

**EDUCATION OTHERWISE RESPONSE TO DCSF CONSULTATION ON  
HOME EDUCATION GUIDELINES**

**JULY 2007**

**CONTENTS**

**OVERVIEW AND EXECUTIVE SUMMARY**

**SHEFFIELD MODEL**

**MODELS OF GOOD PRACTICE**

**IRIS : AN HISTORICAL PERSPECTIVE**

**REVISED GUIDELINES PART ONE LEGISLATIVE FRAMEWORK**

**REVISED GUIDELINES PART TWO ADVICE TO PRACTITIONERS**

**QUESTIONS TO CONSULTATION**

**ANNEX B**

**IMPACT ASSESSMENT CRITIQUE**

**THIS DOCUMENT HAS BEEN PREPARED BY EDUCATION OTHERWISE  
GOVERNMENT POLICY GROUP**

**[governmentpolicy@education-otherwise.org](mailto:governmentpolicy@education-otherwise.org)**

# OVERVIEW OF EDUCATION OTHERWISE RESPONSE TO CONSULTATION ON HOME EDUCATION GUIDELINES

## FOREWORD

**Education Otherwise** welcomes the long-awaited public consultation on Elective Home Education Guidelines for Local Authorities. We endorse the production and dissemination of new guidelines as the best way forward.

Education Otherwise is the largest and longest-established organisation representing the interests of families undertaking home-based education. Our organisation and membership are major stakeholders in this process. We have met with the Department during the consultation, and look forward to further opportunities for consultation during the next stage of the process.

As an organisation, we have consulted widely with our membership via local, regional and national internet support lists run by Education Otherwise. We have also canvassed the views of members via the Education Otherwise newsletter, which is sent to 5,000 member families. In addition we have run eight regional workshops for home educators as part of the process of drafting our response. Education Otherwise gives support and information to members who wish to establish a positive working partnership with their local authority.

We have enclosed a number of documents in our response to the consultation process.

- 1 Executive Summary outlining the main points of our response.
- 2 The revised draft of the proposed Guidelines. Education Otherwise has drafted revised
- 3 The response to the consultation questions. We have given detailed consideration to the questions posed in the consultation and enclose our response here.
- 4 Proposals for Guidelines: Part Two Advice to Practitioners. In this final section of our response we outline the need for a guide to practitioners. We enclose a suggested draft framework and outline of contents for the Department's consideration. Education Otherwise will be happy to assist and lend its expertise in the development of this initiative.

We have retained a barrister with expertise in Elective Home Education and experience in the area of training for local authorities, who has assisted in the preparation of our consultation response and the drafting of proposed revised Guidelines.

## NEW LAWS

In recent years there have been several important new laws and initiatives:

Every Child Matters  
Children Act 2004  
Education and Inspections Act 2006

Local education authorities have disappeared, to be replaced by large multi-agency departments.

It is very helpful in the light of these changes for the Department to reissue guidelines to local authorities clarifying their duties and responsibilities.

Introduction of new guidelines will go some way to addressing the current situation. However, lack of funding to local authorities continues to be a major impediment to the proper implementation of the law. We concur with the Department's view that there is a need to establish a lead professional for Elective Home Education in each local authority. Moreover, the role of the lead professional needs to be embedded in the Children's Service Department with a clear remit and a structured programme of professional development. This will facilitate a better understanding at a local level between the authority and the home education community. It has always been the experience of home educators, of those officers in local authorities who are involved in contacting home educators, insufficient numbers have been trained adequately in understanding the law and practice of home education and how it differs from a school-based model. This anecdotal evidence would appear to be borne out by research carried out for the DfES, which noted that "only 56% of responsible officers within the sample authorities had attended in-service training on Elective Home Education"

The current legislative framework is sufficient but poorly understood, and too often custom and practice does not reflect legislation.

The duty in law to ensure that a child is receiving an education lies **with the parents**, whether the child attends school or is educated at home. European and British human rights legislation provides that parents have the right to choose an education for their children which is in accordance with their religious and philosophical convictions. European jurisprudence makes it clear that States parties have the positive obligation to promote this parental right.

Any move to make a child's education the responsibility of parties other than the parents strikes at the very heart of the legislative framework for education in England and would expose those other parties to formal legal responsibility enforceable and actionable in the courts.

The requirement to provide an education **suitable to the age, ability, aptitude and special educational needs** of the child is the cornerstone of the current legislation. It defines the responsibilities of the parent in relation to their individual child and from this parents can deliver a truly personalised education, which is such an important characteristic of home-based education.

## LACK OF AWARENESS OF ELECTIVE HOME EDUCATION

It is our experience that some of the people employed to work in this area are openly hostile to the fact that home-based education is allowed in law. Some see their task as "getting the child into school".

There is a lack of awareness of home-based education amongst national and local politicians and councillors, policy makers and national and local authority officials. As a result, our community is often adversely affected by legislation and initiatives not designed to impact on them and frequently forgotten or excluded from initiatives, funding streams and proposals that would assist them.

This lack of awareness is also echoed at every level of public life, from tax and benefit authorities to hospitals and surgeries and even shops. It leads to erroneous assumptions and misunderstandings. Sometimes it leads directly to home educating families quite unjustifiably facing hostility and prejudice.

We are becoming aware of cases, through our Helpline and support to families at a local level, where health and social workers unaware of the true legal position and practice of home education, and unaware of the relevant legislation, are misinterpreting their responsibilities for safeguarding children. This position has arisen following the re-organisation brought about by the Children Act 2004 and we are aware of home educated children, especially those who have special educational needs, being placed on 'at risk' registers or having care proceedings initiated which centre on a misunderstanding of the nature and practice of home education. In some cases such proceedings have been commenced when those in the education department in local authorities have indicated that they did not support them.

The government's statement that "Every Child Matters" has a very hollow ring in our community. Across the country home educators themselves fund the home-based education (including all educational resources and examination costs), the local family support networks and the national organisations such as Education Otherwise. If home educated children entered the maintained sector, this would cost the Exchequer two hundred million pounds, representing £5,000 average per capita school child funding for 40,000 children and young people, with additional costs for SEN provision.

The relationship between the local authority and the home education community is not without its problems. Too often it seems that professionals are slow to recognise that inappropriate intervention causes untold distress. It is our experience that many local authorities have an expectation of annual intrusive visits to the home where they insist on interrogating the family and on imposing the officer's own school-based model of education. Furthermore, some authorities routinely use the threat of the issuing of a School Attendance Order to get parents to comply with home visits, completing documents and the presentation of "evidence". Sadly, some practitioners have a rigid inflexible attitude and insist on questioning the child. Many families are coerced into reluctant cooperation because they fear that non-cooperation may lead to the issuing of a School Attendance Order, as indeed we know happens in some areas. Many families find these visits stressful and they rarely bring any benefit to the family. In our conclusion we have suggested what we believe is a better way forward for all parties.

In the consultation response and revised draft Guidelines, Education Otherwise has paid particular attention to the Elective Home Education of children and young people with Special Educational Needs. This is an area which is poorly understood by many professionals who would attempt to import a school-based model of SEN provision into Elective Home Education. Education Otherwise Disability Group has assisted in the drafting of our Guidelines on SEN. The members of the Disability Group bring many years of experience to this task.

## **DISCRIMINATION**

Home-based education and school are afforded equal status in law. Families exercising their right to home educate deserve to have their decision respected and must be treated equally under the law. Letters from the Department frequently contain an assertion that the best place for a child is in school. This is an impediment to positive channels of communication and undermines trust. We feel that this devalues the sacrifices made by families who undertake Elective Home Education. Families experience prejudice and discrimination on the following grounds: class, race, housing, single parenthood, SEN, disability and de-registration following bullying. Negative stereotyping and prejudice are detrimental to children's security and well-being.

## **THE WAY FORWARD**

The Department talks of relationships between the local authority and home educators. We are

pleased to report that an increasing number of authorities are now willing to put the relationship on a different footing, and we have included a summary of these in our Appendix.

During the past 6 months Education Otherwise has travelled across the country to hear our members' views and to set out the implications of the new legislative framework. We have run a series of 8 regional workshops for home educators in the Midlands, the South West, the North East, the North West, London, the West Midlands, the South East and East Anglia.

The Department is already aware of the new positive working partnership between the local authority and home educators in Sheffield. During the 12-week consultation period the Department met twice with local representatives from Education Otherwise and the Sheffield Children and Young People's Directorate. Further details of the new way of working may be found in the Sheffield model of good practice, which we have included as an Appendix to the Executive Summary. Mechanisms now need to be put in place for sharing the models of good practice

Education Otherwise recommends that the Department consider a number of innovative pilot projects aimed at promoting positive working partnerships across a range of urban, suburban, rural and metropolitan borough areas. The authority's role in these pilot schemes will evolve from a one-to-one inspection and monitoring role, which is neither cost-effective nor equitable, and move towards an advisory, information, and resource-based support role.

Local authority duties could better be interpreted as providing an advice and support service for example a fulltime Telephone Helpline service ; establishment of informative council website pages on Elective Home Education resources ; liaising and mediating where appropriate with other children 's service departments, the extended curriculum team and extended schools provision for the wider community ; fostering links between the home education community and the Further Education sector ; ensuring that the home education community is included in circulars on wider community provision for children and young people

Local authority duties could better be interpreted as providing an advice and support service for example a fulltime Telephone Helpline service ; establishment of informative council website pages on Elective Home Education resources ; liaising and mediating where appropriate with other children 's service departments, the extended curriculum team and extended schools provision for the wider community ; fostering links between the home education community and the Further Education sector ; ensuring that the home education community is included in circulars on wider community provision for children and young people.

Education Otherwise believes that it is only through engagement with the local community that the authorities will discover the most cost-effective way to meet their responsibilities.

Local authorities already have a duty to consult stakeholders and in the cases we outline in the Appendix the authorities have welcomed an initial approach from the local home education community to engage on a collective basis and at a policy level.

## **Sheffield Home Educators' Network and Education Otherwise Positive Working Partnership with the Children and Young People's Directorate**

Sheffield local authority has responded very positively to approaches from the local home education community. During June 2006 the local home education community participated in city-wide focus groups on Every Child Matters. In October the Local Contact for Education Otherwise requested an initial meeting with the Director of Local Delivery. The Elective Home Education Advisor and a home educated teenager also attended the meeting. At this meeting it was agreed that Sheffield Home Educators' Network would produce a trifold leaflet on Home Education in Sheffield for the EHE Advisor to hand out to new families. Education Otherwise was subsequently invited to participate in the Directorate's Parenting Strategy Seminar.

Education Otherwise representatives applied to present an agenda item at the [December Children and Young People's Scrutiny Board](#) concerning truancy sweep protocols. Several managers from the [Access and Inclusion Department](#) attended the Scrutiny Board meeting in order to make appointments to discuss issues with the home education community. The Board agreed that we would report back to the next meeting in February.

A series of positive meetings has taken place between the authority and Education Otherwise during the first half of 2007. These meetings are scheduled every half term and generally last for two hours with two managers from Access and Inclusion and three home educating parents plus a home educated young person. The first area to be covered was the correct protocol for Truancy Sweeps. The Service Managers invited two police officers to the meeting to discuss the issues and to determine the procedure for the sweeps. The police had been taking their lead from the Education Welfare Officers but sometimes used Community Police Officers who had not been trained in the correct procedure with respect to Elective Home Education. The Service Managers undertook to train the Education Welfare Officers and the police then briefed their own officers who would be working in this area.

Subsequent meetings covered discussion of funding for college places for 14-16s; the earlier proposed Departmental consultation into changing the regulatory framework; the new consultation on draft Guidelines for local authorities; ContactPoint operation ( in Sheffield called SafetyNet ); SEN funding ; the responsibilities of the authority and the home educating families ; improving the initial written information sent to new families; ill-advised council media statements on education and schools.

Education Otherwise and the CYPD made submissions to the [February Scrutiny Board](#) stating their joint commitment to dialogue and engagement in working towards a common understanding and interpretation, between Children And Young People's Services and home educators, of the legal responsibilities of the Children and Young People's Directorate in relation to Safeguarding. Following the February meeting, the Cabinet Member for Children's Services wrote to the Secretary of State for Education in April to ask when the revised Guidelines for Local Authorities would be issued, since the Board felt that clarification of duties and responsibilities would be most helpful. The consultation on draft guidelines for local authorities was announced in early May.

Education Otherwise returned to the [June Scrutiny Board](#) to inform councillors that the Department was now consulting on the draft Guidelines. Education Otherwise further reported that the DfES was shortly travelling to Sheffield to discuss matters arising from

the consultation and to hear more about the positive working partnership between the Directorate and the local home education community.

The DfES meetings to discuss the Sheffield Model took place in June and early July with representatives from the Policy and Performance Division in London and from the Elective Home Education Department within the DfES at Darlington.

A further example of co-operative partnership occurred in February when Education Otherwise and the Service Manager for Local Delivery participated jointly in the NFER Focus Group into Support for Home Educating Families which took place in York in February 2006. The [NFER Report](#) was published shortly before the end of the draft guidelines consultation period.

Home educated young people in Sheffield sat on the city-wide funding panel for the pilot project YOF and YOP funding and liaised with members of the Youth Service in Sheffield. Home educated teens also submitted successful bids for funding for activities which promoted the 5 outcomes of Every Child Matters for the local group. The DfES made a visit to Sheffield to review the progress of the scheme and further commended Sheffield as a model of good practice.

#### **MODELS OF GOOD PRACTICE**

- Sheffield (positive working partnership between the local authority and Education Otherwise and Sheffield Home Educators' Network)
- Staffordshire (positive website. clear transparent policies and procedures.)  
Worcestershire (Parent Partnership engaging with local home education group. pupil self evaluation forms. feedback questionnaire on how local home educators found the service from Parent Partnership )
- Milton Keynes council website information on Elective Home Education

#### **EXAMPLES OF DIALOGUE BETWEEN LA AND HOME EDUCATION COMMUNITY**

The Department may wish to consider the recent initiatives being undertaken by members of Education Otherwise and local home education support groups.

- Brighton: LA meeting with local home education group. looking at changing written information on home education from the LA
- Doncaster: with respect to policy making, positive meeting with Change Manager in DMBC, discussing policy and LA literature on home education
- Westminster: positive meeting EO and local home educators with Senior EWO and home education policy maker. Looking at Guidelines consultation together
- Leicester: meeting with LA EHE team to discuss Guidelines and Safeguarding issues
- Gloucester: meeting with GCYPS to discuss Guidelines and Safeguarding issues and Serious Case Review foster carer Eunice Spry
- Midlands Regional LA conference (c. 20 authorities) invited EO Local Authority Bridge Builder to participate in conference and discussion of Local Authority issues with respect to Guidelines
- South West Regional Conference invited EO Trustee to participate in conference (c. 20 authorities) and discussion of LA issues in home education. Request from Conference Convenor to work with EO on briefing for EHE and SEN.

## THE HARRISONS

The case of Harrison and Harrison vs Stevenson is frequently quoted in case law in home education.

This remarkable family went to extraordinary lengths to defend the right in law to home educate. In the 1970s they fought their local authority for the right to take their severely dyslexic little girl Wanda out of school

Iris is still very active in the home education community. This is what she said in a recent interview on Radio Five Live

“I would hate anybody to go through the hell that I had to go through. I was threatened that if my daughter didn't go to school that she would be put into care. That not only would SHE be put into care, but my 6 month old baby, and my other 2 children would also be put into care.

I had a friend living in Scotland who said right, I've got a croft up here...a croft with plastic in the windows, 2 miles to get water, no electricity, 18 miles to go and get shopping

Eventually the weather got so bad that we had to come back South. “I had lost much weigh and was blown over be the strong winds.”

In a very short while we found that the local authority had been notified that we were here and in the end we had to protect ourselves. We had a flock of geese, you know these people would just suddenly arrive, and my dear daughter was just beginning to read, and they came into the house and they insisted that she read [to them] and from that moment for a whole year she COULDN'T read. All her literacy skills just WENT and I realised that this testing, all these people coming in, were dangerous. Hence when it came to the local authority telling me that what we were doing wasn't educational, I said right then, take me to court.

Finally in 1981 a judge upheld their right to home educate.

Iris still assists with the Education Otherwise Helpline. Commenting on this work she said

*“Despite the case which we fought and the right in law to home educate there are still cases today where families are subjected to bullying from professionals who do not know the Law.*

*I hope that the Consultation ultimately leads to a better understanding of home education and a more constructive relationship between families and Local Authorities.*

*I have seen how children, some of whom have a dreadful time in school, can flourish through home education. For some children this option has literally been a life saver “*

# **ELECTIVE HOME EDUCATION**

## **GUIDELINES FOR LOCAL AUTHORITIES IN ENGLAND**

### **PART ONE : THE LEGISLATIVE FRAMEWORK**

This document should be read in conjunction with

**Elective Home Education Guidelines for Local Authorities in England Part Two :  
Advice for Practitioners**

#### **INTRODUCTION**

These guidelines are intended for use in relation to **Elective Home Education** only.

They offer advice to support local authorities in carrying out their **statutory** responsibilities and encourage **good practice** by clearly setting out the legislative position, and the respective responsibilities of local authorities and parents in relation to children who receive a home-based education.

