

A response to the DFE open consultation/call for evidence on "Out-of-school education settings: registration and inspection" from the Trustees of Education Otherwise.

*Our response does not 'fit' the questions as shown on the official Response Form.
Therefore we will use only Question 1 (for introduction) and Questions 25 and 26 for 'narrative'*

FINAL TEXT

Question 1.

Education Otherwise is the country's oldest charity for supporting and informing families on elective home education. However, due to the limited time available for this part of the consultation, it has not been possible to canvass opinions from all EO members. This response should not therefore be regarded as 'representative' of EO members, or of the wider Home Education community, or of 'Education Otherwise Association Ltd.'. Although input has been sought from various home education sources, this response is from the current trustees of EO.

Question 25.

EO trustees are pleased to see that the consultation document makes clear that the proposal is not about Elective Home Education. As such, it is arguable that there is no need for comments from home educators or home education organisations. However, given the lack of understanding and clarity within many Local Authorities, the media and the general public as to the meaning of the term 'Elective Home Education' we feel a response is necessary in order to indicate potential unintended consequences. We hope our input will help to give a clear understanding of the scope of 'Elective Home Education'.

We, the Trustees, share the concern of the DFE regarding the necessity to safeguard and protect the nation's children. However, we feel that the timing and presentation of this call for evidence has potential to cause further confusion between safeguarding and education, in particular, home education (as has already been shown in ill-informed media coverage) and seek clarification of several points.

Section 2.3 appears to cover two apparently separate issues: (a) safeguarding and (b) radicalisation. We understand that where safeguarding issues have been identified, there is already ample scope for swift action by the appropriate authorities. We feel that conflating the two issues is likely to lead to further confusion.

Section 2.4: we would like your reassurance that any registration and inspection of out-of-school education settings could not be imposed by Local Authorities on any home-educating family, out of supposed concern for the welfare of the children in that family. We read this section to imply that the providers of the out-of-school education are the people who would have to register as a provider, not a parent providing elective home education, but we would appreciate further assurance of this.

2.4 We recommend use of the term 'Elective Home Education' rather than 'education ... in their homes'. We are puzzled by the use of a different description, and consider this might contribute to confusion. It is irrelevant to refer here to the proviso of 'a suitable full-time education', since that is covered by existing legislation and guidelines appropriate to EHE – which the document has already stated is not the target of this proposal.

Section 3.12: you state that a number of LAs have explained that a register would help them fulfil their legal duties regarding safeguarding children in their area, and goes on to include "children missing education". We seek your assurance that EHE children are not regarded as CME and that LAs would not be allowed to use a register as a means of identifying 'unknown' EHE families in their area.

In this same section, the final sentence reads '...ensuring that children are receiving a suitable education.' We feel that this sentence needs further clarification, perhaps by adding a phrase along the lines of 'a suitable education from the aforementioned settings'. This would allow the focus to be centred on the education provided in these out-of-school settings, rather than possibly being used as a means of critiquing the standard of EHE being delivered by individual families – as set out in the existing Government Guidelines to LAs on Elective Home Education.

A potential problem we foresee is where an EHE parent offers to help guide their children and a group of their children's peers through a GCSE examination. The hours spent studying with this parent could exceed the proposed lower threshold of 6-8 hours per week, especially in the run-up to the examination. This parent providing the educational support could be 'unknown' as a home educator to their LA: what would the LA do with this information? Would this parent have to register as an out-of-school education setting? Would the family be risking their anonymity and become subject to LA EHE visits/monitoring or subject to inspection by OFSTED? Would the family home become subject to a safeguarding visit, which could be regarded as contravening their right to family privacy?

Whilst we share your concerns regarding safeguarding, we feel it is necessary to draw a firm distinction between illegal schools, secular or otherwise, and EHE. Where children are registered at a school, the school is responsible for their education and subject to appropriate regulation and inspection.

EHE parents choose to discharge their lawful duty to provide their children with a suitable education by arranging such education otherwise than by regular attendance at school. Even when this includes *ad hoc* tuition or learning support by people outside the immediate family it should not be confused with 'school'.

Regarding a point of contact for safeguarding concerns, the necessary departments already exist. For welfare concerns, the Social Services department should be contacted, and for Educational concerns, one can contact Education Welfare or CME. These are separate issues which should never be conflated. The essential powers for safeguarding issues to be investigated and followed up are already in place. New or additional powers are simply not necessary: what is required is for existing protocols regarding welfare/safeguarding to be properly applied by professionals.

