

Research Briefing

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Children Not in School (Registers, Support and Orders) Bill 2023-24



Summary

- 1 The Bill
- 2 Current position on home schooling in England
- 3 Schools Bill 2022 and a proposed register of children not in school

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Contents

Summary	5
1 The Bill	6
1.1 The Bill	6
Provisions of the Bill	6
1.2 Parliamentary stages	7
2 Current position on home schooling in England	8
2.1 The right of parents to educate their children at home	8
2.2 How many children are educated at home?	9
DfE experimental statistics	9
Characteristics of home educated children	10
Other estimates of number of EHE children	10
2.3 Parental responsibilities	11
Informing the local authority	11
Providing an efficient, full-time and suitable education	11
Flexi-schooling	13
2.4 Responsibilities of local authorities	13
If a child is not receiving a suitable education	14
Number of school attendance orders issued	15
Local authorities’ safeguarding duties	16
Oversight of local authorities	17
2.5 Funding and support	17
2.6 Children with special educational needs	18
Funding	19
3 Schools Bill 2022 and a proposed register of children not in school	21
3.1 The Schools Bill 2022	21
Legislative plans for a register of children not in school	21
Bill abandoned but register remains a “priority”	23

Summary

The [Children Not in School \(Registers, Support and Orders\) Bill](#), Bill 50 of session 2023-24, is a Private Member's Bill introduced by Flick Drummond (Con). [Explanatory Notes](#) have been published alongside the Bill.

The Government has indicated that it has been working with Flick Drummond on this Bill.

Bill contents

The Bill would amend the [Education Act 1996](#) to introduce a duty on local authorities in England to maintain registers of children of compulsory school age who are not educated full-time at schools. It would also introduce a duty on local authorities to provide support to home educating families, should they request it.

The Bill would also amend the 1996 Act to require local authorities to issue School Attendance Orders to parents of children who are not being appropriately educated, and create an offence where a person served with a School Attendance Order fails to comply.

This Bill extends to England and Wales, but as schools policy is devolved would only have effect in England.

Current rules and previous proposals

Currently, although some local authorities run voluntary registration schemes, there is no legal obligation for a parent to register or inform a local authority that their child is being home educated.

There have been previous proposals for a register of this kind, including in the Government's [Schools Bill](#) in 2022. That Bill was abandoned, but the Government retained the intention to legislate for a register. The Bill, which began in the House of Lords, proved controversial, with objections raised to a register in principle, as well as to the related powers for local authorities that were proposed.

The Library briefing on [Home Education in England](#) provides wider information on related issues, including earlier proposals for a register.

1 The Bill

1.1 The Bill

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The Government has indicated that it has been working with Flick Drummond on this Bill.¹

Provisions of the Bill

Clause 1 of the Bill would insert new sections 436B to 436G into the [Education Act 1996](#), and also a new Schedule 31A.

The new sections would create a duty for local authorities to maintain a register of children not in school, and contain requirements on what should be included in such a register. They would also provide for regulations to be made on how the register would be maintained, and restrictions on how material from a register might be used and what might be published.

The new sections would place requirements on parents and out-of-school education providers to notify local authorities about relevant children. The new schedule 31A would provide for penalties to be paid by out-of-school providers who did not provide requested information.

New section 436G would require a local authority to provide, or secure provision of, support they deem appropriate to promote the education of registered children, when requested by the parent.

Clause 2 would insert new sections 436H to 436P into the Education Act 1996.

The new sections set out the requirements for local authorities in England to issue School Attendance Orders, including preliminary notices. An order

¹ See, for example, [PQ 17177 \[Home education\], 13 March 2024](#)

would require a child who is not receiving a suitable education to attend a school.

The new sections include requirements to be followed in terms of nominating a school to be named in an order, provisions in cases where a child has an Education, Health and Care Plan, and circumstances where an order may be amended or revoked.

The new section 436P would create an offence where a person who is served with a School Attendance Order under the new section 436I fails to comply with that order.

Clause 3 would require local authorities to have regard to guidance issued by the Secretary of State relating to the register of children not in school and school attendance orders.

Clause 4 would make consequential amendments relating to school attendance orders.

Clause 5 provides the Bill's extent and commencement provisions.

1.2

Parliamentary stages

The Bill had its First Reading in the House of Commons on 11 December 2023. Second Reading was held without debate on 15 March 2024.

A date has not yet been set for Committee Stage.

2 Current position on home schooling in England

This chapter provides an overview of the current legislation and guidance relating to home-educated children. It is drawn from the Library briefing on [Home Education in England](#), which provides wider information on related issues.