Throughout these guidelines, 'parents' should be taken to include all those with parental responsibility. [Section 576 Education Act 1996](#) states that for the purpose of the Education Act 1996 : ' "parent" ,in relation to a child or young person, includes any person (a) who is not a parent of his but who has parental responsibility for him, or ( b) who has care of him. '

**In England education is compulsory but schooling is not.**

**The fundamental principle of the English education system is that ALL parents are responsible for ensuring their children receive a suitable education.**

[Section 7 of the Education Act 1996](#) states that:" 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."

Elective home education is the term used by DfCSF to describe parents' decisions to provide a home-based education for their children .Home-based education and learning may take place in a variety of locations, not just in the family home.

Parents may choose home-based education for various reasons. The authority's primary interest should lie in the suitability of parents' education provision and not their reason for doing so.

**It is the legal right of parents to educate their children at home and the Department for Children, Schools and Families supports the right of parents to make this choice for their children.**

## THE LAW RELATING TO ELECTIVE HOME EDUCATION

Article 2 of the First Protocol to the [European Convention on Human Rights](#) states that:

*“No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions.”*

This right is enshrined in English law in the [Human Rights Act 1998](#).

### Section 7 of the Education Act 1996

provides that:

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.

This is personalised learning.

A system of education has been defined as **efficient** if it achieves that which it sets out to achieve [1endnote ]

The parameters upon which to assess whether an education achieves what it sets out to achieve are therefore established by the parents and not by the local authority officer, providing that the parents' philosophy enables a full time education in accordance with [section 7 of the Education Act 1996](#) suitable to the child's age ability and aptitude and to any Special Educational Needs the child may have. The personalised curriculum for each home educated child may differ in many respects from the national curriculum which is a standard , undifferentiated curriculum used throughout the maintained sector.

The legal obligation for state schools to provide a **broad and balanced curriculum** was introduced by the [Education Reform Act 1988](#). It applies only to registered pupils in the maintained sector and **does not apply to Elective Home Education..** The National Curriculum measures enacted in the Education Reform Act 1988 are now to be found in [section 9 of the Education Act 1996](#) and section 78 and 79 of the Education Act 2002 which recapitulate that the general duties in respect of the curriculum apply solely to maintained schools and funded nursery provision. Local Authorities' information on Elective Home Education must reflect this point of law, namely that home educating families determine their own individual curriculum in conformity with their own philosophical convictions

The law requires that the parent complies with section 7 of the Education Act 1996 in providing an efficient full time education suitable to the child's age, ability and aptitude and to any special educational needs he may have.

School definitions of **full time education** are not relevant to elective home education, though it may be noted that statutory guidance to section 19 of the Education Act 1996, where the local authority has a duty to provide education for children unable to attend school eg on medical grounds, the Department recommends 5 hours per week. [endnote on fulltime education for sick children ]

Since home-based education must be suitable to the child and in conformity with the parents' philosophical convictions, it follows that home educators will **not** be required to:

- teach the National Curriculum
- provide a broad and balanced curriculum
- have a timetable
- have premises equipped to any particular standard
- set hours during which education will take place
- have any specific qualifications
- make detailed plans in advance
- observe school hours, days or terms
- give formal lessons
- reproduce school type peer group socialisation
- match school, age-specific standards.

It is important to recognise that there are many, **equally valid**, approaches to educational provision.

## **ELECTIVE HOME EDUCATION OF CHILDREN AND YOUNG PEOPLE WITH SPECIAL EDUCATIONAL NEEDS**

**Parents' right to educate their child from home applies equally where a child has special educational needs.**

This section should be read in conjunction with the Department's Advice to Practitioners.

It is legal to home educate SEN children irrespective of whether they may have a statement of Special Educational Needs. Parents are not required to have any qualifications or training in SEN in order to home educate their SEN children. The responsibility for the home educated child with Special Educational Needs remains with the parent and it has been confirmed in the House of Lords that the parent need not carry out exactly what is written in a statement of special educational needs. [endnote Baroness Ashton ]

[Section 7 of the Education Act 1996](#) states that " 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 authority will have regard to the [Special Educational Needs Code of Practice](#), SENCoP, 2001, ref DFES/581/2001. Although this document primarily covers Special Educational Needs in the school setting, it does give information about SEN in relation to Elective Home Education. The status of the [Code of Practice](#) is non statutory but practitioners must have regard to it, while at the same time exercising good judgement in partnership with parents in individual cases. The foreword states that the Code is designed to help officials to "make effective decisions but it does not – and could not – tell them what to do in each individual case. "

Section 8.91 p.112 of the [Special Educational Needs Code of Practice](#) states that "Children with statements may be educated otherwise than at school because ( a) the LEA has made other arrangements or ( b) parents have made suitable arrangements of their own ."

Section 8.95 of the SENCoP 2001 states that "Section 7 of the Education Act 1996 recognises parents' right to choose to educate their child at home . Such arrangements are described as 'education otherwise than at school'."

The assessment procedure for a Statement of special educational needs is set out in section [321 of the Education Act 1996](#). Section 324 of the Education Act 1996 specifies that the authority shall arrange provision unless the parent has made suitable arrangements.

Section 8.117 -8.121 p.117 of [the Special Educational Needs Code of Practice](#) covers ceasing to maintain the statement.

"There should be no assumption that, once the LEA has made a statement, they should maintain that statement until they are no longer responsible for the young person. Statements should be maintained only when necessary. But a decision to cease to maintain a statement should be made only after careful consideration by the LEA of all the circumstances and after close consultation with parents."

Most statements are applicable only to school situations, however, some statements will include provision which is supplied by the local authority such as therapies, or equipment. In these cases, if it is the parents' wish, provision must be continued by the local authority. If there is no reason to maintain the statement, and it is the parents' wish, then the local authority can cease to maintain the statement, according to the [Special Educational Needs Code of Practice 8:117-119 p.123](#). Statements need to be reviewed in partnership with parents and in the light of new circumstances. Elective Home Education is a significant difference to the child's educational provision and the authority must listen to parents' views on the need for a continued statement.

Section 936 p.128 of the [Special Educational Needs Code of Practice](#) covers the process of Annual Review for children whose education is otherwise than at school.

Section 721 p.78 of the [Special Educational Needs Code of Practice](#) covers the request by parent for a statement of Special Educational Needs. This applies equally to parents of children who are in Elective Home Education.

"Parents may ask the LEA to conduct a statutory assessment under section

328 or 329 of the Education Act 1996. The LEA must comply with such a request unless they have made a statutory assessment within six months of the date of the request or unless they conclude, upon examining all the evidence provided to them, that a statutory assessment is not necessary."

A child wishing to return to the maintained sector is not disadvantaged by the lack of a current statement, since a statement needs to be reviewed and re-assessed regularly in order to have any relevance.

Non-educational needs and non-educational provision are discussed in Section 8.29 of the [Special Educational Needs Code of Practice](#) p.101 and in Sections 8.43 and 8.44 p.104 These will normally be provided outside the educational setting.

The lead professional in Elective Home Education must have a basic understanding of SEN and the law relating to home-based education for children with special educational needs. The lead professional must also be aware that home educated children with Special Educational Needs may well not have a formal Statement of SEN. In addition, some home educated children with Special Educational Needs do not have a formal diagnosis.

If the authority requests information from parents about the educational provision, the Department reminds practitioners that this information may legally be supplied in a variety of ways including a written report by parents or by an independent third party.

These guidelines should be read in conjunction with the Department's Advice to Practitioners compiled with the assistance of Education Otherwise Disability Group.

### **PARENTAL RESPONSIBILITIES IN LAW**

Parents may choose to exercise their right to provide a home -based education for their child from a very early age and so the child may never have been enrolled at school. They may also elect to provide a home-based education at any other stage up to the end of compulsory school age.

There is no legal responsibility on parents to register or seek approval from the local authority to educate their children at home.

Deregistration of a child from school is covered by the [Education \( Pupil Registration\) \( England \) Regulations 2006](#) regulation 8 ( 1 ) ( d) and 12 ( 3 ) [ see **DE-REGISTRATION** ]

### **LOCAL AUTHORITIES RESPONSIBILITIES IN LAW**

*This document should be read in association with the Department's Advice to Practitioners compiled with the assistance of Education Otherwise*

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

Where parents do not want any involvement with the local authority, the authority should **not** assume that there is a problem which needs investigating.

All parties involved in Elective Home Education must be aware of their responsibilities in

law. Local Authority policies should be clear, consistent, transparent, and easily accessible. All procedures must be fair, clear, consistent, non-intrusive and timely.

## **CONTACT WITH PARENTS AND CHILDREN**

Local authorities must be mindful of Article 8 of the European Convention of Human Rights which states:

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

In cases where there are serious concerns over the child's safety, the lead professional in Elective Home Education will follow the Safeguarding procedures established in the wake of the Children Act 2004 ( see **SAFEGUARDING** )

## **ASCERTAINING CHILDREN'S WISHES**

[Section 53 of the Children Act 2004](#) is entitled " **Ascertaining children's wishes**" and refers back to [section 17 of the Children Act 1989 \( provision of services to children \)](#) Section 17( 4A) of the 1989 Act states "Before determining what ( if any) service to provide for a particular child in need in the exercise of functions conferred on them by this section, a local authority shall, so far as it is reasonable and practicable and consistent with the child's welfare (a) ascertain the child's wishes and feelings regarding the provision of those services and ( b) give due consideration ( having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain. "

[Section 17 \( 10\)](#) of the 1989 Act states that " a child shall be taken to be in need if ( a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by the local authority under this Part : (b) his health or development is likely to be significantly impaired , or further impaired, without the provision for him of such services ; or ( c) he is disabled. "

The duty of the authority following section 53 of the Children Act 2004 is to take into account where practicable the child's wishes and feelings with regard to the provision of services by the local authority. This does not place an additional burden on the authority to ascertain the wishes and feelings of the child in need with respect to any other aspect of his life. It does not for example place an obligation upon the authority to ascertain the wishes and feelings of the child concerning aspects of the home-based education provided by parents, since Elective Home Education is not a service provided by the authority.

In cases where the home-educated child is not in need of services from the authority, section 53 of the Children Act 2004 will not place any additional burden upon the authority.

Section 53 concerns provision of services by the authority and not to the home education provision made by parents.

The lead professional in Elective Home Education will be aware of cross-government guidance on the Children Act 2004 produced to assist local partners in delivering the programme of Change for Children.

<http://www.everychildmatters.gov.uk/files/B434EAE08179B3F6C1ABC1CB0BB6B1D2.pdf>

Where a parent elects not to allow access to their home or their child, this does **not** of itself constitute grounds for concern about the education provision being made.

### **ACKNOWLEDGING DIVERSITY**

Local authorities must recognise that there are diverse approaches to educational provision, not just a “school at home” model.

Learning takes place in a wide variety of environments and not only in the home.

Local Authorities must not specify elements of a curriculum which parents must follow.

Children learn in different ways and at different times and speeds. It must be appreciated that parents and their children will require a period of adjustment before finding their preferred mode of learning. Characteristics of the provision will evolve and develop. Parents are not required to have any qualifications or training to provide their children with a suitable education.

### **SAFEGUARDING**

As with school-educated children, safeguarding issues may occasionally arise in relation to children who are educated from home. If there are any safeguarding issues these should immediately be referred to the appropriate authorities using established protocols.

[Working Together to Safeguard Children 2006](#)

Local authorities have a duty under [Section 175\(1\) of the Education Act 2002](#) to safeguard and promote the welfare of children. This section states:

*“A local education authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children.”*

### **Section 175(1) does not extend local authorities’ functions.**

It does not, for example, give local authorities powers to enter the homes of, or otherwise see, children for the purposes of monitoring the provision of elective home education.

[Section 10 of the Children Act 2004](#) sets out arrangements to be made by the local authority with a view to improving the well-being of children in the authority's area. This covers the 5 outcomes which were introduced in [Every Child Matters](#).

[Section 11 of the Children Act 2004](#) does not place additional duties or responsibilities on the local authority over and above S.175 (1) of the 2002 Education Act. Indeed the Act makes this quite specific at S.11 (3) "In the case of children's services authority in England, the reference in subsection (2) to functions of the authority does not include functions to which section 175 of the Education Act 2002 (c. 32) applies."

[Statutory Guidance](#) has been published on making arrangements to safeguard and promote the welfare of children under [section 11 of the Children Act 2004](#). This statutory guidance states that "The duty does not give agencies any new functions, nor does it override their existing functions. It, however, requires them to carry out their existing functions in a way that takes into account the need to safeguard and promote the welfare of children." [ para.2.4 p.15 Statutory Guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004 ]

[Section 12 of the Children Act 2004](#), entitled Information Databases, sets out the legislative framework for [ContactPoint](#). Statutory Guidance on ContactPoint will be added to these Guidelines in due course.

[Section 53 of the Children Act 2004, Ascertaining the wishes and feelings of the Child](#), sets out the authority's responsibility in cases where the authority will make provision to a child in need of services. Practitioners should refer to the section above on **ASCERTAINING CHILDREN'S WISHES**

The lead professional in Elective Home Education will be aware of cross-government guidance on the Children Act 2004 produced to assist local partners in delivering the programme of Change for Children.

<http://www.everychildmatters.gov.uk/files/B434EAE08179B3F6C1ABC1CB0BB6B1D2.pdf>

## **SCHOOL ATTENDANCE ORDERS**

The authority has no statutory duty to monitor the provision of home-based education. The following procedure in section 437 of the Education Act 1996 covers the procedure which should be followed in the eventuality that it appear that the parents are not providing education under the terms specified in section 7 of the Education Act 1996. The final procedure of section 473 ( 3) will be a last resort on the part of the authority, and the School Attendance Order must only be issued when the authority has given the parent full opportunity to supply additional information and when all other avenues have been exhausted.

Under [Section 437\(1\) of the Education Act 1996](#), local authorities can intervene **if it appears** that parents are not providing a suitable education. This section states that:

***"If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by***

***regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.”***

[Section 437\(2\) of the Act](#) provides that the period shall **not be less than** 15 days beginning with the day on which the notice is served. This should not be interpreted as a maximum number of days, since the law states only that 15 days is the legal minimum.

**The local authority will write to the parents:**

- 1 informing the parents that it appears to the authority that a suitable education is not taking place
- 2 outlining the grounds for the authority's belief that an education may not be taking place
- 3 requesting further information about the educational provision.
- 4 outlining the procedures which will follow if no information is forthcoming

Parents should be given the opportunity to address any specific issues that the authority has raised.

The local authority must reply to the parents in writing on receipt of further information from the family.

Issues may be addressed through a meeting with the local authority representative at a mutually convenient location or by other means.

If it still appears that the child is not receiving a suitable education a School Attendance Order should be served as **a last resort** and in the absence of information which addresses the issues the local authority has raised.

[Section 437\(3\)](#) refers to the serving of School Attendance Orders:

*If –*

(a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and

(b) in the opinion of the authority it is expedient that the child should attend school,

the authority shall serve on the parent an order (referred to in this Act as a "school attendance order"), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.”

At any stage following the issue of the Order, parents may present evidence to the local authority, or the court, that they are now providing an appropriate education and apply to have the Order revoked.

It will be for a court to decide whether or not the information provided by the parents would convince a reasonable person that an education is being provided which is suitable and efficient.

Detailed information about School Attendance Orders is contained in [Ensuring Regular School Attendance](#). Paragraph 9 states that the authority "should inform the parent of schools that are suitable for their child to attend and should also inform the parent that they have a right to educate their child at home if they choose to." Paragraph 10 further states that "it is good practice to provide the parent with detailed information explaining the law."

Where the authority imposes a time limit, every effort should be made to ensure that both the parents and the local authority lead professional are available throughout this period. In particular, the Department recommends that the time limit does not expire during or proximate to school holidays when there may be no reasonable point of contact for parents within the local authority.

### **DE-REGISTRATION FROM SCHOOL**

Local authorities must make clear accurate information available which enables parents to make an informed choice about their legal options regarding their children's education.

Parents must inform the proprietor of the school in writing when they are de-registering the child.

The school should acknowledge receipt of the request in writing. Failure by the school to use the correct procedure may leave parents open to prosecution for truancy.

There is no obligation in law for the parent to inform the local authority or to have any contact with the local authority over de-registration; it is the legal duty of the school to notify the authority. The only exception to this is where the child is a registered pupil at a special school under arrangements made by the authority, where additional permission is required from the authority before a child's name can be removed from the register to be home educated. If the authority refuses permission, application may be made to the Secretary of State. [endnote reg. 8(2) Education (Pupil Registration) Regulations 2006]

De-registration of a child from school is covered by the [Education \(Pupil Registration\) \(England\) Regulations 2006](#) regulation 8 ( 1 ) ( d ) and 12 ( 3 )

**8. — (1)** The following are prescribed as the grounds on which the name of a pupil of compulsory school age shall be deleted from the admission register—

**(d).** that he has ceased to attend the school and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school;

**12 - (3)** As to the contents of the admission register comprising particulars relating to a pupil whose name is to be deleted in accordance with regulation 8(1)(d), (e),(g),(i) or (m), the proprietor shall make a return to the local authority for every such pupil giving the full name of the pupil, the address of any parent with whom the pupil normally resides and the ground upon which their name is to be deleted from the admission register as soon as the ground for deletion is met in relation to that pupil,

and in any event no later than deleting the pupil's name from the register.

