



**16 January 2024**

**Agenda Item: 10**

## **REPORT OF THE CHAIRMAN OF THE CHILDREN AND FAMILIES SELECT COMMITTEE**

### **OUTCOMES OF THE SCRUTINY REVIEW OF THE DRAFT ELECTIVE HOME EDUCATION POLICY 2023**

#### **Purpose of the Report**

1. To share the findings arising from the scrutiny task and finish review of the draft Elective Home Education Policy with the Children and Families Select Committee.
2. To seek the Select Committee's endorsement for the review's recommendations to be submitted to the Cabinet Member for Education and Special Educational Needs and Disabilities for their consideration.

#### **Information**

3. At the meeting of the Children and Young People's Select Committee (now known as the Children and Families Select Committee) held on 10 October 2022, Members received a report that provided information on the current position of Elective Home Education (EHE) within Nottinghamshire. The report set out the legal rights of parents to withdraw a child from school and for themselves to provide a suitable education for their child. The report also included the number of children in receipt of EHE in Nottinghamshire and the support offered to these children and their families by the Council. The current EHE Policy has been in place since November 2019. As part of their consideration for this item, the Committee agreed:

***“That members of the Committee be involved in the review of the Council's Elective Home Education Policy that is scheduled to take place during 2023”.***

#### **Scoping the Review**

3. Subsequently work was carried out to “scope” the review. This work was carried out by the Chairman of the Children and Families Select Committee, in consultation with the Service Director - Education Learning and Inclusion and the Group Manager for Education Access Standards and Safeguarding. This work identified the key objectives for review as well as setting out the strategic context in which the issues involved would be considered.

4. The following key lines of enquiry were identified:

- Did the draft policy support the delivery of its stated objectives of:
  - Ensuring that the Council has clear and consistent procedures for working in partnership with parents who choose to electively home educate their children and discharge its statutory duties in relation to the education of all children living within Nottinghamshire.
  - Giving parents who are considering removing their child from school to home educate them, the opportunity to fully explore the implications, and to assist them in making an informed decision that is an active and positive step in the best interests of their child.
- How did the policy link into existing processes to ensure that effective safeguarding procedures were in place for children being educated out of the school system.
- In addition to Department for Education guidance and the related legislation and regulations as detailed in the draft policy, had best practice and benchmarking information been used to inform the development of the refreshed policy?

5. At the meeting of the Children and Families Select Committee held on 16 October 2023, Members considered and approved the review scope for the scrutiny review of the revised the Elective Home Education Policy.

### **Links to Council Priorities - The Nottinghamshire Plan 2021 – 2031**

6. The Nottinghamshire Plan 2021 -2031 is an ambitious plan for the County Council that sets out the Council's strategic vision for the future of Nottinghamshire and the local authority. The activity in the Nottinghamshire Plan is built around achieving a bold 10-year vision for a 'healthy, prosperous and greener future for everyone'. This vision is supported by nine ambitions which will act as a framework for all County Council activity. The scoping of the review identified that the review would support the following ambitions that supported the overall vision of the Plan:

- Supporting Communities and Families
- Keeping children, vulnerable adults and communities safe
- Building skills that help people get good jobs.

### **The Review Process**

7. An information gathering and review meeting took place on 20 December 2023 which involved the following Members of the Children and Families Select Committee and Officers:

Councillor Mike Introna – Chairman  
Councillor Anne Callaghan BEM  
Councillor Debbie Darby  
Councillor Mike Quigley MBE  
Councillor John Lee

Martin Elliott – Senior Scrutiny Officer

Karen Hughman - Group Manager for Education Access Standards and Safeguarding

James Lavender – Democratic Services Officer

Peter McConnochie - Service Director - Education Learning and Inclusion

8. In advance of the review meeting, members were provided with the draft EHE policy for their consideration.
9. At the review meeting members received a presentation that provided detailed information on:
  - The responsibilities of parents who opted for their child to receive a home education, as outlined in Section 7 of the Education Act 1996.
  - A definition of EHE and the differences between that and flexi-schooling, where parents opt to send their child to school for part of a week and then educate them at home for the remainder of the week.
  - The current national context, which was that the number of EHE children had risen from 37,500 in 2016 to 81,196 in 2021, partly due to the ongoing impact of the COVID-19 pandemic. The Department for Education (DfE) published aggregate data on EHE which was request from Local Authorities (LA's). According to the Census 2022 data, there was an estimate 80,900 children in receipt of EHE nationally.
  - The number of EHE children in Nottinghamshire had risen from 730 in 2018 to 1451 by December 2023.
  - Local Authorities had a legal duty in Section 426A and Section 437 of the Education Act 1996 to make arrangements to identify children not registered at schools and who may not be in receipt of a suitable education. However, EHE families were not currently under any duty to inform their Local Authority that they were intending to home educate their children.
  - At the County Council, the EHE department came under the Fair Access Team. EHE was currently a voluntary registration scheme where parents notified the Council about their intention to home educate their child. Schools and academies in Nottinghamshire informed the Council about any deletions from the admissions register and the grounds upon which they were deleted. If it was around EHE, then the EHE Team within the Council was informed.
  - The EHE advisors within the Fair Access Team made informal contact with the parents on an annual basis to ensure that they had adequate support and guidance to home educate their child. If the parents did not provide this evidence, then a letter was used by the Council asking for evidence of a suitable education being provided and a 15 calendar-day timeframe from which to respond. If no reply was received, then the Council could issue a School Attendance Order where a school was selected for the child to attend if they considered that the child was not in receipt of a suitable education.

