

Written evidence submitted by Education Otherwise

Education Otherwise Association

Response to Call for Evidence

Education Otherwise is a charitable organisation which has been supporting home education since 1977. The charity operates a national helpline and our trustees are in regular contact with several thousand home educating parents through our social media platforms and advisory services. Education Otherwise provides advice to families, Local Authority (LA) officers, schools, members of the public and various agencies, both directly and through our web site. Our published advice is based on extensive experience qualified by formal advice from senior counsel.

Education Otherwise considers the Charity to be uniquely placed to have an overview of the past and current relationships between home educating families and their local authorities.

This submission is formatted by reference to the questions in the call for evidence.

Summary

The duties of local authorities with regards to home education, including safeguarding and assuring the quality of home education.

Duties: Prior to 2019, guidance was clear that the Education Act 1996 s436a does not apply to home educated children and that there is no legal basis for monitoring of home education on a routine basis. Committee advice to the DfE to update guidance has resulted in this now being based almost entirely on s436a applying to those children and LAs seeking to be 'satisfied' from the outset. Parents feel aggrieved and disempowered by this.

Safeguarding duties: Home education is not a safeguarding issue and the conflation of home education and safeguarding is deeply offensive to home educating families.

Assuring the quality of home education: The duty to ensure that a child receives education suitable to their age, ability, aptitude and any special needs, is a duty upon the parent, not a duty upon the LA.

Whether a statutory register of home-educated children is required:

Education Otherwise does not consider a register to be necessary, or to be of benefit to home educated children.

The benefits children gain from home education, and the potential disadvantages they may face: Benefits are significant, disadvantages mainly socially constructed.

The quality and accessibility of support (including financial support) available for home educators and their children, including those with special educational needs, disabilities, mental health issues, or caring responsibilities, and those making the transition to further and higher education. Support for home educating families is notable primarily by its absence. This is particularly so in relation to examination access, technical and employment skills training.

Whether the current regulatory framework is sufficient to ensure that the wellbeing and academic achievement of home educated children is safeguarded, including where they may attend unregistered schools, have been formally excluded from school, or have been subject to 'off-rolling'; If correctly used, the current regulatory framework is wholly sufficient. Unregistered schools are not home education issues, nor is off rolling.

The role that inspection should play in future regulation of home education:

Inspection has a limited role to play in respect of LAs relationships with parents, a simple traffic light system works well to ensure that LAs act proportionately, by targeting those families where there are legitimate concerns.

What improvements have been made to support home educators since the 2010-15 Education Committee published their report on 'Support for Home Education' in 2012: This question is responded to using points within that report:

We urge all local authorities to undertake a swift review of their own material, including websites, and to ensure that their policies reflect the guidance available. We also saw evidence of inconsistency across the country, leading to a 'postcode lottery' for home educators:

An inspection this week of online information and policies for all LAs found the following clear continuance of the post code lottery raised in the report:

- 44 LAs have no online policy:

For those LAs who do have a policy online:

- 18 have not been updated since 2019. Several go back to as early as 2013.
- 13 were not dated, or the date was unable to be ascertained from the content.
- 45 do not state that meetings are not mandatory.
- 67 state clearly, or imply that meetings are mandatory.

- 37 state clearly, or imply that copies of the child's work must be provided.
- **Only 20 LAs in England have policies (or online information) which are fully compliant with legislation and guidance.**

The development of a more formalised professional association of, and/or annual conference for, home education officers could be a welcome step in terms of sharing best practice nationally. This has occurred but is ineffective save as a vehicle to lobby Government.

Local authorities might also improve their relationships with home educators by ensuring officers dealing with these issues are placed in a dedicated or neutral team: locating home education officers with those working on, for example, attendance, children in care or safeguarding gives an unhelpful impression: This has not occurred. A significant number of LAs have home education under the umbrella of 'safeguarding'.

We also recommend that the Department for Education carries out an audit of local authorities' performance regarding home education: There is no evidence to suggest that this has occurred.

We recommend that the Government places a duty on every local authorities to ensure access to local centres for home-educated young people to sit accredited public exams: This has occurred only in some LAs.

We further recommend—given the contribution that many home educators make through their taxes—that the costs of sitting public examinations (to an appropriate level of entitlement) be met by the State. This has certainly not happened.

