



Elective Home Education (EHE)

Policy and Procedures

Solihull MBC
Reviewed August 2022

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Introduction:

Elective Home Education (EHE) is the term used by the Department for Education (DfE) to describe the education provided by parents at home, rather than providing education for their children by sending them to school. This is different to home tuition provided by Solihull MBC or another local authority.

In electing to home educate, parents take full responsibility for providing a suitable education for their child. Any costs incurred for e.g. accessing resources or public examinations are also the full responsibility of the parents.

This document outlines our recently reviewed policy and procedures that have been developed in accordance with the DfE's updated guidance, published in April 2019:

[‘Elective home education: Departmental guidance for local authorities,’](#) and

[‘Elective Home Education: Departmental Guidance for parents’ Guidelines for Parents’](#)

The policy and procedures in this document will support Solihull MBC to comply with its duties towards children living in the borough whose parents have elected to educate them at home rather than sending them to a school. It is published for parents, schools and other agencies that support Solihull children, or have an interest in EHE.

Solihull Council is fully committed to the DfE's stance:

‘The department believes that although the primary responsibility for ensuring that children are properly educated belongs to parents, a local authority has a moral and social obligation to ensure that a child is safe and being suitably educated. If it is not clear that that is the case, the authority should act to remedy the position’.

Solihull's policy and procedures are designed to support parents to provide a suitable education for their child(ren). We aim for Solihull MBC to have proportionate oversight – particularly where parents are known to be providing suitable education at home. Solihull MBC needs to be able to act in the interests of the child. This oversight of EHE is a legitimate part of the Council's overall responsibilities towards children living in Solihull. Therefore, this policy sets out what Solihull deems to be the necessary and proportionate arrangements for seeking assurance that every electively home educated child is receiving a suitable education. Where this is not the case, or it is not clear that the education is suitable, the policy sets out what action Solihull MBC will take to secure that outcome. A suitable education is the right of every child.

‘A child without education is like a bird without wings’

(Tibetan Proverb)

The law in relation to EHE

Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that:

*"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable -
(a) to his age, ability and aptitude, and
(b) to any special educational needs he may have, either by regular attendance at school or otherwise."*

This means that the responsibility for children's education rests with their parents. In England, education is compulsory but going to school is not.

If parents do educate children at home, section 7 means that the child should be getting an efficient, suitable, full-time education.

The DfE's guidance for parents provides further detail about the terms used above.

Efficient education: There is no definition of this in statute law. 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 deliver efficiently an education which is definitely not suitable for the child. Conversely, it is possible to deliver a suitable education very inefficiently.

Full-time education: 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 tuition a day for 190 days a year, spread over about 38 weeks. However, home education does not have to mirror this. In any case, in elective home education there is often almost continuous one-to-one contact and education may sometimes take place outside normal "school hours".

The DfE's guidance for parents states that:

'In practice, the question of whether education for a specific child is full-time will depend on the facts of each case; but you as parents 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 section 7 requirement'.

Suitable education: There is no definition of 'suitable' education in statute law, although it must be suitable to the age, ability and aptitudes of the child, and 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 (for example, if a child is very good at mathematics, the education might focus more on that than some other subjects).

Compulsory school age begins on the next prescribed day following a child's fifth birthday (or on their fifth birthday if it falls on a prescribed day). The prescribed days are 31 December, 31 March and 31 August each year. A child continues to be of compulsory school age until the last Friday of June in the school year that they reach the age of sixteen.

The rights and responsibilities of parents

Parents have a legal right to educate their child at home and are not required to have any qualifications or training to provide their children with a suitable education. The 1996 Education Act makes clear that it is a parent's duty to ensure his/her child receives suitable education in accordance with section 7. In addition, the Act provides that, generally, children are to be educated in accordance with the wishes of their parents.

