



Response by Educational Freedom to the Call For Evidence for the Children's Wellbeing and Schools Bill

January 2025

About Educational Freedom

1. Educational Freedom was founded in 2013 and is a non-profit organisation offering information, advice and support about Home Education to everyone in the UK for free, without the need to sign up nor pay for membership. Our reach covers England, Wales, and Scotland, and we advise people from those considering Home Education, those already Home Educating their children, and those who need support when dealing with their Local Authorities. We provide support via email, through our website, or via our social media accounts. We have a strong social media presence not limited to Facebook, Instagram, Bluesky and TikTok. We work closely with many Local Authorities, both through our regular newsletter and to support them to improve their service.

This submission was prepared by Liz Jenkins, co-owner of Educational Freedom, with full support of Cheryl Moy, Michelle Zaher and Lucinda Barton co-owners of Educational Freedom.

Summary

2. Having a statutory register of home educated children is not required, because it will not achieve anything positive, for either Local Authorities or home educating families. It will be financially burdensome on the LA with no positive outcome.
3. The proposed register requires information far beyond sense and is overly burdensome. Most home educators would not be in a position to provide it.
4. The Local Authority already has satisfactory processes for ensuring the welfare of all children.
5. Children Missing Education are missed from the remit of the register and most of the Bill.
6. Enforced home visits will further exacerbate an already unhealthy relationship between Local Authorities and parents. These relationships are already strained as EHE staff are often not au fait with current legislation: they have

no training in the different styles of home education nor comprehensive training in SEND. With only around 5 LAs acting fully and transparently within current legislation, we expect massive misuse of this Bill.

7. The potential for abuse by Local Authorities is too great. Any content of the Bill that is kept, should not rely on secondary legislation to provide clarification and should not be ambiguous in order to prevent misuse.

8. Submission

9. Having a statutory register of home educated children is not required, because it will not achieve anything positive, for either Local Authorities nor home educating families. Local Authorities already know the details of most home educated children in their area, and are able to make informal enquiries to satisfy their duty of ensuring children are not missing from education. Further enquiries via the register would be a misuse of both the LA and parents' valuable time.
10. If there is a statutory register, despite it not achieving anything, it will need to be maintained. Given that some schools don't inform the Local Authority in a timely manner when a child deregisters from school (which enables them to claim funding for someone who is no longer a pupil), and the Bill gives the freedom for the LA to choose when to update the register, this could easily morph into monitoring of the education itself.
11. Education does not solely take place when sitting at a desk during arbitrary hours. People learn all the time and children are no different. It is onerous to expect home educating families to record every conversation that their child has with every person they meet, every website they visit, every group they attend or anything else that has contributed to their child's education. It is equally absurd asking parents to quantify the amount of time that the child is receiving an education. The current wording of the Bill allows LAs to add any criteria to their register that they see fit. This, from our experience, will allow the less honourable LAs to become extremely intrusive and could in effect ban many styles of home education.
12. The Local Authority has no duty to assure the suitability of home education. Section 7 of the 1996 Education Act¹ states the responsibility of parents as follows:
Duty of parents to secure education of children of compulsory school age.
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.