The local authority must be aware that the school will now have a statutory obligation to follow de-registration procedures set out in the Education (Pupil Registration) (England) Regulations 2006 regulation 8 (1) (d) and 12 (3). The Department will advise that the school should now make a return to the local authority "no later than deleting the pupil's name from the register".

### **DE-SCHOOLING**

In the early stages of Elective Home Education following deregistration the parent and child will be exploring the best way to tailor the educational provision to the age ability and aptitude of the individual child. This de-schooling process is recognised in research on Elective Home Education.

### **FLEXI-SCHOOLING**

"Flexi-schooling" or "flexible school attendance" is a legal option. It is an arrangement made between the school and the parent of the school child. The child remains a registered pupil at school but attends the school part time in a manner arranged by the school and the family. During school hours when the child is not attending school, the child is educated off site. This is categorised as authorised absence from school.

### **CLEAR POLICIES AND PROCEDURES**

The Department recommends that each local authority should have a written policy statement on home-educated children and their families. A copy of the the policy statement and the Departmental guidelines must be available on the council website and in community languages. The Department recommends that each local authority should have a named senior officer with responsibility for elective home education policy and procedures.

Local authorities should regularly review their home education policies and organise training on the law and home education methods for all their officers who have contact with home educating families. Home education organisations and home-educating parents must be involved in this process of review. Under the [Local Government Act 1999](#) and [the Children Act 2004](#) local authorities have a duty to consult those who will be affected by their policies and provision. This includes children, families and the voluntary and community sector.

Consult the Advice to Practitioners for further information.

### **COMPLAINTS AND GRIEVANCE PROCEDURES**

There must be clear transparent procedures for conflict resolution, with the chain of command visible via the council website or easily obtained through a telephone or email enquiry.

There should also be a clear and transparent Complaints Procedure.

**Local authorities will also wish to bear in mind that Ofsted will report on the way local authorities cater for home-educating families within their areas.**

## **LEGISLATION WHICH APPLIES TO CHILDREN WHO ARE NOT IN SCHOOL**

### **1 : CHILDREN MISSING EDUCATION**

Local authorities will have regard to [statutory guidance issued on section 4 of the Education and Inspections Act 2006](#) from which the following paragraphs are taken.

1.2.2 The authority has a duty to make arrangements to enable it to establish ( so far as it is possible to do so) the identities of children residing in their area who are not receiving a suitable education.

3.2.16 Where a parent states that their child is educated at home, the child is receiving education and is not the target of this duty, so it is not always necessary to notify the local authority. Education of children at home by their parents is not in itself a cause for concern about the child's welfare

1.2.3 [The Education and Inspections Act 2006](#) introduced a new section 436A in the [Education Act 1996](#) and the guidance states that this new section includes the definition that suitable education, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.

1.2.4 The duty to make arrangements 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)

1.2.6 The duty does not apply to children at home, since parents have a duty to ensure that their children receive a suitable full time education either by regular attendance at school or otherwise ( under section 7 of the Education Act 1996 ) and they may choose, as is their right, to provide this by educating their children at home.

1.2.7 ContactPoint, to be implemented across England by the end of 2008, will help local authorities discharge the new duty by recording the place where the child is being educated, where that is known. Where it is known that a child is being educated at home, that would also be recorded.

3.1. Local authorities will have regard to the [flowchart of effective practice found on page 15 of the guidance](#). Where the authority receives information that a child is being educated outside state-funded provision ( eg home education, independent schools ) this information will be logged on the database and no further action is required from the Children Missing Education team.

3.2.10 Notifications from authority partners could be about children who are actually receiving an education, which is being delivered by a route not known to the local authority at that time : eg independent schools, home education, or alternative provision. When a route of education has been determined it should be logged on the local authority database for future reference.

**3.2.16 When raising awareness with partner agencies it is useful to remind them**

**that parents have a legal right to educate their children at home. Where a parent states that their child is educated at home, the child is receiving education and is not the target of this duty, so it is not always necessary to notify the local authority. Education of children at home by their parents is not in itself a cause for concern about the child's welfare.**

## **2: TRUANCY SWEEPS**

When planning and running truancy sweeps, LAs should refer to the [DfES Truancy Sweep Effective Practice and Advice March 2007](#) This includes a section on children who are educated outside the school system. Those taking part in the sweeps, including police officers, should be fully trained and act in accordance with the guidance at all times.

Home educated children and young people are not the target of truancy sweeps. The lead professional should ensure that those taking part in the sweeps are aware that this is the case and that they need to carry out their duties sensitively and with due regard to the welfare of home educated children.

See Advice to Practitioners

### **ENDNOTES/REFERENCES :**

[Baroness Ashton House of Lords 2001](#) With regard to home educated children who have a Statement of Special Educational Needs," the term "suitable arrangements" does not mean having to specify exact arrangements in the child's statement. "

Elective Home Education is different from home tuition provided by a local authority or education provided by a local authority other than at a school for pupils who cannot attend school ( under section 19 Education Act 1996 ).

Children whose parents elect to educate them at home are not registered full-time at mainstream schools, special schools, independent schools, Pupil Referral Units (PRUs), colleges, children's homes with education facilities or education facilities provided by independent fostering agencies.

An "efficient" system of education was defined in Worcester Crown Court appeal on the case of Harrison and Harrison vs Stevenson. Judge Ward QC 1981

[Education Reform Act 1988](#)

[Education Act 1996](#)

[Human Rights Act 1998](#)

[Local Government Act 1999](#)

[Education Act 2002](#)

[Children Act 2004](#)

[Education and Inspections Act 2006](#)

[European Convention on Human Rights](#)

Full time education for sick children :

[Statutory Guidance to section 19 of the Education Act 1996](#)

[Special Educational Needs Code of Practice 2001](#)

[Statutory Guidance to the Children Act 2004](#)

[Cross government guidance on the Children Act 2004](#)

[Working Together to Safeguard Children 2006](#)

[DfES Truancy Sweep Effective Practice and Advice March 2007](#)

[Pupil Registration Regulations 2006](#)

[Ensuring Regular School Attendance](#)

[Statutory Guidance on duty to identify children not receiving education 2007](#)

# **ELECTIVE HOME EDUCATION GUIDELINES FOR LOCAL AUTHORITIES IN ENGLAND**

## **PART TWO: ADVICE TO PRACTITIONERS ANNOTATED DRAFT OUTLINE**

### **SUMMARY**

Education Otherwise believes that any Guidelines for Local Authorities with respect to Elective Home Education might usefully be divided into two parts. The first part would encompass the legislative framework. The second part would consist of advice to practitioners. This second part might contain much of the material in the current Departmental draft Guidelines. Education Otherwise has submitted a revised updated draft for the legislative framework part of the Guidelines and here we offer an annotated outline of the second part. Further development of this part of the Guidelines could be undertaken by home education support organisations or be the task of a working group comprising representatives from the home education community and from local authorities, building on the positive working partnerships which are now being developed in some areas of the country. [cf **MODELS OF GOOD PRACTICE** ] As stated in our Executive Summary, we believe that the way forward is for local authorities to liaise with the home education community on a collective basis and at a policy level, since it is only through engagement with the local community that authorities will identify best value in the most cost-effective way to meet their statutory duties.

# ANNOTATED OUTLINE OF CONTENTS

## INTRODUCTION

*Government guidance in other areas follows model of legislative framework + advice to practitioners see Working Together to Safeguard Children. We follow this model.*

### **1. DESIGNATED LEAD PROFESSIONAL TO BE CLEARLY IDENTIFIABLE POINT OF CONTACT AND INFORMATION FOR HOME EDUCATION THROUGHOUT THE CHILDREN'S SERVICE.**

*2.5 LA clear accurate written information. Information on websites.*

*3.1 Written policy; written information; **flowchart** on procedures for home ed children FAQ.*

*3.2 policies clear transparent easily accessible. awareness of roles and responsibilities. procedures should be fair clear consistent non intrusive and timely.*

*3.3 named senior officer. contact info available.*

*( We add Common Core Skills Children's Workforce p.21 respect skills and expertise of other professionals. CCSCW p.22 be aware of professionals' boundaries.)*

*4.5 clear info, good relationships, website legal info.*

*( our point models good practice Staffordshire and Milton Keynes.)*

*4.6 info for parents considering home ed via lead professional*

### **2. ELECTIVE HOME EDUCATION TRAINING FOR THE LEAD PROFESSIONAL**

*3.1 dept recommends training on law and home ed methods for all officers in contact with home ed families*

*NFER also recommends training*

*EO recommends training*

*training in policies and procedures for any engagement with home ed family.*

### **3. COMPLAINTS AND GRIEVANCE PROCEDURE**

*line manager. chain of command. **flowchart**.*

### **4. AWARENESS TRAINING. RECOMMENDATION FOR ELECTIVE HOME EDUCATION TO BE ADDED TO THE COMMON CORE OF SKILLS AND KNOWLEDGE FOR PEOPLE WORKING WITH CHILDREN.**

*A lot more people in contact with our children ( new departments )*

*Children Missing Education causing confusion. See legislative framework revised guidelines flow chart statutory guidance section here on CME.*

*All people and bodies listed as partners in CCSKCW need EHE training as part of core skills and knowledge.*

## **5. UNDERSTANDING THE LEGAL FRAMEWORK WITH RESPECT TO HOME EDUCATION, WHICH MUST BE SUITABLE TO THE CHILD. CROSS REFERENCED WITH PART ONE OF THE GUIDELINES, THE LEGISLATIVE FRAMEWORK : INTRODUCTION TO THE LAW ON HOME EDUCATION.**

*( responsibility rests with parents make ref to age ability aptitude special needs + philosophical convictions ) flowchart s.437 and SAO. ( see also legislative framework part one )*

## **6. DIVERSITY**

### **6a REASONS FOR HOME EDUCATION**

*1.4 primary interest in suitability of ed provision and not reasons for home ed*

*1.4 reasons are given in department's draft guidelines. We have additions to this list eg dissatisfaction with curriculum and testing regime. preference for delayed academics; objection to early focus on "academic work" over play ; belief that schools are not most appropriate place nor most conducive to learning ; schools not place to develop soft skills ; SEAL social and emotional aspects of learning ; children's mental health damaged or potentially damaged by schools ; insufficient 1 to 1 support for SEN children in mainstream and special schools ; SEN provision not fit for purpose ; authority inflexible + financial constraints.*

### **6b. PERSONALISED EDUCATION.**

*age ability and aptitude bound by legal duty. parents' obligation*

*3.12 many equally valid approaches to educational provision*

*4.3 parents educational provision will reflect a diversity of approaches and interests*

*4.4 children learn in different ways and at different times and speeds.*

*SEN : learning difficulties and SEN. non age related abilities. both ends spectrum. adjustment and evolution preferred mode of learning. changing needs of child.*

*4.4 list of things not required cross referenced with our consultation Q&A which has more items*

*4.7 learning in wide variety of environments not just the home*

*ethnicity all parents can home educate irrespective of class, race, creed SEN etc; be alert to risk of prejudice and stereotyping.*

## **7. DUTY TO CONSULT AND TO WORK FOR BEST VALUE.**

*4.2 is out of date. new duty to consult. ( cross ref with our consultation answers )*

4.11 review policies and procedures to see if improvements can be made ( best value )

## **8. EVERY HOME EDUCATED CHILD MATTERS**

*5 outcomes.*

## **9. POSITIVE RELATIONSHIPS**

*local groups ; meeting with council officers ; internet support networks ; EO to local and regional and national meetings ; EO and home ed groups to Scrutiny Board ; models of good practice; already happening in some areas ; council to liaise with home ed community on parenting strategy. already happening in sheffield. EO and home ed community integrated as part of voluntary and community sector. best value, link to duty to consult. See 17 **MODELS OF GOOD PRACTICE AND EXAMPLES OF DIALOGUE.***

## **10. POSITIVE ROLE FOR LA AS SOURCE OF INFORMATION ON EDUCATION AND TRAINING**

*Milton Keynes, Staffordshire*

## **11. 14-19 QUALIFICATIONS**

*curriculum. exam centres. training. work experience. exam boards. specialist diplomas. voluntary work. links with FE sector. links with open university and higher education. consider options tree diagrams/flowcharts*

## **12. SAFEGUARDING. LA RESPONSIBILITIES. POLICIES AND PROCEDURES.**

The welfare and safeguarding of **ALL** children is the responsibility of the whole community. As with school-educated children, safeguarding issues may arise in relation to children who are educated from home. If there are any safeguarding issues these should immediately be referred to the appropriate authorities using established protocols.

Working Together to Safeguard Children 2006

The lead professional in Elective Home Education will be aware of cross-government guidance on the Children Act 2004 produced to assist local partners in delivering the programme of Change for Children.

<http://www.everychildmatters.gov.uk/files/B434EAE08179B3F6C1ABC1CB0BB6B1D2.pdf>

## **13. CHILDREN MISSING EDUCATION**

*( no need to register )*

Statutory Guidance on Children Missing Education makes it clear that the duty does not apply to children who are being educated at home. All practitioners must be aware of the flowchart in this Guidance [ page 15 paragraph 3.1 ] The authority must identify wherever possible the place of education of each child in the authority area.

## **14 . DEREGISTRATION**

De-registration of a child from school is covered by the [Education \( Pupil Registration \) \( England \) Regulations 2006](#) Sections 8 ( 1 ) ( d ) and 12 ( 3 ). Parents do not require permission to deregister except when the child is a registered pupil at a special school.

*flowchart.*

## **15. FLEXISCHOOLING**

"Flexi-schooling" or "flexible school attendance" is a legal option. It is an arrangement made between the school and the parent of the school child . The child remains a registered pupil at school but attends the school part time in a manner arranged by the school and the family. During school hours when the child is not attending school, the child is educated off site. This is categorised as authorised absence from school.

## **16. TRUANCY/UNAUTHORISED ABSENCE**

When planning and running truancy sweeps, LAs should refer to the [DfES Truancy Sweep Effective Practice and Advice March 2007](#) This includes a section on children who are educated outside the school system. Those taking part in the sweeps, including police officers, should be fully trained and act in accordance with the guidance at all times. Home educated children are not the target for these sweeps. *flowchart.*

## **17. MODELS OF GOOD PRACTICE**

Sheffield ( positive working partnership between the local authority and Education Otherwise and Sheffield Home Educators' Network )

Staffordshire ( positive website. clear transparent policies and procedures. )

Worcestershire ( Parent Partnership engaging with local home education group. pupil self evaluation forms. feedback questionnaire on how local home educators found the service from PP )

## **18. EXAMPLES OF DIALOGUE BETWEEN LA AND HOME EDUCATION COMMUNITY**

The Department may wish to consider the recent initiatives being undertaken by members of Education Otherwise and local home education support groups.

Brighton : LA meeting with local home education group. looking at changing written information on home education from the LA

Doncaster : with respect to policy making, positive meeting with Change Manager in DMBC, discussing policy and LA literature on home education

Westminster : positive meeting EO and local home educators with Senior EWO and home education policy maker. Looking at Guidelines consultation together

Leicester : meeting with LA EHE team to discuss Guidelines and Safeguarding issues

Gloucester : meeting with GCYPS to discuss Guidelines and Safeguarding issues and Serious Case Review foster carer Eunice Spry

Midlands Regional LA conference ( c. 20 authorities ) invited EO LA Bridge Builder to participate in conference and discussion of LA issues with respect to Guidelines

South West Regional Conference invited EO Trustee to participate in conference ( c. 20 authorities ) and discussion of LA issues in home education. Request from Conference Convenor to work with EO on briefing for EHE and SEN.

# **EDUCATION OTHERWISE RESPONSE TO DCSF CONSULTATION ON HOME EDUCATION GUIDELINES FOR LOCAL AUTHORITIES IN ENGLAND**

**EDUCATION OTHERWISE**

**PO BOX 325**

**KINGS LYNN**

**PE34 3XW**

## **Respondent Information Questions**

**Which of the following best describes you:**

**Checked box : Organisation representing home educators.**

[Education Otherwise](#) is the largest and longest established home education support charity.

Education Otherwise Government Policy Group initiates and co-ordinates responses to official consultations. Education Otherwise has attended meetings with representatives from the DfES but would welcome more chance to meet with Ministers and Department officials at a policy level. We have recently written to the Secretary of State for Children, Schools and Families expressing an interest in participating on the 3 working groups formulating the new Children's Plan. We find that MPs and Ministers have only a slight awareness or understanding of Elective Home Education and we believe it is unacceptable for letters to arrive with the inevitable policy statement "the department believes that the best place for children is in school".

Home -Based Education has an equal standing in law and the right to home educate must be respected and affirmed in departmental correspondence. Through our contact with local authorities we are aware that Local Authority officials and local Councillors often have little or no knowledge or awareness of home education and the law which relates to it.

Our members welcome the opportunity to participate in this long-awaited consultation into written Guidelines for Local Authorities. Education Otherwise sees this as a means of resolving problems and clarifying the law. We have submitted revised guidelines based on the Departmental draft. As the major organisation representing stakeholders in this area we would be happy to contribute to any further necessary work with local authorities and with the Department.

