



EDUCATION OTHERWISE

Home Education: Frequently Asked Questions

SUMMARY

Education Otherwise is a charitable organisation which has been supporting home educated families for over forty years. Our information sheets are based on our knowledge and expertise, supported where appropriate by legal advice.

Key Messages

- 1) **School is not compulsory:** Education is compulsory, school is not.
- 2) **Home education is not a safeguarding concern:** Home educated children are no more likely than other children to be at risk.
- 3) **Home education is a legal choice:** Home education is of equal status in law to school education.
- 4) **No curriculum is necessary:** Parents may choose how they home educate their child, provided that the education is suitable to the child.
- 5) **Parents should respond to local authority enquiries:** Local authorities can assume that education is not suitable, if parents do not respond to enquiries, but the parent can choose how to respond.
- 6) **Local authorities must act reasonably:** Local authorities must not ask for more information than the law allows and must act reasonably and proportionately at all times.
- 7) **Local authority policies must comply with the law:** Local authorities cannot apply policies which do not comply with legislation and national guidance.
- 8) **Enforcement action can be an opportunity:** Enforcement of a school attendance order can provide opportunity for an independent assessment of the home situation.
- 9) **Special needs:** Children with SENs can be and are successfully home educated.

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Introduction

Education Otherwise (EO) is a charitable organisation which has been supporting home education and home educating families for over forty years.

For most parents the choice to home educate is a lifestyle choice, requiring significant commitment in terms of time and resources; it is not something which parents generally decide to do without a great deal of research and thought. The decision to home

educate can be made for a great many reasons, such as wanting to travel widely, wanting to spend more time together as a family, providing for a child's special interests, a child having special needs, being bullied, or simply being less well suited to a school environment.

EO frequently receives enquiries from parents about home education, often relating to how they should engage with their local authority. This has been particularly concerning for parents since the publication of the Elective Home Education Departmental Guidance for Local Authorities (EHEDGLA), in April 2019 and the more recent publication of Draft Statutory Guidance for Local Authorities on Home Education by the Welsh Assembly Government.

Home education is a legal choice

EO has obtained advice from Queen's Counsel (QC, which is a title given to a senior barrister) in order to help us to provide accurate advice to parents. The QC we instructed specialises in public law and education law, is a former part-time Chair of the Special Educational Needs and Disability Tribunal and a current 'A list' member of the Equality and Human Rights Commission's Panel of Preferred Counsel. The QC also trains lawyers and others, in education and public law.

This fact sheet is based on the advice that EO received from the QC, but parents should of course obtain their own legal advice and should not use this as a substitute for independent legal advice.



Education is compulsory, school is not.

Education is compulsory for all children in England and Wales from whichever date is soonest of the 1st January, 1st April, or 1st September after the child attains 5 years of age. Education remains compulsory to the last day in June, of the academic year during which the child attains 16 years of age (by the end of the summer holiday period).

Schools most usually accept children from age 4 years, but that child remains below compulsory school age and the parent can opt to not provide an education to the child until they become of compulsory school age.

The duty to ensure that the child receives a suitable education is a duty upon the parent, regardless of how the child is educated and this derives from the Education Act 1996 s7:

**‘The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—
(a) to his age, ability and aptitude, and
(b) to any special educational needs he may have, either by regular attendance at school or otherwise’.**

This means that home education is of equal status in law to school education and a parent may elect to home educate at any point during the child’s compulsory education years. In fact, home education is the default position, as a child does not become a registered school pupil until such point as a parent elects to register that child in a school.



(Please see below for Special School information and information relating to school attendance orders).

Qualifications

There are no specific qualifications which parents are required to hold in order to home educate their child.

Parents who home educate have wide ranging levels of academic and vocational qualifications and some parents have no qualifications at all, but are nonetheless able to home educate their child successfully.

Parents will often describe learning with their child and gaining knowledge as their child gains knowledge.

How to home educate

Home education takes many forms and can range from a highly structured approach, using the National Curriculum, to 'unschooling', or a mixture of methods. The parent can choose how to home educate their child, provided that the education is suitable to the child's age, ability, aptitude and any special needs they may have.

