

Borough of Poole  
Pupil, Parent & Youth Services  
Dolphin Centre  
POOLE  
Dorset  
BH15 1SA

Our ref: 2006/0315820  
October 2006

Dear .

Thank you for your letter of 13 September 2006, addressed to Beverly Hughes about the South West Network Group concerns between the Every Child Matters paper and Hme Elective Education. I have been asked to reply.

Firstly, I should inform you that the draft guidance is on hold. The Department is presently undertaking a small peice of research to gain a greater understanding of who is opting for EHE and their reasons for doing so. It is due to report late autumn.

Ministers have growing concerns that some groups of parents taking up the EHE option, who may not be in a position to offer their children a well rounded education. We will be launching a Full Consulation early 2007, to explore what light touch changes we might implement to strengthen the monitoring of provision.

Yours sincerely,

Independent Education and Boarding Team  
Elective Home Education

Bernard Jenkin MP  
House of Commons  
London  
SW1A 0AA

Your ref: fg/1207

October 2006

Thank you for your letter of 26 September, on behalf of  
, about home education.

Whilst the Government believes that, for most children, school is the right place in which to receive education, it is a fundamental right enshrined in law (Section 7 of the Education Act 1996) that parents should be free to educate their children at home if they so wish. However, parents who choose to home educate must ensure their children receive efficient, full-time education suitable to the child's age, ability and aptitude, and to any special educational needs they may have.

Whilst I appreciate the concerns expressed, we have no current plans to introduce compulsory registration of home educating parents or give home education advisors rights of access to children. Where there are child protection concerns, they should be referred immediately to the appropriate authorities using established protocols.

Furthermore, home educated children should not be considered to be more vulnerable than school children simply because of the fact that their parents have withdrawn them from school. An individual home educated child should only be considered vulnerable where an authority has specific child protection concerns.

Each local authority (LA) has a duty, under Section 47 of the Children Act 1989, to protect all children, including those who are being educated at home. Under this duty, the LA should make the necessary enquiries to enable them to decide whether they should take action to safeguard or promote the child's welfare where they suspect a child may suffer harm, or where a child is the subject of an emergency protection order.

The Education and Inspections Bill includes a new duty on all LAs to make arrangements to identify children missing education. The purpose is to help ensure that every child receives an education to which they have a right. The proposal is not seeking to change the rights and responsibilities of parents, but to balance them with appropriate intervention to promote the child's interests where parents do not fulfil their responsibilities.

In terms of quality of education, the LA has a duty to ensure that parents provide a suitable education for home educated children. When a child is withdrawn from school, the LA will usually want to discuss the educational provision the parents have planned. Also, if the parents refuse to respond to the LA's questions, they are permitted, under case law, to assume that the parents are failing to provide any education and can issue a School Attendance Order.

Home educating parents do not have to follow the National Curriculum, adhere to normal school hours or

put their children in for any exams if they do not wish to do so. However, the local authority also has an ongoing duty to ensure that all children of compulsory school age in their area are receiving suitable full-time education. They would be failing in the spirit of this duty if this was a one-off check and there was no further monitoring carried out.

The LA may make informal enquiries or ask to meet with, and talk to, the parent and look at examples of work. We do not prescribe the form which evidence should take, but it should be sufficient to convince a reasonable person on the balance of probability that a suitable education is being provided. Whilst the parent may choose what form of evidence to provide, local authority staff must use their own judgement as to whether they are satisfied with the evidence provided, depending on the circumstances of each individual case.

**ANDREW ADONIS**

Dear

Thank you for your email dated 26 September, requesting clarification on home education. I have been asked to reply.

Parents can choose to educate their children at home by virtue of section 7 of the Education Act 1996. Home education must be efficient, full-time education suitable to the child's age, ability and aptitude and to any special educational needs the child may have. Local authorities are required to ensure that home educated children of compulsory school age known to them are receiving suitable full-time education. We are currently drafting local authority guidelines that will help authorities with the law and practice related to home education.

However, I should explain that the Government believes that, for most children, school is the right place in which to receive education. However, it is a fundamental right enshrined in law that parents should be free to educate their children at home if they so wish. Where that happens, the parents must take responsibility for ensuring that the education provided is suitable and full-time (for children of compulsory school age): under these circumstances there is no duty on the local authority to provide financial or other support.

I hope this information is helpful.

