



**BRIEFING PAPER**

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# Home education in England

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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

Parents have the right to decide to teach their children at home at any stage up to the end of compulsory school age. This right applies equally for the parents of children with special educational needs (SEN). Home education may also be used to meet the requirement to participate in education or training up to the age of 18.

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. [Government guidance](#) encourages authorities to take a flexible approach to providing financial support to the parents of home educated children with SEN, however, and the [Special Educational Needs and Disability Code of Practice](#) states that authorities should fund the SEN needs of home educated children where it is appropriate to do so.

Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis. 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. Intervention could, for example, take the form of issuing a school attendance order, although [Government guidance on home education](#) encourages authorities to address the issue informally before serving such a notice. As part of their safeguarding duties local authorities have powers to insist on seeing a child to enquire about their welfare where there are grounds for concern, but this does not extend to seeing and questioning children for the purpose of establishing whether they are receiving a suitable education.

### ***Home Education (Duty of Local Authorities) Bill [HL] 2017-19***

In June 2017 Lord Soley introduced the *Home Education (Duty of Local Authorities) Bill [HL] 2017-19*. The Bill makes provision for local authorities to be placed under a duty to monitor the development of children receiving home education and to conduct annual assessments. The Bill also provides for parents of home educated children to be required to register with the local authority. The Bill is a Private Member's Bill and, as such, is unlikely to pass into law unless supported by the Government.

The Government has stated that it is "keeping an open mind on the Bill" but does not formally support it. It has also expressed a belief that local authorities already have the powers they need to act in cases where children are not being well educated at home, and that the focus initially should be on making the existing legal arrangements work better.

### Government consultation and draft guidance

Following on from earlier announcements, including in response to the Lord Soley's home education bill, on 10 April 2018 the Government published a [call for evidence on issues connected with home education](#) which seeks views on a number of areas including:

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- How effective voluntary registration schemes for home educated children are, and what would be the advantages and disadvantages of mandatory registration.
- The effectiveness of current local authority oversight and monitoring of home education, and what changes may be needed to ensure the system is satisfactory and proportionate.
- The support available for home educated families, including whether there should be a duty on local authorities to provide advice and support.
- Whether there should be financial consequences for schools if a parent withdraws their child to educate them at home.

The consultation closes on 2 July 2018.

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](#).

# 1. Current position

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

In England, education is compulsory but schooling is not. Under section 7 of the *Education Act 1996*, the responsibility for a child's education rests with their parents:

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.

Parents have the right to decide to teach their children at home at any stage up to the end of compulsory school age.<sup>1</sup> 'Elective home education' or 'home schooling' are terms used to describe home education for children of compulsory school age.

### Box 1: The number of home educated children

Data on the number of children being educated at home are not collected centrally. However, press reports have reported 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>2</sup>

In the autumn of 2017 the Association of Directors of Children's Services estimated, based on a survey of local authorities, that the total number of home educated children in England was 45,500. This was an increase of 21% on the position 18 months previously.<sup>3</sup>

The current [guidance on elective home education](#), which was published in 2007, states that parents may choose home education for a number of reasons, including:

- distance or access to a local school
- religious or cultural beliefs
- philosophical or ideological views
- dissatisfaction with the system
- bullying
- as a short term intervention for a particular reason
- a child's unwillingness or inability to go to school
- special educational needs
- parents' desire for a closer relationship with their children.<sup>4</sup>

<sup>1</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, paras 2.1-2.3.

<sup>2</sup> [Homeschooling in the UK increases 40% over three years](#), BBC News, 26 April 2018.

<sup>3</sup> [POHL7326](#), 10 May 2018.

<sup>4</sup> As above, para 1.4.

Children whose parents elect to educate them at home are not registered at mainstream schools or special schools.<sup>5</sup> Although some local authorities operate voluntary registration schemes, there is also no legal obligation to register that a child is being educated at home.<sup>6</sup>

## 1.2 Parental responsibilities

Where a parent decides to withdraw their child from school and educate them at home they are required to notify the school; the school must then notify the local authority. Parents do not need to inform the council unless their child has an education, health and care (EHC) plan. Similarly, parents of children who have never attended school are not required to inform the local authority if they decide to home educate their child.<sup>7</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>8</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>9</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>10</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>11</sup>

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>12</sup> They are not required to provide a broad and balanced curriculum and do not have to follow the National Curriculum.<sup>13</sup>

<sup>5</sup> As above, para 1.2.

