



Home Education (Duty of Local Authorities) Bill [HL] HL Bill 11 of 2017–19

Summary

The [Home Education \(Duty of Local Authorities\) Bill \[HL\]](#) is a private member's bill moved by Lord Soley (Labour). The Bill received its first reading in the House of Lords on 27 June 2017 and is scheduled to have its second reading on 24 November 2017. The Bill would institute a duty for local authorities to monitor the educational, physical and emotional development of children receiving elective home education in England and Wales, and for a parent to register home-educated children with the local authority.

Speaking to his motivations for introducing the Bill, Lord Soley said:

There has been a significant increase in home education in recent years. My Bill is not opposed to home education; many parents do it extremely well and we should allow them to get on with it with minimum interference. However, there are also parents who struggle and often need more support than they receive now. Currently, parents who find it is more difficult than they thought often give up and return the child to school, which is disruptive for the school and the child. A parent might also need advice or assistance to find additional educational activities, materials and information. My Bill would require all children taken into home education to be registered. Enabling the necessary level of support to be given and to assist parents in making home education a success, and avoiding children being put at a serious disadvantage in later life. Further, such registration is important because of the small but important minority of home-educated children at risk from issues such as radicalisation, exposure to extremist material and child abuse. Registration and some follow-up will never prevent all cases of abuse or extremism, but will reduce the chances of such horrific outcomes.¹

Key Provisions

The Bill would insert a new section into the Education Act 1996, making the following provisions with regard to home education:

- Local authorities have a duty to monitor the educational, physical and emotional development of children receiving elective home education in their area.
- A parent of a child receiving elective home education must register the child as such with their local authority. Local authorities must assess annually each child receiving elective home education in their area.
- Such an assessment must monitor the—(a) educational; (b) physical; and (c) emotional development of each child.
- The assessment may include—(a) a visit to the child's home; (b) an interview with the child; (c) seeing the child's work; and (d) an interview with the child's parent.

- A parent of a child receiving elective home education must provide information relevant to the assessment to their local authority when requested.²

According to the provisions in the Bill, regulations would be made via statutory instrument to specify the arrangements for parents to register a child with their local authority, and the methodology of assessment for children receiving elective home education.³ The Bill defines ‘elective home education’ as “education given to a child at home following a decision by their parent to educate them outside the school system”.⁴

The Bill also specifies that the guidance for elective home education for local authorities must be updated to reflect the above provisions. The updated guidance should include: (a) the expectation that elective 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 (b) the views of children and parents who elect home education.⁵

Background to the Bill

Parents have the legal right to educate children at home, with no legal obligation to inform the local authority they are doing so, although they must inform the head teacher if they are taking their child out of school, and local authorities can make an “informal enquiry” to check that children are getting a suitable education at home (and can serve a school attendance order if they believe a child needs to be taught at school).⁶ Under the Education Act 1996:

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.⁷

The Education Act does not define ‘suitable’. The Department for Education’s (DfE) guidance on home education for local authorities uses the definition of ‘suitable’ in a 1985 judicial ruling, 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, as long as it does not foreclose the child’s options in later years to adopt some other form of life if he wishes to do so.⁸

The exact number of children in home education is unknown, as the DfE does not collect such information. A number of estimates have been made in recent years. Data from freedom of information requests made by the *Guardian* in 2016, with responses from 134 of England’s 153 local education authorities (LEAs), indicated there were 30,298 home educated children in 2014–15 (13,007 primary age, and 17,291 secondary age). The data also indicated that among 103 authorities that provided information back to 2011–12, the number of primary-age home-educated children rose by 60 percent in the three academic years to 2014–15, and for secondary age children, the increase was 37 percent.⁹ In 2015, the BBC reported that using data from 190 LEAs, it found there were 36,609 home-educated children in the UK, and this represented a 65 percent increase over the previous six years across the whole country.¹⁰

The Conservative Government led by David Cameron issued a call for evidence in 2015 on proposals for the registration and inspection of “out-of-school education settings”, an example being home education, which included the following:

- A requirement on settings providing intensive education to register, so that there is transparency about where settings are operating.
- A power for a body to inspect settings to ensure that children are being properly safeguarded.
- A power to impose sanctions where settings are failing to safeguard and promote the welfare of children, which could include barring individuals from working with children and the closure of premises.¹¹

In that call for evidence, the Government stated the proposal was “not about regulating the education that parents provide their children in their homes”, as “the Government continues to respect the rights of parents to home educate their children”, as long as “suitable full-time education is being arranged”.¹² The call for evidence closed in 2016, and the Government has not yet published the results.

