



Local authority seeking work samples

Some local authorities ask for samples of a child's work and decline education reports unless samples are provided. Education Otherwise sought legal advice on this point and the following letter is based on that advice.

As guidance differs between England and Wales, letters must be specific to whether the parent lives in England, or in Wales.

England:

Date

Your name
Your address

Local authority officer name
Local authority address

Dear (name),

Ref: (child's full name and date of birth)

I acknowledge receipt of your (letter, email, note) dated (date).

I would point out that the Elective home Education Departmental Guidance for local Authorities (EHEDGLA) makes clear that local authorities may not require parents to 'prove' that education is suitable and that they must act in a proportionate way:

'However, this should not be taken as implying that it is the responsibility of parents under s.436A to 'prove' that education at home is suitable. A proportionate approach needs to be taken'. (EHEDGLA para. 4.2)

The legal concept of 'proportionality' means that you are required to only do things which are reasonably necessary. It is not reasonably necessary for you to seek samples of my child's work from me, as I have provided you with a thorough education report.

An informal enquiry should not be treated as a notice to satisfy the local authority and you should consider the information I have provided, only seeking further information from me when necessary information is missing. The EHEDGLA also confirms this position at para 6.12:

'In considering whether it is satisfied by the parent's response to the s.437(1) notice, it is open to the authority to consider any other relevant information available to it Of course, the local authority should give reasonable weight to information provided by parents, on its own merits. For example, an authority should not dismiss information provided by parents simply because it is not in a particular form preferred by the authority (eg a report by a qualified teacher)'.

I am advised that Education Otherwise trustees sought advice from the DfE in respect of whether, or not, local authorities could insist on samples of the children's work being provided'. The DfE confirmed as follows:

'It is for the LA in each case to reach a conclusion as to suitability of education based on what information is actually available to it. It cannot reasonably conclude that the education is not suitable simply on a general policy as to the format of reports, or a lack of work samples. It must consider what information it has on a case-by-case basis'. (emphasis is in the original from the DfE)

I am advised that a local authority insisting on applying a policy requiring samples of work, would be acting unlawfully.

I have provided an education report to you which explains my home education provision clearly and describes the progress made by my child. If, after reading that report, you have specific concerns in respect of my education provision, please provide me with details of those concerns, in order that I can address them appropriately. Please note that lack of samples is not a legitimate concern.

Yours sincerely

Name in full

Wales:

Date

Your name
Your address

Local authority officer name
Local authority address

Dear (name),

Ref: (child's full name and date of birth)

I acknowledge receipt of your (letter, email, note) dated (date).

I would point out that local authorities must act in a proportionate way when seeking information from home educating parents. The legal concept of 'proportionality' means that you are required to only do things which are reasonably necessary. It is not reasonably necessary for you to seek samples of my child's work from me, as I have provided you with a thorough education report.

I am advised that a local authority insisting on applying a policy requiring samples of work, would be acting unlawfully, as each case must be considered on an individual basis, not in accordance with a block policy. In addition, local authorities must not ask more of me than is supported in legislation and there is no legislative basis for you requiring samples of my child's work.

I have provided an education report to you which explains my home education provision clearly and describes the progress made by my child. If, after reading that report, you have specific concerns in respect of my education provision, please provide me with details of those concerns, in order that I can address them appropriately. Please note that lack of samples is not a legitimate concern.

Yours sincerely

Name in full