<sup>6</sup> [PQ 47136](#), 1 November 2016.

<sup>7</sup> [Home education](#), Gov.uk, last accessed 9 January 2017.

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

<sup>9</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>10</sup> Department for Education, [Improving information in identifying children missing education: Government consultation](#), January 2016.

<sup>11</sup> Department for Education, [Children missing education: Statutory guidance for local authorities](#), September 2016.

<sup>12</sup> [Education Act 1996](#), section 7.

<sup>13</sup> [Home education](#), Gov.uk, last accessed 9 January 2017.

With regards to what constitutes an “efficient” and “suitable” education, the [guidance](#) states:

An "efficient" and "suitable" education is not defined in the *Education Act 1996* but "efficient" has been broadly described in case law as an education that "achieves that which it sets out to achieve", and a "suitable" education is one 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".<sup>14</sup>

Parents can choose to employ private tutors to assist them in providing suitable education, but there is no requirement for them to do so.<sup>15</sup> They can also ask the school to teach their child part time but the school does not have to accept the request.<sup>16</sup> Learning may take place in a variety of locations and does not have to be limited to the child's home.<sup>17</sup>

Further information on the requirements of a full-time efficient education is provided in the [guidance on home education](#) (paras 3.13-3.16).

### 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 Department for Education 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>18</sup>

## 1.3 Responsibilities of local authorities

Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis. However, under the *Education Act 1996* they do have duties to:

- make arrangements to enable them to identify, as far as is possible, children in their area who are not receiving a suitable education; and

<sup>14</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, paras 2.2-2.3.

<sup>15</sup> As above, para 1.2.

<sup>16</sup> [Home education](#), Gov.uk, last accessed 9 January 2017.

<sup>17</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, para 1.2.

<sup>18</sup> Department for Education, [Participation of young people in education, employment or training: Statutory guidance for local authorities](#), September 2016, p17.

- to intervene if it appears that a child is not receiving a suitable education.<sup>19</sup>

Local authorities also have a duty to make arrangements to ensure that their education functions are exercised with a view to safeguarding and promoting the welfare of children.<sup>20</sup> These powers allow authorities to insist on seeing children in order to enquire about their welfare where there are grounds for concern.<sup>21</sup> However, the guidance on home education makes clear that these powers “do not bestow on local authorities the ability to see and question children subject to elective home education in order to establish whether they are receiving a suitable education.”<sup>22</sup>

The guidance on home education additionally recommends that local authorities should:

- Have a written policy statement on elective home education, and be willing and able to provide guidance for parents who request it.
- Provide clear details of their complaints procedure and deal with any complaints in a sensitive and timely manner.<sup>23</sup>

In its 2012 report, [Support for Home Education](#) (see section 3.4 below), the Education Committee outlined the role of local authorities as follows:

The role of the local authority is clear with regard to home education. They have two duties: to provide support for home educating families (at a level decided by local authorities themselves), and if families wish it; and to intervene with families if the local authority is given reason to believe that a child is not receiving a suitable education. It is not the role of the local authority routinely to monitor whether a suitable education is being provided, and local authorities should not act as if it is, or cause parents to believe that it is.<sup>24</sup>

## School attendance orders

If it appears that a child is not receiving a suitable education the local authority can, under section 437 of the *Education Act 1996*, 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. The [guidance on home education](#) encourages councils to address the issue informally before serving such a notice.<sup>25</sup>

If a notice is served and the parents fail to satisfy the local authority that the child is receiving a suitable education, or the authority believes that

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<sup>19</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, paras 2.5-2.8.

<sup>20</sup> *Education Act 2002*, section 175(1).

<sup>21</sup> *Children's Act 1989*, Section 47.

<sup>22</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, paras 2.12-2.15.

<sup>23</sup> As above, para 3.1.

<sup>24</sup> Education Committee, [Support for Home Education](#), 18 December 2012, HC 559-I 2012-13, para 10.

<sup>25</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, paras 2.7-2.8.



it is expedient that the child attends school, then the authority will 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.

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.<sup>26</sup>

Further information about the duties of local authorities with regards to home educated children are outlined in the guidance on home education (paras 2.5-2.17).

## 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 local authorities do not receive funding to support home educating families, but encourages them to provide support where resources permit:

As a minimum, local authorities should provide written information (which is also available through the internet) on elective home education that is clear and accurate and which sets out the legal position. Some local authorities may be able to offer additional support to home educating parents, but this will vary depending on their resources.<sup>27</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](#).

