



**BRIEFING PAPER**

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# Home education in England

By David Foster

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## Summary

This briefing provides information on home education in England and outlines current and past proposals for reform. It also notes issues raised with regards to home education and briefly summarises the relevant sections of selected reports. Education is a devolved issue; the briefing covers the position in England only.

### Current position

Recent estimates have suggested that there may be around 58,000 home educated children in England; the number appears to have increased substantially in recent years.

Parents who choose to home-educate their children are responsible for ensuring that the education provided is efficient, full-time and suitable to the child's age, ability, aptitude and any SEN they may have. They are not required to provide a broad and balanced curriculum and do not have to follow the National Curriculum. The parents of home educated children must be prepared to assume full financial responsibility, including bearing the cost of any public examinations.

Local authorities have no formal powers or duty to monitor the provision of education at home. However, they do have duties to make arrangements to identify children not receiving a suitable education, and to intervene if it appears that they are not. As part of this, the Department for Education recommends that authorities should ordinarily make contact with home educating parents on at least an annual basis so that they can inform themselves of the suitability of education provided.

If it appears that a child is not receiving a suitable education, intervention could include the issuing of a school attendance order, although the Government encourages authorities to address the issue informally before serving such a notice. Local authorities also have a range of powers as part of their safeguarding duties, which may be used if, for example, it appears that a lack of suitable education appears likely to impair a child's development.

### Guidance on home education

Updated guidance on home education was published in April 2019, following a consultation launched in April 2018. Two guidance documents were published, [one for local authorities](#) and [one for parents](#). Among other things, the guidance reflects legal advice received by the Government indicating that local authorities' powers in relation to home education often go further than was previously thought.

### Government consultation

Following an earlier call for evidence, on 2 April 2019 the Government published a consultation on proposed legislation concerning children not in school. The consultation closed on 24 June 2019.

The consultation sought views on proposals to create four new duties:

- 1 A duty on local authorities to maintain a register of children of compulsory school age who are not registered at a state-funded or registered independent school.
- 2 A duty on parents to provide information to their local authority if their child is within scope of the register.
- 3 A duty on education settings attended by children on the register to respond to enquiries from local authorities about the education provided to individual children.
- 4 A duty on local authorities to provide support to home educated families if requested by such families.

# 1. Current position

## 1.1 The right of parents to educate their children at home

In England, education is compulsory but schooling is not. 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.

The responsibility for children's education therefore rests with the parents, and they have the right to choose to educate their children at home. 'Elective home education' or 'home schooling' are terms used to describe home education for children of compulsory school age. There is currently no legislation that deals with home education as a specific approach, but it is a form of 'education otherwise than at school' for the purposes of section 7 of the 1996 Act.<sup>1</sup>

Children whose parents elect to educate them at home are not usually registered at mainstream schools or special schools.<sup>2</sup>

Updated guidance on home education was published in April 2019, following a consultation which was launched in April 2018. Two guidance documents were published, [one for local authorities](#) and [one for parents](#).

The guidance for local authorities notes that parents may choose home education for a number of reasons, including:

- Ideological or philosophical views
- Religious or cultural beliefs
- Dissatisfaction with the school system, or the school which the child attends
- Bullying of the child at school
- Health reasons, particularly mental health of the child
- As a short term intervention for a particular reason
- A child's unwillingness or inability to go to school
- Special educational needs, or a perceived lack of suitable provision in the school system for those needs
- Disputes with a school over the education, special needs or behaviour of the child, in some cases resulting in 'off-rolling'.

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<sup>1</sup> Department for Education, [Elective home education Departmental guidance for parents](#), April 2019, p6.

<sup>2</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p6.

- Familial reasons which have nothing to do with schools or education (e.g. using older children educated at home as carers)
- As a stop-gap whilst awaiting a place at a school other than the one allocated

The guidance notes that these reasons are not mutually exclusive and for some children several factors might apply. It adds that often home education will be undertaken as a positive choice, but in some cases it may also be attempted as a last resort.<sup>3</sup> The guidance for parents also sets out factors to consider for parents thinking about home educating their child.<sup>4</sup>

### Box 1: Number of home educated children

Data on the number of children being educated at home are not collected centrally. However, there appears to have been an increase in recent years. For example, in April 2018 the BBC reported that the number of children being home educated in 177 local authority areas in the UK (those authorities for which data was received) had risen from 34,000 in 2014-15 to 48,000 in 2016-17 – an increase of around 40%.<sup>5</sup>

The Government's April 2018 call for evidence on home education (see section 2.2) sought data from local authorities about the number of children in their areas known to be educated at home. From this data, it was estimated that 57,600 children of compulsory school age in England are known to be educated at home. This is similar to an estimate produced by the Association of Directors of Children's Services in autumn 2018, of 57,783 (the Association's estimate in autumn 2017 was 45,500).

The Government's response to the call for evidence noted that there is significant uncertainty associated with these estimates, and they are probably under-estimates because there will always be some home educated children that local authorities do not know about. However, the response stated that the number of home educated children "poses a significant policy challenge, given that [the] estimated total is now well over 0.5% of the relevant age group – and moreover, appears to be increasing by over 20% per annum."<sup>6</sup>

## 1.2 Parental responsibilities

### Informing the local authority

Although some local authorities operate voluntary registration schemes, there is currently no legal obligation for a parent to register or inform a local authority that their child is being educated at home.<sup>7</sup> However, the Government is consulting on proposal to change this (see section 2.3 below).

Where a parent decides to withdraw their child from school and educate them at home they are not required to inform the school that they are being withdrawn for the purposes of home education, but the guidance on home education recommends that it is sensible to do so. Schools are obliged to inform the local authority of children removed

<sup>3</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p7.

<sup>4</sup> Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, pp10-12.

<sup>5</sup> [Homeschooling in the UK increases 40% over three years](#), BBC News, 26 April 2018.

<sup>6</sup> Department for Education, [Elective Home Education: Call for Evidence 2018 Government consultation response](#), April 2019, p5.

<sup>7</sup> [PQ 47136](#), 1 November 2016.

from its admission register and will give home education as the reason, if notified of this by the parent.

