

Elective Home Education Guidance
- Amended by Home Educators
18th July 2023

Key to Amendments:

Sample - Amended /additional comments

~~Sample~~ – Suggested text to remove

Sample – Textual note

Elective Home Education guidance

Audience

Local authorities, **home educators**, local health boards, independent schools, and other interested parties.

Overview

This document provides statutory **and non-statutory** guidance for local authorities on arrangements for identifying children of compulsory school age who are resident in their area, who are not on any maintained school roll, not in education other than at school (EOTAS), not on any independent school roll, being educated at home by parents and also those not known to the local authority as receiving a suitable education.

Action required

Local authorities must have regard to this statutory guidance in carrying out their functions under section 436A of the Education Act 1996. This document contains both **statutory guidance (in Bold)** and non-statutory advice. **Note: Where the phrasing “must” is used, this indicates statutory guidance; all other guidance is non-statutory (as confirmed by the Department of education).**

Further information

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Additional copies

This document can be accessed from the Welsh Government's website at <https://www.gov.wales/elective-home-educationguidance>

Mae'r ddogfen yma hefyd ar gael yn Gymraeg.
This document is also available in Welsh.

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Introduction

About this guidance

- 1.1 This guidance has been developed to support local authorities in exercising their functions under section 436A of the Education Act 1996, which places a duty on local authorities to make arrangements **to enable them** to establish, **so far as it is possible to do so**, the identities of children in their area who are of compulsory school age who are not registered learners at a school and are not receiving suitable education otherwise than at a school. Local authorities **must** have regard¹ to this statutory guidance in exercising their functions ~~under that section.~~ **under section 436A of the Education Act 1996.**
- 1.2 This guidance also sets out the roles and responsibilities of both local authorities and **home educating** parents² under the current legislative framework.
- 1.3 This guidance is informed by the United Nations Convention on the Rights of the Child (UNCRC). It has been developed to ensure that all children in Wales, including those who are educated at home, receive their rights as accorded by the UNCRC.
- 1.4 ~~The general principles of the UNCRC guide how the rights of the child are promoted and protected through this guidance. These principles are:~~
UNCRC Articles should always be understood in their full context and applied only where it is appropriate and lawful to do so, in conjunction with current Education law.
Principles include:
 - non-discrimination (Article 2)
 - best interests of the child (Article 3)
 - right to life, survival and development (Article 6) ~~and~~
 - respect for the views of children (Article 12).
 - **respect for the responsibilities, rights and duties of parents (Article 5) and respect for parental responsibility (Article 18)**
 - **respect for the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child (Article 14 paragraph 2)**
 - right to privacy (Article 16)
 - protection from all forms of abuse in any environment (Article 19)
 - respect disabilities (Article 23)
 - right to rest and leisure (Article 31)

The right to an education

- 1.5 ~~Section 7 of the Education Act 1996 sets out the duty placed on parents to secure a full time, suitable and efficient education for children of compulsory school age, either by sending the child to school or through other means. One of these~~

~~means is for a parent to decide to home educate. Balanced against this decision, is the expectation that local authorities can assess the suitability of the education parents provide. In order for a local authority to carry out that function, it is not unreasonable for local authorities to ask parents about their approach and the education being delivered. When arriving at a decision about the suitability of the education provided, local authorities should base this on the parents' approach and the education being delivered, and not on the requirements of the basic curriculum for Wales/the Curriculum for Wales⁴.~~

Section 7 of the Education Act 1996 sets out the duty placed on parents to secure a full time, suitable and efficient education for children of compulsory school age, either by regular attendance at school or otherwise. Parents may choose to fulfil this duty by electing to home educate.

- 1.6 Article 28 of the UNCRC declares the right of all children to receive an education. Article 29 of the UNCRC declares that education should develop each child's personality and talents to the full. It should encourage children to respect their own and other cultures. These aims should also be read in the light of existing Education and Human Rights legislation, with particular reference to:

Protocol 1, Article 2 Human Rights Act : Right to education states:

No person shall be denied a right to an education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions although this is not an absolute right.

Education in Wales

- 1.7 [Our National Mission: high standards and aspirations for all](#) sets out the Welsh Government and the education system's priorities to ensure the success, high standards and wellbeing of all learners. The principles set out in Our National Mission apply to all children, including those who are home educated.
- 1.8 The Well-being of Future Generations (Wales) Act 2015 promotes a more equal Wales by supporting an inclusive, equitable education system where all children are supported to overcome barriers to learning and participation.

Home education

- 1.9 **Elective** home education is a term used to describe when parents choose to take a direct responsibility for educating their children **at home** instead of **enrolling them in a school**. **This education may take place within a variety of community settings, as well as at home.**
- 1.10 The home educating community in Wales is a diverse population with families choosing to home educate for a variety of reasons. These may include:
- ideological or philosophical
 - health (including emotional health and well-being and bullying)
 - cultural
 - religious
 - additional educational provision
 - language choice
 - length of school journey
 - awaiting a place in the school of their choice
 - flexibility and tailoring of approach.
- 1.11 Home education will reflect a diversity of approaches and allows for an individualised approach for children tailored to the specific needs and interest of each child. One method is not necessarily more valid than another and there is no one size fits all approach. Many home educating parents feel that they are able to meet their children's individual needs and learning styles more effectively than in a classroom. Home education can be a continuous learning experience wherever the child is.
- 1.12 Children who are home educated are not required to follow the Basic curriculum for Wales/Curriculum for Wales or any other specified curriculum or meet criteria for **the a** number of learning hours. The home education approach can be anywhere on a continuum from a formal, structured, schedule-based and mostly within the home environment, through to autonomous or child-led education. Moreover, it can vary over time and subject. For example, a child might move from a more autonomous approach when younger to one that is more structured for GCSEs (if the child chooses to sit them). Over the course of a year, home education may be more structured throughout the winter and more responsive to the weather or local opportunities during the summer. Some subjects may be delivered with a structured approach, while others **through an autonomous project, direct experience or informal discussion.**

- 1.13 Where local authority officers are asked to offer advice on the education provided, it is important **that** they recognise that the customs, practices and standards in school-based education are not necessarily relevant to home education. Any advice should be based on the individual circumstances of each child.

Legal responsibilities and rights

The right of parents to home educate their children

- 2.1 ~~In Wales, education is compulsory but attending school is not. If a child is home educated, there is an obligation on parents to cause their child to receive an 'efficient' and 'suitable' full-time education—this obligation is found at section 7 of the Education Act 1996⁴. Parents who decide to home educate their children must be prepared to assume full responsibility, and this may have financial implications.~~

In Wales, education is compulsory but attending school is not. According to the Education Act 1996, parents have an obligation to cause their child to receive an 'efficient' and 'suitable' full-time education. They may elect to discharge this duty by either sending their children to school (where the school assumes this duty on their behalf) or via home education (where the parent assumes full responsibility for that duty themselves).