Local authorities should produce 'local offers of support', stating what services are available to home-educating families, and the Department for Education should support pilots for such a scheme. Only a tiny minority of LAs offer any support whatsoever.

We also look forward to the outcomes of the Department's investigations into allegations of malpractice around young people with SEN or health needs who are home-educated: we heard some worrying evidence that provisions were not being fully met as they would be for schooled children. If anything, this situation has worsened.

It is clear from the evidence we received that many parties, both home educators and local authorities, have made real efforts to engage, to understand each other's

motivations and constraints, and to ensure more constructive relationships and better support. We acknowledge that there is some way to go, and look forward to seeing a more consistent approach to home education across the country. The postcode lottery continues unabated and parents feel as if they are fighting a constant battle to constrain LA illegality.

The impact COVID-19 has had on home educated children, and what additional measures might need to be taken in order to mitigate any negative impacts: The most notable impact has been the serious lack of facility for home educated children to access examination grades during 2020, which situation appears to not be receiving any form of action to ameliorate his.

Ongoing concerns: LAs still do not provide adequate training for their education officers and very few have any experience of, or training in home education. A recent surge in education officers stating that they cannot state education to be suitable without copious amounts of information, reports from tutors, samples of work, or meetings, may well be founded on this lack of training and experience. In our experience, a competent education officer can readily ascertain whether they have any concerns in respect of the education by reference to a brief education report by the parent. This would indicate that competency levels have fallen.

Full response

The duties of local authorities with regards to home education, including safeguarding and assuring the quality of home education.

Duties: Prior to 2019, the Children Missing Education (CME) was clear that once a child was known to be home educated the CME duty was discharged. The Elective Home Education Guidance for Local Authorities (EHEGLA 2007) rightly stated that the Education Act 1996 s436a does not apply to home educated children and that there is no legal basis for monitoring of home education on a routine basis:

2.6 Local authorities have a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to enable them to establish the identities, so far as it is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision). The guidance issued makes it clear that the duty does not apply to children who are being educated at home.

2.7 Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis.

However, under Section 437(1) of the Education Act 1996, local authorities shall intervene if it appears that parents are not providing a suitable education.

Legal precedent is clear that any initial enquiry by the LA is informal and that unless that first stage raises concerns in respect of the education provision, the LA cannot and must not move to a notice to satisfy under s437. It is a two stage process.

In its report, the committee quite properly referred to '*some aspects of existing guidance (requiring) clarification*' and recommended that the DfE review that guidance. In so doing, the DfE succumbed to pressure from the more zealous local authorities and rather than reviewing those aspects of the EHGLA which needed clarification, the Elective Home Education Departmental Guidance for Local Authorities (EHEDGLA 2019) has created greater rifts between local authorities and home educating parents, who feel increasingly disempowered by unreasonable and disproportionate demands made by those authorities. Most tellingly, the EHEDGLA is based to a large part upon the Education Act 1996 s436a and the contention that this **does** apply to home educated children specifically. The EHEDGLA goes further and states:

'Until a local authority is satisfied that a home-educated child is receiving a suitable full-time education, then a child being educated at home is potentially in scope of this duty'. (Para 4.2)

S436a was intended to allow LAs to make an informal enquiry if and only if, the LA did not know how the child was being educated (enshrining precedent in legislation). Once the LA knows that the child is home educated, unless that LA has reasonable cause for concern that the education may not be suitable, its duties are fulfilled. Parliament never intended that LAs should step straight to demand that they be 'satisfied' that education is suitable and by using the EHEDGLA to seek to effectively change the law and the application of s436a to be an enquiry under the EA 1996 s437, the DfE has triggered a flood of unreasonable and disproportionate demands upon parents by LAs.

Safeguarding duties:

Home education is not a safeguarding issue and the conflation of home education and safeguarding is deeply offensive to home educating families. Home educators and organisations have in recent years, felt as if they are fighting a constant battle against misinformation claiming that home educated children are at risk including claims of risk of FGM, radicalisation, child abuse and more recently 'County lines'. Each of these claims has been demonstrated to be untrue and yet the myth perpetuates.

