

Home education and the Local Authority (LA)

The following information applies to England only. The procedure is broadly similar in Wales but the Welsh Assembly Government has published its own guidance:

<http://tinyurl.com/273c4w>

What is Elective Home Education?

“Elective home education” is the term used by the Department for Education - and therefore local authorities - to describe parents’ decisions to provide education for their children at home instead of sending them to school. This is different from home tuition provided by a local authority, or education provided by a local authority other than at a school.

Withdrawing a child from school

Once you have written to the school requesting that your child's name be taken off the school roll (see our 'Deregistration' information sheet), the school is required to notify your Local Authority that your child's name has been deleted from the register.

This usually, but not invariably, generates an initial contact from the authority; in most areas this contact will come from an Education Welfare Officer, and will often be an enquiry to ensure that the child is safe, has not been withdrawn to hide abusive behaviour, and that the parent has made an informed choice.

Education Welfare Officers do not have teaching qualifications and will be viewing your family from a welfare point of view. Awareness and understanding of home education among EWOs is very variable. This initial contact may be followed by some attempt by the local authority to "assess" your educational provision.

Local authorities may have between 6 and 600+ home educated children "on their books", i.e. children who are known to the authority, usually because they have been taken out of school. The job of overseeing home education may be a full-time or part-time post, or may simply be passed to someone who is already working in Education Welfare, Alternative Provision, Special Needs or Traveller Education Services. In some areas the job of overseeing home education may be carried out on a contract basis by a retired teacher, who will be paid for each assessment or inspection. Local authorities do not receive any funding for home education services.

Departmental guidelines

In 2007 the Department issued Guidelines for Local Authorities in relation to the discharge of their statutory duties in relation to elective home educators within their area.

The 2007 Guidelines state:

‘Parents are required to provide an efficient, full-time education suitable to the age, ability and aptitude of the child. There is currently no legal definition of "full-time". Children normally attend school for between 22 and 25 hours a week for 38 weeks of the year, but this measurement of "contact time" is not relevant to elective home education where there is often almost continuous one-to-one contact and education may take place outside normal "school hours". The type of educational activity can be varied and flexible. Home educating parents are not required to:

- teach the National Curriculum
- provide a broad and balanced education
- 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
- mark work done by their child
- formally assess progress or set development objectives
- reproduce school type peer group socialisation
- match school-based, age-specific standards

(Section 3.13)

The Guidelines also remind LAs of their legal duty towards children who appear not to be receiving suitable education. This is found in Sections 437 to 443 of the Education Act 1996:

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. (s 437 (1))

Beyond this, nothing in the Education Act requires a local authority to carry out regular monitoring of provision where a child is receiving education otherwise than at school.

However, local authorities have duties under Children Missing Education (see our 'Children Missing Education' information sheet).

LA enquiries: case law

Case law (Phillips v Brown, Divisional Court [20 June 1980, unreported]) had already established that a local authority might initially ask parents who were educating their children at home for information.

In Phillips v Brown, Lord Donaldson said:

'Of course such a request is not the same as a notice under s 37 (1) of the Education Act 1944 [now s 437 (1) of the Education Act 1996] and the parents will be under no duty to comply. However it would be sensible for them to do so. If parents give no information or adopt the course ... of merely stating that they are discharging their duty without giving any details of how they are doing so, the LEA will have to consider and decide whether it 'appears' to it that the parents are in breach of s 36 [now s 7 of the Education Act 1996].'

Providing information

Some Local Authorities will write to a new home educator requesting details of timetables, tutors, hours of study and other unnecessary items. Whilst you do not have to provide any of that information, it may be prudent to acknowledge any communication from your LA in light of the many aspects of law relating to children and young people that have been affected by the 2004 Children Act, particularly the 5 Outcomes of Every Child Matters: Be Safe; Be Healthy; Make a Positive Contribution; Enjoy and Achieve; Achieve Economic Wellbeing.

If your local authority does approach your family and ask for information, and you wish to provide that information, you might choose any number of ways to do so. For example, you might offer

- a written report;
- samples of work;
- a meeting at your home, with or without the child present;
- a meeting elsewhere, with or without the child;
- an endorsement of the educational provision by a recognised third party;
- information in any other appropriate form.

Some families choose to provide an Educational Philosophy (for more information, request or download our 'Educational Philosophies' information sheet, or see the relevant pages of the EO website).

Education Otherwise publishes the following Information Sheets, which are also available as pdfs to download from the EO website at <http://www.education-otherwise.net>

Home Education England and Wales • Home Education and Lone Parents (England and Wales) • School Attendance Orders (England) • The Law and Home Education in England and Wales • Educational Philosophies (England) • Home Education and the Local Authority (England) • Funding for Home Education (England) • How people home educate • Home Education and Special Needs (England) • Children Missing Education (England) • Deregistering a Child from School (England) • Home Education and Exams (England) • Flexischooling (England) • Child Benefit (England)

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