### Flexi-schooling

Flexi-schooling describes an approach which offers part-time attendance at school to parents who may wish to part-educate their child at home.

In February 2013, the Department for Education 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>28</sup>

The Parliamentary Under Secretary of State for the School System, Lord Agnew, outlined the current Government's position on flexi-schooling in response to a parliamentary question in May 2018:

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<sup>26</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, paras 2.7-2.10.

<sup>27</sup> Department for Children, Schools and Families, [Elective Home Education: Guidelines for Local Authorities](#), November 2007, paras 2.4 and 5.2.

<sup>28</sup> Department for Education, [Clarification on flexi-schooling](#), 22 March 2013, website [taken on 27 March 2013].

**Lord Storey:** To ask Her Majesty's Government what is the status of flexi-schooling in terms of the school roll and pupil funding allocation.

**Lord Agnew of Oulton:** Children who are educated at home can also be registered at school and attend school for part of the week. Such an arrangement is known as 'flexi-schooling'. Schools are under no obligation to agree to such an arrangement, but some are happy to do so. Schools must enter a pupil on the admission register from the beginning of the first day that the pupil will attend the school; this will include a pupil who is flexi-schooled. Where a school has agreed to a flexi-schooling arrangement, the time a child spends being educated at home should be recorded as absence.

On the day of the autumn school census, schools record every pupil who is entered on the admission register. A school will attract per pupil funding if a pupil is recorded in the autumn school census.

The current Department for Education [non-statutory guidance on school attendance](#), last updated in November 2016, states that as a rule schools can't place pupils on part-time timetables but that "in very exceptional circumstances there may be a need for a temporary part-time timetable to meet a pupil's individual needs".<sup>29</sup>

### 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), but the education provided must be "suitable to the child's age, ability, aptitude and SEN."<sup>30</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>31</sup>

Under the reformed system for special educational needs, where parents and the local authority agree that home education is the right provision for a child with an EHC plan, the plan should make clear that the child will be educated at home. If it does, then the local authority must arrange the special educational provision set out in the plan.

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. The

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<sup>29</sup> Department for Education, [School attendance: Guidance for maintained schools, academies, independent schools and local authorities](#), November 2016, p22.

<sup>30</sup> Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, p214.

<sup>31</sup> As above, p214.

authority must review the plan annually “to assure itself that the provision set out in it continues to be appropriate and that the child’s SEN continue to be met.”<sup>32</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>33</sup>

## Funding

[Guidance to local authorities](#) on funding provision for home educated children with SEN notes that parents assume financial responsibility for their child’s education, but encourages local authorities to take a flexible approach:

It remains the case that when parents choose to electively home educate their children they assume financial responsibility for their children’s education. However, the Department continues to recommend that local authorities should take a flexible approach to support for home educating parents where appropriate.<sup>34</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>35</sup>

The guidance on funding provision for home educated children with SEN additionally states that local authorities can financially support the parents of children with statements of SEN which name a school, and the parents of children with SEN but without statements. It notes that parents should not be expected to pay £10,000 before they receive any support:

As regards children with statements of SEN which name schools as the appropriate placement for a child but parents decide to educate such a child at home, it remains the local authority’s duty to ensure that the child’s needs are met through the provision made by the parents. The local authority can support parents financially in these circumstances under section 319 or section 19

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<sup>32</sup> As above, pp214-5.

<sup>33</sup> As above, p215.

<sup>34</sup> [Revised funding guidance for local authorities on home educated children](#), para 2, last accessed 10 January 2017.

<sup>35</sup> Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, pp214-5.

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of the Education Act 1996 (this would fall under either paragraph 18 or paragraph 20 of Schedule 2 to the School and Early Years Finance (England) Regulations 2012). In deciding how much support is needed, the local authority should be aware that, unlike schools, parents do not receive base funding from the public purse in support of SEN, and should not therefore be expected to pay £10,000 before they receive any support.

Children with SEN but without statements may also be educated at home. In these circumstances local authorities should consider whether they require support from the public purse. This provision can also be made under section 319 or section 19 of the Education Act 1996.<sup>36</sup>

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<sup>36</sup> [Revised funding guidance for local authorities on home educated children](#), paras 5-6.

## 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>37</sup>

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

### **Lords Committee stage**

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>38</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>39</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>40</sup>

A date for the Lords Report Stage of the Bill is yet to be announced.