These points apply equally to children with an Education, Health and Care (EHC) Plan attending mainstream schools. However, if the child attends a special school and this was arranged by the local authority, then the permission of the local authority must be sought before they can be removed from the admission register.<sup>8</sup>

### Box 2: Removing pupils from admissions registers

Under the *Education (Pupil Registration) (England) Regulations 2006*, schools can lawfully delete a pupil's name from the register under fifteen grounds, including where the child has stopped attending and the school has received written notification from the parent that they are "receiving education otherwise than at school."<sup>9</sup>

In July 2015, Michael Wilshaw, the then Chief Inspector of Schools, raised concerns with the Secretary of State that "potentially high numbers of pupils" were having their name deleted from school admissions registers "without either the schools or the local authorities having an accurate understanding of where those pupils have gone." He stated that this made it "difficult, if not impossible, for schools and local authorities to distinguish the minority of children who may be at risk from the majority who will be safe and receiving a suitable education in mainstream schools, registered independent schools or in their home."<sup>10</sup>

In response to the concerns, the Government launched a [consultation](#) in January 2016 on amending the pupil registration regulations to require schools to inform the local authority whenever they are about to delete a pupil's name from the admission register. Schools would, among other things, also be required to record details of the pupil's residence and the name of the person with whom they will reside.<sup>11</sup>

These changes were implemented by the *Education (Pupil Registration) (England) (Amendment) Regulations 2016* and came into force at the start of the 2016-17 academic year. Further information is included in [updated statutory guidance](#) from the Department for Education on children missing education.<sup>12</sup>

## Providing an efficient, full-time and suitable education

Parents who choose home education are responsible, under the *Education Act 1996*, for ensuring that the education provided is efficient, full-time and suitable to the child's age, ability and aptitude.<sup>13</sup>

Parents can choose to employ private tutors, or online tuition, to assist them in providing education, but there is no requirement for them to do so. Learning may also take place in a variety of locations and does not have to be limited to the child's home.<sup>14</sup>

The DfE guidance for parents on home education provides more information on what constitutes an efficient, full-time, and suitable education.

<sup>8</sup> Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, p13.

<sup>9</sup> *Education (Pupil Registration) (England) Regulations 2006*, regulation 8.

<sup>10</sup> Ofsted, [Advice letter from Sir Michael Wilshaw, Her Majesty's Chief Inspector, on the latest position with schools in Birmingham and Tower Hamlets](#), 14 July 2015.

<sup>11</sup> Department for Education, [Improving information in identifying children missing education: Government consultation](#), January 2016.

<sup>12</sup> Department for Education, [Children missing education: Statutory guidance for local authorities](#), September 2016.

<sup>13</sup> *Education Act 1996*, section 7.

<sup>14</sup> Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, pp7-9.

### **Efficient education**

There is no definition of efficient education in statute law. The guidance states that it can be interpreted as meaning education which 'achieves what it is intended to achieve.' It notes that this is not the same as the education being suitable.

### **'Full-time' education**

There is no legal definition of "full-time" in terms of education at home, or at school. The guidance notes that children attending school normally have about five hours tuition a day for 190 days, spread over about 38 weeks. It states, however, that home education does not have to mirror this and that the question of whether an education is full-time will depend on the facts of each case. It adds that "education which clearly is not occupying a significant proportion of a child's life..." will probably not count as full-time.

### **Suitable education**

There is no definition of suitable education in statute law, although under section 7 of the *Education Act 1996* it must be suitable to the age, ability and aptitude of the child, and any special educational needs. The guidance explains that this means that the education "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." It also sets out some more general points that should be borne in mind, including:

- Even if there is no specific link with the National Curriculum, there should be an appropriate minimum standard aimed at, and the education should enable the child, when grown up, to function as an independent citizen in the UK, including beyond the community in which they grew up.
- The education should not directly conflict with the fundamental British Values as defined in Government guidance, although there is no requirement to teach these.
- Local authorities may use minimum expectations for literacy and numeracy in assessing suitability.
- Education may not be suitable even if it is satisfactory in terms of content but is delivered in circumstances which make it difficult to work (e.g. in very noisy buildings).
- Education may not be suitable if it leads to excessive isolation from the children's peers and so impedes social development.

There are no legal requirements for parents of home educated children to follow the National Curriculum, aim for the child to acquire specific qualifications, or to provide a broad and balanced curriculum (among other things).<sup>15</sup>

The home education guidance for local authorities emphasises that the educating parents may adopt a variety of approaches, and one approach is not necessarily more effective than another. Local

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<sup>15</sup> Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, pp7-9.

authorities should not, it says, specify an approach that parents must follow. Similarly, authorities must not assume that home education is less likely to be successful when carried out by somebody with a protected characteristic under the *Equality Act 2010*.<sup>16</sup>

## Flexi-schooling

As well as educating their child at home full time, parents can also choose to make arrangements for their child to receive part of their education at school. The purpose of this may, for example, be to provide education in specific subjects more easily than is possible at home. Such arrangements are sometimes known as ‘flexi-schooling’.

In February 2013, the Department for Education (DfE) issued “categorical” advice that a school could not agree to a flexi-schooling arrangement. However, in March 2013 this advice was amended to state that “where parents have entered in to flexi-schooling arrangements, schools may continue to offer those arrangements”.<sup>17</sup>

The guidance for local authorities on home education notes that “schools are under no obligation to agree to [flexi-schooling arrangements], but some are happy to do so.”<sup>18</sup> Parents are required to get absences from school which occur when the child is being flexi-schooled authorised by the school in the same way as parents of full-time pupils do for other absences. The school should then mark them as being on authorised absence when not at school.<sup>19</sup>

### Box 3: Home education and raising the participation age

Following the raising of the participation age, young people must do one of the following until they are 18:

- Stay in full-time education;
- Start an apprenticeship or traineeship; or
- Spend 20 hours or more a week working or volunteering, while in part-time education or training.

Young people may be educated at home to meet the requirement to participate. [Statutory guidance](#) published by the DfE explains that for young people attending education outside of a school the definition of full-time education is usually at least 540 hours of planned learning (around 18 hours a week). For young people who are home educated, however, no hourly requirement applies and the amount and content of the home education is determined by the home educator.<sup>20</sup>

## 1.3 Responsibilities of local authorities

Local authorities have no formal powers or duty to monitor the provision of education at home. However, under section 436A of the

<sup>16</sup> Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, p36.

<sup>17</sup> Department for Education, [Clarification on flexi-schooling](#), 22 March 2013, website [taken on 27 March 2013].

<sup>18</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p6.

<sup>19</sup> Department for Education, [Elective home education: Departmental guidance for parents](#), April, pp20 and 34-5.

<sup>20</sup> Department for Education, [Participation of young people in education, employment or training: Statutory guidance for local authorities](#), September 2016, p17.



*Education Act 1996* they do have a duty to make arrangements to identify children in their area who are not receiving a suitable education.<sup>21</sup>

The DfE's guidance for local authorities explains that, while the law does not assume that a child is not being suitably educated if they are not attending school full-time, it does require local authorities to enquire what education is being provided.<sup>22</sup> There are no detailed requirements as to how a system of oversight should work, and it is for each local authority to decide its approach. However, the guidance emphasises that a proportional approach needs to be taken and local authorities should not exert more oversight than is actually needed when parents are providing a suitable education. It recommends that an authority should ordinarily make contact with home educating parents on at least an annual basis so that it can reasonably inform itself of the suitability of the education provided.<sup>23</sup>

Depending on the results of the enquiries, the guidance states that the law may require further action (see sections below), and the DfE "believes this is the case for an increasing number of children."<sup>24</sup>

The guidance also recommends, among other things, that local authorities should, as a minimum (the list is not exhaustive):

- Have a written policy statement on home education which sets out how the authority will seek to engage and communicate with parents.
- Seek to offer guidance to home educating families about their rights and obligations, and provide advice on good practice to parents who request it.
- Provide details of its complaints procedure and deal with all complaints in a sensitive and timely manner.