### **Question 1**

**Do you agree that it is helpful for the DfES to issue guidelines to local authorities?**

**Yes.**

Yes, Education Otherwise agrees that the most sensible course of action is to issue written Guidelines for Local Authorities . It would be most helpful if there was a clear shared common understanding of the rights and responsibilities of all parties in law. However, the present draft Guidelines need reworking in order to incorporate references to the [Children Act 2004](#) and the [Education and Inspections Act 2006](#). We are particularly aware that many Local Authorities believe they have additional responsibilities following the [Education Act 2002](#) and the [Children Act 2004](#) . Since this is a misunderstanding of the authority's role in regard to home educated children , Education Otherwise believes that it would be of benefit to make this quite clear in the written Guidelines. To assist this redrafting process , the new legislation and its relevance to Elective Home Education is analysed in the Education Otherwise consultation response.

Furthermore, the current document is rather wordy and repetitive which we are concerned may lead to confusion. Departmental Guidelines will be used by professionals with no knowledge of the law relating to Elective Home Education and therefore they need to be concise , with further references cited where applicable. The Guidelines must also be complemented by training and ongoing professional development in the area of Elective Home Education and Education Otherwise welcomes the department's call for training [paragraph 3.1.]

***Education Otherwise has drafted revised Guidelines which we feel best serve the aims and objectives outlined in the introduction to the consultation .***

## **CONCISE STATEMENT OF LAW. LEGAL REFERENCES. ADVICE TO PRACTITIONERS.**

We recommend that the guidelines should be reframed as a two part document. The first part should be the Guidelines outlining the law relating to Elective Home Education including a summary of recent legislation following the [2003 Government Green Paper Every Child Matters](#). The second part should be Advice to Practitioners. This would follow the model of [Working Together to Safeguard Children](#) ( though the Elective Home Education document would of course be much shorter )

We note that the Guidelines are not statutory. Any written Guidelines must be combined with training in Elective Home Education. Information and further professional development in Elective Home Education must form part of the [Common Core of Skills and Knowledge for the Children's Workforce](#) whereby everyone working with children, young people and families is apprised of the legality of Elective Home Education and the wide variety of approaches which families may adopt.

## **TRAINING**

Training and ongoing professional development will be critical to the successful implementation of these guidelines and should be mandatory. Funding must be made available. This is particularly important as we move away from LEAs to integrated Children and Young People's Services . This move has brought many more workers into contact with home educating families. We already have evidence that local authority professionals mistakenly see children undertaking home-based education as children "missing school" or "missing education" or as a social services "cause for concern ". There needs to be a

better demarcation of this area of work within local authorities and training in Elective Home Education needs to extend to medical practitioners. Health visitors, GPs and dentists for example may be unaware of the legality of home education. We have had a number of complaints in recent weeks about posters and leaflets in doctors' surgeries about children missing education, where this is directly equated with missing school. Local authorities and Government Departments need to be reminded of the legality of Elective Home education. All public documents and media statements should accurately represent the law.

## **CINDERELLA SERVICE**

Unfortunately, Elective Home Education is the Cinderella service in the new Children's and Young People's Directorates. There is no central funding for support to alternative provision, all the funding is channelled to schools. This frequently means that the post of EHE Advisor is temporary or part time or contracted out, which can lead to a misguided focus on the one to one relationship between the LA and the home educating family and a mistaken belief that the role of the Authority is to "monitor provision." ( cf Question 2 **2006 : SENIOR LAW LORD ADVISES THAT THERE CAN BE NO LEGAL DUTY ON LOCAL AUTHORITIES TO SECURE THE RIGHT OF THE CHILD TO EDUCATION**) It also means there is often no consistency of personnel and no clearly identifiable lead professional in the directorate for others to consult. There is no one to input into decisions at a policy level. We hope that the Guidelines will go some way to redressing the balance here, but it must also be complemented by increased funding to the service plus a requirement for ongoing training in Elective Home Education, as directed by the Department. We believe that awareness training in Elective Home Education should form part of the common core training for everyone working with children and young people

[http://www.everychildmatters.gov.uk/\\_files/37183E5C09CCE460A81C781CC70863F0.pdf](http://www.everychildmatters.gov.uk/_files/37183E5C09CCE460A81C781CC70863F0.pdf)  
Common Core of Skills and Knowledge for the Children's Workforce.

## **POSTCODE LOTTERY**

Written guidelines from the department are in the best interests of children, since otherwise in the absence of clear direction from the Department it remains a postcode lottery as to whether the service provided by the local authority is adequate. The service from the local authority to home educating families is unacceptably diverse. Sadly in some areas the temperament, personality and individual preferences of the EHE Advisor currently imposes an idiosyncratic vision of the law relating to home education, where for example the lead professional may publicly state that home education should not be legal or that no parents are capable of educating their own children properly. This is compounded by repeated statements at government level which state that "this department believes that the best place for children is in school."

Many authorities have practices and procedures which cannot be justified in law. Many authorities mistakenly believe they must conduct annual "inspections" . However, authorities who operate this practice are unable then to implement it. One Midlands authority has a backlog of visits in 3 figures

## **DEPARTMENTAL GUIDELINES FOR HOME EDUCATION AND SPECIAL EDUCATIONAL NEEDS**

Any guidelines issued by the department must state that it is legal to home educate SEN children whether or not they may have a statement of Special Educational Needs. The Education Act 1996 S.324 ( 5) states that "where a local authority maintain a statement under this Section [ 323] , then unless ( a) the parent has made suitable arrangements, the authority -(i)shall arrange that the special educational provision in the statement is made for the child." This clearly demonstrates that government recognises parents may make their own suitable arrangements. However, the Special Educational Needs Code of Practice 2000 states that "if the child has a statement of special educational needs it remains the LEA's duty to ensure that the child's needs are met." Home educating parents frequently find that their local authority or school will interpret this to mean that LA permission is required to deregister a child with SEN from school, or that once home educating the parents must follow the specifications of the statement to the letter. Departmental guidelines on Elective Home Education must make the law clear on this point. Baroness Ashton who presented the Special Educational Needs Code of Practice to the House of Lords on 29th October 2001 stated that "The term "suitable arrangements" does not mean having to specify exact arrangements in the child's statement. However, the authority must satisfy itself that the arrangements put in place by the parents are suitable to meet the needs of the child. Where that is the case, the authority is relieved of its duty to arrange for provision as specified. If, however, the arrangements fall short, then the authority is not absolved of its responsibility. However, the authority could, for example, itself make some provision to help the parents to put in place suitable arrangements. Furthermore, even where authorities are satisfied that arrangements are suitable, they will still have a duty to maintain the child's statement and to review it annually. " It has been established in case law that parents cannot be compelled to fulfil any part of the requirements of a statement of special educational needs. further clarified this legal point over whether parents are obliged to arrange provision as specified in the statement. ( cf Question 5 **HOME EDUCATION OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS**)

We are not proposing that the Elective Home Education Advisor should simply take a short standard course on Special Educational Needs, because this would not serve the defined aim. The aim is for the Home Education team at the Local Authority to understand their role in regard to home education of children with special educational needs, which is no different than it would be for children without such needs. The legal responsibility for the child's education rests with the parent, irrespective of whether or not the child has special educational needs. In law, the education must be suitable to the child's age ability and aptitude and this is decided by the parent who is best placed to know the child's needs. This must be clarified in departmental guidelines since at present it is frequently misunderstood by council officials in education, social services and health departments.

## **Question 2**

**Do you agree that the description of the law ( paragraphs 2.1-2.3 ) relating to elective home education is accurate and clear ?**

**Not sure**

We have checked "not sure" in answer to question 2 because whilst paragraphs 2.1-2.3 are accurate to 2004, they do not take sufficient account of newer legislation. There is also a lack of clarity at certain points. Education Otherwise revised draft Guidelines offer an updated guide to the law.

This section needs a better introduction to the whole area for professionals coming to this

for the first time. The first crux is : where does responsibility lie ? 2.1 correctly states that the responsibility rests with the parent. [Section 7 of the 1996 Education Act](#) 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 "

On the other hand, local authorities cite [section 175 \( 1\) of the 2002 Education Act](#) which states that : " A local education authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children. " as a justification for annual monitoring visits . . "( cf Question 2 **2006 : SENIOR LAW LORD ADVISES THAT THERE CAN BE NO LEGAL DUTY ON LOCAL AUTHORITIES TO SECURE THE RIGHT OF THE CHILD TO EDUCATION )**

This is frequently taken by Local Authorities to mean that they are personally responsible for the safeguarding and welfare of all children in the authority, which would of course include home educated children as well as children in the maintained sector.

Local authorities also frequently tell our members that they have to carry out certain course of action "because of Every Child Matters" or "because of the Children Act " .

### **SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN : NO NEW FUNCTIONS**

Local authorities are confused about the legislation surrounding the issue of Safeguarding. We believe it is important to detail which legislation does and does not apply to Elective Home Education. ( cf Question 2 SUITABLE EDUCATION & Question 2 **2006 : SENIOR LAW LORD ADVISES THAT THERE CAN BE NO LEGAL DUTY ON LOCAL AUTHORITIES TO SECURE THE RIGHT OF THE CHILD TO EDUCATION)**

[The Education Act 2002 section 175](#) states :

#### **"Duties of LEAs and governing bodies in relation to welfare of children**

(1) A local education authority shall make arrangements for ensuring that the functions conferred on them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children."

This does not place additional burdens on the Local Authority with respect to Elective Home Education, since the Act specifies that it only covers "the functions conferred on them in their capacity as a local education authority", which do not of course entail a monitoring role for children in receipt of Elective Home Education provided by their parents. Nor does the 2002 Act give additional powers to the Local Authority with respect to home educating families, since the responsibility for education remains with the parent

Firstly, the context of section 175 (1) makes it clear that the pastoral care and safeguarding role has been added to the more narrow education remit for the public sector authorities, bodies or or institutions who were already acting in loco parentis for education. We can see this from [\(2\) and \(3\)](#) where the safeguarding and pastoral care role has been added to the duties of maintained schools and colleges.

(2) The governing body of a maintained school shall make arrangements for ensuring that

their functions relating to the conduct of the school are exercised with a view to safeguarding and promoting the welfare of children who are pupils at the school.  
(3) The governing body of an institution within the further education sector shall make arrangements for ensuring that their functions relating to the conduct of the institution are exercised with a view to safeguarding and promoting the welfare of children receiving education or training at the institution. "

This clearly does not give the maintained school or FE college responsibility for safeguarding and welfare to those children who are not registered pupils at the institutions, it simply adds a statutory duty of pastoral care to the institutions with respect to pupils who are registered for education . The parameters of legal responsibility are explicitly recognised in the wording of section 175(1) where it states that any arrangements made by local authorities for safeguarding and welfare apply only to "the functions conferred upon them in their capacity as a local education authority".

Since the local authority is not responsible for the educational arrangements made by home educating families who opt to exercise their legal right to home educate outside the school system, the local authority does not by virtue of section 175( 1) now become burdened by any statutory requirement to make specific arrangements for safeguarding and promoting the welfare of the home educated child.

The other main area of misunderstanding over where responsibility lies derives from a misreading of [the Children Act 2004](#) , particularly around areas of "safeguarding" [ section 11 ] and the ["duty to consider the wishes and feelings of the child" \[ S.53\]](#)

[The Children Act 2004](#) gives the legislative backing to proposals set out in [Every Child Matters Green Paper 2003](#).

In 2004 the government also published [Every Child Matters : Change for Children](#)

[Section 11 of the Children Act](#) covers arrangements to safeguard and promote welfare. There is a list of authorities and public bodies who must "make arrangements for ensuring that-" their functions are discharged having regard to the need to safeguard and promote the welfare of children " and this list includes children's service authorities.

[Section 11 of the Children Act](#) does not place additional duties or responsibilities on the local authority over and above S.175 ( 1) of the 2002 Education Act. Indeed the Act makes this quite specific at S.11 (3) "In the case of a children's services authority in England, the reference in subsection (2) to functions of the authority does not include functions to which section 175 of the Education Act 2002 (c. 32) applies."

[Statutory Guidance](#) has been published on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004 . This statutory guidance states that "The duty does not give agencies any new functions, nor does it override their existing functions . It, however, requires them to carry out their existing functions in a way that takes into account the need to safeguard and promote the welfare of children. " [ para.2.4 p.15 Statutory Guidance on making arrangements to safeguard and promote the welfare of children under section 11 of the Children Act 2004 ]

### **"NORMAL FUNCTIONS"**

Here again we see clearly that agencies' obligation to make arrangements to safeguard

and promote the welfare of children arise through "discharging their normal functions ". The "normal functions" of a local authority do not include any statutory responsibility to monitor Elective Home Education, therefore the 2004 Children Act does not place a burden on the authority's officers with regard to safeguarding and promoting the welfare of home educated children. Home educated children remain the responsibility of their parents and the local authority only has a duty to intervene under the specific circumstances set out in [section 437 of the 1996 Education Act](#).

Insofar as there may arise serious concerns over children's safety, the local authority officers responsible for Elective Home Education must, in common with any other LA officers, be fully aware of the work of Local Safeguarding Children Boards; they must be apprised of statutory guidance and advice to practitioners contained in [Working Together to Safeguard Children](#) and they must follow the procedures set out in the guidance.

The Guidelines to local authorities on home education need to make this quite clear.

Furthermore, [section 53 of the Children Act 2004](#) ( discussed in greater detail in answer to question 3 of this guidelines consultation of **DUTY TO CONSULT PARENTS AND CHILDREN : ASCERTAINING THE WISHES AND FEELINGS OF THE CHILD ; LIMITS OF SECTION 53 ; CHILDREN IN NEED**) should be cited here and departmental guidance should be given to local authorities on the parameters of their legal responsibilities in this area with respect to children in need. The Department should advise that there is no legal burden on the authority to meet with individual children who are not "children in need" nor to ascertain the wishes and feelings of children in need of services except in the limited context of provision of LA services where this is practicable.

Education Otherwise has addressed this issue in the EO revised guidelines legislative framework **ASCERTAINING CHILDREN'S WISHES**

## **SUITABLE EDUCATION**

The next crux over the law in relation to Elective Home Education comes over what is meant by "suitable education". There are only 2 relevant pieces of legislation concerning Elective Home Education.

The first is the [Education Act 1996](#) which states in section 7 under the **Duty of parents to secure education of children of compulsory school age**.that "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 b/ to any special educational needs he may have, either by regular attendance at school or otherwise. "

The second is in [the Human Rights Act 1998](#) following the [European Convention on Human Rights](#) .. Part II Article 2 to the First Protocol [states](#) : " In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions. " This forms Chapter 42 Schedule 1 of the Human Rights Act 1998.

Furthermore the Article 8 ECHR [states](#) that "Everyone has the right to respect for his private and family life, his home and his correspondence.  
There shall be no interference by a public authority with the exercise of this right except

such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

## **PERSONALISED LEARNING : SUITABLE TO THE CHILD AND IN CONFORMITY WITH PARENTS' RELIGIOUS AND PHILOSOPHICAL CONVICTIONS**

**The guidelines must make it clear that the statutory requirements for home education are that it be suitable to the child and be in conformity with the parents' religious and philosophical convictions.**

We therefore agree that the law cited in 2.1 - 2.3 of the draft Guidelines is accurate.. Since the responsibility for Elective Home Education rests with the parent, and since, following [the Human Rights Act 1998](#), "the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions" it will necessarily follow that a suitable education is one which "primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so." Of course, the primary definition of "suitable" is already stated in the [section 7 of the Education Act 1996](#) as "suitable to the age, aptitude and ability of the child and to any special educational needs he may have.", rather than suitable to any extrinsic criteria. Elective Home Education by parents is not required to deliver a broad and balanced curriculum since this legal duty applies only to the maintained sector. Home Education is personalised to the child. This is further explained in discussions elsewhere on the personalised curriculum for the home-educated child .

## **SENIOR LAW LORD ADVISES THAT THERE CAN BE NO LEGAL DUTY ON LOCAL AUTHORITIES TO SECURE THE RIGHT OF THE CHILD TO EDUCATION:**

In the case of Elective Home Education **the responsibility rests with the parent and not with the state**. Lord Adonis affirmed the balance in law between the duties of parents and of the state when he spoke in [the House of Lords in October 2006](#).

[Lord Adonis, Parliamentary Under Secretary of State for Schools and Learners](#) :

" the existing fourfold foundation of the right to education [ ie the child's right to education ] which, as I expounded at length at cols. 657 and 658 on 17 October, also places duties on parents, the Secretary of State and governing bodies. I hesitate to read it out again, but on that occasion I also [cited at length](#) the judgment of the noble and learned Lord, Lord Bingham, in the case of [Ali v Lord Grey School](#), a judgment issued only this year. It strongly supports the fourfold foundation which, the noble and learned Lord said, "has endured over a long period because it has, I think, certain inherent strengths".—[*Official Report*, 17/10/06; col. 657.]

We believe that seeking to elevate one of those elements risks weakening the others. Furthermore, an effect of placing a duty on local authorities to secure the right of every child to suitable education in the way proposed here could, we are advised, be used as a legal argument to cut across parental choice and the right of children to be educated either at home or at an independent school." House of Lords October 30<sup>th</sup> 2006.