### **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 children in recent years and said that this “raises questions about the adequacy of the current arrangements for ensuring that these children

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<sup>37</sup> HL Deb 24 November 2017, [cc435-440](#).

<sup>38</sup> HL Deb 27 April 2018, [c1787](#).

<sup>39</sup> As above, [cc1787-8](#).

<sup>40</sup> As above, [c1790](#).

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>41</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>42</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>43</sup>

The Minister also said that he would like to look at making examination facilities available more easily for home-educated children. He finished by saying that the Government was "keeping an open mind on the Bill."<sup>44</sup>

<sup>41</sup> HL Deb 24 November 2017, [cc464-467](#).

<sup>42</sup> HM Government, [Integrated Communities Strategy Green Paper](#), March 2018, pp27 & 34.

<sup>43</sup> HL Deb 24 January 2018, [cc1013-5](#).

<sup>44</sup> HL Deb 24 January 2018, [cc1013-5](#).

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>45</sup>

## 2.2 Government consultation on home education

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.

The call for evidence also seeks 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

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<sup>45</sup> HL Deb 27 April 2018, [cc1785-6](#).



- 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 consultation closes on 2 July 2018.<sup>46</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 guidance for local authorities sets out the process by which local authorities should identify home educated children and how best they should intervene if a child is not receiving a suitable education. Among other things, it recommends that local authorities should ordinarily make contact with home educating parents on at least an annual basis "so the authority may reasonably inform itself of the current suitability of the education provided." The guidance states that this will enable local authorities to "fulfil its duty to serve a notice on any parent who does not appear to be providing efficient and suitable education. The guidance also recommends that each local authority should "seek to offer guidance to all known home-educating families in their area and provide advice and support for parents who request it."<sup>47</sup>

The guidance for parents offers advice on whether or not home education is the right decision for them, in addition to setting out the powers that local authorities have and the steps parents should take if concerns arise.<sup>48</sup>

## 2.3 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>49</sup>

The report, *Review of Elective Home Education*, was published on 11 June 2009.<sup>50</sup> It made 28 recommendations, including that a compulsory annual registration scheme for home educators should be established.

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<sup>46</sup> Department for Education, [Elective home education: call for evidence: Government consultation](#), April 2018.

<sup>47</sup> Department for Education, *Draft elective home education guidance for local authorities*, April 2018, pp8 & 12.

<sup>48</sup> [Measures to deliver quality education across all settings](#), Department for Education, 10 April 2018.

<sup>49</sup> "Morgan: Action to ensure children's education and welfare", DCSF Press Notice 19 January 2009.

<sup>50</sup> Graham Badman, *The Report to the Secretary of State on the Review of Elective Home Education in England*, HC 610, June 2009.

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>51</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>52</sup> and
- that the Government should review the current statutory definition of what constitutes a 'suitable' and 'efficient' education.<sup>53</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>54</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>55</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>56</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

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<sup>51</sup> As above, pp38 & 40.

<sup>52</sup> As above, p41.

<sup>53</sup> As above, p39.

<sup>54</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>55</sup> [HC Deb 11 June 2009 c44-5WS](#).

<sup>56</sup> Department for Children Schools and Families, [DCSF response to the Badman Review of Elective Home Education in England](#), October 2009.

recommendations of a number of independent reviews, including Graham Badman's [Review of Elective Home Education in England](#).<sup>57</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 right to see the child alone would only be with the permission and agreement of the parent.<sup>58</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>59</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>60</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

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<sup>57</sup> [Children Schools and Families Bill](#), Bill 8 of Session 2009-2010

<sup>58</sup> [HC Deb 19 November 2009 cc175-6](#)

<sup>59</sup> Children, Schools and Families Committee, [The Review of Elective Home Education](#), 16 December 2009, HC 39-I.

<sup>60</sup> As above.

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>61</sup> They were therefore not included in the Bill that became the *Children, Schools and Families Act 2010*.

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<sup>61</sup> DCSF, [Statement on the Children, Schools and Families Bill](#), 7 April 2010.