'Please ensure that you have read our Home Education policy, safeguarding information, information for young carers, information about radicalisation,

minimal standards for achievement...' (Current form sent by Camden Council to new home educators)

LAs have general duties for promoting and safeguarding the welfare of all children in their areas (Children Act 2004 s10, s11). The Education Act 2002 s 175 requires LAs to make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting children's welfare. These safeguarding duties are the same for all children, however they are educated and provides no additional powers to LAs in respect of home educated children.

Notwithstanding lack of legal power to do so, some LAs insist upon meeting with the parent and, or, speaking to the child, on purportedly on the basis of their 'safeguarding duties'. This has no legal basis, is unacceptable and offensive to the majority of families.

It is of particular note that a great many parents home educate their children because school represents significant safeguarding risk to their child. Examples of these risks include:

- Children's special needs not being met in school;
- Bullying, a generally insidious emotional abuse, but the term can disguise and minimise incidents including physical violence, rape, sexual assault, stabbing, isolation, teacher abuse and verbal intimidation of children (all incidents in respect of which Education Otherwise has supported families).

This week alone, Education Otherwise has advised two families of children who have attempted suicide as a result of abuse at school and where the LA has done little or nothing to assist them. On the day of writing, we advised a parent of a child who had been stabbed and suffered gang torment at school, but where the LA was demanding that the child return to that school in the face of police advice to the contrary.

Assuring the quality of home education:

The duty to ensure that a child receives education suitable to their age, ability, aptitude and any special needs, is a duty upon the parent, not a duty upon the LA. The LA has a very limited role in assuring the quality of home education, in that: if the LA has concerns that the education may not be suitable, it may serve a notice upon the parent under the EA s437 and if necessary a School Attendance Order (SAO). If concern is sufficiently grave as to reach the bar of significant harm under the Children Act 1989 s47, then the LA must of course make such an assessment. In all other cases, the quality of the education is not a matter for the LA.

Whether a statutory register of home-educated children is required.

Education Otherwise does not consider a register to be necessary, or to be of benefit to home educated children. International research finds no difference in outcomes for

children in terms of attainment, social skills, or adult opportunities, between those regions with compulsory registration and those without. The introduction of any legislative requirement must be proportionate and based on a legitimate aim. Given the lack of any difference in outcomes for home educated children of such data bases, it is difficult to argue that they are proportionate.

Education Otherwise is particularly concerned about data for domestic abuse victims, as we are aware of several cases where LA staff have released data to an abusive former partner, who has subsequently located the abuse victim.

The benefits children gain from home education, and the potential disadvantages they may face.

Advantages

- Home education is historically established and an effective way of learning.
- The National Curriculum is a curriculum centric provision which is inflexible and fails to meet the needs of young people growing up in a service economy. Home education meets those needs.
- Home education is child centred provision which provides individualised education to each child, enabling them to reach their potential.
- Home educated children's attainment is, on average, a year ahead of schooled children.
- Families can flourish by having the opportunity to spend more time together and develop extended family relationships.
- Children enjoy more natural socialisation than schools provide, which fits them to take their part in their communities as adults.
- Parents can travel freely (Covid 19 aside) and children learn internationally, better preparing them for our global society.
- Children have their individual needs met more appropriately.
- Children are not exposed to peer pressure.
- Children are not exposed to radicalisation.
- Children are not exposed to school based drug culture.
- Children are not exposed to bullying and abuse.
- School children are between 10 and 20 times more likely to commit an offence leading to a disposal than are home educated children.
- Home educated children are allowed to have childhoods; they are not exposed to premature sexualisation, or emulation of adult conduct, but enjoy being children to a natural stage when they are sufficiently mature as to be able to cope with adult behaviours.

Disadvantages

- Economic disadvantages from one parent giving up employment, or having reduced working hours.

- Stigmatisation by the media and other sources, which creates a view of home educated children as somehow 'other', 'unacceptable, or even abhorrent.
- Unwarranted interference by over zealous LAs in the family's private life.
- Enormous commitment in terms of time and energy to ensure that education is suitable and successful.

The quality and accessibility of support (including financial support) available for home educators and their children, including those with special educational needs, disabilities, mental health issues, or caring responsibilities, and those making the transition to further and higher education.

