



Department  
for Education

Written evidence submitted by the Department for Education

## **Department for Education: Submission of Evidence for Education Select Committee inquiry into Home Education (2020)**

### **Introduction**

1. [Section 7 of the Education Act 1996](#) places a duty on parents to ensure that their child of compulsory school age receives an education, either by regular attendance at school or otherwise. This can be fulfilled either by attending a school or by home educating. The Government is committed to maintaining the freedom of parents to provide a suitable education through home education.
2. Most children of compulsory school age in England attend either a state-funded school, or a registered independent school. However, it is known that increasing numbers of children are receiving their principal education outside of mainstream schools. Most of those children are being educated at home very well by dedicated parents, who deserve support.
3. However, some are deemed to be 'home educated' but in reality, such education as they get is mainly or entirely through attendance at unsuitable settings such as unregistered independent schools or multiple part-time settings. There is also likely to be a number of children for whom the education being provided is unsuitable, because their parents cannot educate them effectively at home, or the children are simply not being educated.

### **Evidence**

4. Since the 2012 Education Committee inquiry focusing on *Support for Home Education*, the Department has launched two consultations, produced clearer, stronger guidance for local authorities and parents, and produced further advice in response to the COVID-19 pandemic.

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

5. The legal context for home education is set out in the Education Act 1996, section 7 of which sets out that the parent of every child of compulsory school age must cause the child to receive efficient

full-time suitable education, suitable (a) to his age, ability and aptitude, and (b) to any special education either by regular attendance at school or otherwise. The freedom to discharge this duty 'otherwise' than by sending a child regularly to school, in other words through home education, is a fundamental component of the right of parents to choose the kind of education that shall be given to their children and the Government is committed to preserving it.

6. The current legal system around monitoring Elective Home Education is a system for identifying and dealing with children who, for any reason and in any circumstances, are not receiving an efficient suitable full-time education. A situation in which a child of compulsory school age appears not to be receiving a suitable full-time education requires action by a local authority under education law. In extreme cases, where an authority is not satisfied a child is receiving a suitable education, it may issue the parent with a School Attendance Order.
7. Local authorities' duties in respect of safeguarding children (set out in the Children Act 1989) apply to all the children in their area, no matter how they are educated and extends to children who have been taken off roll, including those not known to children's social care. The provision of home education itself does not constitute a safeguarding risk. But it is important to bear in mind that a failure to provide suitable home education can do so, because unsuitable or inadequate education can also impair a child's intellectual, emotional, social, or behavioural development. The Government's [guidance](#) to local authorities, updated and strengthened in April 2019, explains how a local authority's safeguarding duties may be engaged in these circumstances, and what steps they can take.
8. Section 175 of the Education Act 2002 places duties on local authorities and governing bodies of maintained schools in relation to the welfare of children. All educational institutions must comply with their safeguarding duties under the relevant legislation. We will continue to work with local authorities, schools, and the home educating sector, providing additional guidance in the first instance.

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

9. During 2017 and 2018 there was growing concern about indications of a significant growth in home education, and a Private Member's Bill was introduced by Lord Soley which provided for a home education registration and monitoring scheme. Against this background, the Department undertook a public consultation in April 2018 on home education policy. The call for evidence looked at two matters: the registration of children who are home educated; and monitoring of the educational provision by local authorities in relation to elective home education. The call for evidence received over 3,000 responses from local authorities, other organisations, and individuals. In summary, the call for evidence found: authorities and other respondent organisations

were strongly in favour of a statutory system of registering children deemed to be educated at home, whereas a majority of individuals were against such a register; authorities and other respondent organisations were strongly in favour of an enhanced and specific statutory framework to allow authorities to monitor and assess the suitability of the home education of individual children, whilst a majority of individuals opposed any formal monitoring powers; and many individuals and some local authorities said that there was a need for more support, including accessing public examinations.

10. The Department's next steps were to bring out finalised versions of the guidance under the current law, and to consult on possible legislation focusing on four proposals in relation to a registration system of children not in school. The revised guidance and legislative consultation were both published in April 2019. The 2019 Children Not in School (CNIS) consultation sought proposals on: a duty on each local authority to keep a register of children in their area not attending state or registered independent schools to help local authorities carry out their responsibilities in relation to children not in school; a duty on parents to register their child with their local authority if not registered at specified types of school; a duty on proprietors of certain education settings to respond to enquiries from local authorities; and a duty on local authorities to provide support to parents who educate their children at home.
11. The consultation did not feature any proposals for local authorities to have explicit monitoring powers. The Government's view was that authorities' existing powers, if used in the way set out in the revised (and considerably strengthened) guidance should be enough for the authority to determine whether the provision was suitable. However, the difficulty that was often cited to the Department by local authority officials was that they did not know who the home educated children were, which in turn led to safeguarding concerns. It is those issues that would be addressed by the establishment of a register.
12. Over 5,000 responses were received to the consultation and the Government response setting out next steps will be published in due course.