## 3. Issues and reports

### 3.1 Education Committee report

In December 2012, the Education Committee published [a report into home education](#). The report focused on the support available to home educators, and the relationship between home educators and local authorities. The report:

- Found that some local authorities may be acting outside the law and most had *ultra vires* statements on their websites with regards to home education [paras 10-12].
- Noted evidence that the guidance on home education was not clear enough as to what constitutes suitable and efficient education. The report concluded that the case law in this area was sufficient but recommended that the Department conduct a review of the guidance [paras 13-15].
- Found evidence of inconsistency in local authority practice across the county, leading to a 'postcode lottery' for home educators. The report suggested that the establishment of a professional association/annual conference of home education officers could help spread best practice [para 16-21].
- Recommended against any system-wide changes to financial support for home educators but recommended that the Government should better explain where funding that is available can be obtained [para 34]
- Recommended that the state should meet the cost of home educated children sitting public examinations [para 44]
- Recommended that the Government monitor local authorities' provision of advice regarding transition to further education for home educated young people [paras 45-46]<sup>62</sup>

#### Government response

The [Government response to the report](#) was published in March 2013. The Government stated that it had no plans to review or change the guidance on home education, and that it was not for the Government to audit local authorities on their performance on home education.<sup>63</sup> The Government also rejected the Committee's recommendation that the cost of public examinations should be met by the state.<sup>64</sup>

### 3.2 Unregistered schools

There has been an increased focus in recent years on the potential safeguarding risks posed by unregistered schools. It has also been suggested by some that there may be a link between the growth of

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<sup>62</sup> Education Committee, [Support for Home Education](#), 18 December 2012, HC 559-I 2012-13.

<sup>63</sup> Education Committee, [Support for Home Education: Government Response to the Committee's Fifth Report of Session 2012-13](#), 18 March 2013, HC 1013, p2.

<sup>64</sup> As above, p4

such schools and the freedom of parents to home educate their children.

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>65</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 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>66</sup>

The letter added that the Chief Inspector would welcome the opportunity for officials from Ofsted and the Department for Education to work together “on the current legal framework around home education to consider how the arrangements should be strengthened.”<sup>67</sup>

### Call for evidence on out-of-school settings

In November 2015, the Department for Education published [a call for evidence](#) on out-of-school education settings, which set out proposals to require the registration of settings providing intensive out-of-school education. Under the proposals, a body would also be empowered to inspect such settings and there would be a power to impose sanctions where it was found that they had failed to safeguard and promote the welfare of children.

The call for evidence made clear, however, that the proposals were “not about regulating the education that parents provide their children in their homes.” It added:

The government continues to respect the rights of parents to home educate their children, whether at home or in a combination of other settings, provided a suitable full-time education is being arranged.<sup>68</sup>

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<sup>65</sup> Ofsted, [Advice letter from Sir Michael Wilshaw, Her Majesty’s Chief Inspector, on unregistered schools](#), 11 December 2015

<sup>66</sup> Ofsted, [Advice letter from Sir Michael Wilshaw, Her Majesty’s Chief Inspector, in respect of suspected illegal schools](#), 16 May 2016.

<sup>67</sup> As above.

<sup>68</sup> Department for Education, [Out-of-school education settings: call for evidence](#), November 2015, p7.

The Government [published a report on the call for evidence in April 2018](#), which stated that the Government did not intend to proceed with the proposals outlined in the original call for evidence, but instead intended to collect evidence with future legislation as a potential option. Further information is available in Library Briefing 7345, [Counter-extremism policy in English schools](#).

The call for evidence on home education (see section 2.2 above) states that in taking forward the issue of out of school settings, the Government will “also bear in mind relevant responses to this call for evidence on home education, given the fact that some of these settings provide part of the education for ‘home-educated’ children.”<sup>69</sup>

### 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 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

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<sup>69</sup> Department for Education, [Elective home education: call for evidence: Government consultation](#), April 2018, p18.

unregistered school settings, independent schools and home education.<sup>70</sup>

The Government published its [response to the Wood Report](#) in May 2016. The response did not explicitly refer to home education.<sup>71</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>72</sup>

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

- The definition of suitable education in existing guidance, 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>73</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

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<sup>70</sup> Department for Education, [Wood review of local safeguarding children boards](#), May 2016, pp32-5.

<sup>71</sup> Department for Education, [Wood review of LSCBs: government response](#), May 2016.

<sup>72</sup> Dame Louise Casey, [The Casey Review: A review into opportunity and integration](#), December 2016, p119.

<sup>73</sup> As above, pp118-20.



pupils who are not known to local authorities and the opportunity to abuse the system will remain.”<sup>74</sup>

The report’s section on home education concluded:

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>75</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>76</sup>

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<sup>74</sup> As above, p120.

<sup>75</sup> As above, p120.

<sup>76</sup> [HCWS319](#), 5 December 2016.

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