[Lord Bingham](#) , former Lord Chief Justice, in his capacity as Senior Law Lord cited Lord Wilberforce's "fourfold foundation" . As Lord. Adonis pointed out, if this primary legislation were changed , "at best it would not confer any new rights over and above those which currently exist, although I accept that it would declare them more clearly, it might—for me, this is the decisive argument—have the perverse effect of requiring the state to make available types of education which we do not favour on grounds of equity, values or standards [ ] It might be interpreted as imposing an obligation on local authorities to ensure that children could receive education of a particular type or standard which the authorities were unable to provide, or which they considered it positively undesirable to provide."

## **WORKING PARTNERSHIP BETWEEN LOCAL AUTHORITY AND HOME EDUCATION COMMUNITY**

Education Otherwise concurs that the present law is sufficient. However, much more could be done with local authorities working collectively with the home education community at local, regional and national level. This would be a much more cost effective and constructive way to promote the 5 positive outcomes of Every Child Matters. ( cf Question 6 **CUSTOM AND PRACTICE MAY NOT BE EFFICIENT, ECONOMICAL OR EFFECTIVE** )

Education Otherwise addresses the issue of positive working partnerships in **THE WAY FORWARD** which may be found in the **EXECUTIVE SUMMARY** to this consultation response.

### **Question 3**

**Do you agree that the description of local authorities' responsibilities (paragraphs 2.5-2.11) is accurate and helpful?**

**No.**

Firstly, there is no need for a separate section on "the law" and "responsibilities". The law is the law. However we think there is some merit in the practice of setting out the law in the first section of the guidelines and then including Advice to Practitioners in the second half of the guidelines, as followed in department guidance on Working Together To Safeguard Children.

### **"REASONABLE PROGRESS"**

We have answered No to this question primarily on the basis of the inclusion of the following phrase in 2.5 stating that "all children should make reasonable progress". We are however broadly satisfied with the accuracy of the remainder of this section though it remains incomplete. There is no legal justification for the statement about "reasonable progress" or indeed any reference to "progress" whatsoever and it must be removed, since otherwise it would place local authorities in a fundamental dilemma whereby they are told that they have no duty for ongoing monitoring but yet they also read that "all children should make reasonable progress"..The responsibility for Elective Home Education remains with the parent and the education must be suitable to the age aptitude and ability of the child and to any special educational needs he may have. The state must also "respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions" as stated earlier in 2.2 of the draft

Guidelines. ( cf Question 2 **SUITABLE EDUCATION** & Question 2 **2006 : SENIOR LAW LORD ADVISES THAT THERE CAN BE NO LEGAL DUTY ON LOCAL AUTHORITIES TO SECURE THE RIGHT OF THE CHILD TO EDUCATION** )

The reference to "reasonable progress" may be particularly misleading and harmful in the case of home educated children with special educational needs where any emphasis on age-related targets or extrinsic criteria for the home education provision could be wholly inappropriate and detrimental to the child's emotional well being, thus jeopardising the 5 outcomes of Every Child Matters

2.5. Delete the last sentence containing the phrase "reasonable progress".

2.6 Is an accurate statement of the law with respect to [Statutory Guidance issued in February 2007](#) on section 4 of [the Education and Inspections Act. 2006](#) Home educated children are not "children missing education" and all practitioners should be aware of the flowchart in this Guidance [ page 15 paragraph 3.1 ] Reference to this flowchart is included in the section on Children Missing Education in Education Otherwise revised draft Guidelines submitted with this consultation response.

We have further addressed this point in Education Otherwise revised guidelines  
**CHILDREN MISSING EDUCATION**

2.7 We agree that [section 437 of the 1996 Education Act](#) directs the authority as to the course of action it must follow if it appears that a child is not receiving a suitable education. However it should be made clear in the guidelines that "suitable education" means in law suitable to the age ability and aptitude of the child and to any special educational needs he may have and also that a further criterion for determining the suitability of the home education will be that it is in conformity with the parents' religious and philosophical convictions . The guidelines must state that any determination of suitability will not include extrinsic judgements by the authority as to which subjects should be studied.

**NO STATUTORY REQUIREMENT ON PARENTS WITH RESPECT TO BROAD AND BALANCED CURRICULUM**

Departmental guidelines must state that there is no statutory requirement for elective home education to deliver a broad and balanced curriculum since this is only a requirement in the maintained sector and does not apply in Elective Home Education. Curriculum specifications were introduced in the [1988 Education Reform Act](#) which set out the Secretary of State's requirements for registered pupils at maintained schools. In our experience, home educators are frequently told that while the authority recognises that they do not have to follow the national curriculum, the home education must be "broad and balanced". This is incorrect. Elective Home Education must be suitable to the child's age ability and aptitude and to any special educational needs he may have and must also be in conformity with the parents' religious or philosophical convictions ( cf Question 2 **SUITABLE EDUCATION** & Question 2 **2006 : SENIOR LAW LORD ADVISES THAT THERE CAN BE NO LEGAL DUTY ON LOCAL AUTHORITIES TO SECURE THE RIGHT OF THE CHILD TO EDUCATION** )

Furthermore, a determination of suitability will not include measurement of progress, since all of these elements are outside the law. [ cf Question 2 **SUITABLE EDUCATION** ]

2.8 Is an interpolation outside statute of S.437 of the Education Act 1996 and comes from a Judicial Review made by then Master of the Rolls Lord Donaldson on the case of Philips vs Brown ( 1980 )

This matter has been addressed in Education Otherwise revised guidelines.

## **PARAMETERS OF LOCAL AUTHORITY RESPONSIBILITY**

2.9 The department must make it clear in any citation of [section 437 \(3\)](#) that it is only in the limited and specific context of an [section 437 formal enquiry](#) that the authority has any duty to satisfy itself as to the suitability of the home education. There is nowhere in law any proactive duty on the local authority to investigate all elective home education provision since there is a legal presumption of innocence. We have wide experience amongst our members of local authority officers appearing to assume from the outset that a suitable education is not being provided unless and until the parents demonstrate exhaustively that the particular criteria set by the local authority inspector are being met. This is prejudicial and works against any development of a trusting relationship between the authority and the home education community which would best aid the authority to discharge its legal obligation to promote [the 5 positive outcomes of Every Child Matters](#). If the authority acts in a punitive and hostile manner, sending out the message that home education should not be legal or that parents can never be competent teachers because they do not have a general teaching qualification then the home education community will be further alienated . In some London authorities for example, we are aware that the home education inspector states openly that parents cannot teach their children because they do not possess a specialist teaching qualification in every single area of the syllabus . This misunderstanding about Elective Home Education is not the way to build a positive working partnership between the authority and the community [as recommended by the Department](#).

## **SCHOOL ATTENDANCE ORDERS**

2.10 In this paragraph about School Attendance Orders being served as a last resort, the guidelines should explicitly state that the Elective Home Education provision has to follow the legal definition of suitability. We must not see the introduction of substitute adjectives such as "appropriate" or "satisfactory ". In particular, there is no legal basis for talking about a "satisfactory education". Threats to issue School Attendance Orders are routinely used in some authorities to coerce families into complying with requests for home visits, examples of work, access to the child, programmes of work, timetables and proof of "progress". This is unacceptable. [ cf question 4 **FOUNDATIONS FOR INVOKING SCHOOL ATTENDANCE PROCEDURE UNDER SECTION 437**]

**We have further addressed this issue in Education Otherwise draft revised guidelines.**

[Information on section 437 and School Attendance Orders](#) should be confined to a single section towards the end of the Guidelines rather than being peppered throughout the document.

2.11 We agree that [section 175\( 1\) of the Education Act 2002](#) does not give local authorities power to enter the homes or to demand access to the child. However there are further limits on the applicability of section 175 ( 1) and this section has been analysed more fully in our response to question 2 of this guidelines consultation. [ cf

## **SAFEGUARDING AND PROMOTING THE WELFARE OF CHILDREN:NO NEW FUNCTIONS ]**

### **DUTY TO CONSULT PARENTS AND CHILDREN : ASCERTAINING THE WISHES AND FEELINGS OF THE CHILD ; LIMITS OF SECTION 53 ; CHILDREN IN NEED**

This entire section of the guidelines on home education would be incomplete without reference to [the Children Act 2004](#) and an indication by the Department that local authorities should commit to the following :

Under [the Local Government Act 1999](#), Local Authorities now have a duty to consult parents and children as stakeholders over policies and procedures which affect them. ( cf Question 6 **DUTY TO CONSULT** )

This includes national and local home education support organisations who at present are left out of the communication loop .We note that the DfES requested local authorities contact home educators over this Guidelines consultation but are only aware of a single authority in the country, Worcestershire, who has done so.

Of course, this duty to consult with stakeholders over policy and procedure does not entail a reciprocal obligation on the part of the child to share his or her private feelings or opinions with officers of the department. We are seeing some local authorities misunderstanding the parameters of their duties under [section 53 of the Children Act](#) . Section 53 puts a specific duty on the local authority to consider the wishes and feelings of the "child in need" which also has a limited definition in law and is in no way an injunction to the authority to consider the wishes and feelings of every child about every aspect of their life. Clearly if this were the case, local authorities would be over-burdened by the huge responsibility of considering the wishes and feelings of every single child in the maintained sector over every aspect of their educational provision and home life on a regular basis.

We have further addressed this issue in Education Otherwise draft revised guidelines **ASCERTAINING CHILDREN'S WISHES**

#### **CHILDREN IN NEED**

[Section 53 of the Children Act 2004](#) is entitled "**Ascertaining children's wishes**" and refers back to [section 17 of the Children Act 1989 \( provision of services to children \)](#). Section 17( 4A) states "Before determining what( if any) service to provide for a particular child in need in the exercise of functions conferred on them by this section, a local authority shall, so far as it is reasonable and practicable and consistent with the child's welfare (a) ascertain the child's wishes and feelings regarding the provision of those services and ( b) give due consideration ( having regard to his age and understanding) to such wishes and feelings of the child as they have been able to ascertain. " [Section 17 \( 10\)](#) states that " a child shall be taken to be in need if ( a) he is unlikely to achieve or maintain, or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by the local authority under this Part . (b) his health or development is likely to be significantly impaired , or further impaired, without the provision for him of such services ; or ( c) he is disabled.

Unless there are additional factors, children and young people in receipt of Elective Home Education provision are not "children in need" and section 53 does not apply.

Education Otherwise has further addressed the issue of section 53 EA96 in the EO draft revised guidelines **ASCERTAINING CHILDREN'S WISHES**

## **OVERVIEW OF CHILDREN ACT 2004 AND IMPLICATIONS FOR ELECTIVE HOME EDUCATION**

[Additional points about the implications of the Children Act 2004](#) for local authorities with respect to Elective Home Education should also include the following points :

That there is a requirement for a lead professional in each area of Children's Services and that this includes the field of Elective Home Education. The working of the EHE department should be transparent and accountable.

That the promotion of the 5 outcomes of Every Child Matters at LA level entails an information and support role for home educators rather than a monitoring or surveillance role. The **Department may wish to consider council websites such as Staffordshire and Milton Keynes.**

<http://education.staffordshire.gov.uk/Curriculum/Services/HomeEducation/>

[http://www.milton-keynes.gov.uk/schools/documents/Home Education Policy.pdf](http://www.milton-keynes.gov.uk/schools/documents/Home_Education_Policy.pdf)

## **EO RECOMMENDATIONS FOR BEST VALUE**

Education Otherwise is aware that local authorities have great difficulty in interpreting their statutory duties and in some authorities our members encounter a fundamental misunderstanding on the part of the authorities whereby custom and practice above and beyond what the law requires, and in some cases in direct contradiction to what the law states , has become the norm. Written guidelines should end this confusion by clearly setting out the parameters of legal responsibility and accountability so that the local authorities can better understand how to fulfil their legal duties.

## **THE WAY FORWARD**

This matter has also been addressed in **THE WAY FORWARD** Education Otherwise **EXECUTIVE SUMMARY** to this consultation response.

Local authority duties could better be interpreted as providing an advice and support service for example a fulltime Telephone Helpline service ; establishment of informative council website pages on Elective Home Education resources ; liaising and mediating where appropriate with other children 's service departments, the extended curriculum team and extended schools provision for the wider community ; fostering links between the home education community and the Further Education sector ; ensuring that the home education community is included in circulars on wider community provision for children and young people. The following may be seen as a useful model :

<http://education.staffordshire.gov.uk/Curriculum/Services/HomeEducation/FAQs/>

Education Otherwise also has a network of Local Contacts in place in most local authority areas and will be happy to advise further. The national contact details for Education Otherwise are : PO BOX 325 Kings Lynn PE34 3XW and email enquiries should be directed to : [eoemailhelpline@education-otherwise.org](mailto:eoemailhelpline@education-otherwise.org)

## **COMMON CORE OF SKILLS AND KNOWLEDGE FOR CHILDREN'S WORKFORCE; CONFLICT RESOLUTION; COMPLAINTS PROCEDURE ; ACCOUNTABILITY OF LEAD PROFESSIONAL**

### **Question 4**

**Do you agree that the section on contact with the local authority [ paragraphs 3.4-3.7] is accurate and helpful ?**

**No.**

We are answering no to this question because of fundamental objections to the concept of "risk-based approach" , which is outside the law and also because of the way that Gypsy Roma and Traveller home educating families have been singled out for different treatment within Elective Home Education.

Firstly we should like to note that we have not been asked to comment on paragraphs 3.1 -3.3 . We agree with these paragraphs and are happy to see recommendation for policy statements, policy reviews and training. However the guidelines should say that this is "required" rather than "recommended" or that the local authority "must" do this rather than that it "should". Education Otherwise is further recommending to the Department that Elective Home Education is added to [the Common Core of Skills and Knowledge for the Children's Workforce](#)

In addition to the requirement for training and for a designated lead professional in Elective Home Education, there should also be clear transparent procedures for conflict resolution, with the chain of command visible via the council website or easily obtained through a telephone or email enquiry. There should also be a clear and transparent Complaints Procedure. Too often at present the EHE Advisor/Inspector is freelance or self-employed on a contract basis, often part time . He or she may be operating autonomously and with no obvious line manager, which is not the best way for the authority to promote the 5 outcomes of Every Child Matters. Once again this is a question of funding, since Elective Home Education is the Cinderella service.

## **ELECTIVE HOME EDUCATION OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS**

Training in SEN as it relates to Elective Home Education must also be added to the training for the lead professional in the area of Elective Home Education. Too often this area is poorly understood by professionals who apply an inappropriate school-based model to home education. While we have not been asked to comment on the SEN paragraphs in the draft guidelines we have indicated that this section needs redrafting.

We are not proposing that the Elective Home Education Advisor should simply take a short standard course on Special Educational Needs, because this would not serve the defined aim. The aim is for the Home Education team at the Local Authority to understand their role in regard to home education of children with special educational needs, which is no different than it would be for children without such needs. The legal responsibility for the child's education rests with the parent, irrespective of whether or not the child has special educational needs. In law, the education must be suitable to the child's age ability and aptitude and this is decided by the parent who is best placed to know the child's needs. This must be clarified in departmental guidelines since at present it is frequently misunderstood by council officials in education, social services and health

departments.

## **RISK BASED APPROACH SANCTIONS PREJUDICE ; GYPSY ROMA TRAVELLER HOME EDUCATING FAMILIES HAVE THE SAME RIGHTS AND DUTIES .**

3.4 serves no useful purpose and should be deleted. Any move towards a "risk based approach" gives Departmental sanction to prejudice and stereotyping. Education Otherwise is aware that some LA officers make value judgements about the right and wrong type of family who should or should not be home educating and this can lead to unlawful discrimination. Furthermore the reference to Gypsy Roma Traveller home educators is racist. All home educating families, irrespective of race, colour, background have the same rights and responsibilities in law. Education Otherwise does not feel qualified to speak on behalf of all home educating parents from the GRT communities, but we have been told that the different communities greatly resent being grouped together in this way as though they were a homogenous group. We are told that attitudes to education are markedly different in the different communities. We are further concerned that a government consultation of this kind will not reach members of these communities. The Traveller Education Services cited here have an ethos of inclusion in supporting children back into school and do not represent the home educating families in these communities.

### **"REASONABLE CONCERNS"**

3.5 and 3.6 amplifies the risk-based approach which we recommend is deleted from 3.4. If there are safeguarding concerns, there is statutory guidance on this in [Working Together to Safeguard Children](#) discussed in earlier answers to this consultation. The Home Education Guidelines should direct practitioners to the relevant statutory guidance and advice.

3.6 "reasonable concerns" must be deleted. The wording here should cite [section 437 of the 1996 Education Act](#). It would be sensible to retain the Departmental recommendation that the authority put in writing any grounds they have to believe that a suitable education is not taking place and that further written reports and feedback should be sent to the parents after any new information is received by the authority.

### **GROUND FOR INVOKING SCHOOL ATTENDANCE PROCEDURE UNDER SECTION 437**

3.7 The first sentence about parents welcoming home visits serves no useful purpose here and should be deleted. If the local authority Elective Home Education Advisor chooses to make initial contact with a home educating family eg to offer support and to give information about resources, the Advisor is not entitled to demand access to the family home or to insist on seeing the home educated child if this is against the express wishes of the family. In particular the School Attendance Order procedure set out in [section 437 of the 1996 Act](#) must no longer be used as a threat in order to make home educating families comply with the authority's insistence on visiting the home or interviewing the child. The sole grounds for issuing a School Attendance Order are if it appears to the authority that the parent is failing in his or her duty and is not causing the child to receive a suitable education ( as previously defined in our consultation response ) . This should be clearly stated in any Departmental Advice to Practitioners. Furthermore, many local authorities operate under the misapprehension that they are legally required to conduct annual inspections or reviews, but the Department should state that this is not a legal expectation. Again this should be included in the Advice to Practitioners which would

follow a concise summary of the legal position with regard to Elective Home Education..  
Models of good practice may usefully be included in the Advice to Practitioners.