*The quality and accessibility of support (including financial support) available for home educators and their children*

13. At present, when parents elect to home educate their children, they assume all financial costs associated with that, including costs of examinations. Local authority support, where available, is discretionary. The 2019 consultation invited views on whether local authorities should be under a duty to provide support, on request, to home educating parents that asked for such 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'*

14. The current legal system around Elective Home Education is a system for identifying and dealing with children who, for any reason and in any circumstances, are not receiving an efficient suitable full-time education. A situation in which a child of compulsory school age appears not to be receiving a suitable full-time education requires action by a local authority under education law.
15. The consultation on Regulating Independent Educational Institutions closed on 27 November 2020. One of the proposals being consulted on is to expand the categories of full-time institutions that will be regulated in the same way that independent schools are currently regulated. The purpose is to extend the registration requirement to settings that operate full time for children of compulsory school age, but escape the registration requirement under the current law because of the restricted curriculum they offer. However, the consultation makes it clear that this registration requirement would not apply to parents providing home education to their children.
16. We know that electively home educated children may also attend a range of out-of-school settings. The Department has invested £3million in a pilot scheme aimed at enhancing the safeguarding of children in out-of-school settings to protect children from all forms of harm, including radicalisation.

*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*

17. In 2016, the Department strengthened regulations so that schools are required to inform the relevant local authority when they delete a pupil's name from the school's admission register under all circumstances.
18. Schools are also required to inform the local authority of the destination of the pupil where it is apparent they are moving schools or to a new address. This enables local authorities to more effectively carry out crucial enquiries as to the whereabouts of children who are removed from school, so that they can satisfy themselves the child is safe and receiving suitable education.
19. The Department also strengthened statutory guidance to schools on 'Keeping Children Safe in Education' and statutory guidance for local authorities on 'Children Missing Education' making clear reference to the duty under the current regulations to notify local authorities when schools remove children from the register, and the importance of complying with the duty for safeguarding reasons. To this effect, we also specified in regulations that where schools and local

authorities make enquiries to establish an absent pupil's whereabouts before deleting their name from the school register, they must work jointly when carrying out these enquiries.

*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.*

20. In addition to the points noted in paragraphs 4-8, in October 2020 the Department issued advice to parents who may be considering EHE, via the ['DfE in the media'](#) blog. At the same time, we also wrote to local authorities and professionals who work with children and young people, setting out the powers available and to strengthen our expectations on the actions authorities should take in their discharge of statutory duties in relation to home education and safeguarding. This was specific action taken in response to the rise in home education in the context of the COVID-19 pandemic.
21. In relation to the COVID-19 outbreak, the Department continues to work closely with local authorities to encourage a return to full attendance in school and is monitoring the situation. Initial conversations with local authorities indicate that the majority have noticed an increase in enquiries from parents about home education, including those with special educational needs and disabilities, with education, health and care plans. Where parents are anxious about the safety of their children returning to school, local authorities and school leaders are reinforcing that it is in the best interests of pupils to return to school.
22. The Association for Directors of Children's Service (ADCS) 2020 survey into Elective Home Education estimates that 75,668 children across all 151 local authority areas in England are now home educated: a 38% increase on 2019.
23. To support parents and children who may be considering, or have already withdrawn their child from school for, elective home education, we remain committed to a registration system for children not in school. More work is required on the practical aspects of delivery and the Government will also be engaging further with the home educating sector. Further details on this will be set out in the Government response to the CNIS consultation.
24. Particularly, to support schools to undertake their duties to safeguard children, we believe communication should be issued through COVID-19 guidance, for schools to take effect quickly. Longer term, this advice would be strengthened through the next publication of Keeping Children Safe in Education (KCSIE), expected for September 2021, to make it part of regular practice and not just in response to the rise of EHE as a result of the pandemic.

25. We have further work to undertake but additional guidance would seek to support local authorities to communicate with schools regarding the rise in EHE, determining what actions schools should and must take to notify authorities when children are removed from school roll, and to supplement that with the sharing of best practice.
26. Finally, when the risk of transmission reduces, we will consider what additional communications at that time will be required to support home educating parents and schools.

December 2020