Previous Reviews and Reports

In December 2016, the report of the review commissioned by the Cameron Government into social integration, led by Dame Louise Casey, was published. That report stated some local authorities had raised concerns regarding the current legal framework regarding home education, as the framework has:

Serious limitations on the extent to which local authorities can lawfully and effectively investigate to establish the suitability of education being provided to home-educated children, and so also be aware of any child protection issues that may arise from the nature of education being provided and the home in which it is being provided.¹³

The report further stated on the issue of monitoring home education that:

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.¹⁴

It was also reported in 2016 that the Local Government Association wanted local authorities to be given powers to enter homes to check on standards of education being given, and to compel parents to register home-educated children.¹⁵

In 2016, the Government commissioned a review of Local Safeguarding Children Boards (LSCBs), led by Alan Wood, President of the Association of Directors of Children’s Services. LSCBs are responsible for improving the overall wellbeing of children in their local authority area, and include representatives from children’s services, police, district councils and NHS trusts. The published report stated that:

A number of Directors of Children’s Services (DCSs) and chairs of LSCBs have raised the lack of effective statutory provision about children in unregistered school settings or receiving home

education. They point 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. This issue is not covered in multi-agency arrangements and it needs to be.

[...]

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 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 and proprietors of unregistered school settings should be required to fall into scope of the local multi-agency safeguarding arrangements and to be registered with an appropriate body.¹⁶

The Government, in its response, did not address issues of home education raised in the report.¹⁷

The Office for Standards in Education, Children's Services and Skills (Ofsted), under the direction of Sir Michael Wilshaw, then HM Chief Inspector of Schools, set up an inspection 'taskforce' on unregistered schools in 2016. The 'taskforce' was not about home education itself, yet Sir Michael stated to then Education Secretary Nicky Morgan that unregistered schools had contributed to increases in home-educated children:

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 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.¹⁸

Ofsted previously conducted research in 2010 on home-educated children in 15 local authorities. On the issue of monitoring home education, the report of the research stated that:

The current legislation around home education severely hampers local authorities in fulfilling their statutory duties to safeguard children who are educated at home and ensure the suitability of their education, as well as to provide support and resources to home-educating parents and their children.¹⁹

The report further stated that the 15 local authorities in the study took a "range of actions" in carrying out their statutory duties establishing whether all children in their area were receiving a 'suitable' education, yet "all were aware that their knowledge of their population was incomplete".²⁰ Furthermore, the report stated that local authorities were having difficulty carrying out safeguarding duties for home-educated children, as "there is no mechanism that allows authorities to know how many children are within their boundaries or where they live", and that "when this situation is combined with the high levels of population mobility in most local authority areas", it becomes "extremely challenging for the authorities to fulfil this [safeguarding] duty".²¹ The report also stated that alongside there being no national information on the number of home-educated children, there is no information on "the reasons for parents choosing home education, the type and quality of the education that children are receiving,

or the outcomes for this group of young people”.²²

Previous Parliamentary Debates and Questions

In January 2017, Baroness Deech (Crossbench) asked the Government what steps it was taking to assess the risk to children in unrecognised school settings or receiving home education. Referring to recent reviews and organisations that had considered the issue. Baroness Deech argued:

The Wood review, Ofsted and Dame Louise Casey have all drawn attention to the lack of power to make parents cooperate in ensuring the quality of home education. The local authorities do not have the power to see the children or check on them. We care about abused children and others. We must take steps to safeguard the children who are not known to schools, who are sent to unregistered schools and who are below the radar. The Government did not respond to the comments on that issue in the Wood review. Local authority officers have written to me to express concern and call for new statutory powers. Will the Government take those necessary steps?²³

Responding for the Government, Parliamentary Under Secretary of State for Schools Lord Nash stated:

Some home-educated children attend unregulated education settings and we are taking determined action to tackle illegally operating unregistered independent schools. We also remain committed to regulating out-of-school settings and received more than 18,000 responses to our call for evidence, which we are analysing carefully. We know that greater oversight of home education is sought by many local authorities. We are listening to both sides of the debate and considering our position.²⁴

In the same debate, Lord Soley referred to the oversight of home education, and argued that:

The problem has been raised here a number of times of home-educated children who have not been seen by anybody and are subject to abuse. [...] I am all for people home educating if they do it well and properly but to say that the state has no responsibility to provide safeguards in some form of inspection, whether of the Badman report type or some other, is frankly unacceptable.²⁵

In response, Lord Nash stated that “some people think that they should be allowed to educate their children at home with minimum interference”, whereas “others feel that society has moved on somewhat in recent years and it is something that we should look at again”, and the Government was “looking at this carefully”.²⁶