The guidance notes that authorities may choose to go further than this by operating a voluntary registration scheme, and encourages those authorities that do not operate such a scheme to consider doing so.<sup>25</sup>

Further information on local authorities' role in identifying children not receiving a suitable education is provided in DfE guidance: [Children missing education](#).

### **If a child is not receiving a suitable education**

Where it is unclear whether a child is receiving a suitable education, the guidance recommends that the local authority should initially attempt to resolve these doubts through informal contact and enquiries. This could, for example, involve asking the parents for detailed information about the education they are providing, and can include a request to see the

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<sup>21</sup> Department for Education, [Elective home education: Departmental guidance for parents](#), April, p14.

<sup>22</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp9-10.

<sup>23</sup> As above, pp14-15.

<sup>24</sup> As above, p10.

<sup>25</sup> As above, pp10-11.

child. While parents have no legal obligation to respond to such enquiries, the guidance states that if they do not the local authority is entitled to conclude that the child is not receiving a suitable education.<sup>26</sup>

If informal enquiries do not resolve the position and it appears that a child is not receiving a suitable education then, under section 437 of the *Education Act 1996*, the local authority must serve a notice on the parents requiring them to satisfy the local authority within a specified period (which must be at least 15 school days) that the child is receiving a suitable education.

If a notice is served and the parents fail to satisfy the local authority that the child is receiving a suitable education, and the authority believes that it is expedient that the child attends school, then the authority will, under section 437(3) of the *Education Act 1996*, serve a school attendance order requiring the child to become a registered pupil at a named school. The parents can be prosecuted if they do not comply with the Order, and the home education guidance states that they should do so unless there is good reason not to.

At any stage following the issuing of the Order the child's parents can give evidence to the local authority that the child is now receiving a suitable education and apply to have the Order revoked. If the local authority refuses, parents can refer the matter to the Secretary of State. If a local authority prosecutes a child's parents for failing to comply with a school attendance order, the courts will decide whether the education being provided is suitable and efficient.

The guidance notes that if a parent is convicted and fined but still fails to send their child to school then the process of serving a notice must be undertaken again. Thus, a parent willing and able to be fined repeatedly can potentially continue the unsatisfactory provision indefinitely. In such cases, the guidance states, local authorities will need to consider using other powers -for example, safeguarding (see below).

Where a person is found guilty of breaching a school attendance order, the court can make a parenting order requiring them to attend up to three months of counselling or guidance. It can also include other requirements aimed at preventing the parent committing the same offence again. Breach of a parenting order can result in a substantial fine.<sup>27</sup>

### Local authorities' safeguarding duties

Situations where a child is not receiving a suitable education are dealt with under education law as outlined above. However, local authorities also have general duties to safeguard and promote the welfare of

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<sup>26</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p17.

<sup>27</sup> As above, pp17-21.

children in their areas. These duties apply equally to all children, whether they are educated at home or at school.<sup>28</sup>

The home education guidance for local authorities notes that “there is no proven correlation between home education and safeguarding risk”. It adds, however, that a child being home educated is not necessarily being seen on a regular basis by professionals such as teachers, which “logically increases the chances that parents who set out to use home education to avoid independent oversight may be more successful by doing so.”

Local authorities should, the guidance states, approach cases where the suitability of education is in doubt using powers under the *Education Act 1996* (as set out above). It adds, however, that they should also be ready to “fully exercise their safeguarding powers and duties to protect the child’s well being” if a lack of suitable education appears likely to impair a child’s development. The guidance emphasises that a failure to provide suitable education is capable of satisfying the threshold that a child is suffering, or is likely to suffer, significant harm, but whether this is the case will depend on the particular circumstances of the case.

Actions that a local authority could take include applying to the court for an education supervision order (giving the authority a formal supervisory role in the education of the child) or a care order under the *Children Act 1989*. Both of these give the local authority the right to contact with a child. The guidance emphasises that care orders must only be used as a last resort “in the most egregious cases of a failure to provide a suitable education, and a persistent refusal by parents to co-operate with the local authority.”

In order to obtain information in preparation for either type of order, the local authority may also initiate an investigation under section 47 of the *Children Act 1989*. If this does not yield the information needed, the authority may ask the court for an order for a child assessment to be made to gather further information in order to determine if the significant harm threshold is met.<sup>29</sup>

## Oversight of local authorities

Ofsted carries out inspection of local authorities, which include a review of the way in which they carry out their duties with regards to vulnerable children. While the home education guidance states that home education children are not automatically vulnerable children, such reviews will include children missing education and so will cover “the ways in which [a local authority] identifies children who are not receiving a suitable education and what steps the local authority takes to deal with that.”

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<sup>28</sup> As above, p22.

<sup>29</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp22-25; Department for Education, [Elective home education: Departmental guidance for parents](#), April, p16-17.

Ofsted has no role in the oversight of education received by individual children who are educated at home.<sup>30</sup>

### 1.4 Funding and support

Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the cost of any public examinations. The home education guidance notes that some local authorities may provide financial or other assistance to home educating families, but this is discretionary. Some authorities also may also operate support groups or forums for home-educating families but, again, these are discretionary.

The home education guidance for local authorities recommends that “all local authorities should adopt a consistent, reasonable and flexible approach” with respect to the level and type of support they offer, “particularly where there are minimal resource implications”. At a minimum, the guidance states, authorities should provide written information on home education that sets out the legal position.<sup>31</sup>

The Gov.uk website allows users to search for information from their local council concerning home education by inputting their postcode at: [Home education: get information from your council](#).

### 1.5 Children with special educational needs

Parents' right to educate their child at home applies equally where a child has special educational needs (SEN), including if they have an Education, Health and Care (EHC) Plan, but the education provided must be “suitable to the child’s age, ability, aptitude and SEN.”<sup>32</sup>

The [Special Educational Needs and Disability \(SEND\) Code of Practice](#), last updated in January 2015, notes that local authorities do not have a duty to assess every home educated child to see whether they have SEN. The guidance states, however, that local authorities should “work in partnership with, and support, parents” to ensure that the SEN of home educated children are met where:

- the local authority already knows that a child has SEN; or
- the child’s parents have drawn the child’s needs to the attention of the authority.<sup>33</sup>

Where a child has an EHC Plan, the local authority has a duty to ensure that the educational provision specified in the plan is provided. But this only applies if the parents have not arranged for the child to receive suitable education in some other way. Thus, if the home education is

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<sup>30</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p11; Department for Education, [Elective home education: Departmental guidance for parents](#), April, p19.

<sup>31</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp37-38; Department for Education, [Elective home education: Departmental guidance for parents](#), April, p11.

<sup>32</sup> Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, p214.

<sup>33</sup> As above, p214.

suitable, the local authority has no duty to arrange any special educational provision for the child – the plan should just set out the type of special educational provision required by the child and note that the parents have made their own arrangements. If at any point the authority considers that the home education is not suitable, it must ensure that the special educational provision set out in the plan is made available.<sup>34</sup>

Where a child's EHC plan names a school and the parents decide to educate them at home, the local authority does not have to make the special educational needs provision set out in the plan provided that it is satisfied that the arrangements made by the parents are suitable.