¹ <https://www.legislation.gov.uk/ukpga/1996/56/section/7>

13. It is the parents responsibility to ensure that the education being provided to their children, whether at school or otherwise, is suitable and efficient. However, if there is genuine concern that the child is not in receipt of a suitable education, the Local Authority can make informal enquiries, and if these are not satisfied they can take further action.
14. Current legislation provides ample opportunity for the Local Authority to take action should concerns become known about the suitability of the education, including serving a s437(1) and SAO if necessary. Changing the s437(1) and SAO process is unnecessary as the current system works well.
15. Regarding Safeguarding, Section 7.3 of the Guidance for LAs (2019)² explicitly states "There is no proven correlation between home education and safeguarding risk". Indeed, Graham Stuart, MP and previous Chair of the Education Select Committee, stated that home educated children are "peculiarly visible". This remains the same today.
16. Local Authorities do have a duty of care regarding the safeguarding of ALL children - and if there are any concerns, then they should involve Children's Services, using the processes and powers that they already have. Being home educated does not stop a referral being made, or an assessment taking place. There is no evidence to suggest a single home educated child was abused, neglected or significantly harmed where other services did not already have concerns or involvement.
17. It is important that children who are missing education are found and given the education that is their right (Article 28 of United Nations Convention on Rights of a Child³) and that no child is harmed through negligence of agencies. Unfortunately the register element of the Bill offers no protection for any of these children and does nothing to ensure services utilise legislation to protect children. Children known as home educated and in receipt of a suitable education should not be included in this Bill. In fact, Children Missing Education is not a term mentioned at all within the Bill.
18. Any legislation that is open to abuse is not fit for use and should be changed. Whilst secondary legislation can help provide the fine details of primary legislation, it should not be assumed that subsequent governments have the same motives as those who wrote it. As such, Educational Freedom recommend the following amendments to the Bill:

(Page and line numbers refer to the publication of the Bill)

Please note, we believe the register is not required at all, and should be removed from the Bill. Nor do we believe the s437(1) and SAO process needs

²

https://assets.publishing.service.gov.uk/media/66bf6d2bdcb0757928e5bd47/Elective_home_education_departmental_guidance_for_local_authorities.pdf

³

<https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>

to be changed. However, at minimum the points below should be considered.

19. Page 46 lines 33-37

As already established, it is the duty of parents, not Local Authorities to ensure that their child is receiving a suitable education and it is therefore the parent who knows what is in the best interests of their child. The current wording is an attempt to remove the primacy of parents without legitimate process and makes the unevidenced assumption that Local Authorities are well trained and knowledgeable about Home Education in all its forms⁴.

Given that many Local Authority employees do not understand most styles of home education, or have specific knowledge on every special need or disability, they are not an appropriate judge of whether “it would be in the child's best interests to receive education by regular attendance at school,” or “suitable arrangements have been made”. There are ample opportunities when a child is subject to a s47 for emergency orders to be gained if it is more appropriate for a child to be in school. However, to include s47 assessments as a category here is misguided. The majority of s47 enquiries do not turn into child protection plans and therefore could result in harm to children where home education was the better option for them.

20. Page 47 lines 3-4

There needs to be much clearer exceptions listed. Many schools currently disregard domestic abuse cases where one parent has informed the school to no longer share information with the other parent. They divulge addresses, and details that endanger the child and parent. Not all parents inform school that the other parent is no longer involved or a danger, therefore it should be made clear that it is expected the situation be discussed with the primary parent, to ensure sharing of data with the other parent is safe to do so.

21. Page 47 line 37

Allowing an automatic denial within 6 months of a previous attempt to home educate, does not account for the fact that personal circumstances, physical health or mental health, can easily change within that time frame. The result of this rigidity is that children may be forced to stay in an unsuitable school environment, damaging their wellbeing. Every request should be given due time and consideration therefore this section should be removed.

22. Page 49 lines 20-21

For most home educators it would not be attainable to quantify the hours learning takes place. It is implied here that home education is a taught-by-parent method, despite this being rare. In response to LA informal enquiries, home educators would usually explain how the education is full time. Hours cannot be quantified.

23. Page 49 lines 22-30

Home education can follow many styles, it is not always timetabled or structured, and certainly rarely to the extent the Bill implies. The level of detail required here would be impossible to provide in the manner it is expected. The consequences of these lines would be that most styles of home education would no longer be deemed suitable, and many organisations would remove access to home educated children. Current EHE enquiries are

⁴ <https://educationalfreedom.org.uk/home-education-research-survey-data-analysis-and-review/>

adequate for the LA to be assured that the child is not missing education and therefore the home education is suitable.

24. Page 49 line 30

Clarification is required to avoid extensive lists of information needing to be provided by the home educators. On any given day there could be dozens of websites used for educational purposes. The information a parent provides the LA in response to their informal enquiries is adequate to allay any concerns about the suitability of the education.