- 2.2 Section 7 of the Education Act 1996 states:

'The parent of every child of compulsory school age shall cause him to receive efficient fulltime education suitable

a) to his age, ability and aptitude, and

b) to any special educational needs (in the case of a child who is in the area of a local authority in England) or additional learning needs (in the case of a child who is in the area of a local authority in Wales) he may have,

either by regular attendance at school or otherwise.'

- 2.3 Article 2 of Protocol 1 to the European Convention on Human Rights (ECHR)⁵ **states means that the wishes of parents are relevant, but this does not however mean they are the sole arbiters of what constitutes a suitable education** Article 2 of the ECHR states:

'No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions'

- 2.4 A guide on Article 2, part of the series of Case-Law Guides published by the ECHR⁶ states:

'The right to education guaranteed by the first sentence of Article 2 of Protocol no. 1 by its very nature calls for regulation by the State, regulation which may vary in time and place according to the needs and resources of the community and of individuals. Such regulation must never injure the substance of the right to education nor conflict with other rights enshrined in the Convention. The Convention therefore implies a just balance between the

protection of the general interest of the Community and the respect due to fundamental human rights’.

The same guide on Article 2 also states:

9. The two sentences of Article 2 of Protocol No. 1 must be read not only in the light of each other but also, in particular, of Articles 8, 9 and 10 of the Convention (Folgerø and Others v. Norway [GC], § 84) which proclaim the right of everyone, including parents and children, “to respect for his private and family life” (Catan and Others v. the Republic of Moldova and Russia [GC], § 143), including the concept of personal autonomy (Enver Şahin v. Turkey, § 72), “freedom of thought, conscience and religion”, and “freedom ... to receive and impart information and ideas” (Kjeldsen, Busk Madsen and Pedersen v. Denmark, § 52). In addition, Article 2 of Protocol No. 1 is also closely linked to Article 14 of the Convention and to the prohibition of discrimination.

- 2.5 Parents may decide to home educate their child from a very early age and so the child may not have been previously enrolled at school. They may also decide to home educate at any stage up to the end of compulsory school age. Compulsory school age is defined as 31 December, 31 March or 31 August following the child’s 5th birthday, to the last Friday in June in the year in which the child is 16 by or on 31 August. Outside of this period, there is no legal obligation in relation to education and so the Local Authority has no educational remit, even if the child would ordinarily be attending school at these ages. However, it would be best practice for local authorities to consider extending their support offer to post-16 home educators, should the family request it.
- 2.6 Whilst parents must cause their children to receive a full-time education, they do not need to follow school hours or term times as contact time is almost continuous and opportunities for learning can arise at any time. Home education does not need to look like school and may incorporate a variety of different approaches, including more autonomous and child-led learning.
- 2.7 Parents do not need any qualifications to home educate. They can educate their child themselves, employ a tutor, enrol their child for educational sessions or educate in groups with other home educated children, or any combination of these.
- 2.8 Where five or more learners of compulsory school age, or one learner of that age who is looked after, has a statement of special educational needs (SEN), an individual development plan (IDP) or an Education, Health and Care (EHC) plan, are provided with full time education at a single location other than at a maintained school, this arrangement may fall in the scope of an independent school. There is no legal definition of ‘full-time’ education. However, Welsh Government considers an establishment to be providing full-time education if it is providing education which is intended to provide all, or substantially all, of a child’s education. All independent schools in Wales must be registered with the Welsh Government. Anyone who conducts such an independent school that is not registered is breaking the law and is liable to a fine and/or imprisonment.⁷

- 2.9 Individual parents educating their own children will not be considered to have established a school which would be required to be registered as an independent school.
- 2.10 Where a child has previously been attending a school, when a parent gives notification in writing to the school of their intention to home educate their child, the name of the child must immediately, or on the date specified by the parent, be removed from the admissions register (Regulation 8(1) (d) Education (Pupil Registration) (Wales) Regulations 2010). The school (including those in the independent sector) must make a return (giving the child's name and address) to the local authority within 10 school days following the date of removal (regulation 12(3)).
- 2.11 If a child is registered at a special school under arrangements made by a local authority and parents wish to home educate, they should write to the school stating that they wish to educate their child otherwise than at school. The school will inform the local authority of the parents' wishes but will not remove the child's name from the register until agreement is received from the local authority.

Regulation 8(2) of The Education (Pupil Registration) (Wales) Regulations 2010 states:

'The name of a child who has under arrangements made by the local authority become a registered pupil at a special school must not be removed from the admission register of that school without the consent of that authority, or if that authority refuse to give consent, without a direction of the Welsh Ministers.'

- 2.12 Parents can home educate a child who has a statement of SEN or an IDP⁸.
- 2.13 Where it is brought to its attention or otherwise appears to a local authority that a home educated child (other than a looked after child) for whom it is responsible, may have ALN, the local authority must decide whether or not the child has ALN and, if it decides that the child has ALN, prepare and maintain an IDP and secure the additional learning provision (ALP) described in that plan (section 18.21 of the Additional Learning Needs Code (ALN Code)⁹). When a parent is communicating with the local authority as to the suitability of the child's education to their age ability or any ALN, the local authority will only act to make a decision on a child's ALN need if written confirmation of consent is provided by the parent, in accordance with Appendix B of the Home Educators' Handbook.
- 2.14 A local authority preparing or reviewing an IDP for a home educated child, should work with the child and child's parent to identify the appropriate ALP and then secure it, only if the parent/carer or young person request or consent to this. This involves identifying the type of ALP called for by the child's needs and whether the parent will be able to deliver it (either directly or by arranging for someone else to deliver it). Subsequently, if the parent is to deliver it as part of the child's home education, in order to secure the ALP set out in the IDP, the local authority will need to satisfy itself that it is being delivered. Where parents are not able to provide all of the ALP called for by the child's needs, the local authority will need to consider how the ALP can be secured. There may be various ways of doing this. For example, in some instances, it

could be through extra provision arranged by the local authority to supplement the education being provided by the parent at home, or it could be the provision of training to help the parent deliver the required ALP at home. In other cases, the local authority may need to exercise its education functions to secure education for the child at a particular school (section 18.23 of the Additional Learning Needs Code (ALN Code)). Local Authorities should be aware that some aspects of ALP may only be relevant to a school situation and are naturally unnecessary in a home educating environment.

- 2.15 The Additional Learning Needs and Education Tribunal (Wales) Act 2018¹⁰ (ALN Act) and the ALN Code will be implemented over four school years – 2021/22 to 2024/2025. During implementation, the additional learning needs (ALN) system will operate in parallel to the SEN system, which will gradually be phased out during the implementation period.
- 2.16 Until the child moves to the ALN system, the SEN legislation (Part 4 of the Education Act 1996) remains in force in relation to the child and special educational provision (SEP) must continue to be provided.