Home educating parents do not have to teach the National Curriculum, or specific subjects. In fact, home educating families will often refer to facilitating their child's learning, rather than 'teaching', as home education will often look very different to school education. Parents do not have to adopt a timetable and many families take quite a relaxed and informal approach, such as autonomous learning.

Families often find that using a project-based approach covers many different subjects and disciplines and helps to develop essential research skills. Children must, however, be enabled to be literate and numerate, in accordance with their age, ability, aptitude and any special needs they may have. Precedent defines this as being able to read, write and to use arithmetic. This need not be through structured lessons and can be achieved through a wide range of home education approaches.

Parents often adapt their education provision as they and their child become more accustomed to home education, so it is wise not to spend large sums of money on educational materials at the outset. Education Otherwise recommends that parents spend some time working out how their child learns best before committing to significant purchases.

One of the most important aspects of home education is that it allows the child to be treated as an individual, rather than a class member and to learn in a style best suited to them.

A parent can choose how to home educate their child, provided that the education is suitable for their child

Equipment and facilities

No specific equipment, or facilities are required to home educate a child. The child need not for example, have a desk, a set classroom, laboratory equipment, or set materials. However, a child will learn better if given a quiet area without distractions in which to learn.

Parents often worry about how their child will learn subjects for which specialised equipment is used in schools, such as science subjects, but they need not do so, as there are a great many experiments which can be undertaken at home, using basics found in the kitchen, or tool box.

Parents can access literally hundreds of learning materials, many of which are free of charge, on the Education Otherwise web site at:

educationotherwise.org.

These include bought in lesson plans, science kits, worksheets, videos and a wide variety of subjects and information. There is no need for parents to design learning plans if they do not wish to do so; the choice is for the parent to make.



Home education is very different to school education, in that a child can take as long as they wish to in learning about a topic of interest, rather than having their day broken up into lesson sections, or their learning set to start and end on certain termly dates.

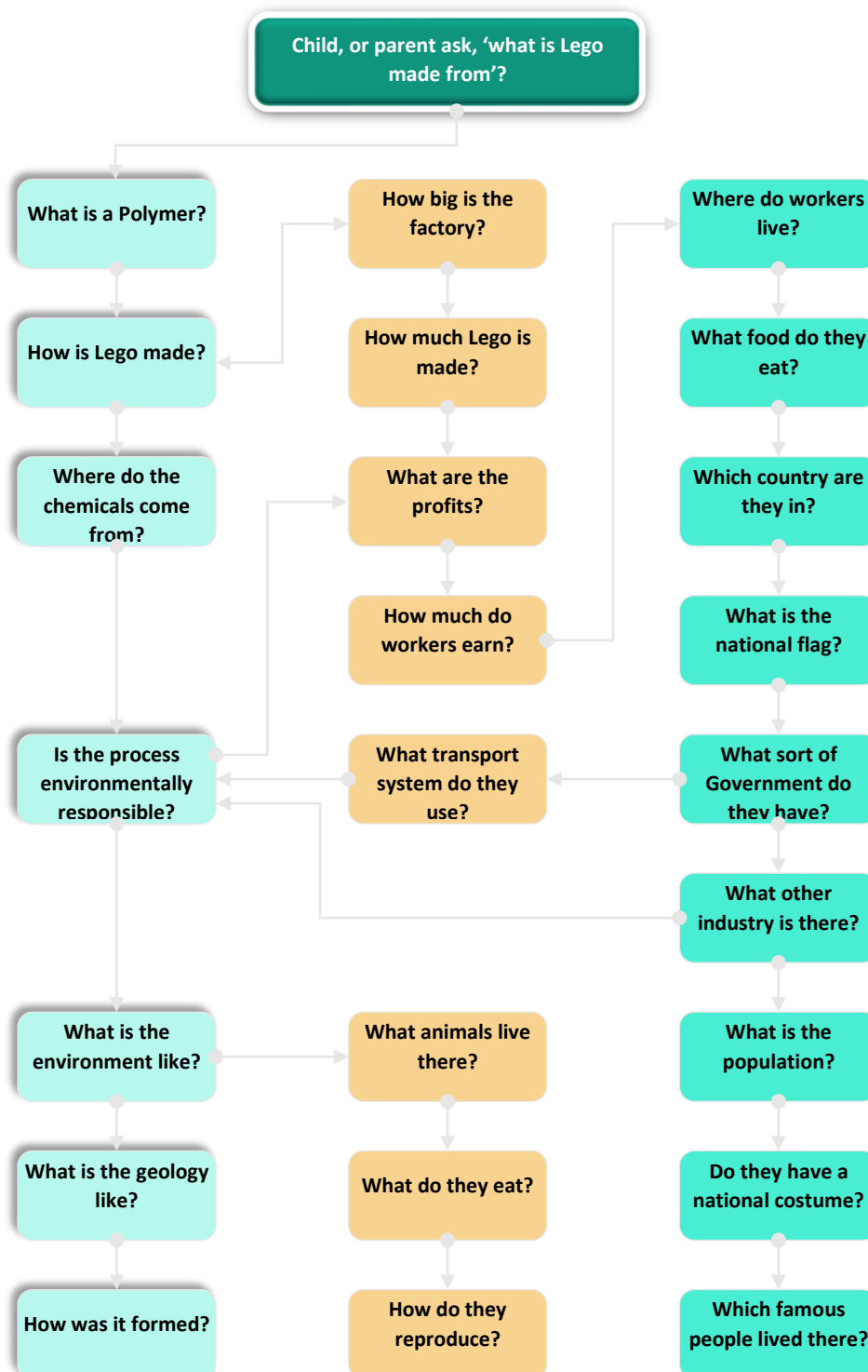
It is important to remember that schools educate large numbers of children in a standard way, which is why the National Curriculum was created. Home education is not usually subject led as school education is, but child led. This means that the child is the focus of the education, rather than the curriculum being the focus. By putting the child first, a home educating parent allows the child to reach their full potential, rather than a goal set by the National Curriculum.

