

Questions and answers Home education and Special Educational Needs (SEN)

Can I deregister my child who has a Statement?

Yes, you can. A child with a Statement is no different from any other child since Section 7 of the Education Act 1996 requires parents to take into account any special educational needs when they educate otherwise than at school. The only time this is different is if the child is attending a Special School.

How do I deregister my child from a mainstream school?

Under Education (Pupil Registration) Regulations 9, 1995 (SI1995/2089) children can be deregistered just by writing to the Head Teacher of the school and telling them that you are withdrawing them from school as they are being educated at home. It is best to quote the relevant section of the law as many schools are not aware of it. It is also advisable to state that the child 'is' being educated otherwise, not 'will be' as it has been known in the past for a Local Authority to use this as a reason to pursue families for not ensuring the child is receiving an education.

A sample letter is available to download from the EO website: you will find it in the 'HE and SEN' pages. It is recommended that the letter be sent Recorded Delivery or, if hand delivered, request a receipt.

Can I deregister my child who is currently at a Special School?

Where a child is a registered pupil at a special school under arrangements made by the LA (so this excludes those who attend special school placements not funded or arranged by the LA), LA 'consent' is required to delete the child's name from the register of the school. Write to the school in the same way as above, but ask the school to inform you when this has been done. A sample letter is available for download from the HE website: you will find it in the 'HE and SEN' pages. The child should attend school until you are certain that they have been taken off roll.

This is not permission to Home Educate per se. Parents have the right to electively Home Educate (s7) and do not need permission to Home Educate. Parents however will commit an offence for which they can be taken to court if the child's name remains on the register of a school (or PRU) and absence with leave is not granted (irregular or non-attendance s444 or with sick note from a doctor).

Why do I need to have consent to deregister from a Special School?

This restriction is meant to protect the interests of more vulnerable children by ensuring that their special needs are met.

Why won't the LA give me consent to deregister my child from a special school?

It is illegal for a school to refuse to deregister the child whether they are at a special school or a mainstream school. Once you have formally notified the school, it is their responsibility to carry out their legal obligations. It could be that they are genuinely concerned about a vulnerable child, but if they are using it to make it harder to home educate such children, this could be interpreted as discrimination and prejudice. Section 7 of the 1996 Act makes it clear that the right to "otherwise" education extends to children with special needs.

In this instance it would be advisable to seek professional advice from a lawyer.

Can I request a Statement of Special Educational Needs?

You can request a Statement, but it will only be of benefit to your child if he/she is attending a school. Whilst it may give you an idea of what your child's special educational needs are, it is not a legally enforceable document for home educators. However, it can be useful if you wish your child to return to school in the near future, especially a special school. When home educators request an assessment for a statement, the same time frame is used as if the child was in school. You will need to allow time (at least 6 months) for this if you want your child to go to a special school, or to have support in mainstream.

If the LA wish to assess my child for a Statement, can I stop this?

You cannot legally stop the assessment process. As it is your right to request one, it is also the right of the LA to request one if they deem it necessary. However, it may be worth pointing out that it is a waste of their resources when you do not intend to take up a school place.

What can I do if I don't like what is contained in the Statement?

Whilst you cannot stop the assessment for a Statement, you can appeal against the Statement when it is complete if you wish. Information on this is contained in the SEN Code of Practice. IPSEA can help with these issues <http://www.ipsea.org.uk/>

Do I have to comply with the contents of a Statement?

Section 7 of the Education Act 1996 [and section 45(1) of the Education and Libraries Northern Ireland Order 1986 SI 1986/594 for Northern Ireland], where it states that parents must ensure the child receives an education suitable to age, ability and aptitude taking account of any special needs, takes priority over the Statement. Section 3 of the statement is only legally binding on the school listed in section 4.

What if the LEA says I must comply with the Statement?

You do not necessarily have to comply with the Statement. Baroness Ashton of Upholland, in the House of Lords on 21 October 2001, on behalf of the Government stated that it was expected that parents provide for the child's special educational

needs, but that the LA must recognise that the provision in a home educating environment would be different. Therefore, you still have to take account of the child's special educational needs, but it can be in a different format to the provision outlined in the Statement.

Can I still get therapy for my child?

If your child was receiving SALT, occupational therapy or physiotherapy, the LA may or may not still provide it. If they don't, then you can ask for therapy to be arranged through your GP.

Can I refuse the review of the Statement?

No. It is mandatory that a Statement is reviewed annually by the LA. You do not have to attend, but should be aware that the review may still go ahead without you present. There is nothing in law to say that you have to provide a report, but you would be advised to give the LA enough information to establish that your child's special needs are being met.

How can I prevent further reviews, which I consider intrusive?

You can ask in writing for the Statement of Special Needs to cease to be maintained. However the LA do not have to agree to this.

The LA are refusing to cease the Statement. Is this legal?

It can be considered a waste of taxpayer money maintaining a Statement which is not legally enforceable, but it is not illegal for them to maintain it despite a parental request to cease it.

It has been known for a LA to continue with the Statement to allow them a mandatory meeting with an HE family who they consider might otherwise refuse to meet with them since a visit (for home education) is not a compulsory option of the LA.

What will the review involve?

Normally it involves checking that the child is receiving an education that caters for the special needs of that child. The meeting may take place at a neutral venue, or a school, or may involve someone from the SEN team coming on a home visit with the EHE officer. Sometimes it can be a paper review.

As the child's main educator you will have to supply information about your child's education. Although some parents choose to attend the meeting, neither they nor the children have to attend. However, if no information is given to the LA it could be perceived that no education is being provided so if a parent chooses not to attend then it is best to provide evidence in some other way that satisfies the LA.

Will I get financial help from the LA?

Parents who choose to electively home educate their children assume financial responsibility for their education. This is set out in paragraphs 5.1- 5.2 of Elective

home education: Guidelines for local authorities. There is a mechanism for funding, but as it is at the discretion of the LA, in practice funding is rarely available.

Funding may be available where an LA provides significant financial support for a home educated young person in two specific circumstances. These are, first, where the young person has SEN and secondly where the young person attends further education college to take GCSEs or other courses. It is for the LA to decide whether to fund the provision: they have the discretion to do so but are not required to do so.

Where significant financial support is being provided, the LA can claim funding from the Department through the Dedicated Schools Grant (DSG). The Department has sought to make clear to LAs the circumstances in which they can count home educated pupils for the purposes of funding through the DSG. Revised guidance for the Alternative Provision Census on 21 January 2010 was sent to LAs on 26 November 2009.

Useful contacts for SEN and disabilities:

He-Special: www.he-special.org.uk

IPSEA: <http://www.ipsea.org.uk/>

Anne McLean at Maxwell Gillott: <http://www.maxwellgillott.com/>

SOS!SEN: <http://www.sossen.org.uk/>

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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