

Elective Home Education Policy and Practice Suite Trafford Practice and Principles 2022

Current named EHE officer: Michael McLaughlin

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Trafford EHE Principles and Protocols

The key principles:

1. All children, regardless of their circumstances, are entitled to an efficient, full time education which is suitable to their age, ability, aptitude and any special educational needs they may have.
2. Parents have a duty to ensure that their children of compulsory school age are receiving suitable full-time education.
3. Some parents may elect to educate their children at home and may withdraw them from school at any time to do so, unless they are subject to a School Attendance Order.
4. Where a parent notifies the school in writing that they are home educating, the school must delete the child's name from the admission register and inform the local authority.
5. Children with Education, Health and Care (EHC) plans can be home educated.
 - Where the EHC plan sets out SEN provision that the child should receive at home, the local authority is under a duty to arrange that provision.
 - Where the EHC plan names a school or type of school as the place where the child should receive his or her education but the parent chooses to home educate their child, the local authority must assure itself that the provision being made by the parent is suitable.
 - In such cases, 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.
6. Schools should not seek to persuade parents to educate their children at home as a way of avoiding an exclusion or because the child has a poor attendance record.
7. Every Local Authority has a duty to intervene where it appears that a child is not receiving a suitable education.
8. Every Local Authority has a duty to safeguard all children living in that area.

The majority of children who are home educated are receiving a suitable education and are cared for well. Occasionally families turn to EHE due to their circumstances. Some of those parents will be well equipped to educate their children to a suitable level, some will not. Where a family has turned to EHE because of other situations and feel out of their depth, we will try to offer advice, guidance and signpost to support, so that parents have an opportunity to either develop the EHE or find the best outcome for their child if this isn't to be the case.

Where we have requested information about a child's education to satisfy our duty to ensure that every child is receiving a suitable education, and none is forthcoming, we have no alternative other than to follow the DfE flowcharts at the end of this document. Where wider safeguarding duties are involved, we would make appropriate referrals if necessary.

Diversity and equality

We recognise that:

- parents' education provision will reflect a diversity of approaches and interests. Some parents may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to school hours and terms. Other parents may decide to make more informal provision that is responsive to the developing interests of their child. One approach is not necessarily any more efficient or effective than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, Trafford will not specify a curriculum or approach which parents must follow.
- parents from all educational, social, linguistic, religious and ethnic backgrounds can successfully educate children outside the school setting. These factors should not in themselves raise a concern about the suitability of the education being provided.
- Children learn in different ways and at different times and speeds and Equ appreciate that parents and their children may require a period of adjustment before finding their preferred mode of learning and that families may change their approach over time

We will not expect parents to have any qualifications or training to provide their children with a suitable education.

We will not assume that home education is any less likely to be successful when carried out by people with a particular protected characteristic; but equally the fact that a family has particular protected characteristics should not deter the local authority from taking action to secure a suitable education for a child who is not receiving suitable education at home.

There are no detailed legal requirements as to how a Local Authority oversight of Elective Home Education should work, and it is for each local authority to decide what it sees as necessary and proportionate to assure itself that every child is receiving a suitable education, or action is being taken to secure that outcome.

We believe that an open and transparent approach with families is the best way to establishing a positive relationship between the local authority and the home-educating parent. This allows us to better understand parents' educational provision and preferences and offer them appropriate support. It also provides a sound basis for investigation if the authority receives information that a suitable education is not being provided.

It would be unrealistic to make a judgement about the suitability of home education provision only a few days after it is started, but there should be no significant period in which a child is not receiving suitable education, other than reasonable holiday periods at appropriate points. Families should be aiming to offer satisfactory home education from the outset, and to have made preparations with that aim in view. In such cases, we will agree a reasonable timescale for the parents to develop their provision.