Even if a parent is making suitable alternative arrangements by provision of home education for a child with an EHC plan the local authority is still under an obligation to 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."<sup>35</sup>

If a child is being removed from a special school to be home educated, the local authority must give consent for their name to be removed from the register. The SEND Code of Practice states that this "should not be a lengthy or complex process."<sup>36</sup>

## Funding

As set out above, DfE guidance notes that home educating parents assume financial responsibility for their child's education, but encourages local authorities to take a flexible approach.<sup>37</sup>

The [SEND Code of Practice](#) states that local authorities should fund the SEN needs of home educated children where it is appropriate to do so [emphasis added]:

Local authorities should work in partnership with, and support, parents to ensure that the SEN of these children are met where the local authority already knows the children have SEN or the parents have drawn the children's special needs to the authority's attention. Local authorities do not have a duty under section 22 of the Children and Families Act 2014 to assess every home educated child to see whether or not they have SEN. **The high needs block of the Dedicated Schools Grant is intended to fund provision for all relevant children and young people in the authority's area, including home educated children. Local authorities should fund the SEN needs of home educated children where it is appropriate to do so.** Guidance is available to local authorities from the Department for Education on funding provision for home educated children.<sup>38</sup>

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<sup>34</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp26-7.

<sup>35</sup> Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, p214.

<sup>36</sup> As above, p215.

<sup>37</sup> [Revised funding guidance for local authorities on home educated children](#), para 2, last accessed 10 January 2017.

<sup>38</sup> Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, pp214-5.

The home education guidance for local authorities emphasises that local authorities do not have a duty to assist parents with the costs they incur but they should give reasonable consideration for any request for assistance. It adds that any direct support to parents, if given at all, “should relate only to costs incurred by parents as a result of the special needs of the child, insofar as these can reasonably be identified.”<sup>39</sup>

### 1.6 Further information

The home education guidance for local authorities provides information on a number of other areas related to home education. Some of these are discussed in more detail in section 3 of the briefing. They include:

- Children’s views of home education and the United Kingdom Convention on the Rights of the Child.
- Disputes between parents regarding home education.
- Schools ‘off-rolling’ pupils by pressuring parents to educate them at home.
- Unregistered settings providing most if not all of the education received by a home educated child.
- Safeguarding and the use of private tutors by home educating parents.
- Work experience and home educated children.<sup>40</sup>

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<sup>39</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p28.

<sup>40</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp33-9.

## 2. Proposals for reform

### 2.1 *The Home Education (Duty of Local Authorities) Bill 2017-19*

In June 2017 Lord Soley introduced the *Home Education (Duty of Local Authorities) Bill [HL] 2017-19*. As a Private Member's Bill, the Bill is unlikely to pass into law unless supported by the Government.

Clause 1 of the Bill inserts a new section into the *Education Act 1996*, making the following provisions regarding home education:

- Placing local authorities under a duty to “monitor the educational, physical and emotional development of children receiving elective home education in their area.”
- Requiring parents of home educated children to register the child as such with the local authority.
- Requiring local authorities to assess annually each child receiving home education in their area. The assessment would have to monitor the educational, physical and emotional development of the child. It could include a visit to the child's home, an interview with the child, seeing the child's work, and an interview with the child's parent. Parents of home educated children would have to provide information relevant to the assessment to their local authority when requested.

The Secretary of State would be required to make regulations specifying the arrangements for parents to register a home educated child with their local authority, and the methodology of the assessment.

Clause 2 of the Bill provides for the Secretary of State to be required to update the guidance on home education to account for the new provisions within one year of the Act coming into force. In updating the guidance, the Secretary of State would be required to take into account:

- The expectation that “home education must include provision of supervised instruction in reading, writing and numeracy, which takes into account the child's age, ability, aptitude and any special educational needs and disabilities, and
- The views of children and parent who elect home education.

Further information on the Bill is available in a [briefing produced by the Lords Library](#) ahead of its Second Reading.

### Second Reading

The [Lords Second Reading debate](#) on the Bill took place on 24 November 2017. Introducing the Bill, Lord Soley expressed his support for home education, but raised concerns that the lack of a requirement to register home-educated children could potentially be exploited by parents seeking to abuse their children. He also raised concerns about the lack of support offered to home educating parents. The Bill, he said, “tries to strike a delicate balance between the rights of parents and the rights of the child” and that what he really wanted was “a system

where the majority of parents who home educate very well and want to be left alone are not caused any hassle by the Bill.”

Lord Soley also outlined his intention to seek to amend the Bill in Committee, including to remove the references to local authorities checking a child’s physical and emotional development.<sup>41</sup>

The Lords agreed without a vote to give the Bill a second reading.

### **Lords stages**

Eight amendments were made to the Bill during its Lords Committee Stage, all of which were proposed by the Bill’s sponsor, Lord Soley.

Three substantive changes were made by the amendments. First, references to “monitor” were changed to “assess”. Thus, the duty of local authorities to monitor the development of children was changed to a duty to assess their development. Lord Soley said that legal experts had advised him that there was not much difference between the two words, but he had proposed the change because of concerns raised by home educators that “monitor” was too strong.<sup>42</sup>

The second substantive change was to remove the reference to local authorities having to monitor the “physical and emotional” development of children along with their educational development. Lord Soley explained that he had originally put the requirement in because of his concerns about radicalisation and abuse, but he now thought that it would be difficult to do without additional resources. He added that expert bodies had said that a teacher or welfare officer assessing in the normal way would be able to spot if there was serious abuse.<sup>43</sup>

Thirdly, an amendment was agreed providing for local authorities to be under a duty to provide advice and information to home educating parents if requested. Lord Soley stated that the amendment concerned the issue of not enough being done currently to offer support to home educators. He added that he wanted to put the word “support” in as well because money needed to be put into it. He did not, he said, because of the “problem of local authority resources generally” and because of the issues about financing in a Private Member’s Bill. Lord Soley added that an additional reason for the amendment was to reassure concerned home educators that he did not want to “destroy the family”, and to say to them that they have a legal right to home educate, which he recognised.<sup>44</sup>

The Bill completed its Lords stages on 24 July 2017, when it was introduced to the Commons. No date has been set for its Second Reading in the Commons.

### **Government response to the Bill**

Responding to the Second Reading debate on the Bill, the Minister, Lord Agnew, noted a “significant increase” in the number of home educated

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<sup>41</sup> HL Deb 24 November 2017, [cc435-440](#).

<sup>42</sup> HL Deb 27 April 2018, [c1787](#).

<sup>43</sup> As above, [cc1787-8](#).

<sup>44</sup> As above, [c1790](#).



children in recent years and said that this “raises questions about the adequacy of the current arrangements for ensuring that these children receive a suitable education.” The Government was persuaded, he said, “that the changing landscape of home education gives sufficient cause to look at the possibility of reform.”