Support for home educating families is notable primarily by its absence. Education Otherwise trustees undertook a survey of LAs in late 2018, specifically asking what support they provide to home educating parents. Of the 130+ LAs who responded, all but a few cited '*monitoring provision*', or a '*monitoring visit*' as 'support'. It is our experience that whilst some parents may find such a meeting helpful, the vast majority consider it intrusive and unacceptable.

Where LAs were considered to be supportive (such as Hampshire, Lancashire and Cambridgeshire) it was because education staff were respectful toward parents and did not demand more than the necessary information required to fulfil their duties.

Home educating parents are particularly concerned by lack of support for children with special needs. Frequently, essential equipment is withdrawn from the child if they become home educated, including removal of a braille reader from a blind child. LAs and CAMHS also inform parents that they cannot access EHCP assessment as they are home educated.

Where parents home educate children with physical or mental health difficulties, some of the more unprofessional LAs will in many cases demand that the child receive education which is wholly unsuitable, including in the face of medical evidence that they are unable to do so and under threat of proceedings. Education Otherwise today advised a parent whose child has a severe neurological disorder and where a SAO had been threatened on the basis of the child not undertaking the number of hours that the LA considered to be 'full time'. This in the face of medical advice to not undertake education until the child is stabilised.

Examination results for home educated children have been impossible to obtain during 2020, OFQUAL having ignored their needs. There is no indication of whether arrangements will be made for home educated children to take those exams at any point. This has significantly disadvantaged children intending to go to higher education, or training.

Home educated children face a post code lottery when seeking technical education and apprenticeships, which will skill them for employment. There are 103 colleges offering some education to home educated children aged 14 -16, but a great many have a limited offer. Most usually this is for functional skills, or set subjects. Individual LAs set rules for accessing such colleges, which can exclude children, such as a requirement that the child is home educated for a set period prior to applying. Very few children have access to technical courses.

Where children can access technical and employment skills training, it is almost always because of the resourcefulness of their parents in making opportunities. Rarely is it with LA support.

Whether the current regulatory framework is sufficient to ensure that the wellbeing and academic achievement of home educated children is safeguarded, including where they may attend unregistered schools, have been formally excluded from school, or have been subject to 'off-rolling';

See above.

If correctly used, the current regulatory framework is wholly sufficient.

Unregistered schools are not a problem relating to home education, as LAs and OFTSED have the powers to deal with such 'schools'. Unfortunately, home education is often scapegoated for those 'schools' and this is unacceptable.

'Off rolling' is a problem with schools, again, this is not a home education problem and must be addressed at source, with schools. Alternatively, LAs could be instructed to have clear information on their web pages explaining 'off rolling' and advising parents to contact the LA to prevent such incidents.

The role that inspection should play in future regulation of home education.

Inspection has a limited role to play in respect of LAs relationships with parents, as Described above. A simple traffic light system works well to ensure that LAs act proportionately, by targeting those families where there are legitimate concerns.

- Parent is experienced, has previously been found to provide suitable education, or has provided a brief report which raised no concerns: No further action save for an annual request for confirmation.
- Parent is new, or their report raises some concerns: LA seeks further information and offers support to the parent to assist them to improve provision.
- Parent provides no information, or serious concerns are raised in respect of the education and no improvement is made after receiving support: Careful investigation and consideration of proceedings if concerns are not ameliorated.

By far the majority of parents should be asked only for an annual brief update, but currently this is not the case. The current guidance for parents states that '*your local authority has no formal powers or duty to monitor the provision of education at home*' and yet this is precisely what many LAs seek to do.

Inspection of LAs by OFSTED: OFSTED inspection could offer an opportunity to ensure that LAs are legally compliant and acting professionally, but this does not currently happen. OFSTED appear to pay no attention to the level of compliance by LAs with legislation, or guidance, but concentrate on assessing 'inspection', thereby contributing to the climate of distrust between LAs and home educating families.

What improvements have been made to support home educators since the 2010-15 Education Committee published their report on 'Support for Home Education' in 2012;

This question is responded to using points within that report:

We urge all local authorities to undertake a swift review of their own material, including websites, and to ensure that their policies reflect the guidance available. We also saw evidence of inconsistency across the country, leading to a 'postcode lottery' for home educators.