2. Our practice:

We will:

1. Provide parents with a named contact who is familiar with home education policy and practice and has an understanding of a range of educational philosophies;
2. Ordinarily make contact with home educated parents on at least an annual basis so the authority may reasonably inform itself of the current suitability of the education provided. In cases where there were no previous concerns about the education provided and no reason to think that has changed because the parents are continuing to do a good job, such contact will often be very brief;
3. Have a named senior officer with responsibility for elective home education policy and procedures, and the interaction with other work on issues such as children missing education, unregistered settings, vulnerable children, and welfare;
4. Organise training on the law and the diversity of home education methods for all officers who have contact with home-educating families, possibly in conjunction with other authorities;
5. Ensure that those LA staff who may be the first point of contact for a potential home-educating parent understand the right of the parent to choose home education. It is very important that parents are provided with accurate information from the outset to establish a positive foundation for the relationship. However, parents are under no obligation to accept support or advice from a local authority, and refusal to do so is not in itself evidence that the education provided is unsuitable;
6. Work co-operatively with other relevant agencies such as health services to identify and support children who are being home educated, within the boundaries established by data protection and other legislation
7. Recognise that there are a variety of methods employed to achieve a suitable education and Elective Home education may include flexi-schooling, some attendance at college or other alternative provision or tutoring.

We have a webpage with information and links to resources and parents can contact our named EHE Officer, via 0161 912 4810 or e-mail ehe@trafford.gov.uk

Our procedures:

Where it is not clear if education is suitable we will usually follow the steps below:

Step 1: On becoming aware of a child being educated at home, we will send out a welcome pack and our questionnaire which asks parents for detailed information about the education they are providing. In many cases, this allows the situation to be resolved, either by evidence 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.)

Step 2: 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 Trafford to conclude that the child does not appear to be receiving suitable education and we will then move to Step 3.

Step 3: In order to ensure that the family have received any enquiries, Trafford will follow up any unanswered e-mail/postal enquiries. In the first instance this would be with a letter addressed to 'The resident' and using any other contact details we may have. A letter may also be sent by recorded delivery. If there is still no response, staff will make a visit to the home to establish residency.

Step 4: 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), we will initially attempt to resolve those doubts through informal contact and enquiries. *(An authority's s.436A duty and that under s.437, forms sufficient basis for informal enquiries. Furthermore, s.436A creates a duty to adopt a system for making such enquiries.)* This may include a request to meet the parent and child, either in the home or in another location or online. But the parent 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 can in some circumstances justify service of a notice under s.437(1).⁸

Step 5: At the point that education is not deemed to be suitable, the Elective Home Education Officer will refer the child to the multi-agency Children Missing Education Panel (CME) who will then follow the relevant processes which may result in the issuing of a School Attendance Order.

Step 6: If informal contacts do not resolve the position, then Trafford will have no option but to serve a notice in writing on the parent requiring them to satisfy us within the period specified in the notice that the child is receiving such education.

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

The 1996 Act provides a framework for formal action to ensure that a child does receive suitable education. Under s.437(1) of the Education Act 1996, local

authorities must act 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."

Local authorities considering whether they should serve a s.437(1) notice in a specific case should note that current case law means that a refusal by parents to provide any information in response to informal enquiries will in most cases mean that the authority has a duty to serve a notice under s.437(1). This is because where no other information suggests that the child is being suitably educated, and where the parents have refused to answer, the only conclusion which an authority can reasonably come to, if it has no information about the home education provision being made, is that the home education does not appear to be suitable.

Step 7: After considering any response, and considering any other relevant information, Trafford may serve a School Attendance Order requiring the child to become a registered pupil at a school named in the order if:

- (a) A parent on whom a notice has been served under subsection (1) fails to satisfy the local authority, within the period specified in the notice, that the child is receiving suitable education, and
- (b) In the opinion of the authority it is expedient that the child should attend school,

Trafford takes a collaborative approach and recognises the diversity of EHE styles. We will take a variety of evidence into consideration when making a decision as to suitability and record our decision-making process.

3. Safeguarding: the interface with home education

All Trafford officers have a statutory duty to safeguard and promote the welfare of all children resident in Trafford under Section 175 (1) of the Education Act 2002 and under the statutory guidance 'Working Together', December 2020. Officers are of the firm belief that just because a parent exercises their right to home educate does not mean that the child is at any more risk than a child accessing school. It is though acknowledged that reduced sight from professionals may leave some more vulnerable children at a greater risk of harm.