## **DE-REGISTRATION**

We have not been asked to comment on paragraphs 3.8 -3.10 .  
3.9 cites out of date legislation and must be amended.

De-registration of a child from school is now covered by [the Education \( Pupil Registration\) \( England \) Regulations 2006 regulations 8 \( 1\) and 12 \( 3\)](#).

The following are the relevant regulations :

**8.—**(1) The following are prescribed as the grounds on which the name of a pupil of compulsory school age shall be deleted from the admission register—  
(a) where the pupil is registered at the school in accordance with the requirements of a school attendance order, that another school is substituted by the local education authority for that named in the order or the order is revoked by the local education authority on the ground that arrangements have been made for the child to receive efficient full-time education suitable to his age, ability and aptitude otherwise than at school;

**12 - (3)** As to the contents of the admission register comprising particulars relating to a pupil whose name is to be deleted in accordance with regulation 8(1)(d), (e),(g),(i) or (m), the proprietor shall make a return to the local authority for every such pupil giving the full name of the pupil, the address of any parent with whom the pupil normally resides and the ground upon which their name is to be deleted from the admission register as soon as the ground for deletion is met in relation to that pupil, and in any event no later than deleting the pupil's name from the register.

The local authority should be aware that the school will now have a statutory obligation to follow deregistration procedures set out in [the Education \( Pupil Registration\) \( England\) Regulations 2006 Section 8 \( 1\)](#) The department will advise that the school should now make a return to the local authority "no later than deleting the pupil's name from the register". .

### **"PARENTS PROPOSALS "**

3.10 speaks of "parents' proposals" which are to be "submitted". This paragraph should be deleted. Parents in England are not required to submit proposals and this formulation would appear to have migrated from Guidance issued in Scotland.

**Question 5: Do you agree that the section on providing a full-time education [ paragraphs 3.11-3.14 ] -and in particular, the characteristics of provision [ paragraph 3.13] is accurate and helpful ?**

**No**

3.11 is better placed in Advice to Practitioners in the local authority than in a summary of the law in the Guidelines

3.12 may be considered helpful in Advice to Practitioners. However, Education Otherwise

would remind the department that while it is valid to state that "information" may take many different equally valid forms , such "information" need only be sought if it appears to the authority that the parent is not causing the child to receive [a suitable education](#) as outlined in [section 437 of the Education Act 1996](#) [ cf Question 2 **SUITABLE EDUCATION** for further explanation of "suitable education". ]

3.13 This list is taken from [Scottish Guidance](#) . It may be included in Advice to Practitioners but must not be included in Guidelines to the law on Elective Home Education. There is no legal justification for using it as a checklist as we see immediately to be the case in paragraph 3.14 from the phrase " if one or more of the above characteristics appears to be lacking". Instead, practitioners should have regard to Education Otherwise answer to Question 2 **SUITABLE EDUCATION** which sets out the legal criteria for a "suitable education".

3.14 is also taken directly from [Scottish Guidance](#).. It is not acceptable that the foregoing list in 3.13 immediately becomes a checklist for defining whether parents' home education is "suitable" or "unsuitable". .The legal criteria for a suitable education at home have been discussed many times in this consultation response. Education Otherwise revised draft Guidelines on the legislative framework omit the list of characteristics, since they are outside the law.

If it appears to the local authority that the parent is not causing the child to receive a suitable education, the authority is legally obliged to follow the procedures set out in [section 437 of the Education Act 1996](#).

There must be no reference to the Scottish Guidance requirements in the Departmental Guidelines to the law. Clearly the guidelines must not add material which is in conflict with primary legislation and statutory guidance.

Departmental Guidelines should state that this local authority duty must be complemented by the full accountability of the trained lead professional in Elective Home Education as outlined in Question 4 **COMMON CORE OF SKILLS AND KNOWLEDGE FOR CHILDREN'S WORKFORCE; CONFLICT RESOLUTION; COMPLAINTS PROCEDURE ; ACCOUNTABILITY OF LEAD PROFESSIONAL**

## **HOME EDUCATION OF CHILDREN WITH SPECIAL EDUCATIONAL NEEDS**

We are surprised that we have not been asked to comment in Question 5 on SEN [ paragraphs 3.15 to 3.19 ] Departmental guidelines on Elective Home Education must accurately reflect the law on home education and special educational needs. Parents are not required to have any qualifications or training in SEN in order to home educate their SEN children and this must be made clear in Departmental guidelines to local authorities. [section 8.91 p.112 of the Special Educational Needs Code of Practice](#) states that "Children with statements may be educated otherwise than at school because ( a) the LEA has made other arrangements or ( b) parents have made suitable arrangements of their own .

3.15 is taken directly from the Special Educational Needs Code of Practice section 8.93-8.95 p.113 . Departmental guidelines on Elective Home Education of children with SEN must also include information on ceasing statements following the Special Educational Needs Code of Practice **section 8.117 -8.121 Ceasing to Maintain the Statement** p.117 . Furthermore any section on SEN and Elective Home Education must contain references from the Special Educational Needs Code of Practice with regard to home educating parents themselves requesting a statement. Furthermore, .statements need to be reviewed in the light of new circumstances and in partnership with parents who, in

common with all parents, have the responsibility in law for the education of their children. A child wishing to return to the maintained sector is not disadvantaged by the lack of a current statement, since a statement needs to be reviewed and re-assessed regularly in order to have any relevance.

Non-educational needs and non-educational provision are discussed in [section 8.29 of the Special Educational Needs Code of Practice](#) p.101 and in Sections 8.43 and 8.44 p.104 These will normally be provided outside the educational setting. ( cf Question 1

### **DEPARTMENTAL GUIDELINES FOR HOME EDUCATION AND SPECIAL EDUCATIONAL NEEDS )**

We are not proposing that the Elective Home Education Advisor should simply take a short standard course on Special Educational Needs, because this would not serve the defined aim. The aim is for the Home Education team at the Local Authority to understand their role in regard to home education of children with special educational needs, which is no different than it would be for children without such needs. The legal responsibility for the child's education rests with the parent, irrespective of whether or not the child has special educational needs. In law, the education must be suitable to the child's age ability and aptitude and this is decided by the parent who is best placed to know the child's needs. This must be clarified in departmental guidelines since at present it is frequently misunderstood by council officials in education, social services and health departments.

***Education Otherwise has drafted a more appropriate set of guidelines for local authorities with respect to Elective Home Education of SEN children and young people.***

#### **Question 6**

**Do you agree that the section on developing relationships [ section 4] is useful.**

**Not sure.**

We understand the primary aim of departmental guidelines to be an outline of the legislative framework for Elective Home Education and directives to local authorities as to the department's expectations. Training and Advice to Practitioners will supplement the guideline to the law. Education Otherwise will be happy to participate in a further Working Group with the department and local authority representatives to produce materials for local authorities. In order that local authorities are collectively informed of the views and feelings of home educated children and young people, Education Otherwise would also be happy to work with the Children's Commissioner.

#### **DUTY TO CONSULT**

In the past local authorities have seen their duties in terms of a relationship with individual families, primarily focussed on a monitoring role, although the latter has never been a statutory requirement.

However, under the [Local Government Act 1999 Section 3 \( 1\)](#) Best Value criterion, local authorities have a duty to consult stakeholders in the services they provide., for the purpose of deciding on the way that services are delivered. "A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. "

## **CUSTOM AND PRACTICE MAY NOT BE EFFICIENT ECONOMICAL OR EFFECTIVE**

Much of the current custom and practice of local authorities is not a statutory requirement . The situation produces a conflict in the authority's role ; on the one hand seeking to support parents while at the same time pursuing an inspection role. It is not the most efficient or effective way to provide services in support of home educated children and young people. With the best will in the world, no local authority will be able to rectify this situation unaided and clear unambiguous Guidelines from the Department would be most constructive.

Working in partnership, local authorities and home educators would be able to make much more effective use of the limited resources currently allocated to promote [the 5 outcomes of Every Child Matters](#) . We are aware that the department has already spoken in Sheffield to Education Otherwise local representatives and to the local authority on models of good practice in this area.

Education Otherwise has made further recommendations in this area in **THE WAY FORWARD, EXECUTIVE SUMMARY** to our Consultation Response

It is important that key personnel in the authority are identified, not only amongst staff coming into contact with families on a day to day basis, but also with those who work in the area of policy-making. Where models of good practice are being developed, funding and networking support needs to be put into place to raise awareness of this.

## **SKILLS AND EXPERIENCE NECESSARY FOR LEAD PROFESSIONAL IN HOME EDUCATION**

4.3 This paragraph is not necessary beyond the first sentence. In our members' experience, most local authority personnel are recruited on the basis of their background in the teaching profession . They arrive in the post with skills ,attitudes and values which are relevant to a school environment but without any knowledge of alternative education and frequently impose a school-at-home template on the home educating family. There is at present an unequal relationship between the local authority "inspector " who has the power to deem the education "unsuitable " or "unsatisfactory", and the parents, who have no complaints procedure or power of redress or independent outside assessment of the inspector's judgement. Careful consideration needs to be given to the appointment of staff and we suggest that working in schools may not be the best preparation . . The authorities should move towards a competence-based approach to recruitment and officers will need the input of home education support organisations in order to achieve these aims.

4.4 The key is a non-judgemental attitude combined with flexibility since different approaches will be required at different times and with different families.. It also must be recognised that parents' provision will evolve to meet the changing needs of the child and any interaction with the family should be clear ,timely and non-intrusive.

Education must be suitable to age, ability and aptitude and to any special educational needs the child may have. This allows home educators the flexibility to provide a personalised curriculum. Age related targets are not appropriate in home education, which can accommodate special educational needs at both ends of the spectrum and also cater for learning difficulties such as dyslexia. It is essential that staff who work in the field of

home education receive awareness training in SEN and learning difficulties as they relate to home education. We are not proposing that the Elective Home Education Advisor should simply take a short standard course on Special Educational Needs, because this would not serve the defined aim. The aim is for the Home Education team at the Local Authority to understand their role in regard to home education of children with special educational needs, which is no different than it would be for children without such needs.

The legal responsibility for the child's education rests with the parent, irrespective of whether or not the child has special educational needs. In law, the education must be suitable to the child's age ability and aptitude and this is decided by the parent who is best placed to know the child's needs. This must be clarified in departmental guidelines since at present it is frequently misunderstood by council officials in education, social services and health departments. In addition, parents who home educate children on the autistic spectrum have asked us to make specific reference to the difficulties surrounding authority visits to the home which their children may find particularly traumatic.

We welcome the recognition in the guidelines that parents are not required in law to have any qualifications or training in order to provide a suitable education for their child.

The last sentence of 4.4 should be deleted as it has no foundation in law.

## **PROVIDING INFORMATION FOR PARENTS**

**This information is better placed in Advice to Practitioners.**

The second sentence should be replaced with "local authorities will work with representatives of the home education community in the development of suitable material for the authorities' website." Authorities now have a duty under the [Local Government Act 1999](#) and the [Children Act 2004](#) to consult with children and families for whom they provide services. The voluntary and community sector must also be consulted as partners and Education Otherwise would be happy to assist in this area. ***Models of good practice are supplied in the appendix to this consultation response.*** Elective Home Education must be easy to find on a council website. At present we often find it is allocated a small section under "schools improvement service" or "inclusion" or "vulnerable children". ( cf Question 1 **CINDERELLA SERVICE; POSTCODE LOTTERY** )

The authority should also ensure that schools libraries, museums etc are aware of the legalities of home education. The second part of this paragraph 4.6 refers to [section 437 of the Education Act 1996](#) . Any meeting between the local authority and home educated parents should be arranged in advance at a time and place suitable for all parties.

## **CHILD NEED NOT ATTEND MEETING**

Whilst children should not be excluded from meetings there should be no expectation that children will attend or that if they do attend, that they will wish to participate. This issue has been addressed at length elsewhere in this consultation response and in EO revised guidelines **ASCERTAINING CHILDREN'S WISHES**

Retain first sentence only

## **CHILD PROTECTION/SAFEGUARDING**

Replace "child protection" with "safeguarding".

Delete all except last sentence

There should be transparent and well publicised procedures for complaints and conflict resolution. This has been addressed elsewhere in the consultation response.

In terms of OFSTED, home educators and home education support organisations need to be kept informed of the policies and procedures of OFSTED reviews and any input which they will have. OFSTED reports should also be made available to the local home education community.

### **Question 7a - Are the suggested resources in Section 5 and Appendix 2 useful ?**

This section of the consultation should form part of the guide to practitioners. Whilst Education Otherwise applauds the intention for the Department to provide information which may be disseminated by local authorities, we would not include such information in the legislative framework section of written guidelines on Elective Home Education.

5.1 Information sheets and website information on EHE from the Department would benefit from the input and expertise of home educators and home education support organisations.

5.2 We accept that this is the current situation., but we do not find this postcode lottery acceptable. If local authorities are to take their responsibilities seriously under the "every child matters" initiative we believe the Government needs to look at how it can assist home educated children achieve the 5 ECM objectives. There are some simple, inexpensive and cost effective measures which authorities could take which would be far more useful and productive than continuing with their current custom and practice. Again, this could be developed with the assistance of home educators and home education support organisations. Funding needs to be made available for ongoing training of EHE lead professionals within the authority.

We have addressed this issue in **THE WAY FORWARD, EXECUTIVE SUMMARY** to the Education Otherwise Consultation Response.

We would like to remind the Government that we pay council and national taxes in the same way as everyone else and that home education has the same status in law as attendance at school. We are saving the exchequer a great deal of money which they would otherwise have to use to support our children in their school attendance. We understand that the recent NFER report on Support for Home Educators has recommendations in this area.

Many parents make huge financial sacrifices to give their children the sort of education they feel is best suited to their needs.

Councils should make available information about the budget they allocate to this work and the way in which the funding is used. We have been unable to find this information.

## **Every Home Educated Child Matters**

Home educators rarely find out about initiatives which would help us. We are not in mailing lists from national and local government and most information about Every Child Matters is only sent to schools.

## **Enjoy and Achieve/Achieve Economic Wellbeing**

There is no longer a "Local Education Authority" with its own ring-fenced budget . The introduction of the [Fairer Funding Formula](#) has left local authorities with [far fewer resources and flexibility](#) since money now goes directly to schools who are required to purchase services. This disadvantages home educating families. An example of this would be access to Schools Libraries where the libraries no longer receive central funding and where home educating families may now be excluded or required to pay hundreds of pounds a year for the service.

Many resources such as Community Education which have complemented home education provision in the past are no longer available.

Colleges used to be in receipt of funding which allowed home educated young people aged 14 to 16 to attend courses. This funding stream has now ended. Young people would like to be able to supplement their home education by attending short day and evening courses in local colleges. However they are often asked to pay three times the fee that applies to adults on the courses and they are only allowed to take up empty places on courses when they have begun. This means that the courses they would like to do are not available.

Whilst the Government constantly tell us that every child matters this is not the experience of our community. It is the belief of many home educators that any funding would be linked to conditions which would compromise our present rights and flexibility. If this were the case it would not be welcome. However, there are measures which could be implemented at little cost which would be welcome and would make a huge difference. One such measure is assistance with access to local examination centres where home educated children have chosen to take examinations.

Education Otherwise would welcome an opportunity to assist in the identification of useful support measures. This information will need to be constantly updated on a local and national level and we offer our experience in this area. Details of the Open University could usefully be added here. Home education organisations are also aware of many, relevant online resources.

## **Make a Positive Contribution**

Organisations now ask for a fee of around £30 per day for placing home educated young people in work experience placement and for volunteering opportunities. This puts home educated children and young people at a disadvantage in terms of making a contribution in their community.

**5.5** We understand that the Connexions service will shortly be subject to changes in funding. This section may need to be updated.

**5.9** Our members encounter a number of difficulties around the issues fo home education

and the access to benefits and payments for young people staying in education. These include the provision of spectacles and the assumption in families on benefit that their children will be in receipt of free school meals. These are health and welfare matters, not education issues. There should be equality of entitlement to these measures irrespective of the place of education.

We have participated in the consultation on raising the compulsory education age. This legislation will have implications for home educating families.

## **5.10 Truancy sweeps**

The following is our recommendation for revised Guidelines section on truancy:

When planning and running truancy sweeps, LAs should refer to the [DfES Truancy Sweep Effective Practice and Advice March 2007](#) This includes a section on children who are educated outside the school system. Those taking part in the sweeps, including police officers, should be fully trained and act in accordance with the guidance at all times.