The ALN system refers to the system for supporting children and young people in Wales with ALN. The statutory framework for the ALN system is set out in the ALN Act and subordinate legislation, including the ALN Code. The ALN Code places requirements on schools, pupil referral units (PRUs), further education institutions (FEIs), local authorities and NHS bodies and gives guidance to them and others on the ALN system. Local Authorities must be mindful that consent of parent/caregiver or young person are required. Further information about the implementation of the ALN system can be found in the practitioner guide to implementation¹¹.

The ALN Act creates a new legislative framework for the planning and provision of support to children and young people with ALN.

Section 13 of the Act places a duty (subject to certain exceptions and with consent from the young person as in 2(d)) on a local authority, where it is brought to its attention or otherwise appears to it that a child for whom it is responsible has ALN, to decide whether the child has ALN. The duty is not specific to particular groups of children and would include those who are home educated.

Under section 14 of the Act, if a local authority decides the child has ALN, an IDP must be prepared and maintained for the child.

Section 14 of the Act also sets out that where a local authority maintains an IDP for a child or a young person, the local authority must *secure* the additional learning provision (ALP) described in the plan. This does not mean the local authority has to directly provide the ALP. Where, for example, the IDP sets out the ALP as being one-to-one support, this could be provided by a parent home educating the child. Where a child requires specialist provision, the local authority would need to decide whether it would be reasonable for the support to be provided in the child's home or whether, for example, the provision needs to be made in a school or a specialist educational setting. The local authority is responsible for ensuring the ALP is being delivered. This would be assessed as part of the IDP review undertaken by the local authority, which must be conducted annually or more frequently if appropriate.

It will be vital for home education officers and the local authority additional learning needs coordinators (ALNCOs) to develop close working relationships in order to ensure home educated children with ALN receive the support they need.

Children's rights

- 2.17 The Welsh Government has adopted the UNCRC¹² as the basis for all its work for children and young people. The Rights of Children and Young Persons (Wales) Measure 2011¹³ imposes a duty on the Welsh Ministers to have due regard to children's rights, as set out in the UNCRC. The Children's Rights Scheme 2014¹⁴ sets out the arrangements for Welsh Ministers to comply with the duty to have due regard to children's rights when exercising any functions.
- 2.18 Article 12 of the UNCRC provides a right for children to express their views, **should they wish to do so**, and for due weight to be given to those views, in accordance with the age and maturity of the child. **The right to speak must be a fully informed choice.** This does not, however, give children authority over parents. Local authorities, through their services supporting the participation of children, should consider how the individual and collective voices of home educated children can be heard, **including children expressing their opinions and concerns via their parents.**
- 2.19 Article 28 of the UNCRC states that all children have a right to an education and that primary education should be compulsory and free. Article 29 states that education should develop each child's personality and talents to the full. However, one of the underlying principles of the UNCRC is the best interests of a child, and Article 3 of the UNCRC requires all adults to think about how their decisions will affect children and to do what is best for the child.
- 2.20 The Children's Rights Wales website www.gov.wales/childrens-rights-in-wales has been designed to help practitioners, policy makers and stakeholders develop their understanding of children's rights and how to adopt a children's rights perspective in their work.

Local authority responsibilities

Section 436A Education Act 1996

- 2.21 Under section 436A of the Education Act 1996, local authorities must make arrangements to identify children in their area who are of compulsory school age and not receiving a suitable education¹⁵. **As stated in "Elective Home Education Non-Statutory Guidance for Local Authorities", 2017, "LAs are not responsible for the provision of EHE or under any statutory obligation to support it", their only duty, under section 436A of the Education Act 1996, is to make arrangements to identify children not receiving a suitable education.**

Section 436A of the Education Act 1996 states:

(1) A local authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but

(a) are not registered pupils at a school, and

(b) are not receiving suitable education otherwise than at a school.

Section 436(A)(3) states that “ ‘suitable education’, in relation to a child, means efficient fulltime education suitable to his age, ability and aptitude and to any special educational needs he may have (in the case of a local authority in England) or suitable to the child’s age, ability and aptitude and to any additional learning needs the child may have (in the case of a local authority in Wales).”

2.22 Local authorities should note that the caveat in s.436A ‘so far as it is possible to do so’ should be interpreted as meaning the local authority should do all that is reasonable, practicable and appropriate to identify children. See section 5 for more information.

Legal precedent has established that local authorities can make informal enquiries of parents for details of the educational provision for their child. *Goodred v Portsmouth City Council* states

“There is nothing remotely problematic in the defendant approaching a home-schooling parent...to request evidence that, if satisfactory, would enable the defendant to discharge its duty under section 436A without the need to serve a [notice to satisfy under section 437(1) of the Education Act 1996]

R. (on the application of Goodred) v Portsmouth City Council 16 November 2021

Home education policy and scrutiny

2.23 Scrutiny plays an important role in promoting continuous improvement in the way in which local authorities deliver their services to their communities. Local authorities should report to relevant scrutiny committees and elected members in relation to home education matters at least annually. Reports **should reflect the views and approach of home educating families, and** could **also** include topics such as (but are not limited to):

- numbers of home educated children and any identified trends
- issues to consider
- good practice
- risk assessment
- forward-planning
- factors contributing to home education (SEN/ALN, perceived bullying, unmet need, avoiding prosecution for non-attendance, etc.).

2.24 Estyn’s local government education services inspection framework¹⁶ states that inspectors may evaluate the local authority’s oversight of children educated at home by their parents, including children and young people with statutory plans for their education. Inspectors may consider whether the local authority provides useful guidance and signposts to support for parents educating their children at home.

- 2.25 Welsh Government expects that each local authority has a named senior officer with responsibility for home education policy and procedures, who will develop and maintain links with other work on issues such as children missing education, unregistered settings, vulnerable children, and welfare.
- 2.26 In addition, it is expected that home education officers work closely with other departments in the local authority, such as the education welfare service (EWS), additional learning needs (ALN) and EOTAS teams, to identify and support home educated children. The home education officer should work with relevant local authority officers to prevent de-registration where it is not a fully informed, voluntary choice. This will include acting as an intermediary between the school and the learner's family to help resolve any differences impacting the learner's education. Where a child has been de-registered, the local authority should offer to meet with the family as soon as possible to ~~determine the reasons for home education. Where appropriate, the local authority should assist the family in re-application for school places or EOTAS provision.~~ enquire if home education is indeed a voluntary choice, and that no mediation or alternative provision is required. Families are, however, under no formal obligation to meet or provide information as to the reasons for their decision to home educate.
- 2.27 As a matter of good practice, local authorities are advised to regularly review all of their procedures and practices, including those in relation to home education. Home education organisations and home educating parents and children should be involved in the review process. Local authorities should establish a clear and robust appeals process and complaints system for home educators. Information about how to contribute to elective home education policy reviews, and how to raise complaints about individual elective home education officers or any other aspect of the home education process, should be easily available on the local authority website, along with the authority's home education policy. Effective reviews, together with the sensitive handling of any complaints, will help to build and secure more effective partnership.