Trafford First Response (TFR) is the entry point for any safeguarding concerns, officers may also seek advice and guidance from specialists including practitioners across other services including health and SEN.

Parents are advised to take up appropriate references and ensure that any tutor used has a reasonably recent Disclosure and Barring Service (DBS) disclosure certificate. Tutors employed by a local authority, a school, or an agency may also undertake work for home-educating parents, in which case DBS checks ought to have been made already and parents should confirm whether this is so with the body supplying the tutor.

School age children that are not receiving a suitable education will predominantly be responsibility of our Children Missing From Education Case Work which sits with our Pupil Absence Team.

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

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

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

Trafford School Attendance Orders

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

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

If the school named in an order which is made is an academy, and the academy does not agree with this, a direction may be sought from the Secretary of State.

In some rare cases officers may reasonably take the view that an SAO is not in the best interests of the child:

1. If the child is within a few weeks of ceasing to be of compulsory school age.
2. If the child has physical, medical or educational needs leading to extreme vulnerability in a school setting - and the local authority should then consider alternatives such as tuition provided by the authority itself;
3. The parent is actively working with the authority to improve the home education and seems likely to achieve suitability within a very short time.

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

If the child continues to be considered CME Under s.447(1) of the 1996 Act, Trafford can consider prosecuting a parent for non-compliance with a school attendance order must in any case consider, either as an alternative to prosecution or as well as prosecution, making an application for an Education Supervision Order. The Court will decide whether or not the education being provided is suitable, full-time and efficient. The court can direct that the order shall cease to be in force if it is satisfied that the parent is fulfilling his or her duty. The Court has the power to issue a Parenting order if further non-compliance of the SAO occurs.

4. Education Supervision Orders

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

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

Trafford has a duty, if an ESO is made, to give 'due consideration' to the 'wishes and feelings' of the child and the parent(s); and this might result in improved home education.

An ESO imposes a duty on parents to allow Trafford Council (the supervisor) reasonable contact with the child, though this need not necessarily be at the child's home - unless the court imposes a visit at home as a specific condition of the order. Persistent failure to comply with direction given under an ESO is an offence unless the parent can show that he has taken all reasonable steps to comply, or that the direction is unreasonable. But in such cases the authority should be prepared to first make clear to the parents that the result of this may be an application to the court for a care order under s.31 of the Children Act 1989.

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

5. Home-educated children with special educational needs (SEN)

A parents' right to educate their child at home applies equally where a child has SEN. This is irrespective of whether the child has a statement of special educational needs or an Education, Health and Care Plan (EHC plan), or neither. Trafford may have no knowledge of a child's special educational needs if the family has not sought assessment or support. However, under S.22 of the Children and Families Act 2014, we will try to identify all children in Trafford who have SEN and this includes home-educated children. Trafford officers will ask parents about any Special Educational Needs when they first become aware of a child being educated at home and will liaise with SEN colleagues where appropriate. The EHE Officers work closely with SENAS, EHCP and other Officers, to ensure all children with additional needs can access support.

We would expect parents to raise any concerns or seek advice where they feel that their child may have some additional needs. This could be by contacting the EHE Officer, SENDIASS ([link](#)) or Trafford SENAS ([link](#)).

Trafford Officers will have regard to the statutory guidance in when carrying out SEN functions and will work in partnership with parents to fulfil our statutory duties towards children and young people with SEN or disabilities in the light of this guidance.

Paragraphs 10.30 – 10.38 of the Special Educational Needs Code of Practice contain information about SEN in relation to home education.

Educating a child at home who has special needs can be more difficult than for other children. We will do our best to ensure that when children with special educational needs are being educated at home, the full range of powers available are used to ensure that the education is suitable and remains so; and that their assessment of this is properly linked with the process of keeping special needs provision under review.