Parents are not required to inform Solihull MBC that they intend to elect or have elected to home educate. They are not required to seek approval from Solihull MBC (the local authority), unless the child has an Education, Health & Care Plan and the local authority has arranged educational provision at a special school specified by the plan. If the child is subject to a School Attendance Order (SAO), the SAO should be revoked before EHE begins.

Parents whose child is enrolled at a school are advised to write to the headteacher to inform them that they elect to home educate; in Solihull we ask that this written notification is signed by the parent. The school will then pass this information on immediately to Solihull MBC. Where a child is attending a special school under arrangements made by the local authority, Solihull MBC's consent is required to remove the child's name from the school's admissions register. There is no equivalent requirement where a child with an EHCP attends a mainstream school. Parents whose child is not enrolled at a school have no obligation to inform Solihull MBC that they are home educating their child. However, Solihull encourages contact with all home educating families and may make enquiries with the parents.

Although parents must provide education in accordance with section 7, the type of educational activity can be varied and flexible. There is no legal requirement for parents to provide any of the following, although parents may choose to do so:

- teach the National Curriculum
- have specific qualifications
- aim for the child to gain any specific qualifications
- have a timetable or set times for the learning to take place
- develop detailed lesson plans in advance
- observe school hours, days or terms
- mark work completed by the child
- provide formal lessons

- replicate the social interaction that school provides
- formally assess progress, or set development objectives
- match school-based, age-specific standards

The local authority's responsibilities

Solihull MBC (the local authority) sees its role in relation to elective home education as part of its wider responsibilities, including safeguarding, to all children in the area.

Article 2 of Protocol 1 of the European Convention on Human Rights states that:

No person shall be denied the right to an education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical conviction.

Solihull MBC respects and supports those parents who choose to home educate their child(ren).

All local authorities have a statutory duty, under section 436A of the Education Act 1996 to make arrangements to enable them to establish (so far as it is possible) the identities of children in their area who are not receiving a suitable education. This duty applies to all children of compulsory school age who are not on a school roll and do not appear to be receiving a suitable education otherwise than being at school.

A further statutory duty exists, which requires local authorities to serve a formal notice under section 437 of the Education Act 1996 if it appears that a child of compulsory school age is not receiving a suitable education. The written formal notice requires the parent to satisfy Solihull MBC within a specified period (not less than 15 days, beginning with the day on which the notice is served), that the child is in fact receiving suitable education. If Solihull MBC is not satisfied that the child is receiving such education the statutory process for issuing a School Attendance Order (SAO), requiring the parent to register the child at a named school, may be commenced. If Solihull MBC issues an SAO, it must be complied with; failure to do so is a criminal offence.

Under s437(1) of the Education Act 1996, local authorities must act if it appears that parents are not providing a suitable education.

Solihull MBC will always make informal enquiries of parents about the education provision for their child, before resorting to the formal process outlined above. Informal discussion and a shared willingness to co-operate to secure a suitable education for the child should enable most issues to be resolved. It is in the best interests of all parties not to let any

dispute about a child's education escalate to formal action. However, in accordance with requirements, Solihull Council's officers will not hesitate to take formal action where necessary and where less formal discussion and enquiries have not resulted in assurance of suitable education for the child.