Using data to inform policy

- 2.28 The Welsh Local Government Association (WLGA) together with the Association of Directors of Education Wales (ADEW) and Data Cymru have undertaken a data capture exercise to develop a robust and consistent dataset on home education over time in each local authority. This has established a baseline of data on home education, which provides a minimum level of information recorded at local authority level and enables local authorities to identify patterns and trends of home education in their area and compare their own cohort's demographic and educational characteristics to the larger cohort across Wales¹⁷. This data should be made publicly available. Research and data collated by registered home education organisations/charities should also be given full consideration and used to inform policy and practice.

- 2.29 Local authorities are expected to use this data to inform the development of their policies and practices on home education, to better understand the reasons why some families decide to home educate, and to put in place the support and advice that some families will need. The local authority should also consider trends in home education in a wider strategic context, for example in identifying shortcomings in local school provision and alternative provision settings, or failures by schools to manage attendance and behaviour properly and meet learner's ALN needs.

Off-rolling

- 2.30 There is anecdotal evidence of instances where schools have put pressure on parents to take their children off the school roll to home educate. In some cases, the threat of exclusion has been used to encourage parents to remove their child from the school.
- 2.31 On no account should parents be encouraged to remove their child from the school register to avoid exclusion or prosecution for failing to ensure that their child has attended school or to improve school performance results.
- 2.32 It is not acceptable for schools to engage in this practice. Decisions made by schools should uphold the rights of children to an education (Article 28 and 29 UNCRC) and should be in the best interests of the learner (Article 3). Schools can only lawfully exclude learners when it is necessary and appropriate to do so. Welsh Government guidance¹⁸ makes it clear that the decision to exclude a learner should only be taken in response to serious breaches of the school's behaviour policy, and if allowing the learner to remain in school would seriously harm the education or welfare of the learner or others in the school. A permanent exclusion should only be used as a matter of last resort. **However, it should be noted that home education may also provide benefits and opportunities that are in the best interests of the child, where parents make a positive choice to assume this responsibility. Open discussion of all possible options, including any support the schools may be able to offer to the child either on or off-roll (such as allowing private candidate exam entry) should not be taken as encouragement to off-roll.**
- 2.33 Local authorities have a responsibility to advocate on behalf of all children **where requested and appropriate**. Local authorities are strongly encouraged to use the data available to them to identify trends of de-registration for the purposes of improving school performance results. ~~Where they can identify early signs of intention to de-register, local authorities should contact parents to discuss their reasons.~~ It is important to ensure that parents make a fully informed, voluntary decision to home educate, and that the views of children are respected so **that** they can participate in this decision making.
- 2.34 It is important that the ~~parental~~ **family's** decision to home educate is a positive choice. ~~and not considered as an option when children have disengaged from education prior to becoming home educated as there will be difficulties trying to engage with children who have already disengaged from education. The expectation in these instances would be that local authorities put in place support for these children, including EOTAS where appropriate~~ **If it is not a positive choice there is an expectation that the local authority will put in place suitable provision such as EOTAS, where appropriate.**

Home education can, for many, be a positive choice for the child, improving their engagement with their education.

- 2.35 Where there is evidence of schools pressuring parents to take their child off the school roll, local authorities should challenge schools and consider using their statutory powers of intervention.

School attendance orders (see section 5)

- 2.36 If it appears to a local authority that a child of compulsory school age is not receiving a suitable education, they must serve a notice in writing on the parent requiring that parent to satisfy them within the period specified in the notice (no less than 15 days beginning with the day on which notice is served)¹⁹, that the child is receiving such education. If the parent fails to satisfy the local authority within the period specified in the notice and the local authority considers that it is expedient for the child to attend school then they must issue the parent with a school attendance order (SAO) in respect of that child, which details the school the child should attend²⁰.

Education supervision orders (see section 5)

- 2.37 Under section 447, Education Act 1996²¹ if a parent fails to comply with an SAO a local authority must consider whether it would be appropriate (instead of or as well as instituting proceedings for the offence of failing to comply) to apply for an education supervision order (ESO) in respect of the child. Failure to comply with an SAO could lead to either a criminal conviction or the imposition of an ESO or both.

Local authority safeguarding duties (see section 7)

- 2.38 Local authorities should approach all cases where the suitability of home education is in doubt using their powers in the Education Act 1996. They should also be ready, if a **substantive** lack of suitable education appears likely to impair a child's development, to fully exercise their safeguarding powers and duties to protect the child's wellbeing. The overriding objective in these cases is to ensure that the child's development is protected from significant harm. See section 7 for further guidance.

Identifying children not known to local authorities

- 3.1 It is very likely there will be home educated children in a local authority area not known to the local authority. There will be a number of reasons for this, such as the child has never been enrolled in school, or a family will have moved to the local authority from another part of the country. **Parents are under no legal obligation to inform the local authority that their child is electively home educated, and no assumptions should be made about the educational provision based on whether or not the child is known to the local authority.**
- 3.2 Under section 436A of the Education Act 1996 local authorities must make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children of compulsory school age in its area who are not registered pupils at a school and who are not receiving a suitable education otherwise than at a school. Local authorities should be proactive in looking for ways to identify children **who may be in scope of a child who is missing education not known to them**, doing all that is reasonable and appropriate. **Local authorities should be compliant with data protection regulation and operate in accordance with all Human and Child rights protocols, where applicable.**
- 3.3 It is essential that local authorities have robust measures in place to quickly identify when a child is missing or potentially missing education and to follow through with effective tracking and enquiry systems to locate them. Welsh Government statutory guidance on children missing education applies²². ~~Children who are missing education are at risk of social exclusion and are unlikely to be able to achieve in the future.~~

Information sharing with partner agencies

- 3.4 Local authority officers can share information **(Note: please clarify with whom information is shared)** in accordance with the General Data Protection Regulation (GDPR) and the Data Protection Act (DPA 2018). ~~Local authorities should also consider sharing information wherever it is legal to do so.~~ **Local Authorities must only share information where it can be demonstrated to be necessary and where it is legal to do so.**
- 3.5 Information sharing is vital to ensure that all children of compulsory school age are identified. Therefore, local authorities should seek to develop information sharing protocols²³ (ISPs) which clarify the circumstances under which information can and should be shared between agencies that support children. However, the absence of specific information sharing agreements or consent does not mean that information cannot be shared between agencies **in individual cases of concern** where a **specific** child's well-being is at risk. It is still appropriate to share personal information without breaching the DPA 2018 provided that it is necessary to do so to carry out statutory functions.
- 3.6 The Wales Accord on the Sharing of Personal Information (WASPI) is a framework to help all service providers share personal data lawfully, safely and effectively. The accord is a common set of principles and standards, which support the sharing of personal information to deliver services. Accepting and signing the Accord is voluntary, but all public service providers are encouraged to join. All 22 local authorities have

signed the WASPI²⁴. WASPI provides templates of data sharing agreements such as ISPs and Data Disclosure Agreements (DDAs) for local authorities to use.