- The Local Authority should consider trends in EHE and in a wider strategic context, identifying shortcomings in local school provision settings, including the failure to meet requirements relating to SEND, or failures by schools to manage attendance and behaviour.

10. The Government had issued a consultation with Local Authorities on the Draft EHE Guidance for Local Authorities. It was noted that the Government remained committed to introducing statutory Local Authority registers for children not in school, as well as a duty for Local Authorities to provide support to home educating families, but this was still not a full position where parents had to inform their LA that they are intending to home educate their child.

11. The Draft 2023 Guidance recommended that each Local Authority should do the following:

- Have a written EHE policy statement which is clear, transparent and easily accessible online.
- Have an EHE page on the LA website which provides key contacts and useful information.
- Operate a voluntary registration scheme for children in receipt of EHE/
- Contact parents on at least an annual basis so the authority may reasonably inform itself of the current suitability of the education provided.
- Have a system in place for more frequent engagement where the child has specific vulnerabilities.
- Set aside the resources necessary to implement its policy effectively and consistently.
- Have mechanisms in place for collaboration across internal teams, and have clear multi-agency approaches in place for engaging with external partners, for example, the NHS, to promote the education, welfare and safety of the child.
- Provide parents with a named contact familiar with EHE policy and train LA officers in EHE policy.
- Have a named senior officer with responsibility for EHE policy and procedures.
- Seek to build positive relationships with the EHE community.
- Provide clear details of the complaint's procedure through the County Council and the Ombudsman.

12. It was noted that the Nottinghamshire Draft EHE Policy will update the previous policy and take into account the current guidance and legislation, the consultation underway on the DfE EHE non-statutory guidance review, which was launched in January 2023 and has a focus on working in partnership with parents and carers who choose to educate their child at home.

## **Findings**

13. As a result of the scrutiny review activity that was carried out, the review group would like to recommend to the Cabinet Member for Education and Special Educational Needs:

- a) That that revised Elective Home Education Policy be approved.
- b) That the following amendments to the text of the revised Elective Home Education Policy be considered:

- i. In Paragraph 1 of the draft policy, there should be a clear definition of parents and carers included in the body of the text, and not as a footnote to support the accessibility and readability of the policy.
- ii. Paragraph 3.2 from the current policy should be added into the in the draft policy. This paragraph states:
  - a. *“The local authority, in its role as champion for all children and young people whether they are educated in school or elsewhere, has a duty to promote the achievement of all children and young people. In doing so it will seek to establish the identities (so far as possible), of the children in Nottinghamshire who are home educated, and offer information, advice and guidance to parents. The local authority will also intervene where there are concerns that a child is not receiving a suitable education or there are concerns about a child’s well-being or safety”.*
- iii. In paragraph 4.6 of the draft policy, it should state that “the local authority is required as far as reasonably practicable, to identify children who are not in receipt of a suitable education”, in place of “the local authority is required as far as possible, to identify children who are not in receipt of a suitable education”,
- iv. Under Paragraph 5 – Parental rights and responsibilities, the language should be ‘they or them’, rather than ‘him’.
- v. Paragraph 6.3 should state “...the parents may not be providing a suitable education” in place of “...the parents are not providing a suitable education”.
- vi. Paragraph 7.2 should clearly state that multiple attempts will be made to contact parents by the Professional Practitioner when they have requested a deregistration.
- vii. Paragraph 7.3 should state that a record of the visit by an advisor should be sent to the parents rather than just being made available.

### **Other Options Considered**

- 13. None, as detailed in the Council’s constitution, the recommendations that have arisen from the scrutiny review are required to be submitted to relevant Cabinet Member for their consideration.

### **Reason/s for Recommendation/s**

- 14. To comply with the requirements of the Constitution that the findings of a scrutiny review are submitted to the relevant Cabinet Member for their consideration.

### **Statutory and Policy Implications**

- 15. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, safeguarding of children and adults at risk, service users, smarter working, sustainability and

the environment and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **Financial Implications**

16. There are no direct financial implications arising from the recommendations of the report.

### **RECOMMENDATION**

- 1) That the Cabinet Member for Education and Special Education Needs and Disabilities (SEND) considers and takes into consideration the findings of the scrutiny carried out by the Children and Families Select Committee when making their decision on the draft Nottinghamshire Election Home Education Policy 2023.

### **Councillor Mike Introna – Chairman of Children and Families Select Committee**

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### **Constitutional Comments (KA – 25/01/2024)**

17. The relevant legal implications are set out in the body of the report, particularly in paragraph 9 above. It is within the remit of the Children and Families Select Committee to consider the issues raised in this report and make the recommendation in the report to the Cabinet Member for Education and Special Education Needs and Disabilities.

### **Financial Comments (PAA29 22/12/2023)**

18. There are no specific financial implications arising directly from this report.

### **Background Papers and Published Documents**

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

- Children and Young People's Select Committee Agenda 10 October 2022
- Children and Young People's Select Committee Minutes 10 October 2022
- Children and Families Select Committee Agenda 16 October 2023
- Children and Families Select Committee Minutes 16 October 2023

### **Electoral Division(s) and Member(s) Affected**

- All