the setting, or contact Ofsted.
- 6.6 If your child is involved in any of the arrangements described above the local authority will take account of the provision made in assessing whether you as parents are meeting your duty under S.7, and you should ensure that the local authority is aware that you are supplementing home education through attendance at another setting and that you are able to provide information about your child's learning in that setting. The local authority should also take account of attendance at other settings which provide education or instruction on a more specialised basis for a small proportion of the week (e.g. madrassahs, sports clubs, and dance schools). Although such provision will often be marginal to the issue of whether a child is receiving a suitable full-time education, in some circumstances it can help to show that the education is suitable (for example by providing opportunities for physical exercise and development not available at home).

#### Engagement with Enhanced Nursing Team.

- 6.7 Tameside has a duty to ensure that all children and young people who are educated elsewhere have access to the same medical care and intervention as a child in a school placement would receive. This includes engagement with the Enhanced Nursing Service and National Child Measurement Program (NCMP) to ensure that all children and young people have the option to participate in vaccination and measurement programs. When Tameside is notified by a school that a child is being educated elsewhere, information will be shared with Tameside and Glossop Integrated Care Foundation Trust including the name, address, date of birth and parents contact details to enable the nurse to make contact with parents and offer engagement with relevant NHS services.

#### National Careers Service - Positive Steps

- 6.8 Education Welfare works closely with Positive Steps to ensure that all year 10 and 11 pupils are offered a service that would be provided within School. This service provides advice

and guidance on career options, apprenticeships, traineeships and Colleges. Positive Steps will offer a home visit to ensure your child is fully aware of the range of education/ vocational courses available to them.

### Work Experience

- 6.9 children educated at home have no entitlement to participate in work experience under arrangements made by a local authority or schools, but some local authorities may be able to assist the parents of home educated children who wish to pursue work experience through such arrangements. Where home educated children do participate in such schemes, you should ask about the extent they are covered by, for example, the health and safety, child protection and insurance provision made on behalf of school children, often by intermediary bodies, which are necessary to safeguard the child.

### 16 to 19 Bursary Fund

- 6.10 The 16 to 19 Bursary Fund is not payable to young people whose parents elect to home educate them after the age of 16.

### Gypsy, Roma and Traveller Children

- 6.11 Local authorities should have an understanding of and be sensitive to, the distinct ethos and needs of Gypsy, Roma and Traveller communities. If you belong to one of these and move into a new area, you are strongly encouraged to contact the Education Welfare Team for advice and help to access local educational settings if you do not wish to home educate your children. If you do wish to educate your children at home, then the local authority's policies and procedures will still apply to you.

### Children in faith communities

- 6.12 Local authorities should have an understanding of, and be sensitive to, the distinct ethos and needs of children in specific faith communities and be able to take into account the impact that faith has on the home education priorities of parents. You should be able to expect this in your dealings with the local authority. However, faith considerations should not prevent a child from receiving a suitable full-time education, and that will remain the local authority's main concern. It is likely to be helpful if you are able to explain how faith considerations have affected the content of the home education – if that is the case. There is no legal requirement for home education to include any element of teaching about religion or faith.

## **SOURCES OF INFORMATION**

### **Contact details:**

Education Welfare Team, Hyde Town Hall, Market Street, Hyde SK14 1AL 0161 342 3258

Pupil Support Service, Birch Lane, Dukinfield, SK16 5AU 0161 343 8381

SEND, Hyde Town Hall, Market Street, Hyde SK14 1AL 0161 342 4433

### **Examination Boards**

AQA – Aldon House, 39 Heald Grove, Manchester M14 4NA. Tel no 0161 953 1170  
[www.aqa.org.uk](http://www.aqa.org.uk)

OCR – 1 Hills Road, Cambridge, CB1 2EU. Tel no 01223 552552 [www.ocr.org.uk](http://www.ocr.org.uk)

Edexcel – Tel no 08702 409800 [www.edexcel.com](http://www.edexcel.com)

Useful links for resources/information that home education parents may wish to explore:

Ed Yourself [www.edyourself.org](http://www.edyourself.org)

Home Education Advisory Service [www.heas.org.uk](http://www.heas.org.uk)

Special Education Needs SEN Home Education [www.he-special.org.uk](http://www.he-special.org.uk)

Cultural Education Information Christian Home Education [www.homeschool.co.uk](http://www.homeschool.co.uk)

Islamic Home Education [www.islamichomeeducation.co.uk](http://www.islamichomeeducation.co.uk)

Muslim Home Education [www.muslimsandhomeeducation.com](http://www.muslimsandhomeeducation.com)

Gypsy/Traveller Information [www.gypsy-traveller.org/education](http://www.gypsy-traveller.org/education)

Worldwide Education Service [www.weshome.demon.co.uk/teach.html](http://www.weshome.demon.co.uk/teach.html)

Dyslexia UK [www.dyslexia.uk.net](http://www.dyslexia.uk.net)

Parent Partnership [www.parentpartnership.org.uk](http://www.parentpartnership.org.uk)

Other Internet Safety [www.thinkuknow.co.uk](http://www.thinkuknow.co.uk)

Parent Line Plus Tel no 0808 8002222 [www.parentlineplus.org.uk](http://www.parentlineplus.org.uk)

Advisory Centre for Education (ACE) [www.ace-ed.org.uk](http://www.ace-ed.org.uk)

Department for Education [www.education.gov.uk](http://www.education.gov.uk)

National Curriculum & Examination Information Tel no 0300 303 3011 [www.nc.uk.net](http://www.nc.uk.net)

Qualification and Curriculum Authority [www.qcda.gov.uk](http://www.qcda.gov.uk)

Muddle Puddle [www.muddlepuddle.co.uk](http://www.muddlepuddle.co.uk)

Primary Resources [www.primaryresources.co.uk](http://www.primaryresources.co.uk)

BBC [www.bbc.co.uk/learning](http://www.bbc.co.uk/learning)

BBC [www.bbc.co.uk/bitesize](http://www.bbc.co.uk/bitesize)

Channel 4 [www.channel4learning.net](http://www.channel4learning.net)

Education Guardian [www.educationguardian.co.uk](http://www.educationguardian.co.uk)

History [www.schoolhistory.co.uk](http://www.schoolhistory.co.uk)

Open University free online learning [www.open.edu/openlearning.co.uk](http://www.open.edu/openlearning.co.uk) [Receive free statement of participation on completion]

Top Marks [www.topmarks.co.uk](http://www.topmarks.co.uk) [subscription]

Mathletics [www.mathletics.co.uk](http://www.mathletics.co.uk) [subscription]

At School [www.atschool.co.uk](http://www.atschool.co.uk) [subscription]

ICT Games [www.ictgames.com](http://www.ictgames.com)

Education City [www.educationcity.com](http://www.educationcity.com) [subscription]

Khan Academy [www.khanacademy.org](http://www.khanacademy.org)

Ed Place [www.edplace.com](http://www.edplace.com) [subscription]

TES [www.tes.com](http://www.tes.com)