Home education often includes subjects which are absent from school education such as: geology, music tuition, voice training, drama, human performance, parkour, flying, palaeontology and archaeology. Learning often takes the form of using topics as an introduction to numerous subject areas, rather than studying a subject and looking for topics within that subject, which are limited by the subject. 'Lego learning' is an example of this approach.

A parent is almost always best equipped to know their child and to support their child.

Lego learning

Arrows indicate that the Child researches the answer with support where appropriate.



The possibilities are endless and can include many subjects such as mathematics, English, geography, history, geology, music, social studies, art and science.

The social experiences of home educated children are different to those of school children, some parents would say that their home educated children's experiences are better.

Socialisation

How to arrange social opportunity for a home educated child is an understandable concern for those first deciding to home educate, which requires an understanding of what normal socialisation consists of.

Children in school spend most of their days in a group of others of the same age and similar background to themselves. Our society has developed to view that as the norm, but normal socialisation is very different to school socialisation. Home education provides a more natural form of socialisation for a child, as they will usually spend their time socialising within their families and their communities.

Home educated children do not usually socialise with children of set ages, but are more likely to spend time with people of wide ranging age, culture, ethnicity, socio-economic background and outlook. This form of socialisation is often considerably richer than a school can provide and some home educating parents consider this richness of social opportunity to be an important part of their decision to home educate. This is particularly true of those who home educate in order to travel widely and to experience different nations.

There are home education groups throughout the UK where families get together to socialise, and to arrange group learning opportunities and outings. In addition, home educated children may wish to join clubs such as scouts, cadets, special interest, or sports clubs.

Examinations

Home educated children can and do, sit examinations such as GCSE and A level, however, it can often be frustrating trying to arrange examinations and parents should do so in plenty of time.

Many home educating parents choose to arrange International GCSE (IGCSE) for their children, as these examinations are considerably less likely to involve a coursework element. IGCSE is offered by Edexcel and Cambridge examination boards.

The first step to arranging examinations is to find an examination centre which will accept the child. Most usually this is done as an external, or private candidate. There are several purpose designed centres in the UK, but these are usually quite expensive to use. More usually, parents make arrangements with local schools for their child to sit the examination; independent schools can often be more open to accepting private candidates than state schools, or academies would be. Regardless of where you make arrangements to sit the examinations, a fee will be charged. The fees are set by the individual examination centre and can vary considerably.

Notification

If the child has never attended school, the parent need not normally notify any individual, or organisation that they are home educating their child, or intending to home educate their child.