25. Page 49 Line 32

It is an unrealistic expectation for parents to be able to provide the information required here. Home educated children do not passively receive education, which implies the education is given to them, instead they experience it through all of their waking hours in many different ways. For most, it would not be possible to detail the number of hours with or without the parent present. During informal enquiries it is common for the parent to address how the education is full time and the LA can take action should it be necessary. Therefore, this category in the register is not necessary, and definitely not in the current format.

26. Page 50 lines 4-16

Many home educators are subject to malicious referrals to Social Services which, without context, could be flagged up on the register and cause issues that are unwarranted. Whilst most of these are closed immediately, occasionally they do result in CIN due to the social worker's misunderstanding of home education. It needs to be made clear that social workers can not use home education as a reason to instigate investigations and previously closed cases without any actual concerns should be ignored by the LA.

27. Page 50 lines 42-43

This section should be removed. Data retention should always be kept to a minimum. There is considerable evidence of LAs overstepping and making up their own rules, for example, issuing s437(1) and SAOs to force compliance. To allow an LA to make up their own criteria is dangerous and will cause harm to home educators. Any register should have clear restrictions and a legitimate aim for the information required across all LAs, leaving no room for misuse and harm.

28. Page 51 line 10

Data breaches happen regularly. From full-scale examples that hit the news, to schools and Local Authorities that divulge information to absent parents and other agencies. There needs to be more explicit information about how personal data will be protected and whether parents will be given the choice whether their data is shared. Additionally, there should be explicit financial penalties for Local Authorities that intentionally breach data. For example, we are aware of admitted breaches by a Local Authority where home educated family's details were routinely shared with schools without the family's knowledge or consent, when there were no concerns about the education being provided.

29. Page 51 line 20-25

It should not be on a parent to make themselves known to the LA, especially when there is no benefit to being registered. The majority of home educated children have been deregistered from school so are already on a list. The responsibility of a failure of a school to inform the Local Authority should not

be imposed upon parents. Furthermore, if the parent does not hold the information referred to in section 436C(1) it will take time away from educating their children, when trying to obtain it.

30. Page 51 line 26

Which parent is responsible for providing this information or do both parents need to provide duplicate information? Is it just the resident parent? And what happens when there is equal, shared care of the child?

31. Page 51 line 28

There needs to be clarification around the information that is to be provided and the frequency. The quantity of information being asked for has already been shown to be cumbersome, and there is nothing to prevent an overzealous Local Authority from making requests too often.

32. Page 51 line 30

Putting the onus on parents to inform their Local Authority every time any of the information that has been asked for changes is absurd. Would parents be required to provide details every time they use a new tutor, website or group for example? The parent would spend more time updating the register than educating their child!

Children with SEN may have their mental, physical or emotional needs change daily or weekly, and so need different approaches and use differing resources on an ad hoc basis. Having to report such changes to update a not-needed register only serves to prevent the parent from providing the individual education that their child needs.

33. Page 51 lines 37-42

Fifteen days is not always possible or a suitable time frame. Many home educators travel around the UK or abroad and do not have access to their mail for prolonged periods of time. They are focused on providing a suitable education for their child. Restricting their educational methods in case the LA makes demands to update the register is not acceptable.

34. Page 52 lines 23-25

All groups and activities that a home educated child attends (in person or virtually) are out of school activities and educational. Education is not limited to academics, but includes arts, music, sports, dance, etc. and often these groups occur in the evenings or weekends and are attended by both home educated and schooled children, without their parents actively supervising.

35. Page 52 line 31

There is no definition of what is meant by "structured education". Structured learning within home education has very different meanings to different families and different EHE staff. It can cover everything from a regular meeting in a park that has been facilitated by a parent, to small group music lessons, online tuition or an online short course, a classical dance class, Sunday School at a church, a museum trip with guided tour, and much more besides. This section does not allow for the many styles of learning. And offers no clarification on what is deemed out-of-school structured education.