An inspection this week of online information and policies for all LAs found the following clear continuance of the post code lottery raised in the report:

- 44 LAs have no online policy:

For those LAs who do have a policy online:

- 18 have not been updated since 2019. Several go back to as early as 2013.
- 13 were not dated, or the date was unable to be ascertained from the content.
- 45 do not state that meetings are not mandatory.
- 67 state clearly, or imply that meetings are mandatory.
- 37 state clearly, or imply that copies of the child's work must be provided.
- **Only 20 LAs in England have policies (or online information) which are fully compliant with legislation and guidance.**

Examples:

'the local authority recognises that current legislation and guidance inadvertently helps the small minority of home educators who use home education as a cover to conceal child neglect and abuse'

'The local authority will make random sample visits'

'(Long list of situations including the age of the child and the parent's health) In these cases, the expectation is that the child should remain on school roll'

'If parents are to home educate, they must contact the inclusion team directly'

'You need to let us know if you are planning to or already are educating your child at home'

'must provide a broad and balanced curriculum'

'parents should ensure that the following subjects are covered (lists full range of NC)'

'Local authority duties in relation to safeguarding are the same for all children, however they are educated - this includes ensuring children are seen regularly by an appropriate professional in order to satisfy our safeguarding obligations'.

'(After receipt of a notice to deregister) The head teacher should formally write to the parents encouraging them to reconsider EHE'

'We would strongly recommend that you tell your GP, and any health services you use, that your child is being educated at home'.

Refers all cases where a notice under the EA s437 is served to social services

Bromley: cite two lower court cases as 'legal precedent' (lower courts cannot create precedent) to demand samples of work, regardless of how thorough the information provided by the parent.

'Children with an EHCP, in SEN cannot be removed from roll until agreed by the LA through an early annual review of the EHCP'. (states if no contact with child) 'SEND Service will make immediate contact to assess the safety and welfare of the child'.

The development of a more formalised professional association of, and/or annual conference for, home education officers could be a welcome step in terms of sharing best practice nationally.

Whilst such an association was created (the Association of Elective Home Education Professionals), bar one initial meeting with home educating group representatives, no further information sharing has occurred. Without co-operation with home education groups and organisations, relationships and best practice cannot improve. FOI requests made to the DfE have also disclosed that the association appeared to be operating as a pressure group to compel the DfE to introduce draconian controls for home educating families, where no evidential basis supported such measures. This gives the appearance of a widening attitude of 'them and us' on the part of those LAs.

Local authorities might also improve their relationships with home educators by ensuring officers dealing with these issues are placed in a dedicated or neutral team: locating home education officers with those working on, for example, attendance, children in care or safeguarding gives an unhelpful impression.

This has not occurred, notably, the introduction of the Data Protection Act 2018 and the GDPR has led to a great many LAs amalgamating departments under an umbrella term, in order to share data within the new regulations. A significant number of LAs have home education under the umbrella of 'safeguarding'.

We also recommend that the Department for Education carries out an audit of local authorities' performance regarding home education.

There is no evidence to suggest that this has occurred. Education Otherwise has completed such an audit in relation to online material and our known conduct of those LAs. Outline details are above.

We recommend that the Government places a duty on every local authorities to ensure access to local centres for home-educated young people to sit accredited public exams.

This has occurred only in some LAs.

We further recommend—given the contribution that many home educators make through their taxes—that the costs of sitting public examinations (to an appropriate level of entitlement) be met by the State.

This has certainly not happened.

Local authorities should produce 'local offers of support', stating what services are available to home-educating families, and the Department for Education should support pilots for such a scheme.

Only a tiny minority of LAs offer any support whatsoever. See above.

We also look forward to the outcomes of the Department's investigations into allegations of malpractice around young people with SEN or health needs who are home-educated: we heard some worrying evidence that provisions were not being fully met as they would be for schooled children.

Education Otherwise continues to see rising numbers of parents of children with SENs who are failed by schools and move to home education as a result of that failure. Many LAs take the view that no provision whatsoever will be made for the majority of SEN children and in some, necessary equipment is taken from the child. Home educating parents are frequently told that if they do not make the provision listed on the EHCP, the LA will deem the home education to be unsuitable.