OFSTED are already incredibly busy working with schools, and to attempt to increase their workload to include EHE would be untenable, economically difficult, and likely to cause unnecessary stress to law-abiding families rather than help to identify those families that the consultation is actually seeking. Increasing the search area will not make it easier to identify children at risk, but in fact, will make it much harder to find those children who genuinely need help and support.

Another concern we feel is regarding who will be targeted by these proposals. It is important to recognise that it is the parent, not the State, who has ultimate responsibility for both education and welfare of their child, and it is not appropriate for a family to be targeted simply because they have different ideas about raising children or lead a different lifestyle. Difference does not mean it is necessary to be suspicious. There should be no suggestion of 'inspecting' families who are 'different', without any indication that they have broken the law. It would be wrong to discriminate against home-educating families, or the home-educating community, solely on the basis of their educational provision, lifestyle choices or beliefs.

Question 26.

Due to the short timescale of the call for evidence, it has not been possible to arrange a thorough discussion of the 'out-of-school' proposals with EO members, and the above is therefore simply a collaborative view of EO trustees. However, there has been considerable discussion of the proposals and related issues on home education email lists etc. We therefore annexe (at end of this form) a précis of the main points raised, together with an example of an existing home education co-operative that provides substantial academic tuition but that would be adversely impacted if some of the proposals were applied to such settings. We hope this will help to develop appropriate proposals for the resulting consultation.

We would welcome the opportunity to be involved further in the consultation process. We trust that when the full consultation is eventually opened, sufficient time will be allocated for organisations such as EO to arrange a comprehensive gathering of views from all our members.

Please see below for annexed documents.

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PRECIS: EHA and OUT OF SCHOOL EDUCATION SETTINGS

The main issues raised by home educators on EO-HE-Support email list. N.B. these offer various points of view, and some demonstrate aspects of the confusion between different forms of non-state-provided education.

- Government says that the proposed "light touch registration" of "out of school settings" is NOT about the education provided by parents for their own children at home or as part of home-based education.
- Even if initial regulation is initially 'light touch' as proposed, it is likely that 'mission creep' would occur by LAs or other authorities – some of whom already act *ultra vires*.
- Although the proposals are not aimed at Elective Home Education there might be unintended consequences due to regulators not being familiar with the law and practice relating to home education.
- Most people regard Home Education with suspicion and prejudice. HERS are often asked to explain why we home educate, why our children are not in school, what qualifications we have to teach our children.
- LAs have long requested greater clarity with regard to their dealings with home educators. Registration and annual inspections would enable them to tick boxes. Current issues with OFSTED & the DfE are a separate matter.
- The present consultation is about whether groups offering any kind of education for more than 6-8 hours per week should be registered and inspected as part time educational settings. This would affect HE groups where children attend for 6-8 hours or more; also forest schools, church groups for youngsters, music, sports clubs, etc. so would also affect school children who attend those activities. But it is not the same as registering as a school.
- It is unclear to some outside bodies as to what is an illegal school and what is a legitimate home ed support group. Some HE groups provide intensive sessions for GCSE etc. A clear definition of what is/is not a school (whether full or part time) is needed. OFSTED themselves have expressed a need for clarity on the issue.
- Settings vary and it's difficult to find a way to define it legally without leaving exploitable loopholes or requiring draconian oversight.
- The proposed thresholds for part time out-of-school settings would impact on home educating parental co-operatives that organise 6-8 hours per week intensive lessons for GCSE subjects, sports, music, etc.
- The 2008 act suggested that the criterion for a school should be 15 hours or more for children aged 12+ but this has not been implemented. The older law (20 hours) is widely quoted. Some HE groups run just below 15 hours.

- If parents leave children on site and standard national curriculum subjects are taught, it should be regarded as a school and regulated accordingly. This would exclude Sunday schools, girl guides etc.
- The only consistent difference between Elective Home Education and other forms of out-of-school educational provision seems to be the **continuous presence of a parent** (or other responsible adult *in loco parentis*) with the child during the class or activity.
- Any provision where the parent is not present during the activity, whether educational or not, needs to have DBS background checks and some basic health and safety in place. Obviously this could not apply to parents, relatives, etc. or it would become ridiculous.
- There already is scope in legislation for illegal schools to be inspected and prosecuted if necessary. OFSTED should have right of entry to ALL educational premises where they have reason to believe children are attending a school. At present they can make an unannounced visit if they have concerns, but they do not have right of entry without an Order.
- Where are all these 'illegal schools'? Same place as 'invisible children'?
- 'British values' are defined as: Democracy, The rule of law, Individual liberty, Mutual respect and tolerance of different faiths and beliefs. Do these not apply anywhere else?
- Settings where children might be 'radicalised' are unlikely to be home-based education. Illegal schools are distinct from Elective Home Education.
- Radicalisation in the home is an impossible target to aim for.