The Minister argued that what was needed initially was “a concerted effort to make the existing legal arrangements work better in the interests of parents, of local authorities and most of all the children themselves.” Referring to local authorities being able to act in cases where children are not being well educated at home, he said that the Government believed that they “already have the tools for the job.” He did announce, however, that the Government would consult on revised guidance on home education for parents and local authorities (see section 2.2 below):

I can confirm to noble Lords today that we intend to publish a draft of revised guidance documents on elective home education for local authorities and for parents, and consult on them. It will be an opportunity for all stakeholders to put forward their views. We will carefully consider all responses and then publish the two guidance documents in their final form.<sup>45</sup>

#### **Box 4: Integrated Communities Green Paper and Home Education**

Plans to look at revising the guidance around home education were also outlined in the Government’s [Integrated Communities Strategy Green Paper](#), published in March 2018. The strategy noted the Government’s concerns about cases where home educated children are not receiving a suitable education, and about cases where children are said to be home educated but are in fact attending an unregistered setting. It is essential, the strategy said, that local authorities can identify children who are missing education or are being neglected, but many local authorities currently feel that they lack the necessary powers.

The strategy stated that the Government would update its non-statutory guidance on home education so that it explains more clearly the respective rights and obligations of parents and local authorities, and that it would invite views on revising guidance on home education. The Government wanted, it said, “to gain wider acceptance for the proposition that greater oversight of children who are not receiving adequate education, including those attending unregistered settings and those for whom home education is not working properly, is needed.”<sup>46</sup>

In response to parliamentary questions in January 2018, Lord Agnew highlighted evidence that 80-90% of home educated children had previously been in school and so were known to local authorities (see box 2). He added that legal advice received by the Government since November 2017 indicated that “local authorities’ powers in relation to home education often go further than is appreciated.” The Government would, he said, reflect this in the updated guidance on home education, the drafts of which he expected to be produced for consultation “in the next few weeks.”<sup>47</sup>

The Minister also said that he would like to look at making examination facilities available more easily for home-educated children. He finished

<sup>45</sup> HL Deb 24 November 2017, [cc464-467](#).

<sup>46</sup> HM Government, [Integrated Communities Strategy Green Paper](#), March 2018, pp27 & 34.

<sup>47</sup> HL Deb 24 January 2018, [cc1013-5](#).

by saying that the Government was “keeping an open mind on the Bill.”<sup>48</sup>

Contributing to the Committee Stage debate, Lord Agnew stated that it remained the Government’s position that they “understood the concerns” that had led to the Bill’s introduction. The Government, he said, were interested in the Bill and “welcome[d] the debate it has engendered...but the position remains that the Government are not formally supporting it.”<sup>49</sup>

## 2.2 Call for evidence and consultation on draft guidance

Following on from its comments in response to *The Home Education (Duty of Local Authorities) Bill* and in its *Integrated Communities Strategy Green Paper* (see section above), on 10 April 2018 the Government published a [call for evidence on issues connected with home education](#). The call for evidence asks for the views of parents and local authorities on a number of areas, including:

- **The registration of home educated children:** the call for evidence cites the argument that it is not possible to have effective oversight and monitoring of provision made by home-educating parents unless there is mandatory registration. It also notes, however, that the Government is aware of the view that compulsory registration may set back efforts made by local authorities to build working relationships with home educators. The consultation seeks views on, among other things, the effectiveness of current voluntary registration schemes, and what the advantages and disadvantages would be of mandatory registration.
- **The monitoring of home education provision:** the call for evidence notes that there is currently “no clear legal framework for local authorities to monitor home education” and states that a registration scheme on its own may not be very effective without some system of oversight and monitoring. It also emphasises, however, the need for any monitoring to be proportionate. The consultation seeks views on the effectiveness of current arrangements and on what changes may be necessary to ensure that the system of monitoring is satisfactory and proportionate.
- **Support available for home-educating families:** the call for evidence notes complaints that it can be difficult for home educated children to enter public examinations. It also sets out the Government’s view that families who want to home educate should be able to get advice and support from their local authority. The consultation seeks views on how access to public exams may be improved for home educated children, and also whether there should be a duty on local authorities to provide advice and support to home educating families.

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<sup>48</sup> HL Deb 24 January 2018, [cc1013-5](#).

<sup>49</sup> HL Deb 27 April 2018, [cc1785-6](#).

The call for evidence also sought views on a range of other areas, including:

- Whether there should be financial consequences for schools if a parent withdraws their child to educate at home
- Whether there should be any change to the requirement that local authority consent is required to remove a child's name from the roll at a maintained special school if they were placed there by the authority.

The call for evidence closed on 2 July 2018.<sup>50</sup>

## Government response

The Government published a response to the call for evidence on 2 April 2019, at the same time that it launched a consultation on children not in school (see below).

3,441 responses were received to the call for evidence. The DfE reported that responses to the call for evidence largely reflected existing debates on home education and fitted into three broad themes:

- Local authorities and other organisations were strongly in favour of a statutory system of registering children deemed to be educated at home, whereas a majority of individuals responding were against this.
- Local authorities and other organisations were strongly in favour of an enhanced and statutory framework to allow authorities to monitor and assess the suitability of the home education for individual children. A majority of individuals responding were opposed to any formal monitoring powers, and often viewed local authorities as already too intrusive.
- More diverse views about support for home educators. Many individuals and some local authorities said there was a need for more support, but there was no unanimity on what changes were required. Difficulty in accessing exams was identified as in need of improvement.

A detailed summary of the analysis of the responses was set out in an annex to the response document.<sup>51</sup>

In its response the Government stated that it had no wish to alter the basic right of parents to educate their children at home and noted that many who take this approach produce very good results. It added however, that it does not believe that recent growth in the number of home educated children is due to any significant growth in people believing in the virtues of home education in its own right. Rather, it said, the factors are often more negative (e.g. disagreements with the school) and that, while parents may try their best, this does not mean that the education provided is suitable in all cases. It also highlighted the use of unregulated settings which, although sometimes legitimate,

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<sup>50</sup> Department for Education, [Elective home education: call for evidence: Government consultation](#), April 2018.

<sup>51</sup> Department for Education, [Elective Home Education: Call for Evidence 2018: Government consultation response](#), April 2019, pp6-7.

could give rise to an absence of suitable education and potential safeguarding risks.

The Government stated that, “despite the lack of consensus on the need to alter the framework within which home education operates, [it] believes that there is a basis for changing the landscape for children not in mainstream school education in order to help achieve the aim that every child should receive a good education.” It added that “at the heart of any change would be the need for proportionality, parental choice and respect and recognition of the diversity of education settings.”

It stated that it intended to consult on possible legislation to this end. The consultation was published on 2 April 2019 at the same time as the response to the call for evidence (see section 2.3 below for further information on the consultation).<sup>52</sup>

### Draft guidance

Alongside the call for evidence, the Government also published draft versions of two guidance documents about home education for consultation, one intended for [local authorities](#) and the other for [parents](#).

The [revised guidance](#) was published in its final form on 2 April 2019. Further information on the contents of the guidance is provided in section 1 above.