Yours sincerely

Judith Hulse  
Public Communications Unit

Your correspondence has been allocated the reference number 2006/0317715. To correspond by email with the Department for Education and Skills please contact [info@dfes.gsi.gov.uk](mailto:info@dfes.gsi.gov.uk).

If you have any further queries why not browse our Popular Questions website. This site has been built to allow you to quickly find the answer to your question <http://www.dfes.gov.uk/popularquestions>

Dan Rogerson MP  
House of Commons  
London  
SW1A 0AA

Your ref: DR/SAS/Flyn001

October 2006

Thank you for your letter of 28 September, addressed to Alan Johnson, requesting advice and guidance on home tuition in secondary schools. I am replying as the Minister responsible for this policy area.

Parents can choose to educate their children at home by virtue of section 7 of the Education Act 1996 regardless of whether or not they have special educational needs (SEN). It is for parents to decide how they deliver home education. They are not required to follow the National Curriculum nor to keep to school hours. Parents are required by law, however, to ensure their child receives an efficient full-time education suitable to their age, ability and aptitude and for any special educational needs the child may have is provided for.

Local authorities are required to ensure that home educated children of compulsory school age known to them are receiving suitable full-time education. We are currently drafting local authority guidelines that will help authorities with the law and practice related to home education.

However, I should explain that the Government believes that, for most children, school is the right place in which to receive education. However, it is a fundamental right enshrined in law that parents should be free to educate their children at home if they so wish. Where that happens, the parents must take responsibility for ensuring that the education provided is suitable and full-time (for children of compulsory school age): under these circumstances there is no duty on the local authority to provide financial or other support.

I hope this clarifies the matter for you.

**ANDREW ADONIS**

Dear

Thank you for your email dated 28 September 2006 about Elective Home Education.

In response to your enquiry, firstly I have to point out that we can't offer legal advice only the Department's opinion of these matters. The Authority therefore should consult its own legal advisers.

Local Authorities (LAs), where necessary, are under a duty to assess, draw up statements and maintain those statements for any child of compulsory school age from their areas who require them (and 16-19 year olds who are registered at a school. LAs also have to monitor the provision to ensure that it is continuing to meet the child's needs.

Under section 7 of the 96 Act parents can make home provision for their children it must be suitable for the child's age, ability, aptitude and any SEN the child has. Where the child has a statement, the parents do not have to make the provision set out in the statement but the provision they do make has to be suitable (and meet) any SEN the child has. The Authority has to assure itself that the provision the parents are making is suitable for the child's needs. If the LA does so assure itself then it has to keep the statement in existence but instead of naming a school in part 4 it can just say that the parents have made suitable alternative provision. The Authority have to keep reviewing the statement at least annually to make sure the child's needs are continuing to be met and if they aren't then the statement can be reactivated and the child sent back to school.

The more difficult question is how does the Authority evidence that the child's needs are being met given the strictures on access. I think the bargaining counter the Authority has here is that if they aren't allowed access to the child and can't satisfy themselves that the child's needs are being met then they have no alternative but to say they cannot verify that the child's needs are being met and they have to carry on with the original statement and serve an attendance order on the parents if the child doesn't turn up to the school named on the statement.

Turning to your question regarding the decisions of the Special Educational Needs and Disability Tribunal (SENDIST). The tribunal's decision are final as far as the facts of the case are concerned. Both you and Parents' can appeal to the High Court against the tribunal's decision, but only if you think it got the law wrong. Appeals against the decision cannot simply be because either side are unhappy with the outcome.

If you have a case where SENDIST have ruled that the child should return to the Authority's named mainstream school and parents wish to home educate, it would be up to the Authority to seek their own legal advice in relation to a Section 437 (1) Education Act 1996 Notice - School Attendance Order. Alternatively it is for the Authority to decide if parents are able to make suitable provision as above.

I hope you find the above information helpful.

Yours sincerely,

SEN Operations Team

Your correspondence has been allocated the reference number 2006/0318558.

Dear

Thank you for your email dated 2 October about your son being bullied and home education.

I was sorry to read about the bullying your son has experienced at his school, it must have been a very upsetting and traumatic time.

Since September 1999, head teachers of maintained schools have been under a duty to draw up measures to prevent all forms of bullying. This means that all schools should have in place, and annually review the effectiveness of their anti-bullying policy; this is a document that sets out how the school deals with incidents of bullying. You have a right to know about this policy, which is for parents as well as staff and pupils. When a school is inspected, Ofsted look at anti bullying policy and practice and talk to pupils to find out if they really work.