- 3.7 In order to ~~ensure that all~~ identify children who are not receiving a suitable education, it is vital that helpful if local authorities engage with other local authorities across Wales and England. In addition to information sharing in Wales, Welsh local authorities are expected to develop ISPs with English local authorities to ensure children who move across borders do not miss education.
- 3.8 Article 8 of the ECHR sets out the right to private and family life. The ECHR also sets out the right not to be denied education (Article 2, Protocol 1).’ Information sharing must be necessary, proportionate and in accordance with the law²⁵.

Joint working with partner agencies

- 3.9 It is essential that local authorities continuously work with partner agencies and have arrangements in place to identify children who are missing education. ~~not known to the local authority~~. Children may be known to other agencies, and not be known to the local authority in which they reside.
- 3.10 A form is generated by the police following any incident where a child or young person comes to their attention and where there is reason to believe that they are at risk. Most of these are where the police have been called to a domestic incident and children or young people are ~~implicated~~ affected either as members of a household, as witnesses, or as persons involved in the incident. Where no school is identified on the form, social services should ensure that this matter is referred on to the EWS to be cross referenced against local authority records to determine if the child is on roll at school, or receiving education otherwise than at school, or ~~registered as~~ known to be home educated. If none of the above can be determined, then the local authority will may need to undertake further investigation to determine whether the child is missing education.

Note: Please rethink this policy which risks vulnerable families avoiding asking for help from the police if wanting to protect their privacy. This policy can thus endanger wellbeing and deprive these families of their rights to confidential help from the police if victims of crime.

Truancy sweeps

- 3.11 Those taking part in truancy sweeps should be aware that there may be valid reasons why school-age children may be out of school. Truancy sweeps are highly effective in locating children outside the education system, including those who go missing from education and children who are missing education. Professionals taking part in truancy sweeps may encounter children who are home educated and therefore not in school. The local authority must have on their website a clear policy outlining details of truancy sweep procedures including young people’s rights. It is helpful if photographs and identities of truancy officers are made known to the local home educating community in order to ensure that a child feels informed and safe to communicate with any professionals conducting truancy sweeps. In all cases, the safety and wellbeing of the child should be paramount; children should be treated with respect, and no further action should be taken where children indicate they are home educated unless there is a valid reason to doubt this is the case. If

professionals **involved in truancy sweeps** come across a home educated child, they will need to notify the relevant local authority **only if there is legitimate reason to believe the child may be missing education**. Home educating parents need to be made aware that professionals involved in truancy sweeps may need to verify any information given to them in these circumstances. **Truancy sweeps should only be conducted by appropriate personnel, such as local authority officers or the police. It is not the role of other professionals, such as health care workers to identify home educated children. (Note: Please clarify what is meant by 'professional' in this section.)**

- 3.12 ~~Truancy sweeps may identify children who are not on a school roll and who may be from families who are reluctant or refuse to engage with statutory services. Truancy sweeps, when arranged appropriately, can therefore be a useful way of making contact with this group.~~ **Note: Please remove this point as it contains highly subjective and discriminatory language.**

Transition points

- 3.13 Local authorities should be cross referencing school admissions data with the live birth **and death registers** to identify reception aged children not registered at a school. It is important that local authorities ~~try to reach as many potential first admission learners as possible, and~~ have data sharing agreements to facilitate cross checking of children entering statutory provision against partner databases (such as early years, childcare teams and health). Where a school place has not been taken up, the EWS should be informed in order to make further enquiries. Some families may need help with the admission process; some families may have failed to follow up an application, or not secured a place at their preferred school and not accepted another school place offer. It is important local authorities have procedures and strategies in place to follow up in such circumstances and reduce the opportunity for children to go missing from education. Where it has been identified that a family are home educating, support and advice where appropriate can be made available should the family want it.

Children missing education

- 3.14 The purpose of the section 436A duty is to make sure that children missing from education are identified quickly and that effective monitoring systems are put in place to ensure that the child gains access to the most appropriate provision as quickly as possible²⁶.
- 3.15 These enquiries may not always lead to establishing the location of the child but will provide a steer on what action should be taken, for example, to contact the police, children's social care and, in cases where there may be concerns for the safety of a child who has travelled abroad, the Foreign and Commonwealth Office.

School to School

- 3.16 School to school (s2s) is a secure data transfer website available to schools and local authorities in Wales and England. It was designed to enable common transfer format (CTF) files to be sent from, and to, any maintained school. All maintained schools in

Wales have a statutory responsibility to use the common transfer system (CTS) for Wales and England to transfer specific information electronically, via the 'school2school – s2s' website when a pupil joins or leaves a school²⁷.

- 3.17 When learners move from one school to another, s2s is the mechanism for keeping track of them, ensuring they are not lost from the system, and that any significant information, for example special educational needs (SEN)/additional learning needs (ALN) or details such as being a child who is 'looked after' are immediately available to the new school. A CTF must be created for every learner who leaves a school, even if the destination is not a maintained school in Wales or England or the destination is not known.
- 3.18 If the child or young person has left school without a known destination and both the school and the EWS have followed procedures and all 'reasonable efforts' to locate them have been unsuccessful, then, after four weeks, the school, in consultation with the local authority should remove the child or young person's name from its roll and create a 'lost pupil' CTF with XXXXXXXX as the destination. This CTF should then be uploaded onto the s2s secure site where it will be held in the 'Lost Pupil Database' which will make it possible for LAs to track future provision and so help to ensure that children do not remain 'lost'.
- 3.19 Local authorities should regularly check the 'Lost Pupil Database' for children who are potentially missing education and/or may be home educated.

Efficient and suitable education

- 4.1 The approach home educating parents take to ensure their child is receiving a suitable education is likely to be dictated by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision. Progress, over the long term, may take a variety of forms.
- 4.2 The duty of a parent to secure suitable and efficient education is set out in section 7 of the Education Act 1996 '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 (in the case of a child who is in the area of a local authority in England) or additional learning needs (in the case of a child who is in the area of a local authority in Wales) he may have, either by regular attendance at school or otherwise'.²⁸
- 4.3 According to case law, the content of the provision must be suitable such that it:

'equips a child for life within the community of which he is a member...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.'

(R v Secretary of State for Education, ex parte Talmud Torah Machzikei Hadass School Trust, The Times, 12th April 1985)

- 4.4 ~~In Harrison & Harrison v Stevenson, the judge defined the outcomes of a suitable education as:~~

~~—To prepare the children for life in a modern civilised society; and—
To enable them to achieve their full potential.
'in our judgement 'education' demands at least an element of supervision; merely to allow a child to follow its own devices in the hope that it will acquire knowledge by imitation, experiment or experience in its own way and in its own good time is neither systematic nor instructive... such a course would not be education but, at best, child-minding. We should not, in the ordinary case, regard a system of education as suitable for any child capable of learning such skills, if it failed to instil in the child the ability to read, write or cope with arithmetical problems, leaving it to time, chance, and the inclination of the child to determine whether—if ever—the child eventually achieved even elementary proficiency in those skills'.
(Harrison & Harrison v Stevenson [1982] (QB (DC) 729/81)~~

(Note: This example of case law from 1982 has been removed as is not in line with modern day approaches to and views of progressive education. A local authority should be able to establish effective parental involvement in their child's education based on the information that is provided by the parent and could seek to undertake further necessary enquiries into the supervision of education only when evidence of a need to do so is warranted.)