If parents do not live together, the parent with whom the child normally lives must discuss the decision with the child's other parent, prior to the child becoming of compulsory school age. This is because any person with parental responsibility is entitled to be involved in decisions about the child's education. A parent who disagrees with the decision by the parent with whom the child lives to home educate the child, can make an application to the Court for the child to attend school. Such proceedings can be stressful, expensive and distressing for child, so are usually better avoided.

If the child is enrolled at a mainstream school in England or Wales (not a special school), the parent must notify the head teacher that the child is now being home educated. This applies regardless of whether the child has an Education Health and Care Plan (EHCP) (ALN in Wales). The notification need not be detailed and can take any form, all that is required is to state:

**'Dear (Head's name),
Ref: (Name of child and date of birth)**

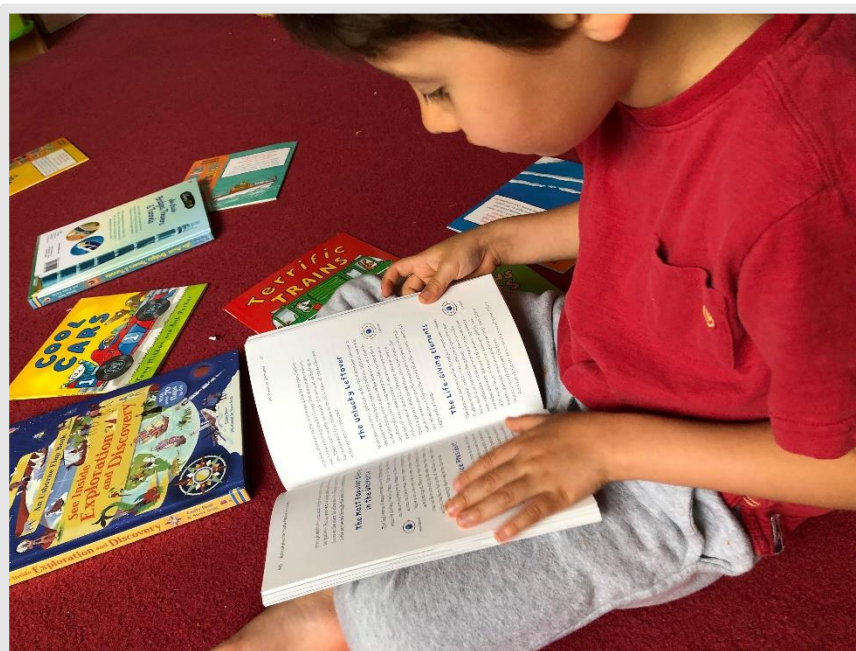
Please remove (child's name) from the school roll with immediate effect as (he/she) is now home educated in accordance with the 1996 Education Act s.7.

Please confirm receipt of this letter and that (child's name) has been removed from the roll in accordance with the Education (School Attendance (Pupil Registration) (England) Regulations 2024 r(9)(1)(f)). (In Wales this should be: The Education (Pupil Registration) (Wales) Regulations 2010 s(8)(1)(d))'.

Legally, only one parent is required to give notice to the school that the child is home educated and the school must act on that notice. However, as with children who have never attended school, the decision must be discussed with the child's other parent, if the parents no longer live together.

Schools must act on the notice of deregistration provided by the parent and may not delay removal of the child from the school roll. In England removal from the school roll must be done within 5 days by the school, in Wales the removal must be within 10 days.

The notification can take any written form, provided that it states that the child's place at the school is no longer required and that the child is now home educated.



The parent is not required to provide notification by a set form preferred by the school and is not required to meet with school staff to discuss their decision to home educate the child. Nor, is the parent required to contact their local authority, or give notice to their local authority of their decision to home educate their child, but may do so if they so wish.

The parent is not required to give reasons for deciding to home educate their child, but may of course choose to do so, if they so wish.

Different regulations apply for some children in special schools and where there is a school attendance order in place.

If a mainstream school, or a special school which a child attends under a private arrangement, refuses to remove a child from the school roll, they are acting unlawfully. Some schools suggest a 'cooling off period', but there is no basis in law to support that. Some local authorities also instruct schools to not remove the child from the roll, but again, that is not lawful.