With regard to safeguarding, in January 2017, Royston Smith (Conservative MP for Southampton, Itchin), asked the Government what steps were being taken to protect children educated at home. In response, Minister for Children and Families Edward Timpson said:

[The Government] sets a clear statutory framework for safeguarding and child protection. The statutory framework makes it clear, that local authorities have overarching duties for safeguarding and promoting the welfare of individual children and young people in their area, established through the Children Act 1989. Specifically, section 17 of that Act requires local authorities to provide services to children in need in their area, no matter where they live or where they are educated. Section 47 of the same Act requires local authorities to investigate whether action

should be taken by them to safeguard or promote the welfare of children suffering, or likely to suffer, significant harm. The statutory guidance, *Working Together to Safeguard Children (2015)*, sets out how these duties should be complied with by local authorities. In addition, the Government has issued separate non-statutory advice for local authorities on elective home education, which contains guidance in relation to safeguarding.²⁷

Finally, responding to a question from Lord Warner (Crossbench) on 31 October 2017 on how many children are in home education, and what requirements exist for those children to receive a 'broad and balanced curriculum', Parliamentary Under Secretary of State for Education, Lord Agnew of Oulton, said:

No information is collected centrally on the numbers of children in England being educated at home.

Under section 7 of the Education Act 1996, parents are responsible for ensuring that a child of compulsory school age receives an efficient full-time education suitable to his or her age, ability, aptitudes, also any special educational needs and disabilities that the child has.

There is no specific legal requirement for a 'broad and balanced curriculum' and parents who educate children at home have freedom to devise their own curriculum and pedagogical approach. Local councils have a duty to identify, so far as possible, children who are not receiving an education which meets the requirements in section 7, and as part of that process will consider the educational provision made when it appears that it may not be suitable for the child in question.²⁸

Further Information

- House of Commons Library, [Home Education in England](#), 18 January 2017

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- ¹ Text provided to the House of Lords Library by Lord Soley.
- ² [Home Education \(Duty of Local Authorities\) Bill](#), HL Bill 11 of session 2017–19, clauses 1(2)(1)–(2)(6).
- ³ *ibid*, clause 1(2)(7).
- ⁴ *ibid*, clause 1(2)(9).
- ⁵ *ibid*, clauses 2(2)(a) and (b).
- ⁶ HM Government, '[Home Education](#)', accessed 25 July 2017.
- ⁷ Education Act 1996, part 1 section 7.
- ⁸ Department for Children, Schools and Families and Department for Education, '[Elective Home Education: Guidance for Local Authorities](#)', 1 November 2007, p 4.
- ⁹ *Guardian*, '[DIY Schooling on the Rise as More Parents Opt for Home Education](#)', 12 April 2016.
- ¹⁰ BBC News, '[Rising Numbers of Pupils Home Educated](#)', 21 December 2016.
- ¹¹ Department for Education, '[Out-of-school Education Settings: Call for Evidence](#)', 26 November 2015, p 7.
- ¹² *ibid*.
- ¹³ Department for Communities and Local Government, '[The Casey Review: A Review into Opportunity and Integration](#)', 5 December 2016, p 120.
- ¹⁴ *ibid*.
- ¹⁵ *Guardian*, '[Councils Seek New Powers to Check on Home-Schooled Children](#)', 16 September 2016.
- ¹⁶ Department for Education, '[Wood Report: Review of the Role and Function of Local Safeguarding Children Boards](#)', 26 May 2016, pp 33–4.
- ¹⁷ Department for Education, '[Review of the Role and Functions of Local Safeguarding Children Boards: The Government's Response to Alan Wood CBE](#)', 26 May 2016.
- ¹⁸ Sir Michael Wilshaw, '[Advice Letter from Sir Michael Wilshaw, Her Majesty's Chief Inspector, in Respect of Suspected Illegal Schools](#)', 16 May 2016.
- ¹⁹ Office for Standards in Education, Children's Services and Skills, '[Local Authorities and Home Education](#)', June 2010, p 6.
- ²⁰ *ibid*.
- ²¹ *ibid*.
- ²² *ibid*.
- ²³ [HL Hansard, 27 January 2017, cols 1952–3](#).
- ²⁴ *ibid*, col 1953.
- ²⁵ *ibid*.
- ²⁶ *ibid*.
- ²⁷ House of Commons, '[Written Question: Home Education](#)', 30 January 2017, 61795.
- ²⁸ House of Lords, '[Written Question: Home Education](#)', 31 October 2017, HL2300.

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