## 2.3 Government consultation

Following the earlier call for evidence on home education (see above), on 2 April 2019 the DfE published a consultation on proposed legislation concerning children not in school. The consultation closes on 24 June 2019.

The consultation noted that increasing numbers of children are receiving their principal education outside of mainstream schools. Some of these, it said, are being educated very well at home by parents, but others are receiving “such education as they get...mainly or entirely through attendance at unsuitable settings such as unregistered independent schools or multiple part-time settings”. There are also likely to be a number of children, it added, who are receiving an unsuitable education because their parents cannot educate them effectively at home. The consultation stated that it is “mainly in the interest of such vulnerable children that the proposals” are being brought forward.<sup>53</sup>

The consultation seeks views on proposals to create four new duties in primary legislation. It also seeks views on the practical ways in which the system would operate, which would be set out in secondary legislation. The four proposals comprise:

- 1 The introduction of a new duty in primary legislation on local authorities to maintain a register of children of**

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<sup>52</sup> Department for Education, [Elective Home Education: Call for Evidence 2018: Government consultation response](#), April 2019, pp8-10.

<sup>53</sup> Department for Education, [Children not in school: proposed legislation Government consultation](#), April 2019, pp8-9.

**compulsory school age who are not registered at a state-funded or registered independent school.** The operational details of how local authorities would be required to maintain the register would be set out in regulations, to allow for changes in the light of experience. If the proposal is taken forward, the draft regulations would be available alongside the draft bill that will be published before being introduced into Parliament. The consultation states that the register would not change local authorities' powers regarding assuring themselves of the suitability of education or their safeguarding duties.

- 2 **The introduction of a duty on parents to provide information to their local authority if their child is within scope of the register.** The consultation states that this would help to ensure that the register maintained by a local authority is as complete as possible. As with the register, the basic duty would be provided for in primary legislation but the more detailed aspects would be contained in regulations. The Government states that it does not want to create a criminal offence for non-compliance or to introduce financial penalties. Rather, it proposes that failure of a parent to comply with the registration duty would be a trigger for the school attendance order process (see section 1.3 above).
- 3 **The introduction of a duty on education settings attended by children on the register to respond to enquiries from local authorities about the education provided to individual children.** The purpose would be to enable local authorities to obtain more complete information about where a child's education takes place for entry onto the register. The consultation states that the proposals do not seek to extend existing monitoring or assessment powers of local authorities. It adds that the proposal would not amount to a scheme for regulating these settings, and the duty would not extend to settings providing supplementary education outside normal school hours.
- 4 **The introduction of a duty on local authorities to provide support to home educated families if requested by such families.** The consultation notes that some may view such a duty as providing an excuse for increased interference from local authorities. It states that the Government does not accept this view, but does believe that the duty should be to provide support only if requested.

The proposals do not, the DfE states, include any new powers for local authorities to monitor the suitability of education or and legislation on a more detailed definition of what constitutes a suitable education.<sup>54</sup>

The consultation document states that the proposals depend on gaining suitable parliamentary time for primary legislation and there would need to be an implementation period for local authorities. As a result, it says, no detailed timetable for implementation can be given and "full roll-out might be two to three years away."<sup>55</sup>

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<sup>54</sup> Department for Education, [Elective Home Education: Call for Evidence 2018: Government consultation response](#), April 2019, pp9-10.

<sup>55</sup> Department for Education, [Children not in school: proposed legislation Government consultation](#), April 2019, p9.

An equalities log, United Nations Convention on the Rights of the Child (UNCRC) assessment and family impact document were published alongside the consultation document and can be accessed via the links below:

- Department for Education, [UNCRC assessment: Children Not In School Consultation](#).
- Department for Education, [Family Test: Children Not In School consultation proposals](#).
- Department for Education, [Equalities log](#).

## 2.4 Past proposal for the registration of home educators

### The 2009 Badman Report

In January 2009, Graham Badman, the former Director of Children's Services at Kent County Council, was asked by the then Secretary of State for Children, Schools and Families to review whether the right systems were in place to allow local authorities to ensure that concerns about the safety, welfare or education of home educated children were addressed quickly and effectively.<sup>56</sup>

The report, *Review of Elective Home Education*, was published on 11 June 2009.<sup>57</sup> It made 28 recommendations, including that a compulsory annual registration scheme for home educators should be established. Under the proposed registration scheme, all parents planning to home educate their children would have to inform the local authority; the authority could refuse registration if there was clear evidence of safeguarding concerns.

The review further recommended that parents should be asked to submit a statement of their intended approach to the child's education, including what they aimed to achieve over the following 12 months. Local authority officials would have the right to access the home to check that the child was safe and well and making progress against their learning statement.<sup>58</sup>

Amongst the report's other recommendations were:

- that local authorities should provide more support to home educating families, for example through helping provide access to the national examinations system, sports facilities, libraries and music tuition;<sup>59</sup> and

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<sup>56</sup> "Morgan: Action to ensure children's education and welfare", DCSF Press Notice 19 January 2009.

<sup>57</sup> Graham Badman, *The Report to the Secretary of State on the Review of Elective Home Education in England*, HC 610, June 2009.

<sup>58</sup> As above, pp38 & 40.

<sup>59</sup> As above, p41.

- that the Government should review the current statutory definition of what constitutes a 'suitable' and 'efficient' education.<sup>60</sup>

The report received a hostile response from some home educators, who believed that the proposals were unnecessary and would allow the state an "unprecedented intrusion into family life".<sup>61</sup>

### Government response

In a [written ministerial statement on 11 June 2009](#) the then Secretary of State for Children, Schools and Families, Ed Balls, announced a public consultation on proposals to establish a registration scheme for home educators so that they could be introduced to Parliament at the earliest opportunity.<sup>62</sup> The consultation closed on 19 October 2009.

In its [full response to the Badman Review](#), published on 9 October 2009, the Government additionally stated that it would commission a review in early 2010 to clarify what constituted a suitable and efficient education. In the event, the review had not started when Parliament was dissolved for the 2010 general election.

In its response the Government also agreed that home educators should have access to educational facilities and services such as work experience, libraries, and specialist music tuition. It stated that local authority staff supporting home educators would need to work with schools to see how such services could be provided.<sup>63</sup>

### Children Schools and Families Bill

The [Children Schools and Families Bill](#) was introduced in the House of Commons on 19 November 2009. It sought to implement the recommendations of a number of independent reviews, including Graham Badman's [Review of Elective Home Education in England](#).<sup>64</sup>

The Bill as introduced included provisions to introduce a new requirement for local authorities in England to keep a register of all children of compulsory school age in their area who were entirely educated at home. Authorities would be required to monitor those children to ensure that they were safe and well and receiving a suitable education. The Bill also included powers to allow the procedural detail of the new registration scheme, and how it would operate, to be set out in regulations.

The Badman Review had recommended that local authority officers should have the right to speak to a home educated child alone, if that was deemed appropriate. There were strong representations against this and the Government stressed that under the provisions in the Bill, the

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<sup>60</sup> As above, p39.