If the school does not remove a child's name from the roll, parents cannot be fined, or prosecuted (regardless of whether the school, or local authority states otherwise), as the child ceases to be a pupil from the day that the school receives written notification from the parent that the child is home educated.

Should a school or local authority try to delay removal from the roll, parents should remind them of the relevant legislation given in the draft letter to remove the child.

Special schools

Children with special needs make up a significant proportion of home educated children and can be home educated successfully. However, if the child is attending a special school under arrangements made by the local authority, the local authority's consent is needed for the child's name to be removed from the school roll.

Consent is requested in writing and may not be withheld unreasonably by the local authority, but it is important that the parent includes details of how they will meet the child's special needs in their application. The local authority can refuse consent, but must give reasons for any refusal, which the parent can challenge.

If a child is at a special school under a private arrangement, the parent need only notify the head teacher, as with a child at a mainstream school.



A comfortable home environment can be a better learning environment than a school, particularly for a child with special educational needs



School Attendance orders

Where a child is enrolled at a school in accordance with a school attendance order, the child may not be removed from the school roll unless that order is revoked. Of course, this does not apply to normal transition times when the child would no longer remain in any event.

If the parent wishes to home educate their child and the child is subject to a school attendance order, they must ask the local authority to revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll.

It is unusual for local authorities to agree to home education for a child attending school under a school attendance order, but if the parent can demonstrate that education provision will be suitable to the child's age, ability, aptitude and any special needs they may have, the local authority may do so.

It is important to note that only a person with parental responsibility can register a child at a school; the local authority, or an individual without parental responsibility, even a biological parent, may not do so. If a school has registered a child without the authority of a parent with parental responsibility, the school should be advised that the registration is not lawful. It is important that the parent in this situation does not allow the child to attend the school, or agree to a 'trial' at the school, as that could be taken as registering the child.

Starting home education

Education must, legally, be suitable from the first day. However, the law does recognise that things may take a while to settle into a routine. This does not mean that a parent can have a period of no education, what it means is that the local authority should recognise that education may change significantly in the early stages.



Home educating families do not have to work to set hours, set days, or any specific periods. What they do have to do is to ensure that the education is full time and that it is suitable to the child's age, ability and aptitude, together with any special needs they may have.

There is no definition of full time, but where the local authority provides education at home for children who cannot attend school (EOTAS), that is usually for no more than five hours each week.

Independent educational establishments have to register as schools, if they provide education for more than eighteen hours each week and schools generally provide about 4 ½ hours a day for 190 days a year. That would be the same as a parent home educating for 16 hours each week, if they home educate every week.

It would be difficult to provide full time education in only five hours a week (EOTAS provision), but if the local authority is questioning how long a parent is educating for, it can sometimes be useful to explain that situation in order to show how favourably the home education provision compares.

It is important to remember that if a home educated child is over sixteen years old then child benefit rules require that they are in receipt of at least 12 hours of directly supervised education each week.

Local authority enquiries must be reasonable and proportionate

Local authority enquiries

Parents are not required at any stage to complete forms sent to them by their local authority, nor are they required to register with their local authority, although the local authority can keep an internal list (or register) of home educated children. Of course, parents are entitled to complete forms and register, if they so wish.

If the local authority writes to the parent sending forms, they are making an informal enquiry of the parent. Any enquiry must be reasonable and proportionate. What that means is that the local authority must not make demands of the parent, for anything more than the minimum information required to ascertain that the education provision is suitable.

There is no legislative requirement for the parent to respond, but precedent (case law) says that it is wise to do so. EO advises likewise, as if parents do not respond, the local authority can assume that education is not suitable and commence the school attendance process. In this situation, it is sensible for the parent to provide an outline of the home education provision to the local authority, including reference to their child's attainment.

If the parent has only very recently started home education, then they are not in a position to give details of attainment, but should give details about the child's current level of achievement, in order that they can refer back to this attainment further into the home education.

It is important that the parent explains what the child is doing and how they are learning, as the local authority is not required to accept a 'statement of intent'. What that means is that if the parent writes 'we are going to do X', rather than explaining what they are actually doing, it will not be sufficient for the local authority. It is also important that the parent includes a list of resources that they use and social opportunities that the child has.