There is increasing research that indicates that a wide variety of approaches can be effective in aiding a child to be effectively educated. Tailored education allows for the best start in life. Some children may prefer to learn via an instructive approach, whilst others may benefit from a more autonomous approach. There is no one size fits all approach. As part of the informal enquiry of a parent's provision, the local authority may wish to ask the parent to share their educational philosophy to enable them to understand the individual approach the family use to ensure their child is provided with opportunities to learn that best suit the child.

- 4.5 An efficient education is one that achieves what it sets out to achieve. It is important that this concept is not confused with suitability. A wholly unsuitable education can be delivered efficiently but would still be unsuitable.
- 4.6 There is currently no legal definition of what 'full-time' education is. Children who attend school normally receive between 22 and 25 hours of tuition a week for 38 weeks of the year, but this measurement of 'contact time' is not ~~always~~ relevant to home educating families where there can be almost continuous one-to-one or small group contact and education may take place outside normal 'school hours'. ~~However, education, which is manifestly not occupying a significant proportion of a child's life, will probably not meet the section 7 requirement.~~ Education in a one-to-one or family environment is typically more time efficient than classroom-based education.
- 4.7 Regardless of the approach taken to deliver a suitable education, it is important for local authorities to ~~consider whether~~ respect that the approach is suited to the needs of the individual child which means an efficient education suitable to the child's age, ability and aptitude and to any SEN/ALN the child may have.
- 4.8 Learning can take place in a range of locations, including the home. It can also be supplemented through other experiences such as visits to places of interest and facilities such as libraries, museums and galleries, and social opportunities. A feature of home education is the ability to be flexible and adapt to events and circumstances on a daily basis.
- 4.9 It is to be expected that, in some circumstances, there will be less or no formal planning of learning, in contrast to structured planning in schools. Learning activities will be very different to those in schools. Written work may not feature in the learning as much as it does in school as one to one learning may reduce the need to use written work as a tool for measuring understanding. However, the value of writing skills should not be overlooked and should be suitable to the child's age, ability and aptitude and to any SEN/ALN the child may have. Writing skills may develop at a later age than in a school environment and be in accordance with a child's interests and individual development.
- 4.10 Whilst it would be unrealistic to make a judgement about the suitability of home education provision within a few days of commencement, families should be aiming to offer satisfactory home education from the outset, with the exception of any holidays, and to have made preparations with that aim in view.

Case law states that:

'Essentially the duty of an education authority in carrying out that function is ... simply to give the applicant a fair and reasonable opportunity to satisfy it as to the matters set out in the Regulation'.

(R v Gwent County Council (1985))

- 4.11 ~~Assessing the suitability of education~~ When making informal enquiries to aid in identifying children who are not receiving a suitable education, the enquiries should not be about measuring the child's attainment or testing the child. The customs and practices of school-based approaches may not be relevant for some home educating families, and home education provision can be unconventional. Local authorities need to ~~be assured~~ identify cases where the parental provision of education will not cause the child to receive a 'suitable' education. The ~~evidence~~ information provided by parents should demonstrate that the education actually being provided is suitable and not simply a statement of intent.
- 4.12 ~~Until the~~ Where a local authority is unable to identify if a child is being electively home educated ~~assured the home educated child is receiving a suitable education~~ then the child is potentially within scope of the section 436A duty and Welsh Government statutory guidance on children missing education will apply²⁹
- 4.13 Local authorities should be mindful that home educators are **not** required to:
- teach the Basic curriculum for Wales/Curriculum for Wales
 - have a timetable
 - have premises equipped to a particular standard
 - mark work done by their child
 - set hours during which education will take place
 - have any specific qualifications
 - cover the same syllabus as any school
 - make plans in advance
 - observe school hours, days or terms
 - have formal lessons
 - reproduce school type peer group socialisation
 - match school age specific standards.
- 4.14 ~~However, if the home education provided does consist of aspects of the Basic curriculum for Wales/Curriculum for Wales or independent school standards, this could indicate that the education is suitable.~~ Home Education provision may include aspects of a variety of educational curricula, for example, the Basic Curriculum for Wales/Curriculum for Wales, Charlotte Mason, Montessori, or other approaches. However, as families are not obliged to follow a recognised curriculum, doing so should not be favoured over other methods of provision.

Suggested characteristics of a suitable and efficient education

- 4.15 A suitable education ~~would~~ may include provision in numeracy, literacy and language skills, suitable to the child's age, ability and aptitude and to any SEN/ALN the child may have. Suitable education is not simply a matter of academic learning but ~~should~~ may also involve ~~socialisation~~ opportunities for the child to interact with others and to develop social skills. These are essential in preparing the child to participate and function in society.
- 4.16 Literacy and language skills should correspond with the child's general ability (including any SEN/ALN they have) ~~and enable the child to:~~
- ~~Acquire listening and speaking skills~~
 - ~~Acquire reading skills which include vocabulary and comprehension~~

- ~~Acquire writing skills which include grammar, punctuation and spelling.~~ and reflect the child's individual stage of development. The focus may differ from a school environment, with more opportunities for oral than written communication.
- 4.17 Numeracy skills should correspond with the child's general ability (including any SEN/ALN they have) and reflect the stage of development the child is at.
- 4.18 ~~In their consideration of parents' provision of home education, local authorities should reasonably expect it to include the following features:~~ Parents may choose to include many of the following features as part of their education provision, however as educational provision is unique and tailored to each child some features may not be relevant for every family:
- consistent involvement of parents or other significant carers
 - respond to the needs and the best interest of the child, taking into account areas of learning that interest the child, and should enhance the child's potential
 - ensure the child has opportunities to engage in a reasonably broad range of learning experiences – this may not be in a linear, structured way often adopted in schools, but may happen in a more organic way and over an extended period of time.
 - provide opportunities to develop personal and social skills to help prepare them for later life and become engaged citizens
 - ensure the child has opportunities to develop basic skills (taking into consideration any SEN/ALN they have)
 - presence of a philosophy or ethos ~~with parents showing commitment, enthusiasm, and~~ which recognises ~~recognition of~~ the child's needs, attitudes and aspirations
 - opportunities for the child to be stimulated by their learning experiences
 - involvement in a broad spectrum of learning opportunities and activities appropriate to the child's stage of development and personal interests
 - access to appropriate resources and materials
 - the opportunity to develop digital literacy, at an age the family considers appropriate
 - the opportunity for an appropriate level of physical activity and play
 - the opportunity to interact with other children and adults.