2.1 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](#), applicable to all children, states:

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 or guardians, and they have the right to choose to educate their children at home.

‘Elective home education’ or ‘home schooling’ are terms used in this briefing to describe home education for children of compulsory school age.² There is currently no legislation that deals with home education as a specific approach, but it is covered by section 7 of the 1996 Act as ‘education otherwise than at school’.³

² Children must start full-time education once they reach compulsory school age. This is on 31 December, 31 March or 31 August following their fifth birthday - whichever comes first. Compulsory education finishes on the last Friday in June when a child will turn 16 by the end of the academic year.

³ Department for Education, [Elective home education Departmental guidance for parents](#), April 2019, p6.

Children who are educated at home are not usually registered at mainstream schools or special schools.⁴

Updated guidance on home education was published by the Department for Education (DfE) in April 2019, following a consultation in April 2018. [Two guidance documents](#) were published, [one for local authorities \(PDF, 689KB\)](#) and [one for parents \(PDF, 458KB\)](#).⁵

2.2

How many children are educated at home?

There is no definite figure for the number of children who are home educated in England.

Details are published for registered home educated pupils, but these are likely to underestimate the total number of home educated children. This is because registration with the local authority is voluntary (although schools must inform the local authority when children are removed from school admission registers).

DfE experimental statistics

The Department for Education (DfE) now collects termly information from local authorities about registered home educated pupils. The latest data is for October 2023. At this point, and after adjusting for non-responses [there were an estimated 92,000 home educated pupils known to local authorities in England](#). An estimated 126,100 pupils were home educated at any point during the 2022/23 academic year.⁶

The DfE also publishes an estimate of the rate of home education, using Office for National Statistics 2022 mid-year population estimates of the 5 to 16-year-old population. Across England, it estimates the rate of Elective Home Education (EHE) at 1.1%. The estimated regional rate in October 2023 varied from 0.8% in Inner and Outer London, to 1.6% in the South West.⁷

Reason for home education

In October 2023, in around 40% of cases, local authorities did not have data on the main reason parents had opted to home educate. Where a reason was given, philosophical reasons were the most commonly cited (16% of home educators). Mental health reasons were cited as the main reason for EHE in 13% of cases, with lifestyle and general school dissatisfaction being the next

⁴ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p6.

⁵ Department for Education, [Elective Home Education guidance](#), April 2019

⁶ Department for Education, [Elective home education: Academic year 2023-24](#), 29 February 2024, main text

⁷ Department for Education, [Elective home education: Academic year 2023-24](#), 29 February 2024, [custom table](#)

most commonly-cited reasons (8% each). 3% of EHE parents cited bullying, and 3% dissatisfaction with schools' SEN provision as the main reasons.⁸

Characteristics of home educated children

[The DfE estimates for registered home educated pupils](#) outlined in the previous section also collected some characteristics data. In October 2023 the DfE estimated:

- 51% of registered home educated children were female and 49% were male
- Registered home educated children tended to be older. Only 3% were in year 1 compared with 19% in year 11. Around a third of registered home educated children were in year 10 or 11 (the GCSE phase).
- 15% of registered home educated children had SEN support and 5% had Education, Health and Care plans. This is broadly in line with the national average of 13% and 4%, respectively
- 1% of registered home educated children were [children in need](#) compared with the national average of 3%.⁹

Other estimates of number of EHE children

Other bodies including the Association of Directors of Children's Services, the Office of the Schools Adjudicator, the specialist educational press, and home education representative groups such as Education Otherwise have all made attempts to quantify numbers and trends in EHE.

[Education Otherwise's March 2024 report](#) is based on freedom of information (FOI) responses from all local authorities in England, and survey data. The report claims the DfE's October 2023 publication underestimates the number of children in elective home education; the report cites a figure of 94,190 at the time of the October census, compared to the DfE's 92,000 estimate.¹⁰

Further background on earlier estimates, which are based on surveys, freedom of information requests, or a combination of both, can be found in section two of [a separate Commons Library briefing paper on elective home education](#).

⁸ Department for Education, Department for Education, [Elective home education: Academic year 2023-24](#), 29 February 2024, main text

⁹ Department for Education, Department for Education, [Elective home education: Academic year 2023-24](#), 29 February 2024, main text

¹⁰ Education Otherwise, [Home Education Trends: Changing Cohorts](#), March 2024, p6

2.3

Parental responsibilities

Informing the local authority

Although some local authorities run voluntary registration schemes, there is currently no legal obligation for a parent to register or inform a local authority that their child is being home educated.¹¹ However, the Government is consulting on proposals to change this (see section 3.3 below).