It is often useful for a parent to obtain the child's school records at the earliest opportunity, as these can provide evidence of the child's standard of attainment prior to starting home education and act as a reference point to identify progress. The parent could simply ask for the records and the school may provide them, but if they do not do so, the parent can make a 'subject access request'. This is a letter asking for the material and stating that it is a subject access request. The letter should specify dates and the type of material required. Please note that the legal age for data consent is 13, so if the child is 13 or older, they should also sign the request.

The local authority will want to see that the education provision is efficient full-time education which meets the requirements of the Education Act 1996 s7, in that it is suitable to the child's:

'age, ability and aptitude, and to any special educational needs he may have, either by regular attendance at school or otherwise'.

The definition of 'efficient', which comes from precedent, is that the education 'achieves what it sets out to achieve'. Parents should also refer to the commonly understood meaning, which is that the education is well organised and competent. 'Well organised' does not mean that the education must be structured, but it does mean that parents should ensure that regardless of the approach used, the education must be supervised, include appropriate resources and provide the child with enough opportunity for learning, in order to help them to achieve their potential.



A 'suitable' education is an education which 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 option in later years to adopt some other form of life if (s)he wishes to do so. The education should help the child to become an independent adult who is able to take part in everyday life, where the child chooses to live. The education must be suited to the child, as an individual. It must also be appropriate for the child's age; if the child is 15, the child must not be working on basic reading, unless they have special needs.

The education must also be suitable for the child's aptitude and ability. These terms can be confusing, but in simple terms, aptitude is the child's potential, which is what the child can achieve with the correct education. Ability is what the child can do now. If the child has an

aptitude for maths, the child may be able to do mental arithmetic at five, but a parent would

not ask the child to multiply fractions. The child has an aptitude for maths and with the correct education, the child will achieve ability in maths.

If the child has special needs, the information provided to the local authority should demonstrate that the education provided is appropriate for those needs.

It is entirely up to the parent as to how they provide information about the home education to the local authority and Education Otherwise advises that this should be in the manner most suited to the family. The parent could meet the education officer at home or elsewhere, have a telephone discussion, write a report, send samples of work or provide information in some other way. However, if the parent is involved in Children Act proceedings with the child's other parent, it is often a good idea for them to accept a meeting with the local authority officer. This is because the local authority can provide independent evidence to the Court, or to the child's other parent, that the home education provision is suitable. Courts will often order a parent to obtain a report from their local authority and pre-empting this will be viewed positively in most cases.

The local authority may not stipulate how the parent provides information and what form that information takes. A local authority insisting on applying a policy requiring a home visit, samples of work, or a professional report, would be acting unlawfully. If a parent refuses to comply with such an unlawful policy, this is not cause for legal action, such as serving a school attendance order.



Parents are not required to but may refer to choose to:

- Meet the education officer or allow the education officer to come to the family home;
- provide a professional report to the education department, including a report by a professional actively involved with the home education provision;
- provide samples of the child's work or to provide photographs of the child's work.

This is because there is no legal basis for the local authority to demand such information. In Wales, this is not explicitly explained in home education guidance, but is nonetheless the legal situation. In England, the Elective Home Education Departmental Guidance for Local Authorities (EHEDGLA) confirms this:

'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)'.

Please note that the Welsh Assembly Government has recently published guidance for home education, which parents and some local authorities read as mandating meetings with parents and children, however, parents are free to decline a meeting. If the parent does so, it is essential that information is provided to the local authority by some other, suitable means.

Legal precedent means that there are cases where the local authority can insist on a home visit, but only in very unusual circumstances. They may not do so routinely, or simply because the child has had problems at school, poor attendance, has had social services support, or similar features to these.

Local authorities must consider, must properly understand and should normally act in accordance with published guidance, such as the EHDGLA, unless there is a reason not to do so in the particular circumstances of the situation. The local authority must be able to demonstrate that it has good reason not to follow guidance and there is significant legal precedent to support that position. Unless the local authority is able to demonstrate that there is good reason to depart from guidance, it is acting unlawfully if it does not follow it.

**Local authorities
must act within
the law and
adhere to
government
guidance**

If the local authority has a local policy which is consistent with guidance, then it is wise for parents to comply with that policy. If the local authority policy does not comply with guidance, it cannot insist that parents comply with that local policy. Some local authorities try to enforce their local policy regardless of how clearly they are advised that it is not lawful to do so. If the local authority does this, parents can take legal action against them.