<sup>61</sup> For example, see "[Get tough on home tuition to weed out abuse, says review](#)", *Guardian*, 5 June 2009 and "No place like home", *Sunday Times*, 14 June 2009 p9.

<sup>62</sup> [HC Deb 11 June 2009 c44-5WS](#).

<sup>63</sup> Department for Children Schools and Families, [DCSF response to the Badman Review of Elective Home Education in England](#), October 2009.

<sup>64</sup> [Children Schools and Families Bill](#), Bill 8 of Session 2009-2010

right to see the child alone would only be with the permission and agreement of the parent.<sup>65</sup>

### **Children, Schools and Families Committee inquiry**

Following a short inquiry, the Children, Schools and Families Committee published a [report on home education](#) on 16 December 2009, shortly after the publication of the *Children, Schools and Families Bill*.<sup>66</sup>

The report supported proposals to introduce annual registration for home educating families. However, in view of the concerns expressed by home educators, the report suggested that registration should be voluntary. It further recommended that the voluntary registration system should be reviewed after two years and that if the arrangements did not meet expectations then a system of compulsory registration should be introduced.

The report also supported the requirement for home educating families to provide some form of statement of their intended approach to their child's education and stated that this should be supplemented by meetings between home educating families and local authority officers on at least an annual basis.

The committee suggested that existing safeguarding legislation was the appropriate mechanism for the purpose of safeguarding and promoting the welfare of home educated children, and that the proposed annual visits would offer little direct safeguarding benefit over and above this. The Committee strongly discouraged the notion that local authority home education teams should be given a more overt safeguarding role.<sup>67</sup>

### **Removal of the home education provisions from the Bill**

The *Children's Schools and Families Bill* provided for the registration system to come into effect from April 2011. However, the relevant provisions were removed from the Bill on 8 April 2010 because no agreement on them could be reached between the Government and opposition parties before the dissolution of Parliament for the 2010 general election.<sup>68</sup> They were therefore not included in the Bill that became the *Children, Schools and Families Act 2010*.

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<sup>65</sup> [HC Deb 19 November 2009 cc175-6](#)

<sup>66</sup> Children, Schools and Families Committee, [The Review of Elective Home Education](#), 16 December 2009, HC 39-I.

<sup>67</sup> As above.

<sup>68</sup> DCSF, [Statement on the Children, Schools and Families Bill](#), 7 April 2010.



## 3. Issues and reports

### 3.1 Off-rolling and home education

In recent years concerns have been raised about schools removing pupils from their roll without a formal permanent exclusion, or by encouraging parents to remove their child, when the removal is primarily in the interests of the school (e.g. to relieve financial pressure or 'game' the school performance system). This practice is referred to as 'off-rolling'. Exclusion for non-disciplinary reasons is illegal and the DfE has made it clear that it considers off-rolling unacceptable.

Concerns have been raised regarding schools off-rolling pupils by pressurising their parents to educate them at home. For example, in a [letter](#) to the Public Accounts Committee in October 2018 the Chief Inspector of Schools, Amanda Spielman, stated that Ofsted had "a lot of anecdotal evidence that suggests that parents are home-educating their children under duress, to prevent exclusion." She added that, while Ofsted accepts that home education is a legitimate choice and is often done well, often the parents of off-rolled children "do not have the capacity to provide a good standard of education."<sup>69</sup>

Similar concerns have been raised by others, including the Schools Adjudicator and the Children's Commissioner in a February 2019 report (see section 3.5 below).

Further information is available in Library Briefing 8444, [Off-rolling in English schools](#).

### 3.2 Unregistered schools

There has been an increased focus in recent years on the potential safeguarding risks posed by unregistered schools. The home education guidance for local authorities states that some children said to be educated at home may in practice spend large amounts of time at various such unregistered settings, including unregistered independent schools. (these are distinct from part-time settings, which are genuinely supplementary to home education).<sup>70</sup>

In a series of letters to the Secretary of State, the former Chief Inspector of Schools, Sir Michael Wilshaw, raised concerns about "the safety of children who are being educated in unregistered schools." He also expressed a belief that there was a link between an increase in the number of home educated children and the growth of unregistered schools.<sup>71</sup> For example, in [a letter of May 2016](#), he stated:

Evidence inspectors have gathered over recent weeks has also reaffirmed my belief that there is a clear link between the growth of unregistered schools and the steep rise in the number of

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<sup>69</sup> [Letter from Amanda Spielman to Meg Hillier MP, Chair of the Public Accounts Committee](#), 30 October 2018.

<sup>70</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p35.

<sup>71</sup> Ofsted, [Advice letter from Sir Michael Wilshaw, Her Majesty's Chief Inspector, on unregistered schools](#), 11 December 2015

children recorded as being home educated in England over the past few years.

I have previously voiced concern that many of those operating unregistered schools are unscrupulously using the freedoms that parents have to home educate their children as a cover for their activities. They are exploiting weaknesses in the current legislation to operate on the cusp of the law. Many are charging parents thousands of pounds to send their children to these unregistered schools.

In doing so, many are providing a sub-standard education, placing children at risk and undermining the government's efforts to ensure that all schools are promoting British values, including tolerance and respect for others.<sup>72</sup>

In her [October 2018 letter](#) to the Public Accounts Committee, the current Chief Inspector, Amanda Spielman, similarly stated that in some cases "parents use home education as a guise to allow them to use illegal schools."<sup>73</sup> Similar concerns were raised by the Children's Commissioner in a report in February 2019 (see section 3.6 below). On 12 April 2019, Ofsted published data on unregistered schools and stated that it estimated that as many as 6,000 children are being educated in unregistered settings.<sup>74</sup>

The home education guidance for local authorities notes that unregistered independent schools that meet the criteria for registration are operating illegally. The DfE, it states, works with Ofsted and local authorities to shut them down when they are found, and to bring prosecutions. The guidance adds that it is not illegal for parents to send their children to such settings simply because the setting is illegal. However, such a setting may not meet required educational standards and so the parent, by sending their child to it, may be failing to ensure that they receive a suitable education.<sup>75</sup>

## Voluntary code for out-of-school education

In December 2018 the DfE published a consultation on a [voluntary code of practice for out-of-school education](#). The consultation closed on 24 February 2019 and the Government it yet to respond. The code covers a wide range of settings, including, for example, tuition or learning centres used by home educating parents. It sets out a range of areas that providers should consider, including safeguarding alongside other areas such as health and safety.<sup>76</sup>

An earlier [call for evidence](#), published in November 2015, had set out proposals to require the registration of settings providing intensive out-

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<sup>72</sup> Ofsted, [Advice letter from Sir Michael Wilshaw, Her Majesty's Chief Inspector, in respect of suspected illegal schools](#), 16 May 2016.

<sup>73</sup> [Letter from Amanda Spielman to Meg Hillier MP, Chair of the Public Accounts Committee](#), 30 October 2018.

<sup>74</sup> [New data shows illegal schools are a huge nationwide problem](#), Ofsted, 12 April 2019.

<sup>75</sup> Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p35.