**Education Otherwise revised guidelines have addressed this issue.**

**5.11** This is not a legal requirement. We wish to register a strong objection to the singling out of these communities. The whole of this section should be deleted. As previously stated in answer to Question 4 [ para. 3.4 ] "The reference to Gypsy Roma Traveller home educators is racist. All home educating families, irrespective of race, colour, background have the same rights and responsibilities in law. Education Otherwise does not feel qualified to speak on behalf of all home educating parents from the GRT communities, but we have been told that the different communities greatly resent being grouped together in this way as though they were a homogenous group. We are told that attitudes to education are markedly different in the different communities. We are further concerned that a government consultation of this kind will not reach members of these communities. The Traveller Education Services cited here have an ethos of inclusion in supporting children back into school and do not represent the home educating families in these communities."

## **Annex A**

The area of home education and qualifications is complex. This annex makes no reference to the difficulties families have in achieving examination qualification.

Further detailed consideration of this area is needed and this rather simplistic approach to the issues involved needs further work to make authorities aware of all the options, including non-standard entry to colleges and universities, if it is to be a useful resource.

Home educators are resourceful and often find non-standard ways of assisting their children's education. It would be useful to share good practice.

## **Annex B**

Education Otherwise

PO BOX 325

KINGS LYNN  
PE34 3XW

helpline **0845 478 6345**

There are many other internet groups and resources which parents and children can access through contact and membership of home education organisations.

DfES related links cited are totally inappropriate and reveal a worrying lack of understanding of home education.

We would be willing to help identify appropriate material.

**Question 7b Should any other contacts be included**

Yes.

Please see Annex B to Consultation Response.

## **Annex B**

### **Useful contacts**

#### **●Education Otherwise**

Education Otherwise is a UK-based membership organisation which provides support and information for families whose children are being educated outside school, and for those who wish to uphold the freedom of families to take proper responsibility for the education of their children. Membership costs £25, and gives access to a nationwide area support network (providing support, guidance on dealing with LAs, and information on your local HE community). It also entitles members to receive a handbook, UK and overseas contact list and bi-monthly newsletter, free copy of "School Is Not Compulsory", access to a Members area, further resources, discounts to educational attractions, special interest and local groups and national gatherings.

**Address:** PO Box 325, Kings Lynn, PE34 3XW

**Website:** [www.education-otherwise.org](http://www.education-otherwise.org)

**Email:** [eoemailhelpline@education-otherwise.org](mailto:eoemailhelpline@education-otherwise.org)

**Helpline:** 0845 478 6345

#### **●Home Education Advisory Service**

HEAS produces a range of publications and leaflets on different aspects of home education. Annual subscription (currently £15) gives access to the Advice-line, quarterly magazine, card for educational discounts, resources for loan and a regional list of other subscribers.

**Address:** P.O. Box 98, Welwyn Garden City, Hertfordshire, AL8 6AN

**Website:** [www.heas.org.uk](http://www.heas.org.uk)

**E-mail:** [enquiries@heas.org.uk](mailto:enquiries@heas.org.uk)

**Helpline:** 01707 371854

#### **●Home Education UK**

**Website:** [www.home-education.org.uk](http://www.home-education.org.uk)

#### **●Home Education Resources**

**Website:** [www.home-education-resources.org.uk](http://www.home-education-resources.org.uk)

#### **●The Home Service**

A national Christian home education group

**Website:** [www.home-service.org](http://www.home-service.org)

#### **●HE Special UK**

HE Special UK is a site for families who Home Educate children with Special Educational Needs. The site contains useful Home Education information, as well as information about dyslexia, aspergers, and other SEN HE issues.

**Website:** [www.he-special.org.uk](http://www.he-special.org.uk)

● **Muddle Puddle**

An independent site focusing on learning for 0-8 year olds

**Website:** [www.muddlepuddle.co.uk](http://www.muddlepuddle.co.uk)

● **IPSEA**

IPSEA is a volunteer-based organisation and many of the volunteers are themselves parents of children with special educational needs. IPSEA can provide: free independent advice; free advice on appealing to the Special Educational Needs Tribunal, including representation when needed; free second professional opinions.

**Website:** [www.ipsea.org.uk](http://www.ipsea.org.uk)

● **Action on Rights for Children**

ARCH is an internet-based children's rights organisation with a particular focus on civil rights. They support equality, choice, respect and privacy for all children and young people.

**Website:** [www.arch-ed.org](http://www.arch-ed.org)

● **Notschool.net**

Notschool.net is a national, Internet based 'Virtual Online Community' offering an alternative to traditional education for young people who, for a variety of reasons, can no longer cope with school or with complementary provisions such as home tutoring or specialist units.

**Website:** [www.notschool.net](http://www.notschool.net)

# PARTIAL REGULATORY IMPACT ASSESSMENT EDUCATION OTHERWISE CRITIQUE

## INTRODUCTION

There is a mis-match between the Impact Assessment and the consultation document in terms of tone, content and the measures proposed. Further, some proposals made in the draft guidelines need to be costed.

In this response to the impact assessment we confine ourselves to issues not raised elsewhere. **This document needs to be read alongside the other documents in our submission:**

- Overview of the submission
- Guidelines: The Legal Framework
- Guidelines: Advice to Practitioners
- Consultation: Response to Questions

Education Otherwise believes that **the present legal framework is adequate** but poorly understood and that local authorities have insufficient resources to deliver an adequate service. Resources are currently used inappropriately.

## EDUCATION OTHERWISE WELCOMES THE NEW GUIDELINES

Education Otherwise agrees with the Department that the best way forward is to issue new Guidelines to local authorities. We believe that this alone will not be adequate to address the current situation. In addition to the further measures included in the draft guidelines we submit a number of proposals for the Departments consideration. Education Otherwise would welcome an opportunity to discuss these proposals with the Department and representatives of local authorities.

There are a number of excellent new initiatives in joint working between Education Otherwise and specific local authorities and a number of models of good practice which all authorities could usefully be made aware of. Some authorities have regional meetings for EHE employees and representatives of Education Otherwise have been invited to some of these meetings. This has proved beneficial for all concerned. We commend this practice to the Department. There are **resource implications** for authorities in facilitating and attending these meetings.

Local authorities need to be reassured of the limits of their duties in law and supported in fulfilling them. There is an important role for the Department in helping local authorities to change the emphasis of their current custom and practice in order to end unnecessary monitoring and to achieve a more effective and efficient uses for current resources.

**Redirection of present resources. Departmental funding implications.**

We agree with measures presented in draft guidelines to improve the services including the identification of a lead professional and the introduction of training. **This proposal needs costing.**

There will be **financial implications** of a switch of emphasis and Education Otherwise

suggests that it would be beneficial to determine the impact of such a move in a number of pilot areas.

Home educating families have insufficient access to legal representation by trained professionals with knowledge and experience in this field when their rights in law are infringed. This is an issue we would like to raise with the Department.

There are **financial implications for Education Otherwise** in undertaking joint working with local authorities and the Department. All these costs currently have to be found from the pockets of our volunteers or from membership subscriptions.

## **RATIONALE FOR GOVERNMENT INTERVENTION**

We are not aware of any proposals for "intervention" in the draft Guidelines.

## **FIVE ECM OUTCOMES**

There is no impediment in law to national and local government supporting home educated children in achieving the 5 outcomes. However, there appears to be no **political will** to assist children who are legally educated outside school. Does "Every Home Educated Child Matter?"

Education Otherwise recommends that the Department, local authorities and home education organisations should co-operate in identifying appropriate mechanisms of support in order to assist children and young people from this community in achieving the five outcomes. Such co-operation would satisfy the duty to consult with stakeholders.

Measures might include better access to community resources and access to examination centres. In addition funding streams which assist local groups could be investigated. These groups serve an important function as self help groups and provide social and educational opportunities for families. **These proposals would have cost implications.**

### **Appropriate support would be welcomed; compulsion would not.**

Home education organisations are routinely excluded from information and initiatives relating to education, parenting, families children and young people, health, leisure and recreation, funding streams and initiatives for the community and voluntary sector. A cross-department initiative would be required both at local and national Government levels to address this situation. **This proposal would have cost implications.**

Sheffield Home Educators' Network participated, at their own request, in city wide consultations on Every Child Matters. Home educated children had a unique perception of the issues surrounding ECM.

## **IMPROVING PROVISION.**

Local authorities already have sufficient measures in law to address inadequate educational provision, however, where there are shortcomings with provision the authority has no funding to enable it to work with the family in improving the provision. The move from a "monitoring" role which is not supported in law to a support role would enable the authorities to provide positive help and support. This would be in line with the change in other areas of public service, away from intervention and towards family support. It may

result in both better provision for the child and **reduced costs** to the authority in the light of the expense of legal proceedings.

This shift of emphasis would be particularly useful where children have suffered trauma in schools which has resulted in a decision to home educate. A move to compel children to return to school in these cases would compound the difficulties faced by the family and child. Better awareness of the “de-schooling” period and process would assist these families and prevent **costly and damaging** intervention .

Education Otherwise has addressed this issue in **THE EXECUTIVE SUMMARY: THE WAY FORWARD** which focuses on positive working partnerships.

Costs and benefits should not just be viewed in economic terms, they need to be seen in relation to the impact on families and children and the duty to promote the five outcomes. Short term, inappropriate intervention can have damaging and long term costs for children, young people and their families.

The use of School Attendance Orders needs to be investigated further. Education Otherwise would welcome further discussion with the Department in this area. Some authorities routinely use the threat of serving an order to make parents comply with monitoring.

Where authorities state that they have a policy of annual home visits they are often unable to implement the policy due to insufficient funds. Home visits are not only outside the Law they are also costly and inefficient. This situation is likely to be compounded when the place of education of each child is identified through the implementation of the ContactPoint database. Further, the relationship between local authorities and home educating families will deteriorate further if local authorities wrongly insist on measures and actions which are not supported in Law in relation to these families. There may be a **doubling in costs** to local authorities through the ContactPoint initiative as some estimate that half of the children being home educated, legally, have no contact with their authority.

ContactPoint will pose new difficulties for our members and we would welcome further discussion with the Department on this issue. Our members have often been treated poorly by local authority personnel in the misapplication of measures not intended to affect them e.g. Truancy Watch.

In some areas School Attendance Orders are not issued because there are not sufficient places in local schools.

#### **INAPPROPRIATE DE-REGISTRATION.**

This appears to be unsubstantiated speculation. We have been unable to obtain evidence of this practice. However, were this to be happening it is an issue for schools, the local authorities and Government. In our discussions with local authorities it is clear there is little support amongst officers for prosecution of parents for truancy because of the possible negative impact on the family if parents are imprisoned. This may be one factor to consider in relation to inappropriate de-registration. It has also been suggested to us by local authority officers that the tightening up of exclusion from school measures may encourage schools to suggest home education as alternative provision.

## SAFEGUARDING

Many measures have been introduced by local authorities as a result of the Children Act which address the safeguarding of children irrespective of the educational setting. We do not feel that these have been reflected adequately in the Guidance document.

Local authority employees often conflate safeguarding and education law. We believe that the introduction of dedicated lead professional with clear remits and adequate training would greatly improve the current situation. We support the Departments proposals in this area.

## COSTS AND BENEFITS

### Sectors and groups affected

The list in the Impact Assessment is **incomplete**, any proposals would have an impact on many more groups and sectors. For example, any shift of responsibility for education to the State would have implications for all educational provision.

Amongst those who should be listed are the partners cited in the Common Core of Skills and Knowledge for the Children's Workforce. Ofsted inspectors assessing the authority's provision of children's services will also need to be aware of the standard of service provided to home educating families and of the Law. Health and social service workers have little opportunity to acquire knowledge of home-based education and this can result in difficulties for EHE families.

Whilst awareness training would incur **costs**, the resultant ending of inappropriate use of the time of these workers would result in a **saving** to local and health authorities.

### COST

The statement on costs pre-empts the outcome of the consultation. The issuing of guidelines may not incur new costs, but any measures to inform their implementation will have a **financial impact**. There is no duty in law to monitor educational provision and resources currently allocated to this area could be re-directed to an advice, support and information role for the local authority with regard to home educating families.

Education Otherwise welcomes this opportunity to make the Department aware of savings to the exchequer achieved as a consequence of parents exercising their right to provide a home-based education.

On the basis of estimates of 40,000 home educated children (York Consulting) and an average capitation level of £5,000 for each school place, home education represents an **annual saving of £200,000,000 to the treasury over the provision of places in the state sector for these children. If there were more home-educated children, the saving to the exchequer could be considerably more.**

At a conservative estimate, over the minimum twelve year period that a child is required to be educated, each **individual home educated child is saving the exchequer £60,000.**

This saving needs to be viewed alongside the **enormous sacrifices** which parents make in order to give their children what they consider to be the best and most appropriate

education for their children. One young person recently asked why there was extra funding for children who went to school and were disruptive or anti-social but none at all for those who choose to learn from home.

There is no citation of the "research" on "good will". On the contrary it is the experience of Education Otherwise and many of our members that much current practice relies on intimidation.

## **BENEFITS**

There is no legal basis or benefit for the introduction of monitoring or registration.

## **ENFORCEMENT, SANCTIONS AND MONITORING**

A complaints procedure needs to be introduced to address the current imbalance of power between local authorities and individual home educating families. **This needs costing.**

# RACE EQUALITY IMPACT ASSESSMENT

## EDUCATION OTHERWISE CRITIQUE

There is no reliable data on the ethnicity of home educated children.

The focus on Gypsy, Romany and Traveller children is racist and the statement that these families are “over represented” amongst families who are home educated is both prejudicial and uncorroborated.

These are three distinct communities with very different perspectives on education and different experiences of local authority intervention. We are concerned at the poor quality of the research and of its mis-use here.

We are concerned that the consultation process is unlikely to engage these “hard to reach” groups and believe that the “inclusionist” agenda of the Traveller Education Service will lead to the voices of home educators in these communities being unheard.

Many of these families have a particularly negative experience of contact with local authorities when they exercise their right in Law to home educate because of the assumptions made by local authority personnel..

Education Otherwise has advised the Department that the implementation of measures suggested in the Ivatts Report would be ill-advised and counter productive. The improvement of services and relationships between home educators from all communities would be a much better way for local authorities to meet their responsibilities and would be in the best interest of families , children and young people.

With regard to the Ivatts Report, Mr Ivatts has no background in Elective Home Education. The Report has very little data to back up the beliefs which Mr Ivatts tells us are relayed to him by the Traveller Education Service. We note in passing that Mr Ivatts has doubts about the level of professionalism among EHE Advisors when he notes at paragraph 1.3 that only 56% of EHE officers had received any training or briefing on EHE and that “this research finding raises serious doubts about the quality of professional judgements being made by officers” He is nevertheless prepared to accept their opinion about home education provision, which we find somewhat contradictory.

We believe that the Ivatts Report must not be quoted out of context as offering any form of “evidence” of “concerns” about either the principle or the practice of Elective Home Education.

This is expressed by the author himself at paragraph 2.2 where he states:

**“2.2** The reader of this research paper is requested at the start to be aware of a number of potential pitfalls in relation to the interpretation of the information and research data presented about Gypsy/Roma, Traveller and travelling communities. The specific focus on these particular groups within the context of the increasing number who are being educated at home should in no way be interpreted as an implicit statement of criticism of the families themselves or the provision of home education. Readers are also advised to note the author’s concern regarding the creation and or confirmation of stereotypes, either negative or positive, within the

context of a short research report constrained by the need for brevity. Further, that the representation of these groups as a focus of Departmental concern should in no way be seen as an implied cultural pathology or a deficit model of the lifestyle and culture of all or any of these groups. “

# **DISABILITY IMPACT ASSESSMENT EDUCATION OTHERWISE CRITIQUE**

We are concerned at the way the DIA skims over the surface of issues of disability with regard to Elective Home Education.

We note that the Department does not regard home education and disability as a priority. This view would not be shared by many of our members for whom the state system has failed very badly and who have no choice but to home educate their children with SEN as well as those for whom it represents a positive choice from the outset. These families make huge sacrifices to educate their children at home only to encounter prejudice and ignorance over their right to home educate.

Education Otherwise is surprised that the York Consulting Feasibility Study into the Prevalence of Home Education is cited as relevant to disability and home education. We also question the astonishing inclusion of the Ivatts Report on Gypsy Traveller Roma Home Education in the DIA.

We are pleased to read that the Department planned to consult with groups having a particular interest and expertise in disability during the consultation process, and we look forward to reading reports of these meetings in due course. However, at this late stage of the consultation process we are still not aware of any of members or organisations with expertise in this area having any direct discussion with the Department.

With regard to disability discrimination, we were taken aback that the consultation did not ask any questions about the SEN section of the draft Guidelines, which simply cite several sections of the SEN Code of Practice without any further guidelines from the Department which might assist local authorities and home educating parents of SEN children to work in partnership.

## APPENDIX

### WEB REFERENCES

Every Child Matters

<http://www.everychildmatters.gov.uk/>

Children Act 2004

<http://www.opsi.gov.uk/acts/acts2004/20040031.htm>

Education and Inspections Act 2006

<http://www.opsi.gov.uk/ACTS/acts2006/20060040.htm>

The situation regarding the current policy, provision and practice in Elective Home Education for Gypsy, Roma and Traveller Children. Sometimes referred to as the Ivatts Report.