Local authority does not accept that home education is suitable

If the local authority writes to the parent to state that the home education provision is not suitable, the parent should write to the local authority to ask for details of their specific concerns and to explain why they have made that decision. This is because it is unreasonable for a parent to be expected to address purported concerns, if they do not know what those

concerns are and it is reasonable to expect the local authority to explain its concerns. Parents should make clear that they will provide information to answer any concerns, as soon as the

**Local
authorities
should make
reasonable
efforts to
address
concerns
informally**

details are provided. The local authority must make reasonable effort to resolve any concerns informally, as if it did not do so and went straight to formal measures (and particularly if it had a policy to act in that way) the local authority would be acting unlawfully.

Once the parent has details of the local authority's concerns, it is important that they provide information to demonstrate that the education is suitable, in the areas which are under question. It is up to the parent how they provide the information, but a clear and informative explanation should be accepted as sufficient.

Formal notices and action

It is important for the parent to ask the local authority to detail why they are still not satisfied, in order that the parent can respond appropriately to the notice. When doing so, parents should make clear that they intend to respond to the notice, as soon as they have the information required to do so.

Once the parent has details of the local authority's concerns, it is important that they provide information to demonstrate that the education is suitable, in the areas which are under question. It is up to the parent how they provide the information, but a clear and informative explanation should be accepted as sufficient.

The local authority should explain to the parent what they are concerned about and provide the parent with a proper opportunity to respond and conscientiously consider their response.

The parent should take steps to answer the concerns the local authority has and if the local authority is satisfied at that point, they should not proceed to serve a school attendance order.

School attendance orders can be served by the local authority, if it is not satisfied with the evidence provided by the parent, after it has served a notice under s437. If a

school attendance order is served, the parent has a further opportunity to provide evidence to the local authority and should do so.

It is important to note that a local authority may not serve a school attendance order solely on the basis of a parent not following a local policy which is not lawful.

When sending further information at this stage, parents should ask the local authority to revoke the school attendance order. Parents should remember to provide evidence that education is suitable to their own child's age, ability, aptitude and any special needs they may have; different children will demonstrate different learning.

If the local authority declines to revoke the school attendance order, a parent can ask the Secretary of State for education to consider revoking it. It is the parent's right to make that request and the local authority should not try to discourage them from doing so. What that means in practice, is writing to the relevant officer at the DfE to provide all of the evidence the parent has and to ask that officer to revoke the order.

Unfortunately, the DfE rarely revokes a school attendance order and it may be that at



this stage the best solution is for the parent to allow the local authority to prosecute them, in order that an unbiased Court can look at the evidence and decide whether the order should be revoked, or not.

Enforcement proceedings

Legally, the local authority can prosecute the parent for failing to comply with a school attendance order, regardless of the fact that they have applied to the DfE for the school attendance order to be revoked, but if they did so, a court would probably want to know the outcome of the request, before reaching its decision.

It is important to remember that prosecutions are commenced by local authority officers and that the

Court has no information about the case other than the material provided to it by the local authority. Parents should provide their own information to the Court together with a well presented description of the education provision.

Parents find it very frightening to have enforcement proceedings served on them and can sometimes panic. In fact, in many cases receiving enforcement proceedings is an opportunity for the parent, as they can demonstrate to the Court that their education provision is suitable and the Court will take an independent view of their evidence.

The first step for a parent to take is to contact a solicitor who deals with criminal cases. It is

It is a defence to a school attendance order prosecution, to demonstrate to the court that the education provision is suitable

advisable to find one who is knowledgeable about home education, but they are unfortunately, quite rare. EO may not recommend a solicitor to a parent, but we may be able to provide details of solicitors who parents have told us were helpful to them.

If the parent is on a low income, they may qualify for legal aid representation and a solicitor will assist them to defend against the prosecution. If parents are not on a low enough income to qualify, they can instruct a suitable solicitor, but would have to pay the cost themselves. Of course, if the parent is successful in defending the case, they can ask the Court to order costs against the local authority and the parent should do so.