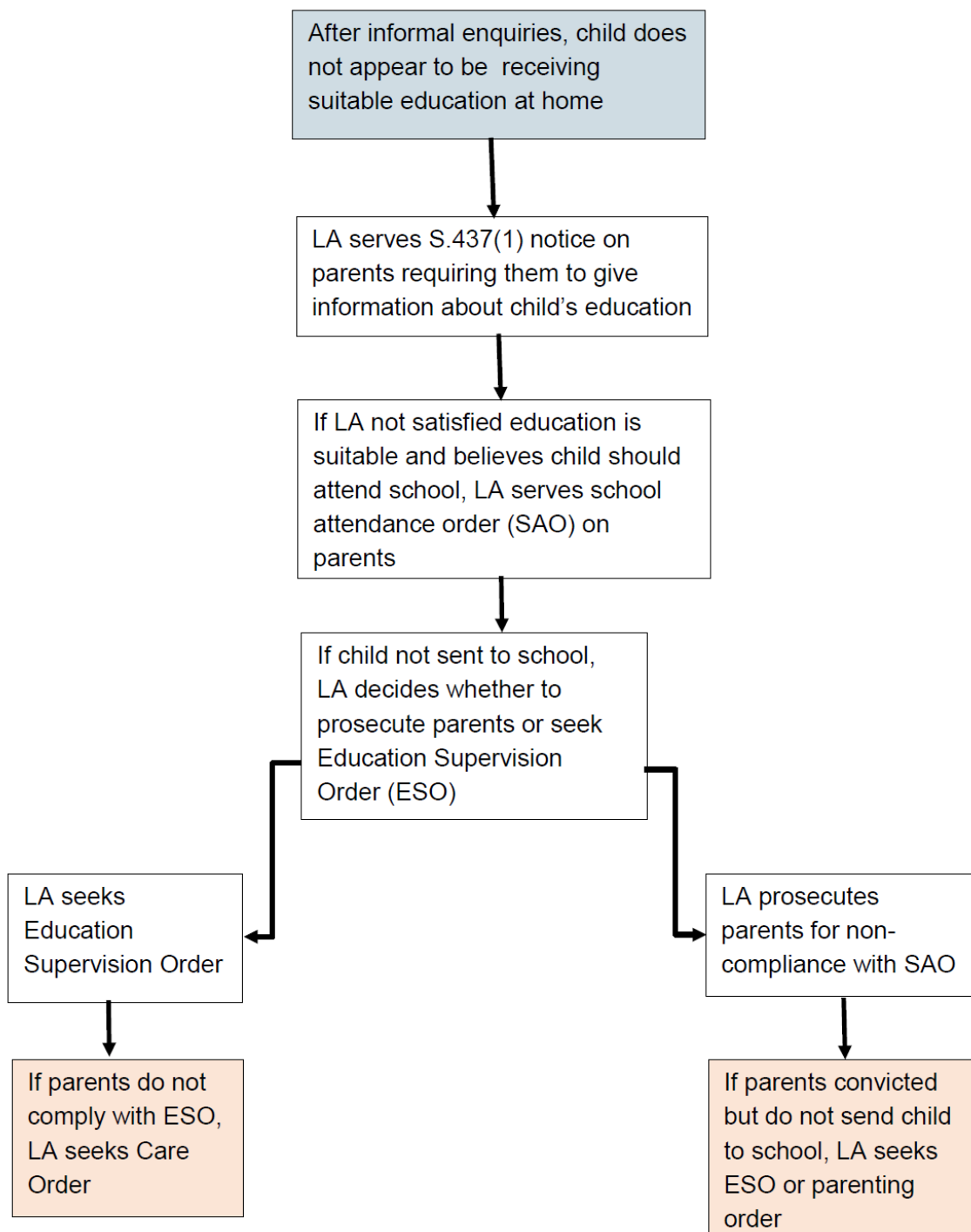
Solihull MBC, as a local authority, is entitled to make such enquiries of parents to establish what education is being provided. The DfE's guidance for parents states that:

'As parents you are under no legal obligation to respond, but if you do not, the local authority is 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', and:

'If you do not do enough to satisfy the local authority about the education being provided at home it may have no option but to conclude that the education does not meet the s.7 requirement'.

Local authorities have no legal power or duty to monitor home education on a routine basis although Solihull MBC will make enquiries if it is not clear that a child is receiving suitable education.

The summary flowchart below shows the main features of the legal options open to a local authority if it is satisfied that **the child is not receiving a suitable education at home**. Further detail is provided in '[Elective home education: Departmental guidance for local authorities](#),' April 2019 and is reproduced at the end of this policy document (pages16-18).