We take bullying extremely seriously and believe that no child should have to suffer the pain and indignity of bullying. It should not be necessary to remove a child who has been bullied if the family wish the pupil to remain at the school as the issue should be resolved locally within the school community. We recommend in such circumstances that parents work with the Head teacher to find an appropriate outcome.

If initial concerns are discussed with the school and parents are unhappy with the outcome, then as a parent you can choose to follow the local avenues of complaint. These are to formally write to the head teacher to afford him/her the opportunity to resolve any concerns, then, if no satisfactory outcome is achieved, to formally write to the Chair of Governors again allowing them an opportunity to investigate any allegations. If, following this, a parent is still dissatisfied with the outcome of the investigation they need to formally write to the local authority. At all stages it is important that any correspondence is marked as a formal complaint.

It is hoped that by working through these channels all parties will be able to ensure that a child is able to return to a school environment where they feel safe and happy and that further disruption to their education can be avoided.

On home education, I should explain that parents who home educate must ensure their children receive efficient, full-time education suitable to each child's age, ability and aptitude and to any special educational needs they may have. Parents need not deliver the full national curriculum, but should provide a good rounded education. Home educators do not have to adhere to normal school hours.

There is no funding available from central or local Government for home education as parents assume full financial responsibility.

You must formally deregister your child from school before home education begins by writing to the head teacher and informing them that you intend to teach your child at home. If your child has special needs and attends a special school, you need permission from the local authority (LA) to deregister.

The local authority also has an ongoing duty to ensure that you are providing suitable education for your child.

For further information you may also wish to contact the Education Otherwise Association Ltd (at <http://www.education-otherwise.org/> ) and the Home Education Advisory Service (at <http://www.heas.org.uk/>).

I hope you find this information useful.

Yours sincerely

Joanna Seaman  
Public Communications Unit

Your correspondence has been allocated the reference number 2006/0319041. To correspond by email with the Department for Education and Skills please contact [info@dfes.gsi.gov.uk](mailto:info@dfes.gsi.gov.uk).

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Dear .

Thank you for your email of 23 October, addressed to Mark Houston, about home education. I have been asked to reply.

There is no specific duty in statute on local authorities (LAs) to monitor parents' education provision. However, it is our view that case law (Philips vs Brown 1980) places such a duty on LAs.

Only s7 of the Education Act 1996, not s351, applies to home educated children, and legislation does not define 'suitability' of education. However, a suitable education has been defined in case law as 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."

The state cannot currently prescribe what form of education parents should provide, whilst all maintained and independent school provision is prescribed in legislation and subject to inspection. This anomaly is at odds with Every Child Matters reforms, supported by the Children Act 2004, which set out the Government's aim to improve educational outcomes for all children, regardless of where they are educated, and to narrow the gap between those who are doing well and those who are not.

Whilst s437 of the Education Act 1996 provides a remedy for LAs which have concerns that there may be no suitable provision, this is unwieldy, time consuming and expensive and in some cases will be nugatory where home educators are making good provision but are resistant to LA enquiries.

We note your comments and re-iterate that the intention of a full consultation is to open up a constructive debate on whether or not changes are required, and if so what they might be.

Can I suggest that you gather together your thoughts on home education monitoring, and any other aspects of home education, and submit these in due course as part of our future consultation. We will add you to our consultation email list so that you will be aware of the consultation when it starts.

Yours sincerely

Adrian Thompson  
Public Communications Unit

Your correspondence has been allocated the reference number 2006/0324253. To correspond by email with the Department for Education and Skills please contact [info@dfes.gsi.gov.uk](mailto:info@dfes.gsi.gov.uk).

If you have any further queries why not browse our Popular Questions website. This site has been built to allow you to quickly find the answer to your question <http://www.dfes.gov.uk/popularquestions>



Dear

Thank you for your email of 31 October, to Alan Johnson, copying the letter from Councillor to Hampshire County Council, about elective home education. I should first explain that owing to the volume of correspondence the Secretary of State receives, it is impossible for him to reply personally in each case. It is for this reason that I have been asked to reply on Alan Johnson's behalf.