36. Page 53 lines 3-5

The burdensome information from the person 'providing' the education could result in many groups, classes and educational outings being made unavailable to home educators. Many out-of-school activities do not differentiate between a schooled child and a home educated child, especially when carried out in an evening, weekend or school holiday. Requiring this

level of detail from these adults could prevent home educators from accessing these sessions either because they will no longer be offered to home educators or because they will incur an increased cost.

If this section is not removed in its entirety, it should not rely on secondary legislation to clarify who it refers to.

37. Page 54 lines 22-30

Unfortunately the information to be contained in the register is open to misinterpretation and bias. If a family is moving home to move away from a Local Authority who does not respect certain styles of learning, is xenophobic, or otherwise causing harm to the family (as is seen in many LA areas currently), the opinions and bias of the LA could follow them to the new LA. Restrictions on the data being gathered should ensure only factual information provided by the parent is included.

38. Page 55 lines 2-10

This section states that when a parent asks their Local Authority for support or advice, the LA must provide it in the form that the LA considers fit; it is very plausible that Local Authorities will offer the minimum or nothing at all. If support is important to the government then the Bill should be clear on what must be provided, if it is asked for. As such, as it stands this section is dispensable as it does not change anything.

Currently many LAs push school centric 'support' regardless of the style that best suits the child. If a family chooses not to follow through with the advice given by some LAs it is often seen that the LA takes offence and uses it against the family. Advice and information currently given is often out of date, not respectful of all styles of home education, inaccurate, whilst some LAs outright lie and others hide their bias behind misquoted legalities - all under the guise of advice. There should be protections in place that support and advice should be accurate and not come with strings attached, or risk to the home educator.

One area of support that has frequently been brought up is access to examinations for home educated children, both more commonplace exam centres around the country, and financial aid for those wishing to sit them.

39. Page 56

This section adds to the confusion for those who may not ordinarily consider themselves as providers due to the wide scope covered by 436E because "prescribed time" is not yet specified. Monetary penalties will impact and significantly reduce what educational opportunities are available to home educated children as providers will be cautious to not be subjected to not only the extra data and administrative burden but also short timeframes and potential financial penalties that are not even quantified as the specificity of level of penalty is not included in the bill itself but will be specified on a notice sent to the provider.

40. Page 58

The preliminary notice section is an overly complicated new process when current s437(1) duties are adequate and suitable when it appears a child's education is not suitable.

41. Page 58 line 4

"Must" needs to be amended to "may". A blanket statement is not appropriate because there must be exceptions to ensure the purpose of maintaining a child's wellbeing is always the primary consideration. If LAs have genuine

concerns over education and or safeguarding they can already select and apply for the appropriate supervision or care order; the educational setting is irrelevant.

42. Page 58 lines 12-15

Conditions C and D do not relate to suitability of education, rather, they relate to the register which has no consideration of the suitability of the educational provision. The two are distinctly different types of information.

43. Page 58 line 16

Some Local Authorities will publicly state that every child should be in school. Such bias means home educating families are at risk of receiving preliminary notices and SAOs despite providing a suitable education for their children.

44. Page 58 line 20

Referring back to page 58 line 4, it states LAs “must” serve a preliminary notice, however, serving a Preliminary Notice solely on the basis of s47 enquiry in itself will cause unnecessary harm and detriment to the child. This is further exacerbated when the DFE own statistics show the majority of s47 enquiries do not result in child protection plans. It is important to consider the outcomes of the s47 enquiry, as some would not affect the ability to provide a suitable home education.

45. Page 58 lines 38-42

Failing to be able to provide the lengthy and detailed information the register requires is not the fault of the parent or child because the register is flawed. If there are no concerns about the education then a preliminary notice is not a suitable action.