Responsibilities of schools in Solihull

Parents who are considering EHE may or may not discuss this with their child's school. There is no legal requirement for them to do so. Solihull MBC expects that any school approached by parents to discuss the possibility of elective home education to:

- respond positively and constructively;
- take all necessary steps to resolve any issues in school that may be influencing the parents' consideration of EHE;
- signpost the parent to Solihull's Education Inclusion Team, or the School Admissions team, who will provide further advice and guidance to help the parent to make an informed choice.

The way in which schools deal with potential electively home educating parents will be scrutinised, and challenged where necessary, both by Solihull MBC and by Ofsted. The school's actions could be deemed to be off-rolling, defined by Ofsted (September 2019 Education Inspection Handbook) as:

The practice of removing a pupil from the school roll without a formal, permanent exclusion or by encouraging a parent to remove their child from the school roll, when the removal is primarily in the interests of the school rather than in the best interests of the pupil. Off-rolling in these circumstances is a form of 'gaming'.

The DfE guidelines make it explicit that:

'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. In the case of exclusion, they must follow the relevant legislation and have regard to the statutory guidance. If the pupil has a poor attendance record, the school and, if appropriate, local authority should seek to address the issues behind the absenteeism and use the other remedies available to them'.

When a parent reports that they have been encouraged to remove their child from roll for the purposes of elective home education and then finds that they are unable to manage the commitment, the expectation in Solihull is that the Fair Access Panel will name the previous school for placement. If the parent subsequently submits an application for a different school, this will be considered via the Fair Access protocol.

When a school receives formal, written notice from a parent that a child is being withdrawn from school in order to be home educated, and the child has ceased to attend the school, the headteacher should ensure that the pupil's name is removed promptly from the admissions register in accordance with Section 8(1) (d) of the Education (Pupil Registration) (England) Regulations 2006.

Regulation 12 (3) of the Education (Pupil Registration)(England) Regulations 2006 states that: *'The "proprietor" (Headteacher) of the school must, make a return to the Local*

Authority for every such pupil giving the full name of the pupil, the address of any parent with whom the pupil normally resides and the ground upon which their name is to be deleted from the admission register as soon as the ground for deletion is met in relation to that pupil, and in any event no later than deleting the pupil's name from the register'.

In practice the school must inform Solihull MBC immediately when a child is removed from the school roll and send in a copy of any relevant letter written and signed by the parent(s). The school must also provide timely information as requested by Solihull MBC's Education Inclusion Team.

The school is responsible for raising any safeguarding concerns relating to a child with the Multi-Agency Safeguarding Team (MASH). Elective home education is not, in itself, a safeguarding concern. Once a child is being educated at home by parents and has been de-registered from a school, the Education Inclusion Team and wider Children's Services in Solihull will hold responsibility for safeguarding the child, whilst recognising that safeguarding is everybody's business and responsibility.

The school must retain the child's school file. Parents can request a copy of this file from the school to assist them in planning their child's education.

Elective Home Education and Safeguarding

The welfare and protection of all children, both those who attend school and those who are educated at home, is of paramount concern and the responsibility of the whole community. Section 175 of the Education Act 2002 imposes a duty on the local authorities to make arrangements for ensuring that the functions conferred on them are exercised with a view to safeguarding and promoting the welfare of all children resident in Solihull.

The Education Inclusion Team will follow Solihull Safeguarding Children Partnership's safeguarding procedures at all times and work with relevant agencies and individuals to proactively safeguard and promote the welfare of children and, in the event of any concerns about the welfare of a home educated child, initiate and follow established procedures.

All Education Inclusion Team staff have appropriate safeguarding training for the role and are supported by the Designated Safeguarding Lead for the service. Education Inclusion staff will contact the Multi-Agency Safeguarding Hub (MASH) when there is uncertainty about the welfare of the child. This will usually lead to a referral. They will explain the reasons for any welfare concerns to the parents in accordance with procedure.

The Department for Education's guidance clearly states that a situation where a child is not receiving suitable full-time education requires local authorities to take action under education law. This was described in the previous section about the local authority's responsibilities. However, unsuitable or inadequate education can lead to the impairment

of a child's intellectual, social or behavioural development. This has the potential for Solihull MBC to take action, drawing on its safeguarding duties and powers.