~~Assessing suitability of education~~ The Local Authority's informal enquiries into educational provision

- 4.19 It is important that local authorities understand ~~and respect family~~ ~~parental~~ motivations and how their circumstances and experiences have influenced their decision to home educate. Home educating ~~families~~ ~~parents~~ will have different reasons for ~~choosing to home educate rather than utilise school provision~~. These reasons can change over time, and in some cases, these reasons will be complex and may have had a profound impact on the family.
- 4.20 Therefore, when making ~~informal~~ enquiries about provision of education local authorities should be sensitive to the family circumstances, seek to understand why the family chose to home educate and look at provision on a case-by-case ~~basis within the framework of this guidance and the Equality Act 2010~~. Home education is unique for each child and parents are able to offer their child an individually tailored experience, suitable to the child's age, ability and aptitude and to any SEN/ALN the child may have.
- 4.21 In order for a local authority to ~~satisfy itself of the suitability of education provided by the parents~~ ~~identify children who are not receiving a suitable education~~, the local authority should³⁰ ~~may offer to see and communicate with the child. In the absence of seeing and communicating with the child, it will be questionable whether the local authority can reasonably assess suitability of education and to know if evidence of the suitability of the education provided by the parent relates to that child. For example, whether the evidence provided can reasonably be said to have been produced by that child or be about that child.~~ Seeing and communicating with the child ~~will~~ ~~may~~ provide an opportunity for the local authority to ~~better~~ understand how the child learns and what areas of learning they are interested in. ~~Parents and Gillick³⁴ competent children are not, however,~~ ~~However, parents and children are not~~ obliged to meet with the local authority and are free to decline a meeting if they so wish.
- 4.22 ~~There may be occasions where it is not in the best interest of the child for the local authority to meet with them. or in some circumstances the local authority can conclude without seeing and communicating with the child. that they are receiving a suitable education. Where such a conclusion is reached an appropriate date for the decision to be reviewed should be set, taking into account the individual circumstances of the child.~~ ~~There will be occasions where it is not in the best interest of the child for the family to meet with the local authority, such as (but not limited to) where this may cause undue stress or anxiety to the child or family, or in cases of illness. In such cases, the local authority should make informal enquiries to ascertain suitability by other means. Local Authorities are reminded that meetings are not mandatory and that parents are in the best position to decide on how to provide any information on their educational provision.~~
- 4.23 All children have a right to participate in decision making that affects their lives and their views should be given due weight in accordance with their capacity as per Article 12 of the UNCRC³² ~~This will help the local authority to meaningfully take into account the views of the child when making a judgement as to the suitability of education.~~ ~~Where a child elects to meet with a local authority, or otherwise share their views and opinions with the local authority, this should only be done freely and~~

with the full consent of the child. This must also be a fully informed choice on the part of the child, with understanding for all involved of the potential consequences of such communications. The local authority must respect both a child's right to speak and to choose not to speak.

- 4.24 If a child decides they wish to share their views with the local authority, and information and views provided by the child cast doubt on whether the education provided is suitable, then that opinion ~~must be handled in an appropriate way. might be part of the information leading to a conclusion by the authority that the education is not suitable.~~ If a child chooses to share their opinion with the Local Authority, the Local Authority needs to ensure that the child's voice is given appropriate weight when taking the family's circumstances into consideration. If it is clear that a child does not wish to be educated at home although the education provision is satisfactory, the local authority ~~should~~ could, with the child's permission, discuss the reasons for this with the ~~parents and encourage them to consider whether home education is in the best interests of the child when clearly it is not what the child wants. The local authority should attempt to help the family reach a common view on what is best, for example, by sign posting to or offering family mediation services.~~ family, and discuss the options available to them.
- 4.25 Local Authorities can provide opportunities to support parents in their education provision, ~~should the family want such support. Seeing the child to discuss their education provision and access to resources~~ This support should accords with a number of articles in the UNCRC such as ~~respecting parental responsibility,~~ a child's right to an education and to fulfil their potential, including their rights to express their views and to receive appropriate information in order to make informed choices, to support and provision, to play and leisure activities and to be kept safe.
- 4.26 If a family decides to ~~Such a meeting with their Local Authority, this~~ does not have to take place in the home, it can take place in a mutually agreed location. ~~These meetings could also include an advocate such as another home educating parent or other support service if the family so chooses.~~ These meetings are ~~could be~~ an opportunity for local authorities to discuss the education provided and any support the family may need. They ~~will~~ could also provide an opportunity for the local authority to develop a positive relationship with families and ~~may~~ provide an opportunity for home educated children to share their views on the education they are receiving, ~~should they wish to do so.~~
- 4.27 ~~The A meeting should not be the only method for satisfying the local authority of the suitability of education. A local authority could — if it thought appropriate to do so — send a pre-meeting questionnaire before meeting home educating families for parents and, where appropriate, for children to fill out together. This will form part of a more holistic approach to assessing the suitability of education. The local authority can use the response to the questionnaire to inform their discussion with home educating parents and children. Parents may choose to respond to a local authority's informal enquiries into education provision in a variety of ways.~~
- 4.28 ~~As part of these meetings, the local authority should ask to see examples of learning, to determine the suitability of the education provided. A variety of work both complete and incomplete to varying standards can be sought and discussed with the parents and child to learn about the child's experience of learning. This all reflects learning and progress~~

~~made by the child.~~ When responding to the local authority's enquiries into education provision, parents may choose to provide the local authority with examples of learning. The choice to provide examples of learning is at the discretion of the parent and is not a prerequisite at the informal enquiry stage. 'Examples' of learning opportunities should not be confused with 'samples' of a child's learning. Although samples may be provided, they are not required by law and must only be given by a parent with a child's consent, in accordance with their rights.

4.29 ~~It would be difficult to determine the sufficiency of suitability of education from one or two examples of work.~~ Local authorities will need to bear in mind that parents will have detailed knowledge of how their child is progressing, and their views and opinions on the progress of their child should be ~~sought and~~ given sufficient weight. ~~when assessing the suitability of education. The views of the child about their education should also be sought and given appropriate weight in local authorities' considerations.~~ The views of the child about their education may also be sought and, where supplied, should be given appropriate weight in local authorities' considerations, however the child is under no obligation to share their views unless they choose to do so.

4.30 ~~Local authorities~~ A family may want to discuss with ~~the Local Authority~~ parents:

- the main areas of learning for which the parents are making provision
- what principle or philosophy underpins the learning
- what thought has been given to the learning needs of the child, and how these needs will be met over time and the approach adopted, such as autonomous learning or structured or semi structured.

Children with special educational needs (SEN)/additional learning needs (ALN)

4.31 Children ~~with~~ considered to have SEN/ALN, have ~~significantly greater difficulty~~ different ways of learning than ~~the majority of~~ others of the same age, and may face barriers to learning. They may, therefore, take longer to process information and develop new skills, and may find it ~~difficult~~ challenging to interact with other people. The type and level of SEN/ALN can vary significantly. For example, some children may have specific learning difficulties, which affect only one or two areas of their learning such as reading, writing or understanding what is said to them. Others, however, may have profound and multiple learning difficulties which affect their level of personal independence. For these learners progress is likely to be made in very small steps and in very subtle ways.

