

## BRIEFING NOTE

TO: Children and Young Peoples Scrutiny Committee

### Home Education

*Author: Simon Sims – Acting Head of Service for Education Sufficiency and Access*

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#### 1. Background

- 1.1 The parent of every child of compulsory school age has a legal duty to ensure that he (or she) receives efficient full-time education suitable to his (or her) age, ability and aptitude, and any special educational needs he may have either by regular attendance at school or otherwise (Section 7 of the Education Act 1996). Some parents decide, as they are entitled, to provide suitable education by educating their children at home.
- 1.2 An 'efficient' and 'suitable' education is not defined in the Education Act 1996 but definitions have been provided within case law, where 'efficient' has been broadly defined as an education that "achieves that which it sets out to achieve" and a 'suitable' education is one that "primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so".
- 1.3 There is no legal definition of full time education. Children in school normally spend between 23 and 25 hours engaged in education each week. Children in home education are often taught in very different conditions and there is no direct comparison with school based timetables or educational arrangements.
- 1.4 There is no compulsory requirement to register children educated at home; however, when parents withdraw their child from school to be home educated, and the child is of compulsory school age, the name of the child can only be deleted from the admissions register when the parents inform the school in writing. It is then the duty of the school to inform the local authority as soon as the grounds for deletion are met.
- 1.5 Local authorities have a duty under the Education and Inspections Act 1996, amended by EIA 2006, to establish the identity of children who are of compulsory school age and not receiving education.
- 1.6 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.
- 1.7 Although children and young people with statements of special educational needs can be home educated, the local authority remains responsible for ensuring that the child's needs are met. The statement or Education Health Care Plan (EHCP) must stay in force and be reviewed annually. The local authority must ensure that parents can make suitable

provision, including providing for their child's special educational needs. If the parent's arrangements are suitable, the local authority is relieved of its duty to arrange the provision directly, but it still remains the duty of the local authority to ensure the child's needs are met.

- 1.8 In line with the statutory requirements and most other local authorities, our policy regarding Home Education was previously reactive. Investigations regarding suitability would only be carried out where concerns had been highlighted, however, during the 2015-16 academic year, shortly after responsibility for 'Home Education' was brought under the remit of the Sufficiency and Access Service, MKC took a more proactive stance to ensure vulnerable children were identified, safeguarded and supported. The Children Missing Education Team was created within the Sufficiency and Access service in April 2016, in order to progress this work, as part of their wider remit to support vulnerable children to access education. The policies and processes regarding Home Education have been reviewed and updated as a result of this.

## **2. Current Position**

- 2.1 A Home Education guide setting out the legal position, roles and responsibilities of parents and the local authority, which complies with national guidance was produced and is available on the council website.
- 2.2 A contact line is available to parents (via Education Access enquiry line) to ensure parents who are looking to withdraw their child can receive high quality advice and guidance regarding the implications and reasons / underlying issues before they make a decision.
- 2.3 Processes have been established for schools to notify us immediately where any child is withdrawn to be home educated. As part of the referral process schools are prompted to refer any safeguarding concerns directly to MASH. This process includes the requirement for the school to complete a Child Sexual Exploitation toolkit.
- 2.4 Robust processes have been implemented to investigate suitability of the home education. A pro-forma has been developed to support the parent to evidence that the arrangements are suitable. A completed pro-forma is reviewed by a qualified teacher. A home visit is carried out if the information provided is insufficient and we have concerns of an unsuitable home education. If after chasing, and the pro-forma is not returned, or the parent does not engage with the home visit, a legal referral is made to commence school attendance order. For children and young people with EHC Plans, a specialist teacher will visit prior to the plan to gain pupil voice and discuss provision. This then contributes to the annual review lead SEN Caseworker. We will progress a Statutory Attendance Order if we do not receive sufficient evidence, and the parent does not choose to return the child to school.
- 2.5 There is strong collaboration across our teams to support children and young people being home educated. Throughout the notification / suitability checking process we link and work with other professionals that are involved with the family. A MASH referral will be made if any safeguarding concerns are raised throughout the process.
- 2.6 An annual review of the suitability of home education is carried out to ensure it continues to be suitable for the child's changing age, ability and aptitude.
- 2.7 Processes have been established to ensure that children can promptly return to school if required. The local Fair Access protocol is used to identify and name a school place, and the parent is notified that they are required to attend. The parent will be prosecuted if the child does not attend the identified school.

- 2.8 Secondary schools have determined, through co-production of policies that children withdrawn for home education who subsequently re-apply for a school place are required to return to their previous school. This has helped to contain the number of children being withdrawn to be home educated from the secondary sector, and helps to focus discussions between parents and schools about any underlying issues or concerns. Schools can seek to arrange a 'managed move' where a change of school is considered appropriate.
- 2.9 At the end of January 2019 280 children of statutory school age were being home educated in Milton Keynes. This includes 16 children with an EHCP and represents 0.65% of the school age population. There is an even gender split with 137 home educated boys and 143 girls. 93 are primary age children and 187 are secondary age, as detailed in the table below.