It is common practice for home educating parents to be refused assessment for SEN solely on the basis that the child is home educated.

It is clear from the evidence we received that many parties, both home educators and local authorities, have made real efforts to engage, to understand each other's motivations and constraints, and to ensure more constructive relationships and better support. We acknowledge that there is some way to go, and look forward to seeing a more consistent approach to home education across the country.

Education Otherwise accepts that most LAs strive to act in a reasonable and proportionate manner toward home educating families and the minority do an excellent job of this. However, many LAs do not do so. Notably, the main offenders have not changed since the committee published its previous report and these have had some negative effect on other LAs where appalling practices have been instigated. Some of these are noted above in respect of our audit, but in addition:

Former Triborough LAs: insist on meetings with parents and if refused, state that the only other option is a report by an education professional directly involved with the child's education. Several families have submitted such reports and they have been declined, on spurious grounds. The LA refuses to accept reports from parents, no matter how in depth and senior counsel has advised that this policy is not lawful.

Portsmouth LA: Portsmouth home education policy is mostly reasonable and accurate, but not applied in practice. The following examples are all based on documentary evidence:

Policy document:

'Prior to serving a notice under section 437(1), we will try to address the situation informally with parents. If we have information that makes it appear that parents are not providing a suitable education, we would ask parents for further information about the education they are providing'.

In practice, the LA demands that parents 'prove' that education is suitable (EHEDGLA para. 4.2: *However, this should not be taken as implying that it is the responsibility of parents under s.436A to 'prove' that education at home is suitable. A proportionate approach needs to be taken*'), rather than responding to any concern that education may not be suitable. The LA gives conflicting information to parents and does not look at each case individually, but unlawfully uses a block approach.

'A School Attendance Order (SAO) will only be served after reasonable steps have been taken to try to resolve the situation'.

Education Otherwise is aware of a local parent who has had SAOs served on them each year for several years, In each case the Court has found in the parent's favour and yet that parent is currently dealing with yet another SAO served solely on the basis of refusing to provide copies of the child's work. *'The previous correspondence with you was not suggesting that your report was unsatisfactory, but I must advise you that a report is no longer a sufficient piece of evidence to determine if the education is suitable'*. (PCC to parent) This is in respect of a child who has achieved a range of GCSEs at A*.

'..we have taken on board input from home educating parents'.

This is not true, as numerous parents have complained to the LA about the inflexible policy (in practice) of refusing to accept education reports from parents and the only response from the LA has been to become even more rigid.

'All our procedures for dealing with home educating parents and children are equitable, clear, consistent, non-intrusive and timely, in order to provide a good foundation for the development of trusting relationships'. 'We hope that this will enable us to build effective relationships with home educators that function to safeguard the educational interests of children and young people: relationships that are rooted in mutual understanding, trust and respect'.

This comment is risible in light of the LAs letter to parents stating: *'A report alone, however detailed, is in my view not going to be enough to enable us to be confident that suitable education is taking place. For every example of a parent whose child is receiving education and performing exactly as described in a report, there will be another example of where this is not the case'*. This is a clear statement to the effect that 50% of home educating parents are dishonest and unable to be treated as if they are adults with integrity. That cannot possibly be described as an approach *'..rooted in mutual understanding, trust and respect.'*

'Parents will always be given the opportunity to address any specific concerns that the authority has'. Again, this is not the case. The approach taken by the LA is to blindly force forward to SAOs regardless of input from parents. Education Otherwise is aware of a current case on which PCC stated that the education was unsuitable solely on the basis of lack of examples of the child's work. The parent sent the LA 80 images of the child's work and opportunities, which was dismissed with a standard letter stating that

education was not suitable. Prior to sending, that report had been checked by a qualified legal professional specialising in education law.

'There are no legal requirements for you as parents educating a child at home to do any of the following: provide a 'broad and balanced' curriculum, make detailed lesson plans in advance, mark work done by the child, (or) formally assess progress' and '...will offer a range of ways in which you can choose to tell us about your provision'. Conversely, the LA communication to parent: 'We no longer accept reports. We are happy to look at a report in conjunction with a timetable (EHEDGP Para 2.8: Home-educating parents are not required to have a timetable'), a curriculum plan, photographs, work books, progress reports, dated work over time, conversations with the child/ parent, home visits etc.'