When a child has a EHC plan, it is the local authority's duty to ensure that the educational provision specified in the plan is made available to the child - but only if the child's parents have not arranged for the child to receive a suitable education in some other way. Therefore if the home education is suitable, the local authority has no duty to arrange any special educational provision for the child; the plan should simply set out the type of special educational provision that the authority thinks the child requires but it should state in a suitable place that parents have made their own arrangements under s.7 of the Education Act 1996. 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.

Where a child is attending a special school under arrangements made by the local authority, the local authority's consent is necessary for the child's name to

be removed from the admission register. This should not be a lengthy or complex process and consent will not be withheld unreasonably. Officers will consider whether the home education to be provided would meet the special educational needs of the child, and if it would, will give consent. However, that consideration will take into account the additional difficulties of providing education at home to a child whose special educational needs are significant enough to warrant a place at a special school. There is no equivalent requirement for children with an EHC Plan who attend a mainstream school; the parents of a child may withdraw him or her without the local authority's consent, although they should be encouraged to engage with the authority before doing so, whenever possible.

Trafford SEN Officers do not have a right of entry to the family home to check that the provision being made by the parents for a child with special educational needs is appropriate, and may only enter the home at the invitation of the parents. However, we would hope that parents will work in partnership to enable the provision of appropriate support which should not attempt to undermine the parents' right to home educate. Trafford Officers will 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.

Although local authorities have power under s.61 of the Children and Families Act 2014 (as described above) 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 (eg through tutors), this is not the same as parents deciding to educate the child at home and is not a matter for a local authority to 'arrange'. If Trafford offers the special education provision that it considers necessary and appropriate for a child (whether at a school or other education setting or at home) but the child's parents choose to make their own arrangements rather than taking up that offer, the local authority has no duty to then assist the parents with the costs they incur. We will, however, give reasonable consideration to any request for assistance.

Direct support to the parents, if given at all, will relate only to costs incurred by parents as a result of the special needs of the child, insofar as these can reasonably be identified. Costs which would be incurred anyway by the parents in providing home education even if there were no special needs (for example the cost of day-time heating), should not be funded, in line with the general position that parents who choose to educate children at home bear the financial responsibility for doing so, since a state school place (or state-funded place) is available for the child.

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

The consideration of suitability may well be more complex and we may need to draw on a wider variety of information, for example educational psychologist

reports. The naming of a school in the order will conform with the provisions of s.441.

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

A child's name cannot be added to its admission register without the parent's agreement and it is up to the child's parent whether to arrange for the child to be registered as a pupil at the school, and if the parent does not, Trafford Officers should then consider whether a s.437(1) notice, and in due course a school attendance order, should be issued.

Information about the right to request an EHC needs assessment and the right to appeal. Where parents feel that a school has not made suitable provision for their child, the authority should be ready to help explore with parents and the school the extent to which additional support can be put in place at the school even if initial efforts to secure this have not worked.

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.

Young people may also be educated at home in order to meet the requirements to participate in education or training until the age of 18. Local authorities should involve parents, as appropriate, in the reviews of EHC plans of home educated young people who are over compulsory school age.

6. Gypsy, Roma and Traveller Children

Trafford is sensitive to the distinct ethos and needs of Gypsy, Roma and Traveller communities. It is important that these families who are educating their children at home are treated in the same way as any other families. When a Gypsy, Roma and Traveller family with children of school age move to Trafford we strongly encourage families to contact the admissions team for help to access local educational settings if school places are desired or the EHE Officer if families wish to continue or begin home educating.

7. Looked-after children

Trafford is acting as the corporate parent of looked-after children and recognises that we assume the duties of parents under s.7 of the 1996 Education Act to ensure that the child receives a suitable full-time education; this also applies where such children are placed by other authorities in Trafford and we should take the same steps to ensure that the child is not missing education as they would for any other child resident in their area. It is legally possible for a looked-after child to be educated at home (for example

by foster carers) if the local authority as corporate parent decides this is appropriate after discussion with the carers.