| Year Group | R | 1  | 2 | 3  | 4  | 5  | 6  | 7  | 8  | 9  | 10 | 11 |
|------------|---|----|---|----|----|----|----|----|----|----|----|----|
| Boys       | 2 | 13 | 6 | 10 | 11 | 7  | 5  | 12 | 14 | 15 | 17 | 25 |
| Girls      | 3 | 0  | 2 | 9  | 2  | 13 | 10 | 11 | 14 | 21 | 29 | 29 |
| Total      | 5 | 13 | 8 | 19 | 13 | 20 | 15 | 23 | 28 | 36 | 46 | 54 |

Home Educated Children in MK at 31 January 2019

- 2.10 The development of these processes has had a significant impact on the number of home educated children returning to school. The table below shows increasing numbers of children returning to school each academic year. In 2018/19 67 children have returned to school between 1 September and 31 January 2018 compared to 39 by January 2018, which shows a continued increase.

|  | 2014/15 | 2015/16 | 2016/17 | 2017/18 | 2018/19 |
|--|---------|---------|---------|---------|---------|
| No. children returned to school following contact from CME team. | 30      | 42      | 63      | 94      | 67*     |

\*as at 31 January 2019

- 2.11 Despite increasing numbers of home educated children returning to school, the number of home educated children has continued to rise slightly due to a continued increase in the number of children being withdrawn for home education each year (see table below). The top 3 reasons provided by parents in 2017/18 for withdrawing their children (other than 'parental preference') were 'Emotional Anxiety', 'Special Educational Needs', and 'Bullying'.

|         | No. of Home Educated Children in September (% of cohort) | No. of withdrawals to home education during the academic year |
|---------|--|---|
| 2014/15 | 182 (0.46)   | 99  |
| 2015/16 | 188 (0.46)   | 150   |
| 2016/17 | 201 (0.49)   | 140   |
| 2017/18 | 203 (0.48)   | 195   |
| 2018/19 | 251 (0.59)   | 84*   |

\*as at 31 January 2018

- 2.12 Comparative data for home education is not readily available; however, a survey of 118 local authorities, carried out for the Association of Directors for Children’s Services in October 2017 stated 92% of respondents reported year on year increases in the number of children and young people being home schooled. In addition, a Freedom of Information request carried out by Schools Week in July 2017 reported that across the 86 local authorities that responded, the number of children and young people being home educated had increased by 37% between 2014/15 and 2016/17. This indicates that the rate of increase in Milton Keynes appears to be significantly less than in other areas.
- 2.13 Positive feedback was provided by Ofsted following the Safeguarding Inspection in 2016. Inspectors noted “Changes in the spring of 2016 in the arrangements to identify and track children missing education, and to monitor electively home-educated (EHE) children, have promoted better communication and more effective joint working between the local authority, schools and other agencies. The children missing education team works closely with the virtual school and the case holding social work teams.
- 2.14 MKC Internal Audit carried out a review of Home Education in July 2017. The ‘Adequacy of system’ was judged to be Good, and ‘Compliance’ was judged to be Satisfactory, as it was identified that there were sometimes delays in chasing parents and progressing follow up actions due to capacity of resource.
- 2.15 Home Education numbers, policies and processes in Milton Keynes were also reviewed by Ofsted Inspectors in October 2018 as part of the SEND Area Review - no concerns were identified.

### **3. What Next / Future Developments**

- 3.1 We would always want the decision for children and young people to be home educated to have been made as a positive choice and not because parents feel they have no alternative. The Educational Psychology Team has carried out a review of evidence for effective identification and support for children and young people with school refusing behaviours, with a view to promoting preventative evidence-based approaches. A working group has been set up to consider the evidence and share good practice, which will contribute to guidance for use in schools.
- 3.2 In addition we will continue to work with schools to co-produce policies that help deter parents from withdrawing their children to be home educated, where it is not appropriate to do so, and support schools to work with children and their parents to identify and address any underlying issues.

3.3 The Department for Education wrote to local authorities in a 'call for evidence' to consider current legislation and guidance regarding home education. As part of this, a requirement for compulsory registration of all home educated children, and giving local authorities the legal duty (and therefore right) to monitor home education to ensure it is suitable, and to further safeguard children is being considered. We will continue to monitor the progress of this review, and consider how our current processes may change as a result.

#### **4. Conclusions**

4.1 Parents have a right to educate their children at home, without a requirement to notify the local authority, unless the child is being withdrawn and therefore deleted from a school roll

4.2 Local authorities have no legal duty to monitor the quality of home education on a routine basis, but shall intervene if it appears that parents are not providing a suitable education.

4.3 We provide advice and guidance to parents regarding the roles and responsibilities for home education, and have implemented robust policies and processes with key stakeholders to identify children being withdrawn from a school roll, and have investigated the suitability of the home education arrangements. Processes have been developed to ensure children can promptly return to a mainstream school where required.

4.4 In line with the national picture, there has been an increase in the number of children being withdrawn from schools to be home educated, with parents largely sighting the school's inability to deal with issues as the reason for withdrawal. The increase in the number of home educated children in Milton Keynes does not appear to be as significant as in many other areas, due to the increasing effectiveness of local processes at investigating suitability and supporting children to return to school where appropriate.

4.5 Further work is underway to identify children at risk of being inappropriately withdrawn for home education, and to work in collaboration with schools to reduce this trend in the future but the service continues to seek views as to how we are best able to support parents in making the best choices for their children.

#### **Annexes as appropriate**

Annex A - Milton Keynes Council Home Education Policy Graphic

Annex B - Home Education Suitability Pro-forma (Planned Programme of Education)