Officers within the Education Inclusion Team, or other areas of Solihull MBC's Children's Services, will make a MASH referral where:

- Parents have consented to EHE visits, but there is uncertainty about the child's welfare as a result of parents cancelling three such consecutive visits. This would be likely to lead to a response by Children's Services whereby multi-agency intervention may be required;
- As a result of failure to provide suitable education, the child may be suffering, or is likely to suffer, significant harm that is 'considerable, noteworthy or important'. In determining whether the child's intellectual and social development are or are likely to be significantly impaired, Solihull MBC would always consider the child's particular circumstances. Such situations are likely to lead to a response by Children's Services that, in turn, results in social care involvement.

Support for home educating families in Solihull

Solihull's Education Inclusion Team provides a range of support for home educating parents:

- Signposting parents to resources and services;
- Publishing written information about EHE that is clear, accurate and sets out the legal position, roles and responsibilities of both Solihull MBC and the parents;
- Discussing the implications of EHE with parents before they make the decision to leave or enter the school system;
- Producing and distributing accurate written records of meetings with home educating parents and children;
- Promoting positive relationships with elective home educating families based on mutual understanding, respect and trust in order to safeguard the educational interest of children;
- Seeking to mediate between schools and potential EHE families when the relationship has broken down and parents feel obliged to withdraw their child;
- Offering visits from a member of the Education Inclusion Team at least annually, either at home or in a venue of the parents' choosing e.g. local library, café or Council building. It should be noted that the level of contact with Elective Home Educating families will be dependent on individual circumstances and / or suitability of education being received.

Solihull MBC embraces diversity and respects individual choice. The Education Inclusion Team recognises that parents of all educational, social, racial, religious and ethnic backgrounds successfully educate children outside the school setting.

Solihull's EHE procedures

1. When the Education Inclusion Team or the School Admissions team receive formal confirmation from a school, or directly from a parent, that a child is being home educated, a check will be made on the Synergy database to ensure that any de-registration has been correctly recorded. EHE involvement will be indicated on the database which will enable Solihull MBC to record involvement with the family.
2. The Education Inclusion Team will send out an EHE Information Pack to the parent(s) if one has not already been requested.
3. The Education Inclusion Team contacts the school to confirm that the child is now registered as being electively home educated. The letter asks for some basic information which should be provided within 10 days. Schools are asked to provide information if they are aware of any welfare or safeguarding issues relating to the child. This helps Solihull MBC to fulfil its safeguarding duties.
4. Contact is made with the home-educating family to confirm details and ascertain that the family is happy with their choice to EHE. Families will be made aware that there is a statutory duty for the LA to check suitability of education annually. Contact can be by phone or email as detailed in the letter.
5. Parents may exercise their right not to allow Solihull MBC's Education Inclusion Team access to the home, the child or the child's work. However, the duty on local authorities to intervene under section 437(1) of the Education Act 1996 applies if it appears that parents are not providing a suitable education.
6. A suitability check will occur within twelve months. This can be conducted via phone, email, face to face or otherwise. Any evidence of concerns about suitability and sufficiency of education will be recorded.
7. If there are concerns about the suitability of education, the parent will be supported and given the opportunity to address the identified issues and recommendations for improvements within a mutually agreed timescale. These should be discussed and agreed with the parent. It is critical that there is no significant period in which a child is not receiving education; any time lost in educating a child is difficult to recover.
8. If, following informal contact and enquiries, parents have refused to provide any information in response and/or it appears to the Education Inclusion Team that the child is not receiving suitable education at home, then formal steps will be taken by Solihull MBC:

- Solihull MBC will serve a S.437(1) written notice on parents requiring them to satisfy the Local Authority that the child is receiving suitable education;
 - The parent will have 18 working days to respond from the date of the notice being served
9. If Solihull MBC is still not satisfied that the child is receiving efficient full-time education suitable to the child's age, ability and aptitude and to any special educational needs he/she may have, a statutory "Notice of Intention to Serve a School Attendance Order" will be served on the parent. This notice indicates Solihull MBC's intention to formally order the parent to register the child at a school. It will identify school(s) the local authority deems suitable and allow the parent 15 days to propose alternatives. If the parent does not respond, or does not make satisfactory arrangements elsewhere, Solihull MBC may issue a School Attendance Order (SAO) in accordance with its stated intention. Failure to comply with an SAO is a criminal offence for which the parent(s) can be issued with a penalty notice or prosecuted in the Magistrates' Court.
10. Reasonable steps to resolve the situation will be taken by Solihull MBC before the SAO statutory process is commenced. At any stage following the issue of an SAO, parents may present evidence to Solihull MBC's EHE Team to demonstrate that they are now providing suitable education and apply to have the Order revoked. If this is refused, parents can choose to refer the matter to the Secretary of State for Education. If Solihull MBC prosecutes parents for failure to comply with a SAO, the parents may be acquitted if they can prove that the child was receiving a suitable education otherwise than at school at the time of the offence. If the parents are acquitted, the court may direct that the SAO shall cease to be in force.
11. In cases where the EHE Team has been unable to contact a family, the Pupil Tracking Officer will be informed. This role discharges Solihull MBC's duty in respect of children missing education.

EHE and children with special educational needs (SEN)

Parents' right to educate their child at home applies equally where a child has special educational needs or disabilities. This right is irrespective of whether the child has an Education, Health and Care Plan (EHCP) or not. Where a child has an EHCP and is educated at home, it remains Solihull MBC's duty to maintain the Plan and to review it annually. Solihull MBC will consider whether the educational provision being delivered

by the parents is suitable for the child's special educational needs. It is not until Solihull MBC is satisfied that it is relieved of its responsibility to arrange the provision in the Plan. If Solihull MBC is not satisfied then it remains responsible for ensuring that the child's special educational needs are met.

The level of contact with Elective Home Educating families will be dependent on individual circumstances and / or suitability of education being received.

For children with an Education, Health and Care Plan, this will be reviewed annually following procedures set out in the SEN Code of Practice. Solihull MBC will work hard to ensure that annual reviews are conducted in partnership between SEN and EHE Officers.

The Education Inclusion Team

Education Inclusion team staff must ensure that all reasonable care is taken to ensure their safety, be advised by any risk assessment information and report any concerns over health, welfare and safety issues to their manager in the first instance without delay. They must consistently adhere to all elements of the Lone Working Policy.

Review and Evaluation

Solihull MBC's policy and procedures will be reviewed annually. The voice of parents and children, through the Education Inclusion Team, informs developments. Solihull Council is committed to securing an effective partnership with home educators based on respect, consent (within the parameters of safeguarding legislation) and with the best interest and rights of the child at the centre.

Complaints procedure

Solihull MBC seeks to work in partnership with parents / carers who choose to Electively Home Educate their child(ren) and to develop good working relationships. However, if a complaint should arise, in the first instance contact should be made with the Education Inclusion Service either by telephone or in writing to: 0121 704 6663 or, inclusion@solihull.gov.uk

If at any point you feel that you do wish to raise a formal complaint then you can contact the Children's & Adults Complaints Team on 0121 704 8296 or email them at candacomplaints@solihull.gov.uk

Further information about raising concerns in relation to Solihull Children's Services can be found at the following link:

<https://www.solihull.gov.uk/About-the-Council/Complaints/childrenscomplaints>

References

Education Act 1996 www.legislation.gov.uk/ukpga/1996/56/contents

Education Act 2002 www.legislation.gov.uk/ukpga/2002/32/contents

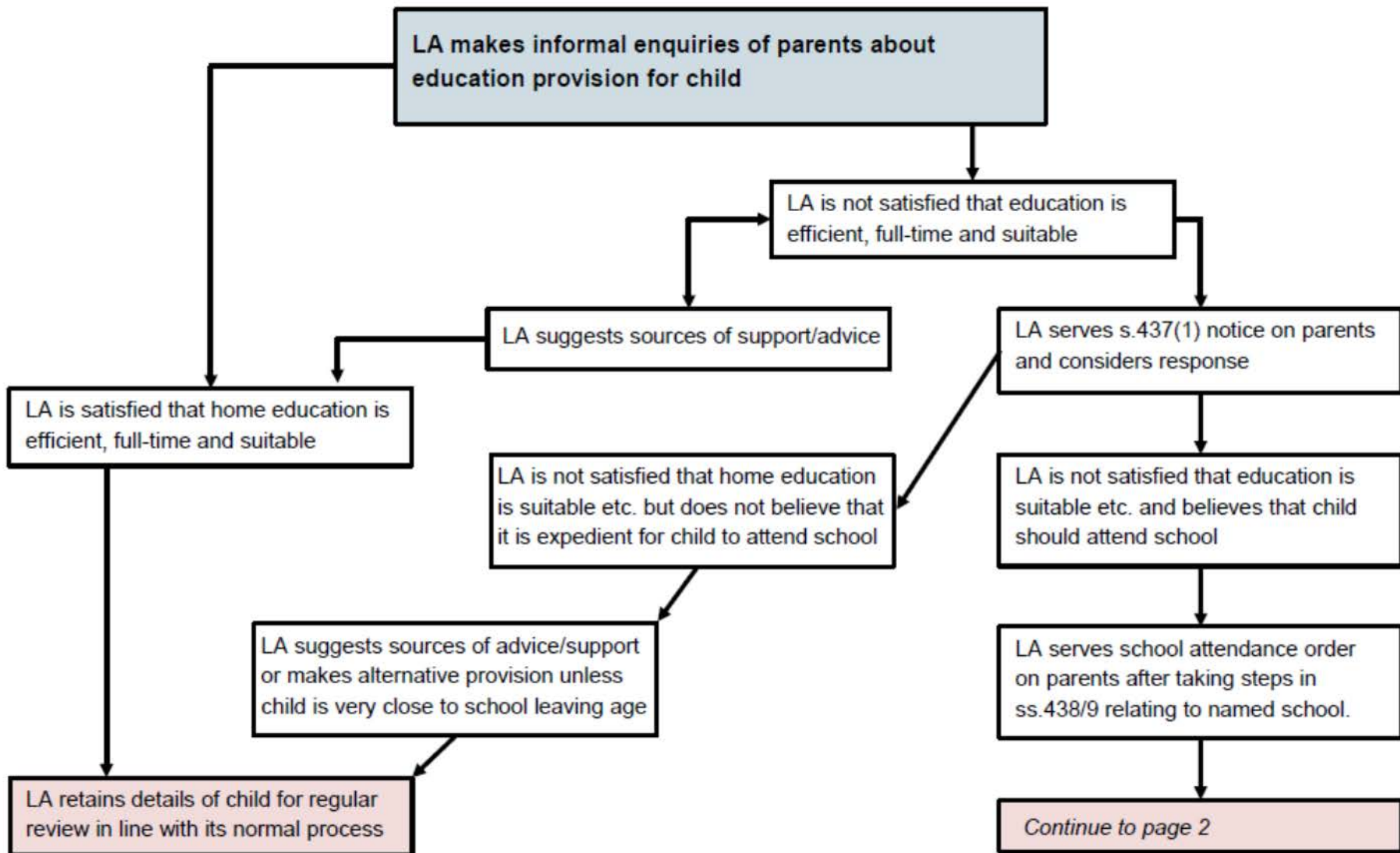
Special Educational Needs Code of Practice 2014