<http://www.dfes.gov.uk/research/data/uploadfiles/RW77.pdf>

Sheffield December 2006 Children and Young People Scrutiny Board Minutes

<http://www.sheffield.gov.uk/index.asp?pgid=99579&mtype=print>

Sheffield Access and Inclusion Department

<http://www.sheffield.gov.uk/?pgid=60308&fs=n>

Sheffield February 2007 Children and Young People Scrutiny Board Minutes

<http://www.sheffield.gov.uk/?pgid=104529&fs=n>

Sheffield June 2007 Children and Young People Scrutiny Board Agenda

<http://www.sheffield.gov.uk/your-city-council/council-meetings/scrutiny/children-andyoung-people/agenda-20th-june-2007>

NFER Report on Support for children who are educated at home

<http://www.nfer.ac.uk/research-areas/pims-data/outlines/support-for-children-who-areeducated-at-home.cfm>

Staffordshire County Council Learning Net Elective Home Education

<http://education.staffordshire.gov.uk/Curriculum/Services/HomeEducation/>

Milton Keynes Council Home Education Policy

[http://www.milton-keynes.gov.uk/schools/documents/Home\\_Education\\_Policy.pdf](http://www.milton-keynes.gov.uk/schools/documents/Home_Education_Policy.pdf)

section 576 Education Act 1996

<http://www.opsi.gov.uk/acts/acts1996/96056-ct.htm#576>

section 7 Education Act 1996

<http://www.opsi.gov.uk/acts/acts1996/96056--a.htm#7>

European Convention on Human Rights

<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/The+European+Convention+on+Human+Rights+and+its+Protocols>

Human Rights Act 1998

<http://www.opsi.gov.uk/ACTS/acts1998/19980042.htm>

section 7 1996 Education Act

<http://www.opsi.gov.uk/acts/acts1996/96056--a.htm#7>

**Education Reform Act 1988**

[http://www.opsi.gov.uk/acts/acts1988/Ukpga\\_19880040\\_en\\_1.htm](http://www.opsi.gov.uk/acts/acts1988/Ukpga_19880040_en_1.htm)

**Education Act 1996 section 9**

<http://www.opsi.gov.uk/acts/acts1996/96056--a.htm#9>

**Education Act 1996 section 19**

<http://www.opsi.gov.uk/acts/acts1996/96056--c.htm>

**Baroness Ashton on SEN**

<http://www.publications.parliament.uk/pa/ld200102/ldhansrd/vo011029/text/11029-21.htm>

**Case law on SEN: parents do not follow specifications of statement; statement is directed to local authority not to parents**

<http://www.freedomforchildrentogrow.org/case%20law.pdf>

**Special Educational Needs Code of Practice**

<http://www.freedomforchildrentogrow.org/SENCodeOfPractice.pdf>

**Education Act 1996 section 321**

<http://www.opsi.gov.uk/acts/acts1996/96056-bb.htm#321>

**Education ( Pupil Registration) ( England ) Regulations 2006**

<http://www.opsi.gov.uk/SI/si2006/20061751.htm>

**European Convention on Human Rights Article 8**

<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/The+European+Convention+on+Human+Rights+and+its+Protocols>

**Children Act 2004 section 53**

<http://www.opsi.gov.uk/acts/acts2004/40031--f.htm#53>

**Children Act 1989 section 17**

[http://www.opsi.gov.uk/acts/acts1989/Ukpga\\_19890041\\_en\\_4.htm#mdiv17](http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_4.htm#mdiv17)

**cross-government guidance on the Children Act 2004**

<http://www.everychildmatters.gov.uk/files/B434EAE08179B3F6C1ABC1CB0BB6B1D2.pdf>

**Working Together to Safeguard Children 2006**

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

**Education Act 2002 section 175**

<http://www.opsi.gov.uk/acts/acts2002/20032--q.htm#175>

**Children Act 2004 section 10**

<http://www.opsi.gov.uk/acts/acts2004/40031--c.htm#10>

**Children Act 2004 section 11**

<http://www.opsi.gov.uk/acts/acts2004/40031--c.htm#11>

**Statutory Guidance on Children Act 2004 section 11**

<http://www.everychildmatters.gov.uk/files/CB6A73D97A171A201EF5ED4F26B0B55D.pdf>

**Children Act 2004 section 12**

<http://www.opsi.gov.uk/acts/acts2004/40031--c.htm#12>

**Children Act 2004 section 53**

<http://www.opsi.gov.uk/acts/acts2004/40031--f.htm#53>

cross-government guidance on the Children Act 2004

<http://www.everychildmatters.gov.uk/files/B434EAE08179B3F6C1ABC1CB0BB6B1D2.pdf>

Education Act 1996 section 437

<http://www.opsi.gov.uk/acts/acts1996/96056-bu.htm#437>

Ensuring Regular School Attendance

<http://www.dfes.gov.uk/schoolattendance/uploads/Prosecution-Guidance%20Ensuring%20Regular%20School%20Attendance.pdf>

Education (Pupil Registration)(England) Regulations 2006

<http://www.opsi.gov.uk/SI/si2006/20061751.htm>

Local Government Act 1999

<http://www.opsi.gov.uk/ACTS/acts1999/19990027.htm>

Children Act 2004

<http://www.opsi.gov.uk/acts/acts2004/20040031.htm>

Statutory Guidance on section 4 of the Education and Inspections Act 2006, duty to identify children at risk of not receiving education

<http://www.everychildmatters.gov.uk/files/B5C38B9F8F45FA44854EF05F982FCF05.doc>

Education and Inspections Act 2006

<http://www.opsi.gov.uk/ACTS/acts2006/20060040.htm>

Education Act 1996 section 436A

<http://www.opsi.gov.uk/acts/acts1996/1996056.htm>

DfES Truancy Sweep Effective Practice and Advice March 2007

<http://www.dfes.gov.uk/schoolattendance/uploads/TRUANCY%20SWEEP%20GUIDANCE%20FINAL%20MAR07.doc>

Baroness Ashton House of Lords October 2001

<http://www.publications.parliament.uk/pa/ld200102/ldhansrd/vo011029/text/11029-21.htm>

Statutory Guidance on Education Act 1996 section 19 ( education of sick children )

<http://www.dfes.gov.uk/sickchildren/Pdfs/AccessstoEducation.pdf>

Education Reform Act 1988

[http://www.opsi.gov.uk/acts/acts1988/Ukpga\\_19880040\\_en\\_1.htm](http://www.opsi.gov.uk/acts/acts1988/Ukpga_19880040_en_1.htm)

Education Act 1996

<http://www.opsi.gov.uk/acts/acts1996/1996056.htm>

Human Rights Act 1998

<http://www.opsi.gov.uk/ACTS/acts1998/19980042.htm>

Local Government Act 1999

<http://www.opsi.gov.uk/ACTS/acts1999/19990027.htm>

Education Act 2002

<http://www.opsi.gov.uk/acts/acts2002/20020032.htm#aofs>

Children Act 2004

<http://www.opsi.gov.uk/acts/acts2004/20040031.htm>

Education and Inspections Act 2006

<http://www.opsi.gov.uk/ACTS/acts2006/20060040.htm>

European Convention on Human Rights

<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/The+European+Convention+on+Human+Rights+and+its+Protocols>

Statutory Guidance to Education Act 1996 section 19 ( education of sick children )

<http://www.dfes.gov.uk/sickchildren/Pdfs/AccessstoEducation.pdf>

Special Educational Needs Code of Practice

<http://www.freedomforchildrentogrow.org/SENCodeOfPractice.pdf>

Cross-government Guidance on the Children Act 2004

<http://www.everychildmatters.gov.uk/files/B434EAE08179B3F6C1ABC1CB0BB6B1D2.pdf>

Working Together to Safeguard Children 2006

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

DfES Truancy Sweep Effective Practice and Advice March 2007

<http://www.dfes.gov.uk/schoolattendance/uploads/TRUANCY%20SWEEP%20GUIDANCE%20FINAL%20MAR07.doc>

Education (Pupil Registration)(England) Regulations 2006

<http://www.opsi.gov.uk/SI/si2006/20061751.htm>

Ensuring Regular School Attendance

<http://www.dfes.gov.uk/schoolattendance/uploads/Prosecution-Guidance%20Ensuring%20Regular%20School%20Attendance.pdf>

Statutory Guidance on section 4 of the Education and Inspections Act 2006, duty to identify children at risk of not receiving education

<http://www.everychildmatters.gov.uk/files/B5C38B9F8F45FA44854EF05F982FCF05.doc>

Working Together to Safeguard Children

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

Common Core Skills and Knowledge Children's Workforce

<http://www.everychildmatters.gov.uk/files/37183E5C09CCE460A81C781CC70863F0.pdf>

Staffordshire LA website

<http://education.staffordshire.gov.uk/Curriculum/Services/HomeEducation/>

Milton Keynes LA website

[http://www.milton-keynes.gov.uk/schools/documents/Home\\_Education\\_Policy.pdf](http://www.milton-keynes.gov.uk/schools/documents/Home_Education_Policy.pdf)

NFER Report. Support for children who are educated at home.

<http://www.nfer.ac.uk/publications/pdfs/downloadable/VHFe-report.pdf>

flowchart Statutory Guidance on duty to identify children at risk of not receiving education ( Education and Inspections Act 2006)

<http://www.everychildmatters.gov.uk/files/B5C38B9F8F45FA44854EF05F982FCF05.doc>

Education Act 1996 section 437

<http://www.opsi.gov.uk/acts/acts1996/96056-bu.htm#437>

Working Together to Safeguard Children

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

Cross-government guidance to Children Act 2004

<http://www.everychildmatters.gov.uk/files/B434EAE08179B3F6C1ABC1CB0BB6B1D2.pdf>

**Education (Pupil Registration)(England) Regulations 2006**

<http://www.opsi.gov.uk/SI/si2006/20061751.htm>

**DfES Truancy Sweep Effective Practice and Advice March 2007**

<http://www.dfes.gov.uk/schoolattendance/uploads/TRUANCY%20SWEEP%20GUIDANCE%20FINAL%20MAR07.doc>

**Education Otherwise**

<http://www.education-otherwise.org/>

**Children Act 2004**

<http://www.opsi.gov.uk/acts/acts2004/20040031.htm>

**Education and Inspections Act 2006**

<http://www.opsi.gov.uk/ACTS/acts2006/20060040.htm>

**Education Act 2002**

<http://www.opsi.gov.uk/acts/acts2002/20020032.htm#aofs>

**2003 Government Green Paper Every Child Matters**

<http://www.everychildmatters.gov.uk/files/EBE7EEAC90382663E0D5BBF24C99A7AC.pdf>

**Working Together to Safeguard Children**

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

**Common Core of Skills and Knowledge for the Children's Workforce**

<http://www.everychildmatters.gov.uk/files/37183E5C09CCE460A81C781CC70863F0.pdf>

**Education Act 1996 section 324**

<http://www.opsi.gov.uk/acts/acts1996/96056-bb.htm#324>

**Special Educational Needs Code of Practice**

<http://www.freedomforchildrentogrow.org/SENCodeOfPractice.pdf>

**Baroness Ashton presenting the SENCoP in the House of Lords 2001**

<http://www.publications.parliament.uk/pa/ld200102/ldhansrd/vo011029/text/11029-21.htm>

**Education Act 1996 section 7**

<http://www.opsi.gov.uk/acts/acts1996/96056--a.htm#7>

**Education Act 2002 section 175(1-3)**

<http://www.opsi.gov.uk/acts/acts2002/20032--g.htm#175>

**Children Act 2004 section 53**

<http://www.opsi.gov.uk/acts/acts2004/40031--f.htm#53>

**Every Child Matters Government Green Paper 2003**

<http://www.everychildmatters.gov.uk/files/EBE7EEAC90382663E0D5BBF24C99A7AC.pdf>

**Children Act 2004 section 11**

<http://www.opsi.gov.uk/acts/acts2004/40031--c.htm#11>

**Statutory Guidance on Children Act 2004 section 11**

<http://www.everychildmatters.gov.uk/files/CB6A73D97A171A201EF5ED4F26B0B55D.pdf>

**Education Act 1996 section 437**

<http://www.opsi.gov.uk/acts/acts1996/96056-bu.htm#437>

**Working Together to Safeguard Children 2006**

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

**Children Act 2004 section 53**

<http://www.opsi.gov.uk/acts/acts2004/40031--f.htm#53>

**Education Act 1996**

<http://www.opsi.gov.uk/acts/acts1996/1996056.htm>

**Human Rights Act 1998**

<http://www.opsi.gov.uk/ACTS/acts1998/19980042.htm>

**European Convention on Human Rights**

<http://www.echr.coe.int/ECHR/EN/Header/Basic+Texts/Basic+Texts/The+European+Convention+on+Human+Rights+and+its+Protocols>

**Education Act 1996 section 7**

<http://www.opsi.gov.uk/acts/acts1996/96056--a.htm#7>

**House of Lords 30th October 2006**

<http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds06/text/61030-0002.htm>

**House of Lords "cited at length" 17th October reference within 30th October speech**

<http://www.publications.parliament.uk/pa/ld199900/ldhansrd/pdvn/lds06/text/61017-0002.htm>

**Ali v Lord Grey School**

<http://www.publications.parliament.uk/pa/ld200506/ldjudgmt/jd060322/Ali.pdf>

**Working Together to Safeguard Children**

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

**Statutory Guidance on section 4 Education and Inspections Act 2006, duty to identify children at risk of not receiving education**

<http://www.everychildmatters.gov.uk/files/B5C38B9F8F45FA44854EF05F982FCF05.doc>

**Education Act 1996 section 437**

<http://www.opsi.gov.uk/acts/acts1996/96056-bu.htm#437>

**Education Reform Act 1988**

[http://www.opsi.gov.uk/acts/acts1988/Ukpga\\_19880040\\_en\\_1.htm](http://www.opsi.gov.uk/acts/acts1988/Ukpga_19880040_en_1.htm)

**Five positive outcomes of Every Child Matters**

<http://www.everychildmatters.gov.uk/aims/>

**Education Act 2002 section 175**

<http://www.opsi.gov.uk/acts/acts2002/20032--q.htm#175>

**Children Act 2004**

<http://www.opsi.gov.uk/acts/acts2004/20040031.htm>

**Local Government Act 1999**

<http://www.opsi.gov.uk/ACTS/acts1999/19990027.htm>

**Children Act 2004 section 53**

<http://www.opsi.gov.uk/acts/acts2004/40031--f.htm#53>

**Children Act 1989 section 17**

[http://www.opsi.gov.uk/acts/acts1989/Ukpga\\_19890041\\_en\\_4.htm#mdiv17](http://www.opsi.gov.uk/acts/acts1989/Ukpga_19890041_en_4.htm#mdiv17)

**Staffordshire LA website**

<http://education.staffordshire.gov.uk/Curriculum/Services/HomeEducation/>

**Milton Keynes Council Home Education Policy**

[http://www.milton-keynes.gov.uk/schools/documents/Home\\_Education\\_Policy.pdf](http://www.milton-keynes.gov.uk/schools/documents/Home_Education_Policy.pdf)

**Common Core of Skills and Knowledge for the Children's Workforce**

<http://www.everychildmatters.gov.uk/files/37183E5C09CCE460A81C781CC70863F0.pdf>

**Working Together to Safeguard Children**

<http://www.everychildmatters.gov.uk/files/AE53C8F9D7AEB1B23E403514A6C1B17D.pdf>

**Education Act 1996 section 437**

<http://www.opsi.gov.uk/acts/acts1996/96056-bu.htm#437>

**Education (Pupil Registration)(England) Regulations 2006**

<http://www.opsi.gov.uk/SI/si2006/20061751.htm>

**Education Act 1996 section 437**

<http://www.opsi.gov.uk/acts/acts1996/96056-bu.htm#437>

**Scottish Guidance**

<http://www.scotland.gov.uk/Publications/2004/03/19061/34286#4>

**Special Educational Needs Code of Practice**

<http://www.freedomforchildrentogrow.org/SENCodeOfPractice.pdf>

**Local Government Act 1999**

<http://www.opsi.gov.uk/ACTS/acts1999/19990027.htm>

**5 outcomes of Every Child Matters**

<http://www.everychildmatters.gov.uk/aims/>

**Local Government Act 1999**

<http://www.opsi.gov.uk/ACTS/acts1999/19990027.htm>

**Children Act 2004**

<http://www.opsi.gov.uk/acts/acts2004/20040031.htm>

**Education Act 1996 section 437**

<http://www.opsi.gov.uk/acts/acts1996/96056-bu.htm#437>

**Fairer Funding Formula for local authorities**

<http://www.teachingnet.gov.uk/management/atoz/f/fairfunding/>

**DfES Truancy Sweep Effective Practice and Advice March 2007**

<http://www.dfes.gov.uk/schoolattendance/uploads/TRUANCY%20SWEEP%20GUIDANCE%20FINAL%20MAR07.doc>

**Common Core of Skills and Knowledge for the Children's Workforce**

<http://www.everychildmatters.gov.uk/files/37183E5C09CCE460A81C781CC70863F0.pdf>

**The situation regarding the current policy, provision and practice in Elective Home Education for Gypsy, Roma and Traveller Children. Sometimes referred to as the Ivatts Report.**

<http://www.dfes.gov.uk/research/data/uploadfiles/RW77.pdf>

**York Consulting Feasibility Study into the Prevalence of Home Education**

<http://www.dfes.gov.uk/research/data/uploadfiles/RR827%20r.pdf>