Home educating families are deeply aggrieved by the lack of facility for addressing unlawful, unprofessional and sometimes abusive conduct on the part of LAs. The only recourses are:

- **Complain to the LA itself:** It is our experience that such complaints are rarely upheld, even where solid evidence exists and often, the complaint is given to the officer complained about to respond. In most cases, the complaints system is used as a 'tick box' and pointless exercise which allows the parent to go to legal proceedings or the LGO.
- **Complain to the LGO:** The LGO has stated unequivocally that they can only look at whether the LA has followed its own policies, not whether those policies are lawful, or in keeping with national guidance. In most cases it is the unlawful policy, or application of same, which is the basis of the complaint, making the LGO a pointless exercise and toothless tiger.
- **Complain to the DfE:** The previous incumbent at the DfE who managed home education did, on some occasions, raise concerns where LAs acted outside the law and remind them that they must not do so. The present incumbent has not done so. This has not resulted in changed conduct by the worst LAs. There is no single case of the DfE revoking a SAO on request of a home educating parent, during the last 8 years. Parents have found such application to be pointless.
- **Take proceedings in Judicial Review (JR):** An application in JR costs upward of £30,000, which is wholly unaffordable by all but the very occasional, extremely wealthy parent. Consequently, this is unattainable as a means of addressing a complaint. Education Otherwise has encouraged parents in receipt of means tested benefits, where there is just cause, to apply for legal aid to take such cases. On every occasion this has been successful, prior to entering the courtroom. This should not be necessary.

Recent examples:

- 1) Case against Westminster taken to LGO following refusal to act by the DfE. Education Otherwise holds documentary evidence that the LA lied to the LGO

by stating that Graham Stuart MP had confirmed that their policy of demanding a meeting, or a report by an education professional directly involved with the education (which reports the LA routinely declines) is lawful. Graham Stuart personally confirmed in writing to the LGO, that this was untrue and that in fact, he had on several occasions sought to have the Triborough LAs amend their policy to be in keeping with guidance. The LGO nonetheless found against the parent on the basis that the LA followed its own unlawful policy.

- 2) The parent of two autistic children was asked for information by East Sussex LA. The LA officer wrote over 50 times to the parent demanding ever more information from her (which was repeatedly provided), in a period of just over a year. This despite the parent providing over 100 pages of education report, a report by an education provider and details of the children's work and resources. When asked for details of specific concerns, the LA officer stated her personal and discriminatory view that a parent cannot home educate 2 disabled children. A formal complaint by the parent was given to that officer for response and the parent left with no choice but to go to JR. On receiving notice of proceedings, the LA revoked the SAO for the older child and served a SAO for the younger child within days. This was subsequently revoked in light of the JR. The conduct of the LA officer amounted to harassment contrary to the Protection from Harassment Act 1997, but notwithstanding, a request to the LA that a different officer be allocated to her, was met by a reply from the same officer stating that she would contact the parent whenever she chose.

The impact COVID-19 has had on home educated children, and what additional measures might need to be taken in order to mitigate any negative impacts.

The most notable impact has been the serious lack of facility for home educated children to access examination grades during 2020, which situation appears to not be receiving any form of action to ameliorate this.

Families are extremely resourceful and have been far more able to cope well than have families of school children. Home educating families reached out to school families to provide help, advice and support.

Ongoing concerns

LAs still do not provide adequate training for their education officers and very few have any experience of, or training in home education. LA staff fulfilling the role of home education officer include those with as little qualification as 2 A levels, teaching assistants, those from a social work backgrounds and mainly, those with teacher status. It is exceptionally rare for a LA home education officer to have experience of home education, which leads them to judge the provision from a school based mind set. This

can also lead to the incongruous situation where an untrained and poorly qualified LA officer is placed in judgement of the provision made by parents who have considerably more impressive qualifications than they have, or long term experience.

A recent surge in education officers stating that they cannot state education to be suitable without copious amounts of information, reports from tutors, samples of work, or meetings, may well be founded on this lack of training and experience. In our experience, a competent education officer can readily ascertain whether they have any concerns in respect of the education by reference to a brief education report by the parent. This would indicate that competency levels have fallen.

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