Although parents and guardians are not required to inform the school a child is being withdrawn for home education, DfE guidance recommends it is sensible to do so. Schools, however, are obliged to inform the local authority of children removed 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 is required before they can be removed from the admission register.¹²

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.¹³ Parents can choose to employ private tutors, or online tuition, to assist them, but there is no requirement for them to do so. Learning may also take place in different locations and does not have to be limited to the child's home.¹⁴

The DfE [guidance for parents on home education](#) (PDF) provides more information on what constitutes an efficient, full-time, and suitable education.¹⁵

What constitutes efficient, full-time, and suitable education?

Efficient education

There is no definition of efficient education in statute law. The DfE guidance states it can be interpreted as meaning education which “achieves what it is

¹¹ PQ 47136, [on [Home Education](#)], 1 November 2016

¹² Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, p13.

¹³ [Education Act 1996](#) s7

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

¹⁵ As above

intended to achieve.”¹⁶ It notes 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 children attending school normally have about five hours teaching a day for 190 days, spread over about 38 weeks. It states, however, that home education doesn’t 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.¹⁷

Suitable education

There is no definition of suitable education in statute law. Under section 7 of the Education Act 1996, the education **must be suitable to the age, ability and aptitude of the child, and any special educational needs**. The guidance explains this means 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.”¹⁸

It also sets out some more general points that should be considered, 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 they grew up in.
- 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 (such as 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.¹⁹

¹⁶ Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, p7

¹⁷ As above

¹⁸ As above

¹⁹ Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, p8

There are no legal requirements for parents who are home educating children to follow the National Curriculum, aim for the child to acquire specific qualifications, or to provide a broad and balanced curriculum.²⁰

The home education guidance for local authorities emphasises that the parents home schooling may adopt a variety of approaches, and one is not necessarily more effective than another. Local authorities should not, it says, specify an approach that parents must follow. It also highlights that 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 2010.²¹

Flexi-schooling

As well as educating their child at home full time, parents can also choose to arrange for them 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. These arrangements are sometimes known as ‘flexi-schooling’.

The current 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.”²² If a child is absent from school when they are supposed to be there under flexi-school arrangements, parents must get this authorised by the school.

2.4

Responsibilities of local authorities

Local authorities have no formal powers or duty to monitor the provision of home education. However, under section 436A of the Education Act 1996 they do have a duty to identify children in their area who are not receiving a suitable education.²³

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 find out what education is being provided.²⁴

²⁰ Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, pp7-9

²¹ As above, p36

²² Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p6

²³ Department for Education, [Elective home education: Departmental guidance for parents](#), April 2019, p14

²⁴ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp9-10

There are no detailed requirements as to how a local authority's oversight system should work, and it is for each local authority to decide its approach. However, the guidance says a proportional approach needs to be taken and local authorities should not exert more oversight than is needed if parents are providing a suitable education. It recommends that an authority should make contact with home educating parents on at least an annual basis, so it is reasonably informed of the suitability of the education provided.²⁵

Depending on the results of the enquiries, the guidance states that the law may require further action, and the DfE "believes this is the case for an increasing number of children."²⁶

The guidance also recommends, among other things, that local authorities should, as a minimum:

- Have a written policy statement on home education which sets out how the authority will seek to engage and communicate with parents.
- 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 also notes that authorities may choose to go further than this by operating a voluntary registration scheme and encourages authorities to do so.²⁷

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

If it's unclear whether a child is receiving a suitable education, the guidance recommends the local authority should initially attempt to find out 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 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.²⁸

²⁵ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp14-15.

²⁶ As above, p10

²⁷ As above, pp10-11

²⁸ As above, p17.

If 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 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's 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. This is explained in section 437(3) of the Education Act 1996.

The parents can be prosecuted if they do not comply with the order, and the home education guidance states that local authorities should proceed with prosecution unless there is good reason not to do so.²⁹

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 for Education. 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.³⁰

The guidance notes that if a parent is convicted and fined but still fails to send their child to school, then another notice must be served. A parent willing and able to be fined repeatedly can, therefore, potentially continue the unsatisfactory provision indefinitely. In such cases, the guidance states, local authorities will need to consider using other powers – for example, those relating to safeguarding.

If a person is found guilty of breaching a school attendance order, the court can make a parenting order, requiring the parent 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.³¹

Number of school attendance orders issued

In the 2022/23 academic year:

- An estimated 3,900 s437(1) orders notifying parents were issued across England. This was an increase of 100 on the previous year's estimate.

²⁹ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), p20

³⁰ As above

³¹ As above, pp17-21.