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EXAMPLE: HOME EDUCATION GROUP – 'OUT OF SCHOOL' EDUCATIONAL SETTING

This is an example of an existing home education group offering fairly intensive educational provision as part of the Elective Home Education of a large number of children, with opening times kept below the 20 hours currently defining 'school', but considerably more than the proposed 6-8 hours for part time educational settings.

The Group hires a Youth Centre, Mondays and Tuesdays, term time only, offering a range of academic lessons. Over 100 children attend in total, although not all attend every lesson. Two subjects run per session. We are open for 13 ½ hours per week, with 1 hour lunch break each day and ½ hour afternoon on Tuesday. Parents (or adult *in loco parentis* – Not group organiser!) attend with and are responsible for their children throughout.

[I]GCSE classes (2 hours): Maths, English Language, English Literature, Drama, Classical Civilisation (1 hr), Chemistry, Environmental Management. £5.00 per session (except Drama, £10.00). Exam costs extra.

Other sessions 1 hour: 11-13 (ish) – English, Maths, Latin, Sewing, Hair & Nails, Science, Geography, Faiths & Beliefs, British Sign Language, Drama, Arts Award, LAMDA. Team Games. About 80 children per week in this group. Under 10s – Art/Crafts, Geography, Sports/Games, Poetry, Wildlife, Book Club, etc.

Some tutors we pay for as although not Home Ed. they are experts in their field: e.g. Drama and English Lang. One tutor we pay for as she is an ex Home Ed mum and a specialist in her field: Environmental Management. The rest of the tutors are Home Ed mums and they trade lessons. If you offer a lesson, you get a lesson – it's a straight swop. Subjects depend on requirements/interest of families in the group.

We arrange a place to take the Exams – at Hampshire¹ Exam Centre run by another Home Ed group. We work quite closely with each other and there is a lot of crossover.

Some tutors tutor in both places – e.g. me and the Chemistry tutor. Plus quite a few invigilate at the exam centre to keep the costs down. It is a Home Ed co-op in that resources\ideas and people are shared.

Children attend our group from the London area and from several other home counties.

We have public liability insurance - this is dependent on the parents staying on. We do remind parents each term that we are not childcare so they cannot just drop them off.

¹ Group Organiser states: 'Am happy to leave Hampshire Exam Centre in as we worked very hard to get that and it is the only one the country. Plus it is used as an example of good practice in how local LA can work in partnership at Westminster.

From Autumn 2015 we have a committee of four people. Previously it had been two of us: I did all the organising of people and lessons and Mum B did all the accounts (Two very different jobs). But the Group has just got too big, so we have split it into three (by age of children) and jobs shared between four people.

- Mum A – an ex teacher and very organised person is looking after the Under 10s (about 40 children) as that is where her son is.
- Mum B – ex accounts and looking after the 10 – 13s as that is where her daughter is and she is experienced in SEN issues.
- Mum C – now doing the Accounts and a whizz on excel spreadsheets.
- Mum D (me) – looking after the 13 – 16s as that is where my daughter is.

Now we have a committee, it runs so much better as they are bringing a different knowledge base. Particularly Mum A who is a fount of knowledge on Charitable status and ensures we are compliant by taking time to really pay attention to the small print.

If legislation came in that we would need to be registered, OFSTED inspected or the children had to be on a database somewhere, we would disband the group. If opening hours becomes an issue we will only open for one day to stay under the threshold. Alternatively we may set up a "Tuesday" club and run Drama \ LAMDA \ Arty type things - only Drama is GCSE based - and divide the timetable to ensure everyone remains under the threshold. Already a couple of parents have set up their own group as they didn't get to book the classes they wanted - so there will be a plethora of new groups springing up all over the place - all keen to keep under the threshold.

Where I think government should draw the line and have some sort of official involvement is where parents leave the children *in someone else's care* for tuition of some description, whether it is sports / arts / religious / etc. or educational. I think the threshold should be for 15+ hours per week which will miss out Brownies \ Guides \ Home Ed groups etc. and catch intensive sports instruction – i.e. gymnastics \ ice skating \ athletics