From the letter provided, it appears that the issue that has led to the Notice being issued, is one of providing evidence of the quality of education being provided for

I understand your concerns and frustrations with the authority's handling of this matter. However, it may be helpful if I explain the law regarding home education and the local authority's (LA's) duties. LAs have a general duty to ensure that all children of compulsory school age in their area are receiving suitable full-time education by attendance at school or otherwise. They would be failing in the spirit of this duty if this was a one-off check and there was no further monitoring carried out.

This department does not prescribe the form which evidence should take, but it should be sufficient to convince a reasonable person on the balance of probability. Whilst the parent may choose what form of evidence to provide, it is ultimately for the LA to decide whether to accept it or not.

Our draft guidelines for LAs on home education will aim to provide advice about their responsibilities and encourage them to develop positive relationships with parents. The Education and Inspections Act includes a new duty on LAs to identify children missing education.

Furthermore, it is accepted that where disputes between individual LAs and parents are referred to a court of law, this may lead to new case law, which we would take into account.

I am sorry I cannot be of further assistance, and hope you can resolve this dispute with the LA swiftly and to your satisfaction.

Yours sincerely

Matt Vallily  
Public Communications Unit

Your correspondence has been allocated the reference number 2006/0325733. To correspond by email with the Department for Education and Skills please contact [info@dfes.gsi.gov.uk](mailto:info@dfes.gsi.gov.uk).

If you have any further queries why not browse our Popular Questions website. This site has been built to allow you to quickly find the answer to your question <http://www.dfes.gov.uk/popularquestions>

Dear Mr

Thank you for your email of 9 November 2006 about Elective Home Education.

Firstly, we are still working on the draft guidelines, taking account of responses to our consultation in spring 2005. Our aim is to finalise and publish the LA guidelines by end of February 2007. We do not anticipate consulting further on the content of the guidelines before they are published.

The research we commissioned was a feasibility study to assess the prevalence of home education. Details can be found on our website at: <http://www.dfes.gov.uk/>.

This research is not linked to NFER research, which we understand is being conducted on behalf of Esme Fairbairn Foundation.

We still intend to undertake a full 12 week consultation, via our consultation website. The purpose will be to open up debate on whether changes are required and if so, what they might be. Dependent on outcome of consultation, LA guidelines would be amended as necessary. I am unable to provide more details at this stage, as scope of the consultation has not yet been finalised.

Finally, LAs may issue school attendance orders, but this is very much a last resort. It is time consuming and expensive as well involving nugatory work at tax payers expense in cases where parents are providing a suitable education but have failed to answer LA enquires.

Yours sincerely

SCHOOL TRANSPORT, SAFETY AND INDEPENDENT EDUCATION DIVISION

0870 000 2288

Your correspondence has been allocated the reference number 2006/0330222.

Dear

Thank you for your email dated 15 November 2006 about elective home education.

We note your comments and re-iterate that the intention of a full consultation is to open up a constructive debate on whether or not changes are required, and if so what they might be.

Can I suggest that you gather together your thoughts on home education monitoring, and any other aspects of home education, and submit these in due course as part of our future consultation. We will add you to our consultation email list so that you will be aware of the consultation when it starts.

Yours sincerely,

SCHOOL TRANSPORT, SAFETY AND INDEPENDENT EDUCATION DIVISION

0870 000 2288

Your correspondence has been allocated the reference number 2006/0330556.

Dear

Thank you for your email of 17 November, addressed to my colleague Elaine Haste, about the planned elective home education consultation.

The intention of conducting a full consultation is to open up a constructive debate on possible light-touch changes to home education arrangements, whether or not changes are required, and if so what they might be.

Whilst we appreciate that the majority of parents take their responsibility seriously and are providing a suitable full-time education for their children, there is evidence which suggests that some parents are failing their children by not making suitable provision. Every Child Matters reforms, supported by the Children Act 2004, set out the Government's aim to improve educational outcomes for all children, regardless of where they are educated.

I have included your name on a list that is being set up to receive any further relevant information as it becomes available and to inform you when the consultation begins.

Yours sincerely

Matt Vallily  
Public Communications Unit

Your correspondence has been allocated the reference number 2006/0330976. To correspond by email with the Department for Education and Skills please contact [info@dfes.gsi.gov.uk](mailto:info@dfes.gsi.gov.uk).

If you have any further queries why not browse our Popular Questions website. This site has been built to allow you to quickly find the answer to your question <http://www.dfes.gov.uk/popularquestions>

Dear

Thank you for your email dated 19 November, about the special educational needs provision for your son. I have been asked to reply.