- An estimated 1,100 school attendance orders were issued, and 200 were revoked. These represent decreases from the previous year's estimates. Revocation can happen because either:
 - The local authority concludes the child is receiving a suitable education
 - A court acquits a parent prosecuted for breaching an order
 - The child is no longer of compulsory school age; or
 - The LA applies instead for an education supervision order.³²

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 children in their areas. These duties apply equally to all children, whether educated at home or at school.³³

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 regularly seen 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.”³⁴

Local authorities should, the guidance states, approach cases where the suitability of education is in doubt using powers under the Education Act 1996. 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.³⁵

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.

If this is the case, a local authority could apply 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 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

³² Department for Education, Department for Education, [Elective home education: Academic year 2023-24](#), 29 February 2024, main text

³³ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), p22

³⁴ As above

³⁵ As above

cases of a failure to provide a suitable education, and a persistent refusal by parents to co-operate with the local authority.”³⁶

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 give enough information, the authority may ask the court for an order for a child assessment to be made to gather further information to determine if the significant harm threshold is met.³⁷

Oversight of local authorities

Ofsted inspects local authorities, including a review of the way the authority carries out its duties to vulnerable children. While the home education guidance states that home educated 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.”³⁸

Ofsted has no role in the oversight of education received by individual children who are educated at home.³⁹

2.5

Funding and support

Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including the cost of any public examinations.

The DfE’s 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 run 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,

³⁶ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), p25

³⁷ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), pp22-25; Department for Education, [Elective home education: Departmental guidance for parents](#), p16-17

³⁸ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p11

³⁹ 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.

the guidance states, authorities should provide written information on home education that sets out the legal position.⁴⁰

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

Data on spending for home education

The DfE does not publish data on spending on home education.

The 2021 [ADCS Home Education Survey](#) asked upper tier local authorities how much they spent coordinating home education. 113 out of 152 authorities responded to this question, so the findings may not be representative.

The average budget reported for the 2020/21 academic year was £46,000. However, the average reported spend was around £86,200. This means the average reported overspend was around £40,200.

On average, local authorities reported they employed 2.2 full time equivalent staff members to co-ordinate and monitor home education (these staff members could also have additional duties).⁴¹

2.6

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.”⁴²

The [Special Educational Needs and Disability \(SEND\) Code of Practice](#) 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 parents have drawn the child’s needs to the attention of the authority.⁴³

⁴⁰ 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.

⁴¹ [ADCS Home Education Survey 2021](#), November 2021, p8

⁴² Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, p214

⁴³ As above, p214

If a child has an EHC Plan, the local authority has a duty to ensure that the education specified in the plan is provided. However, this only applies if the parents have not arranged for the child to receive suitable education in some other way. The guidance states that:

if the home education is suitable, the local authority has no duty to arrange any special educational provision for the child; the plan should simply set out the type of special educational provision that the authority thinks the child requires but it should state in a suitable place that parents have made their own arrangements under s.7 of the Education Act 1996. The authority will of course continue to check the suitability of the home education as required by sections 436A and 437 of the 1996 Act, and if at any point it considers that the home education is no longer suitable, it must ensure that the special educational provision specified in the EHC plan is made available.⁴⁴

If 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, if it is satisfied that the parents' arrangements are suitable.

Even if a parent is making suitable alternative arrangements by home educating 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."⁴⁵

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."⁴⁶

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.⁴⁷

[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", based on supporting parents:

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

⁴⁴ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, pp26-7

⁴⁵ Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, p214.

⁴⁶ As above, p215.

⁴⁷ Department for Education, [Revised funding guidance for local authorities on home educated children](#), para 2

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.⁴⁸

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."⁴⁹

⁴⁸ Department for Education and Department of Health, [Special educational needs and disability code of practice: 0 to 25 years](#), January 2015, pp214-5.

⁴⁹ Department for Education, [Elective Home Education: Departmental guidance for local authorities](#), April 2019, p28.

3

Schools Bill 2022 and a proposed register of children not in school

This chapter provides an overview of the proposals for a register of children not in school included in the Government's [Schools Bill](#) in 2022, which are very similar to those contained in the [Children Not in School \(Registers, Support and Orders\) Bill](#).

It is drawn from the section 3 Library briefing on [Home Education in England](#), which provides wider information on earlier related proposals.

3.1

The Schools Bill 2022

Legislative plans for a register of children not in school

In May 2022, the Government published a wide-ranging [Schools Bill](#), which included provisions to place a duty on local authorities in England to establish and maintain 'children not in school (CNIS) registers', and to provide support to home educators. The Bill was scrapped later in 2022 (see below).