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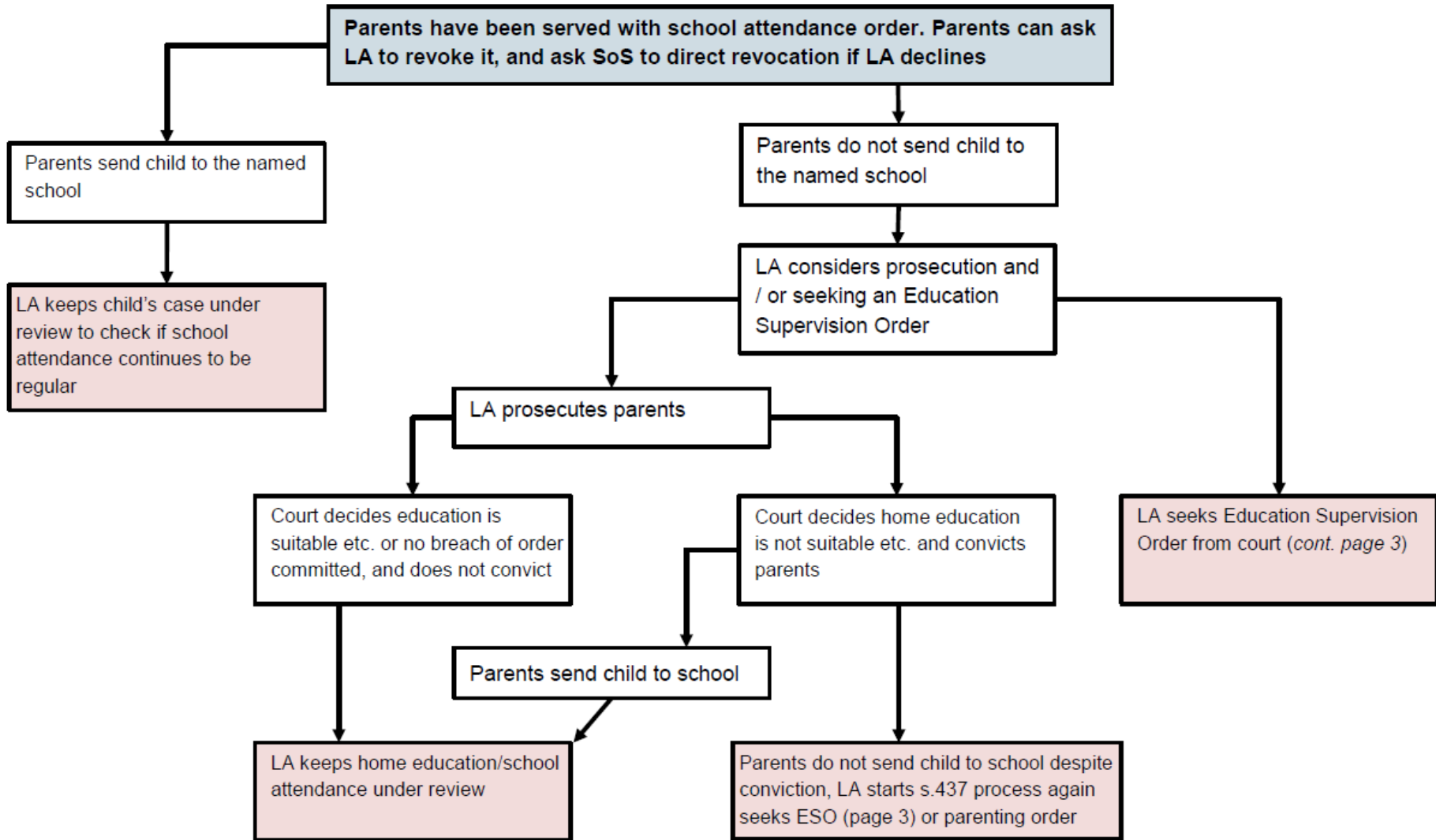
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<https://www.gov.uk/government/publications/elective-home-education> 2019

Flow chart 1



Flow chart 2



Flow chart 3