46. Page 59 line 33

Considering all settings that a child is educated in is not feasible. This could, in reality, include dozens of places in any given week. Some could be one off activities, others on a more regular occurrence. With no legislated explanation this could be open to misuse, confusion and harm. Home in the legal sense, is not an educational setting, nor are most other venues a home educator accesses. If considering “where the child lives” means accessing the home then the specific criteria and framework that allows this must be written in primary legislation. Due to the nature of the infringement into private and family life it is not appropriate to be left to guidance or secondary legislation. If however, it may mean postcode or accommodation type, then this also needs to be clarified to ensure it does not lead to direct or indirect discrimination against certain groups.

47. Page 59 line 38

As previously mentioned, the home is not an educational setting. It is the child and parent’s home, who enters the home should be the decision of the parent. This decision should not be allowed to be used as a concern. Parents wanting to protect their safe space should be respected. Unfortunately as EHE staff have no training on different styles of learning, or specific knowledge on different SEND and they have no specific duty or training to actively safeguard, this section will result in many unfair and unwarranted SAOs.

48. EHE teams are often understaffed, have a high turnover of staff, and are woefully under trained in home education. In 2023-2024 more than 1200 SAOs⁵ were served. Many of these were revoked as the education was

⁵ <https://educationalfreedom.org.uk/home-education-research-survey-data-analysis-and-review/>

deemed suitable or a court agreed the education was suitable. If all of these families were subjected to home visits or visits to all 'educational settings', this would be an excessive cost and one that will not be offset by any actual gain to the education or wellbeing of any child.

49. Page 59 line 42

If declining a 'request' leads to a SAO, then it is not a request but mandatory. This is effectively coercive access without any consideration for what the child's views and wishes are. A family choosing not to allow the EHE to conduct a home visit must not be used as a reason to proceed with an SAO. The parent has not failed to satisfy the LA, rather they have protected their child.

Entering the home as part of EHE enquiries is not a proportional action. Home educators have nothing to hide, but based on historical and current evidence of LA misbehaviour, they have everything to protect and we would hope this government would be focused on protecting children rather than allowing LAs to do harm. Therefore home visits should not be included as part of EHE enquiries.

50. Page 62 line 11

The proposed changes are unnecessarily complicated. The current s437(1) and SAO works very well when used correctly. Unfortunately as seen in our own FOIs some LAs use s437(1) to coerce families into complying with ultra vires demands. This should be a focus, not changing a suitable existing process.

51. Page 65 line 35 to page 66 line 3

Provides no assurance that LAs will take heed of the parent's view of what is in the child's best interests, or the suitability of the education.

52. Page 66 lines 8 - 12

Offers no real protection as the Secretary of State can refer back to the LA. The Secretary of State to date has a similar provision in S442 Education Act 1996 and although home educators have tried to use this, the mechanism has never worked as an effective form of checks and balances and the DFE have not been transparent when asked for information on this point in FOI⁶. Therefore actual oversight needs to be implemented to ensure LAs do not misuse their powers.

53. Page 67 line 12

"May" needs to be amended to "must". If a person is acquitted it cannot be correct that the school attendance order could potentially stay in effect. Particularly when read with page 67 line 9 as this would leave someone who was acquitted potentially with a bad LA on a continuous loop of prosecution even though they are acquitted because the court does not have to cease the SAO.

54. Page 67 lines 18-21

These punitive measures are excessive and disproportionate to the crime. Particularly in light of the current prison crisis where there are insufficient spaces for criminals that cause physical harm to individuals. Potentially, a parent who has accidentally given incorrect information on a register, respected their child's wish to not allow access to the home or share their private details, or to remain home educated and not be enrolled in a school

could result in a parent being imprisoned - the excessive punishment does not match the crime.

Children who are thriving in home education and want to continue to be home educated will be forced back to school because the family can not risk a parent potentially being imprisoned. This additional unnecessary punitive punishment of potential prison for a parent has no basis in protecting a child's wellbeing. Together with the prison penalty existing makes it more likely a parent who is effectively home educating their child will override their child's wish to stay home educated if issued with an SAO.