Had it passed, the Bill would have required parents and certain providers of out-of-school education (meeting a threshold to be set out in regulations) to provide information for the register. When parents failed to comply with certain duties to provide information for a local authority's register, local authorities would be required to start the School Attendance Order process, and require children to attend school.

The Department for Education's (DfE) [policy statement on children not in school \[PDF\]](#) set out the Government's view on why legislation was needed, including to safeguard children:

While we know many parents who choose to home educate are very committed and do so in the best interests of their child, in some cases the reasons for home educating are not for the best education of the child and the education being provided is unsuitable. [...]

Registers, and the new accompanying duties (such as the duty to provide support to those home educating families who request it) will ensure consistency across local authorities; and will provide local authorities with

valuable tools to support them with their existing duties, including ensuring all children receive a suitable education and are safeguarded.⁵⁰

The Bill as introduced included provisions to:

- require local authorities to maintain registers of children not in school, and to support home educating parents
- require local authorities to issue School Attendance Orders
- create a revised offence for non-compliance with a School Attendance Order

Initial reaction to the Bill

The Children’s Commissioner for England welcomed the home education provisions in the Bill. She said: “the register will allow for children who have fallen through the gaps in our education system to be identified and provided with the right support.”⁵¹

The Local Government Association has also long supported a home education register, and welcomed the proposals in the Bill.⁵²

The home schooling charity Education Otherwise published a briefing in May 2022 that was [strongly critical of the Bill](#). In particular, it objected to a register and to the extent of proposed local authority powers:

By introducing a compulsory register of all home educated children, the Bill gives Local Authorities near enough unlimited powers to demand any and all information with threats of substantial fines and year-long imprisonment. Experience tells us that whilst some LAs will act reasonably, a sizeable number have demonstrated a continued propensity to abuse their existing powers, causing long lasting distress and harassment to children and parents. With no oversight the extent of abuse of power will only increase.⁵³

Writing in Conservative Home, Jeremy Yallop, a trustee of the Home Educators’ Qualifications Association also [criticised the measures](#), raising concerns about stigmatising home schooling families, and the extent of the ministerial powers in the Bill.⁵⁴

Debate in Parliament

The Bill, which began in the House of Lords, proved controversial, and Lords’ criticisms echoed the above concerns. The plans for a register of children not

⁵⁰ Department for Education, [Children not in School: Schools Bill Factsheet](#) [PDF], May 2022, p5

⁵¹ Children’s Commissioner for England, [The Children’s Commissioner’s response to the Queen’s Speech](#), 10 May 2022

⁵² Local Government Association, [LGA statement on Queen’s Speech: Schools Bill](#), 10 May 2022

⁵³ Education Otherwise, [The Schools Bill: Briefing Paper](#), May 2022, p1

⁵⁴ Conservative Home, [Home education has been a basic freedom for most of English history. Why is this Government placing it under threat?](#), 30 May 2022

in school were criticised both in principle and for the powers that the Bill proposed to give local authorities to require information from parents.

The Government responded to some of the concerns raised with amendments to the Bill during report stage, for example by replacing a broad power to prescribe information that must be contained in the register with a more targeted power.⁵⁵

Bill abandoned but register remains a “priority”

The Bill was due to have its third reading in the House of Lords in September 2022, but this was delayed after Liz Truss took office as Prime Minister for the new Government to assess its plans. It was reported shortly before Liz Truss’s resignation that the Government intended to abandon the Bill, perhaps to return to some of its provisions in smaller bills in another parliamentary session.⁵⁶

The Bill did not proceed after Rishi Sunak became Prime Minister, and in December 2022 the Education Secretary, Gillian Keegan, confirmed in oral evidence to the Education Committee that it would not progress. She emphasised political pressures outside education, such as the cost of living and the war in Ukraine, as dominating the Government’s focus.⁵⁷

The Education Secretary said that legislating for a register remained a “priority”, but did not commit to when legislation might be brought forward:

We definitely remain committed to legislating for children who are not on the school register, and we will continue to work until we make sure that they are all receiving a safe and suitable education. I cannot commit to dates or times because there is a process that has to be gone through and I do not have full control of it, but this is as much of a commitment and a priority for me as it is for the Committee.⁵⁸

⁵⁵ [HL Deb 18 Jul 2022 c1783-1785](#)

⁵⁶ Schools Week, [DfE scrambles to save key policies as schools bill set for axe](#), 19 October 2022

⁵⁷ Education Committee, [Oral evidence: Accountability hearings](#), 7 December 2022, HC 58, Q237

⁵⁸ Education Committee, [Oral evidence: Accountability hearings](#), 7 December 2022, HC 58, Q246

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