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

8. Children who have a Social worker

Sections 10 and 11 of the Children Act 2004 give local authorities general duties for promoting the well-being and (in relation to their non-education functions) safeguarding and promoting the welfare of children in their areas. This includes children educated at home as well as those attending school. Section 175 of the Education Act 2002 requires authorities to make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting children's welfare. Therefore the general duties of local authorities in relation to safeguarding are the same for all children, however they are educated. Social services teams in local authorities and those dealing with home education should take steps to ensure that relevant information on individual children is shared.

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

The Virtual School has a role in promoting the education of children who have ever had a Social Worker and can be contacted for information, advice and guidance <http://www.traffordvirtualschool.com/>

9. Suitability

Section 7 of the 1996 Act requires parents to provide an efficient, full time education suitable to the age, ability and aptitude of the child and any special educational needs which the child may have.

A suitable education

Trafford will not set rigid criteria for suitability which have the effect of forcing parents to undertake education in particular ways, but will use the DfE guidance on suitability to base any decisions.

An efficient education

An efficient education is one which achieves what it sets out to achieve. It is important this concept is not confused with suitability. A wholly unsuitable education can be efficiently delivered – but would still be unsuitable.

A full time education

Although there is no need for home education to replicate school timetables, in state schools, children of compulsory school age normally receive around 4.5-5.0 hours of education a day, for about 190 days a year. However, in home education there is often continual one-to-one contact; education may take place outside normal 'school hours' and term time, and the type of educational activity can be varied and flexible.

Local authorities should be enabled by parents to assess the overall time devoted to home education of a child on the basis of the number of hours per week, and weeks per year so that this information can be set alongside that relating to suitability to ensure that the home education meets the requirements of section 7.

As with suitability, the issue as to whether education is 'full-time' should be viewed on a spectrum but education which manifestly 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.

The Rights of the Child

Article 12 of the United Nations Convention on the Rights of the Child (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. Trafford will take the views of the child into consideration when assessing suitability (see document)

FOR MORE DETAIL ON THE FOLLOWING SECTION, PLEASE REFER TO THE DfE EHE GUIDANCE FOR LA'S

[Elective home education: departmental guidance for local authorities \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/671122/elective-home-education-departmental-guidance-for-local-authorities.pdf)

9. Disputes between parents

Trafford Officers will follow the DfE EHE guidance ([link](#)) where there is parental disagreement around educating a child at home.

10 Pressure exerted by schools on parents

Schools should not seek to persuade parents to educate their children at home as a way of avoiding an exclusion or because the child has a poor attendance record but should seek to address the issues behind the behaviour or absenteeism and use the other remedies available to them.

Trafford will seek to reach agreements through schools forums which discourage pressure on parents to educate children at home, and will address this issue directly in discussion with relevant schools. We will also consider following guidance to inform Ofsted of schools where off-rolling appears to be happening on a significant scale so that this can be looked into at the school's next inspection.

11 Flexi-schooling, and college attendance

Parents may request part-time provision at school as part of a child's education. However, schools are not obliged to accept such arrangements if requested by parents. (Schools should see DfE guidance [link](#) for more information regarding register coding.)

12 Unregistered settings

Trafford will follow DfE guidance relating to unregistered settings Please see DfE guidance

Some unregistered independent settings meeting the criteria for registration are operating illegally and Trafford Council should report such settings. It is not illegal for parents to send their children to such settings simply because the setting itself is operating unlawfully; but such a setting may not be meeting the educational standards required of registered independent schools and so by sending the child there, a parent may be failing to ensure the child is receiving a suitable education.