<sup>76</sup> Department for Education, [Out-of-school settings: voluntary draft safeguarding code of practice](#), December 2018, p15

of-school education.<sup>77</sup> However, in its [response](#), published in April 2018, the Government stated that it did not intend to proceed with the proposals.<sup>78</sup>

Further information is available in Library Briefing 7345, [Counter-extremism policy in English schools](#).

### 3.3 Wood report

In May 2016, the Government published [the report of a review of local children safeguarding boards](#) conducted by Alan Wood.

The report stated that a number of Directors of Children’s Services and chairs of local children safeguarding boards had raised “the lack of effective statutory provision about children in unregistered school settings or receiving home education”. They pointed, the report said, “to the fact that public agencies do not have the right to gather information on the children in such settings and have no way of assessing the level of risk children face.”

The report argued that the issue of some home educating parents being unwilling to provide information to the local authority needed to be addressed urgently:

The majority of parents who arrange home education for their children work closely with, and share information with, the local authority. However, this is a voluntary act on behalf of the parent and a number of parents are not willing to provide information to the local authority. In both of these cases [unregistered settings and home education] the local authority is not able to assess either the quality of education being received by the child or whether there are any safeguarding issues that require attention. This needs to be addressed urgently. New guidance should be provided which makes clear the responsibility of parents to ensure information about their child’s education is provided to the local authority.

It concluded that “the current guidance [which has now been updated] with regard to children who are educated at home – which some parents of children who attend unregistered settings will claim – needs urgent review in order to enable local authorities to fulfil their safeguarding responsibilities and ensure the wellbeing of those children.”

The report also recommended that the DfE’s safeguarding guidance, [Keeping Children Safe in Education](#), should be reviewed to ensure it covers child protection and safeguarding issues in respect of unregistered school settings, independent schools and home education.<sup>79</sup>

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<sup>77</sup> Department for Education, [Out-of-school education settings: call for evidence](#), November 2015.

<sup>78</sup> Department for Education, [Out-of-school education settings: Report on the call for evidence conducted November 2015 to January 2016](#), April 2018.

<sup>79</sup> Department for Education, [Wood review of local safeguarding children boards](#), May 2016, pp32-5.

The Government published its [response to the Wood Report](#) in May 2016. The response did not explicitly refer to home education.<sup>80</sup>

### 3.4 Casey Review

In December 2016, Dame Louise Casey published the [report of her review into opportunity and integration](#) (The Casey Review). In a section on home education, the report noted a number of valid reasons why some parents may choose to home educate their child but stated that:

While there are many proponents of the benefits and strengths of home education, there are a number of difficulties and risks associated with it and little evidence we could find to assess the educational attainment and socio-economic progress made by home educated children.<sup>81</sup>

The report raised a number of issues associated with home education, including:

- The definition of suitable education in existing guidance [the guidance has now been updated], as an education 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...”, runs counter to efforts “to foster British values in schools across the country and contrary to efforts on integration and building cohesive communities which are based on shared values.”
- The lack of a requirement for parents to notify local authorities that they are home educating their child means that authorities do not “have any sure way of knowing the extent of home education in their locality, nor the quality or ‘suitability’ of education being provided outside of school settings.”
- Some people may be “misusing the right to home educate and its light regulation to place their children in unregistered and illegal schools.”
- The current framework places “serious limitations” on the extent to which local authorities can be aware of any child protection issues arising from the nature of the education provided to a home educated child.<sup>82</sup>

The report also welcomed the Government’s tightening of regulations on pupil registration (see box 2) but noted that it only had the potential to improve the tracking of children who had been attending school before they are withdrawn. The report stated that “further action is necessary to cover children who are home educated without ever having attended school – otherwise there will always be a cohort of pupils who are not known to local authorities and the opportunity to abuse the system will remain.”<sup>83</sup>

The report’s section on home education concluded:

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<sup>80</sup> Department for Education, [Wood review of LSCBs: government response](#), May 2016.

<sup>81</sup> Dame Louise Casey, [The Casey Review: A review into opportunity and integration](#), December 2016, p119.

<sup>82</sup> As above, pp118-20.

<sup>83</sup> As above, p120.

Parents should continue to have the right to home educate their children but stronger safeguards are required to ensure the child's right to a decent and suitable education for life in Britain, and to protect them from harm. The evidence we have seen in this review shows it is too easy for children to be raised in a totally secluded environment that does not provide a suitable education or sufficient protection from harm. One case of this happening is one too many.<sup>84</sup>

## Government response

On the day of its publication, the Secretary of State for Communities and Local Government, Sajid Javid, issued a [written ministerial statement](#) on the Casey Review. He stated that he would "carefully consider the findings in the review, in consultation with my Government colleagues and faith and community leaders, and will bring forward proposals in due course."<sup>85</sup>

## 3.5 Children Commissioner report

In February 2019, the Children's Commissioner for England, Anne Longfield, published a report: [Skipping School: Invisible Children: How children disappear from England's schools](#).

The report summarised evidence of "a marked increase" in the number of children being home educated in recent years, and outlined a number of related concerns. These included:

- That "there are clear indications that the growth in home education is related to the rise in children leaving school due to their needs being unmet." The report stated that the parents of such children "often feel that the school has been insensitive or unsupportive, whether the child has special educational needs, challenging behaviour, mental health issues or is being bullied."
- That some parents are home educating their children "under duress" because they are being encouraged to do so by the school. Schools may engage in such off-rolling, the report said, because they are "focused on improving overall exam results and not the individual needs of each child."
- That home educated children "are completely out of sight of the authorities." "Worryingly", it added, there are some parents who are well aware of the light touch regulation around home education and actively use this to their advantage, for example to keep out of sight of social services."
- That "some parents claim that they are home educating their children, when in reality they are sending them to unregistered and illegal schools (or "tuition centres") where they receive a substandard education and welfare standards are dubious." The report noted difficulties for Ofsted in prosecuting such schools, including because "settings are expert at keeping their answers within the legal framework."

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<sup>84</sup> As above, p120.

<sup>85</sup> [HCWS319](#), 5 December 2016.

The report concluded that, while many home educating parents provide their children with a high quality education, there are many others who “are struggling to cope.” It stated that:

There needs to be a cultural shift away from pressurised, hot-housing schools, to help stem the tide of children entering home education when it is not in the family’s true interests or wishes.

There is also a pressing need for more immediate measures to improve the experiences, safety and wellbeing of children who do end up being home educated.

It made a number of recommendations, including:

- A requirement for parents to register their children as home educated.
- Strengthened measures to tackle off-rolling, including potentially a financial penalty for schools found to be off-rolling pupils.
- Advice and support for families, including on alternative options, once a decision has been made to withdraw a child from school to home educate them.
- Greater oversight of children, with council officers visiting each home educated child at least once a term to assess the suitability of the education and their welfare.
- A strengthening of the law so that it is easier to prosecute illegal schools.<sup>86</sup>

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<sup>86</sup> Children’s Commissioner, [Skipping School: Invisible Children](#), February 2019.

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