I would explain that parents can choose to educate their children at home by virtue of section 7 of the Education Act 1996. Home education must be efficient, full-time education suitable to the child's age, ability and aptitude and to any special educational needs the child may have. Local authorities are required to ensure that home educated children of compulsory school age known to them are receiving suitable full-time education. We are currently drafting local authority guidelines that will help authorities with the law and practice related to home education.

However, I should explain that the Government believes that, for most children, school is the right place in which to receive education, and it is a fundamental right enshrined in law that parents should be free to educate their children at home if they so wish. Where that happens, the parents must take responsibility for ensuring that the education provided is suitable and full-time (for children of compulsory school age): under these circumstances there is no duty on the local authority to provide financial or other support.

I hope this information is helpful.

Regards

Judith Hulse  
Public Communications Unit

Your correspondence has been allocated the reference number 2006/0331355. To correspond by email with the Department for Education and Skills please contact [info@dfes.gsi.gov.uk](mailto:info@dfes.gsi.gov.uk).

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Rt Hon Michael Ancram QC MP  
House of Commons  
London  
SW1A 0AA

December 2006

Thank you for your letter of 30 November, on behalf of \_\_\_\_\_, of \_\_\_\_\_, about home education monitoring.

The intention of conducting a full consultation is to open up a constructive debate on possible light touch changes to home education arrangements, whether or not changes are required, and if so what they might be.

Whilst we appreciate that the majority of parents take their responsibility seriously and are providing a suitable full-time education for their children, there is evidence which suggests that some parents are failing their children by not making suitable provision. Every Child Matters reforms, supported by the Children Act 2004, set out the Government's aim to improve educational outcomes for all children, regardless of where they are educated.

The consultation on elective home education has not yet commenced. However, officials will note \_\_\_\_\_'s details and she will be contacted when the consultation commences and be given the relevant information necessary to participate, if she so wishes.

Please be assured that your constituent will have every opportunity to feed her views and concerns into the consultation process.

**ALAN JOHNSON**

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**From:**

**Sent:** 28 November 2006 10:22

**To:** @bedfordshire.gov.uk'

**Subject:** Home education - estimate of costs

Dear

I'm doing some work on behalf of [redacted] and the Home Education team. As you know, we have been considering changing the regulations around parents who choose to educate their children at home. I have been asked to estimate LAs' current spending on monitoring and enforcing the existing regulations, and provide an estimate for the likely costs if we were to introduce compulsory registration for parents and monitoring by LAs.

I'd be very interested in getting your thoughts on this – do you have some time later this week for a brief phone call about it?  
Many thanks,

07/03/2007

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**From:**  
**Sent:** 28 November 2006 10:20  
**To:** @newcastle.gov.uk'  
**Subject:** Home education - estimate of costs

Dear

I'm doing some work on behalf of [redacted] and the Home Education team. As you know, we have been considering changing the regulations around parents who choose to educate their children at home. I have been asked to estimate LAs' current spending on monitoring and enforcing the existing regulations, and provide an estimate for the likely costs if we were to introduce compulsory registration for parents and monitoring by LAs.

I'd be very interested in getting your thoughts on this – do you have some time later this week for a brief phone call about it?  
Many thanks,

07/03/2007



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**From:**  
**Sent:** 28 November 2006 10:20  
**To:** @staffordshire.gov.uk'  
**Subject:** Home education - estimate of costs

Dear

I'm doing some work on behalf of \_\_\_\_\_ and the Home Education team. As you know, we have been considering changing the regulations around parents who choose to educate their children at home. I have been asked to estimate LAs' current spending on monitoring and enforcing the existing regulations, and provide an estimate for the likely costs if we were to introduce compulsory registration for parents and monitoring by LAs.

I'd be very interested in getting your thoughts on this – do you have some time later this week for a brief phone call about it?  
Many thanks,

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**From:**  
**Sent:** 01 December 2006 15:51  
**To:** @bedscc.gov.uk'  
**Subject:** Elective home education costs

It was good to speak to you earlier – many thanks for your time.

I'm now trying to firm up some of the costs we discussed. Do you have any figures for the costs of legal advice and/or legal action regarding parents who LAs see as not co-operating with monitoring? I know you mentioned that local authorities had been put off taking legal action because of the potential costs, and it would be very useful to know the sorts of figures which might be involved.

Very happy to discuss if you would prefer,  
Best wishes,

07/03/2007