13 Support for home educators

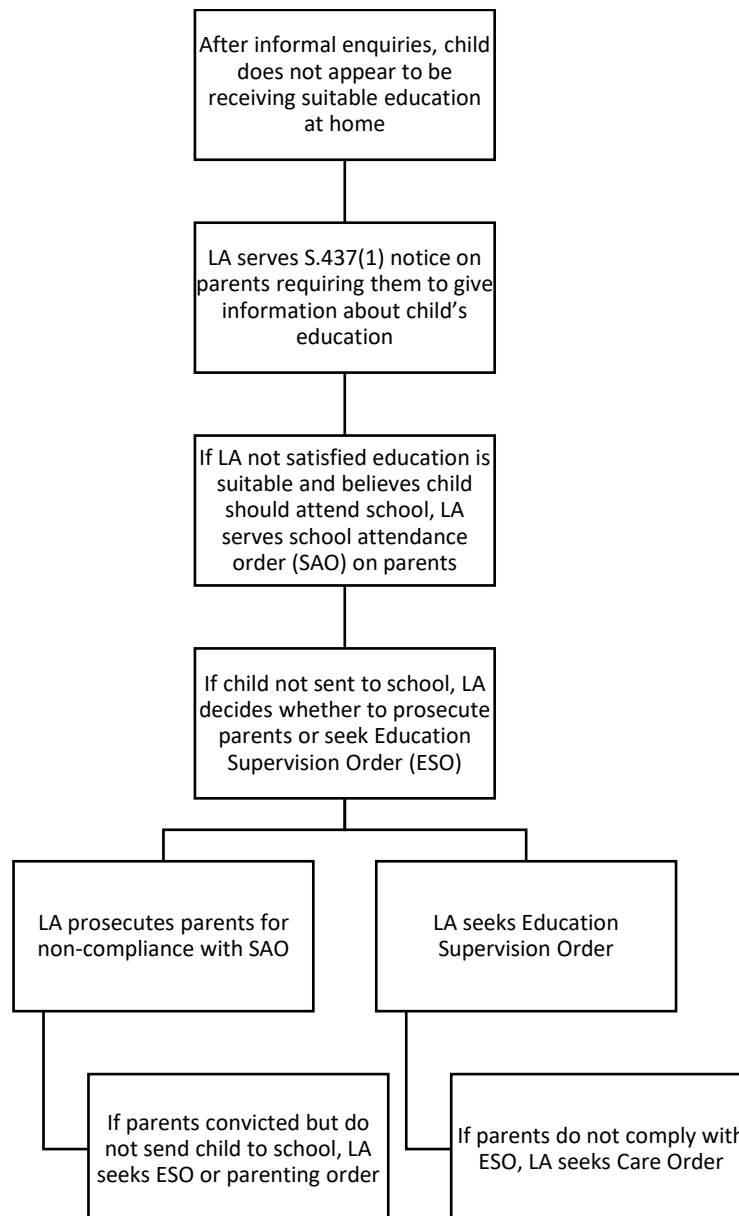
When parents choose to home educate their children they assume financial responsibility for their children's education. This, and the time involved in educating a child properly at home, form an onerous challenge for many parents.

Local authorities do not receive funding to support home-educating families (except in relation to high needs SEN). We will adopt a consistent, reasonable and flexible approach and will provide written information (which is also available through the internet) on elective home education that is clear and accurate and which sets out the legal position. Our policies, guidance and links to other resources are available at www.trafforddirectory.co.uk/ehe.