If the parent cannot afford a solicitor, or obtain legal aid, the first hearing should be straight forward. This is a 'plea' hearing. What is required at that hearing is that the parent attend on time, dress smartly in order to show respect to the Court and when asked by the Court 'how do you plead' clearly state: 'not guilty'. Of course, if the parent has not provided a suitable education, they should not have reached that stage without taking steps to do so.

It is a defence to an enforcement to show the Court that the home education provision is suitable, so it is important that the parent gives evidence to the Court to examine. They may not do this at the plea hearing, but will be given an opportunity to do so at the next hearing. If the education provision was not suitable previously, but is suitable at the time of the full Court hearing, the suitability is still a defence to the school attendance order.

If parents can afford some representation, the full hearing is when representation is most important. If parents are unable to be represented, they can take a friend into the court with them, but the friend may not speak on the parent's behalf, without permission. They can discretely assist the parent. A friend who attends to support someone in court is described as a 'McKenzie friend'. In a court hearing parents should speak clearly and explain what they have done to show that their education is suitable, referring to the evidence.

Parents can claim costs against the local authority if successful

It is important to note that published data indicates that more than two thirds of enforcement cases are won by the parents, making clear that parents can successfully defend against enforcement action.

If a local authority serves notices under the Education Act 1996 s437, or enforcement proceedings against a home educating parent, whilst that parent is on holiday from their usual address, the parent should send an urgent email to the local authority explaining that they did not receive any paperwork. This should be followed by a signed for letter. The parent should ask the local authority to treat the matter as an 'informal' enquiry and to give them some time to provide evidence. The local authority should agree to that, as if they did not do so they would not be acting reasonably. In that case, the parent should clearly explain to the local authority that they will be providing an education report within fifteen working days. It is important that they do provide the report.



If the local authority does not act reasonably and proceeds with the enforcement, the parent should explain to the Court in writing that they have not received the documentation prior to that date and have been given no opportunity to respond. The parent should ask the Court to dismiss the case. Courts often do not dismiss cases, but they will usually adjourn the hearing to give the parent time to respond to the LA.



Safeguarding and home education

Many parents become understandably upset at media and public conflation of home education with safeguarding concern for children. Home educated children are no more likely to be subject to genuine child protection concerns, than are other children. In fact, home educated children are less likely to be subject to child protection plans than are other children, despite considerably greater focus on home educated children.

**Home education
is not a
safeguarding
concern and
should not be
treated as such.**

It is not unusual for misguided members of the public, teachers, health visitors and others to refer a home educated child to children's social services, solely on the basis of that child being home educated. Such a referral on the part of a professional individual would be a breach of the parent's data protection rights. If a parent receives contact from a social worker, indicating that a referral has been made in respect of their home educated child, the first step to take in this situation, is to ask the allocated social worker to confirm in writing, the full reasons for their involvement.

If the local authority has formed a view, after considering all of the evidence available to it, that the child's home education provision is so unsuitable that it is causing the child to be neglected, they are required to refer that concern to children's social services. If the social worker states this to be the case, then they are involved with the family entirely lawfully.

If the social worker confirms that the only reason for their involvement is that the child is home educated, or that the parent has declined to follow a local authority policy which is itself unlawful, then they have no cause to be involved with the family. In that case, it is wise for the parent to make a formal complaint to children's social services, about the social worker's involvement.

If a complaint is made and not accepted, or acted upon, then the parent is entitled to raise a complaint with the Local Government Ombudsman (LGO), or to take legal action against the local authority for failing to comply with the law.

Data protection

If a parent receives forms to fill in from their local authority and decides that they are happy to do so, it is important that they check carefully to see if there is a data protection statement on the forms. Local authorities often put a generalised statement on their forms and it is easy to sign it without much thought to the meaning. Parents do not have to sign such a statement and can write to their local authority to tell them that they do not consent to their data being shared.

If parents do not receive forms, they can choose to include a data protection reference in their response to their local authority. It is enough to say:

'Please update your records to note that I do not consent to my data being processed, without my specific consent in each instance'.

The local authority should comply with that request, unless they can demonstrate that one of the exemptions to the GDPR applies.

Any data sharing by the local authority has to comply with the GDPR, the Data Protection Act 2018 and human rights law. A local authority can not rely on its own local policy to share data.

EO wishes all home educating parents and their children the very best for their futures.



The home education charity

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