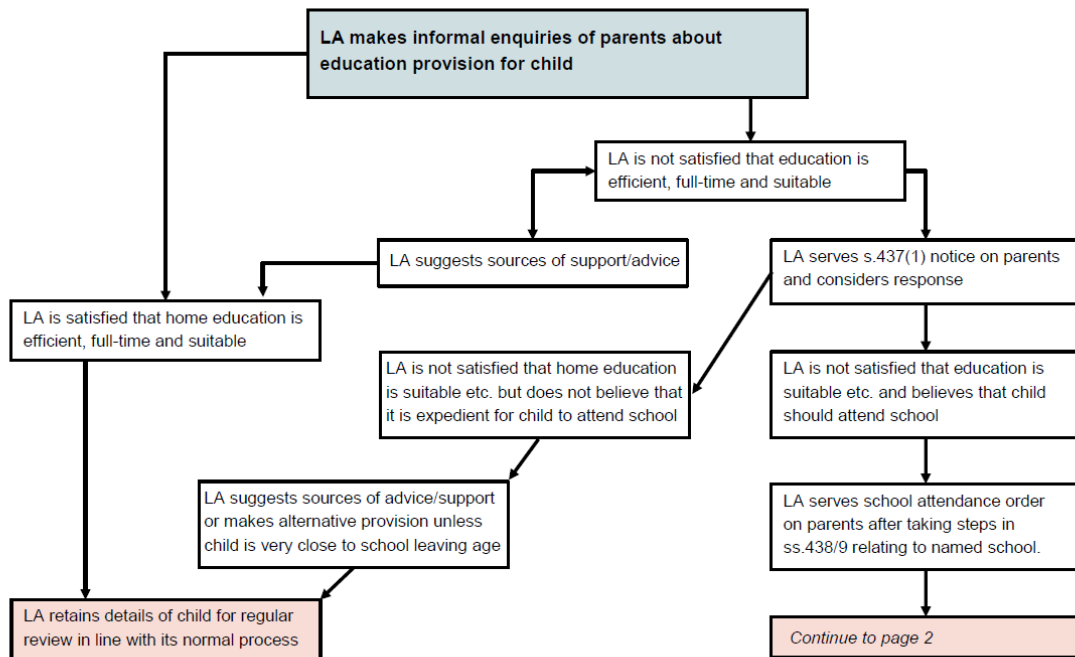
14.FLOW CHARTS

Summary flow chart

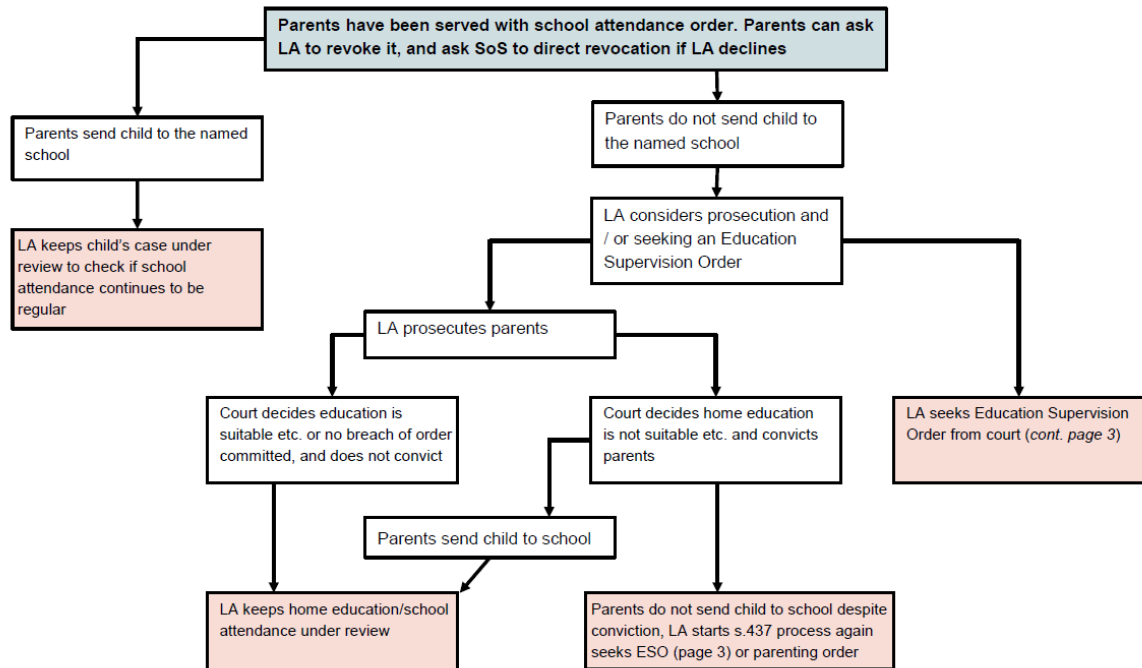
This chart summarises the more detailed flow charts inserted at the end of this guidance document by showing the main features of the legal options open to a local authority if it is satisfied that a child is not receiving a suitable education at home



Flow chart 1



Flow chart 2



Flow chart 3