4.32 Learners may require additional forms of support in progressing their education or in communicating their views, for example, referral or signposting to other services. Local authorities are expected to actively consider this in advance when ~~planning to meet with a family~~ contacting a family to discuss a child's education. This will enable any necessary adjustments and support to be made ~~to allow the child to participate in the discussions about their education.~~ For more information or advice, refer to the SEN Code³³ and the ALN Code³⁴.

What is a reasonable request for evidence of a suitable education? Making an informal enquiry into educational provision

- 4.33 Legal precedent has established that local authorities can make informal enquiries of parents for details of the educational provision for their child. Case law has stated that:

“ It is not in the interests of parents or of the local authority (discharging its public interest duty) to construe the legislation in such a way that the local authority becomes satisfied of relevant matters only after a [notice to satisfy under section 437(1) of the Education Act 1996] (NTS) has been served.....it is plain that a parent who receives an informal inquiry at this stage needs to respond to it in a meaningful way, if he or she is to avoid the necessity of responding to an NTS”

Goodred v Portsmouth City Council 16 November 2021 [2021] EWHC 3057 (Admin)

Frequency of meetings requests for information from home educating families and by local authorities

- 4.34 The frequency of ~~meetings~~ requests for information from home educating families should be proportionate and based on the individual circumstances of each child. ~~Where there have been no previous concerns about the education being provided and no reason to think that it has changed, the local authority's annual contact with the parents may be minimal as it has been established that the child is being electively home educated and is not a child missing education. A meeting should take place at least once a year to ensure the suitability of education is maintained and that the child is considered to be making suitable progress.~~
- 4.35 ~~Following its initial informal enquiries,~~ If the local authority has appropriate concerns about the suitability of education, it ~~will~~ may need to consider ~~if it would be necessary whether to see~~ make contact with the family on a more frequent basis to assure itself that the child is receiving a suitable education. The local authority may need to liaise with other relevant partners of the local authority dependent upon the circumstances of the child when deciding on the frequency of ~~meetings~~ contact with the family. ~~Whilst it may be appropriate in some cases to initiate more frequent contact with families, as in accordance with the law, this should always be where there are genuine concerns as to the suitability of education provision. The local authority do not have a duty to monitor education provision.~~
- 4.36 Some parents may ~~need~~ require some additional help or support ~~to provide a suitable education to assist them in causing their child to receive an education that is best suited to the child.~~ The local authority is expected to make all reasonable efforts to provide help and/or support to the family. This may include providing parents with information about preventative services and where appropriate gaining parental consent for a referral to those preventative services available locally. This is an offer of support, and the parents are under no obligation to accept it.
- 4.37 ~~The local authority should be reasonable and accommodating when arranging these meetings. However, if the local authority is not assured that: (a) there are genuine~~

~~reasons for refusing a meeting; or (b) if a family has repeatedly cancelled or not shown up for a meeting; or (c) a family has refused without giving a good reason to allow their child to take part in meetings, then it will need to consider whether it can conclude a child is receiving a suitable education (see section 4.21).~~

~~(Note: Following confirmation from Welsh Government that meetings are not mandatory or in accordance with the Education Act, this section does not apply.)~~

- 4.38 Where the local authority cannot conclude that the child is receiving a suitable education, it must act in accordance with the law³⁵ as outlined in section 5.

Written report following **meeting contact** with the home educating family

- 4.39 The local authority should prepare a report no later than 10 days³⁶ after **meeting making contact** with the family. **The report should outline that the local authority has identified the child is not a child missing education or if they require further contact.**

~~if the provision is suitable or unsuitable, and the reasons behind the assessment of that provision. The local authority may find it helpful to consider the following when determining if the child is receiving a suitable education:~~

- ~~• aspects of the provision that are successful for the child~~
- ~~• aspects of the provision that are or may be less successful for the child.~~
- ~~• the extent to which the provision is meeting the needs of the child~~
- ~~• the views of the child (where provided) on their education~~
- ~~• the extent to which the provision is likely to fulfil the requirement of a 'suitable' education~~
- ~~• is it possible to make a determination whether the provision being provided may be a 'suitable' education~~
- ~~• whether there is sufficient evidence of provision to support your views.~~

- 4.40 ~~Other features~~ The report could include:

- any follow up actions for the local authority and/or parent
- if the need for additional help and or support has been identified **by the local authority and agreed by the parent and child**, what the local authority will do to help facilitate that and timescales for meeting **the requirement for** additional help and/or support
- **Give an indication as to the earliest date of next point of contact with the family when the next meeting should take place**
- any concerns or issues raised by the family
- any requests for help or information made by the family
- if a referral is needed to other agencies or support services
- opportunities for additional support **if requested by the family.**

- 4.41 Parents should be given an opportunity to discuss the report with the local authority and to have any factual inaccuracies corrected quickly.

There may be instances where the family disagrees with a local authority officer's report, their decision about suitability of provision, or the suggested frequency of contact. Local authorities should have in place a clear and robust appeals system and complaints process to ensure that any concerns are properly managed and that families are treated reasonably and equitably by LA staff. The local authority need to be aware in all dealings with home educating families of potential conscious and/or unconscious bias and discrimination the officer may hold. It is suggested that local authority officers receive both

bias and trauma training before commencement of post, to safeguard both themselves and the families with whom they come into contact.

School attendance orders and education supervision orders³⁷

School attendance orders (SAOs)

- 5.1 SAOs apply when a parent of a child of compulsory school age fails to satisfy the local authority that the child is receiving a suitable education-and where the authority believes the child should attend school. **The child's best interest must be at the forefront of any decision to apply for an SAO, if it is clear this is not the case, an alternative option must be sought.**
- 5.2 Where ~~it is not clear that~~ **there is reason to believe that** a child ~~is~~ **may not be** receiving a suitable education (see section 4) ~~(including situations where there is no information available at all)~~, the authority should **first** attempt to clarify the issue through informal contact and enquiries. An authority's duty under section 436A³⁸ of the Education Act 1996 (and that under section 437³⁹) forms sufficient basis for informal enquiries. Furthermore, section 436A creates a duty to adopt a system for making such enquiries **where it appears a suitable education may not be being provided.**
- 5.3 ~~The most obvious course of action is for local authorities to meet with the parents and home educated child regarding the education they are providing for their child.~~
If the Local Authority has made all reasonable attempts to engage with the parents to establish if a child is not in receipt of a suitable education and in the absence of any information that suggests that the child is being suitably educated and that the parents' refusal to answer is for some unrelated reason, the only conclusion that the local authority can it could be reasonable come to is to conclude that the home education provision does not appear to be suitable .
- 5.4 Section 437(1) of the Education Act 1996 provides that local authorities must act if it appears that parents are not providing a suitable education:

'If it appears to a local authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.'

- 5.5 If, following a period of no less than 15 days beginning with the date the notice has been served, a parent fails to satisfy the local authority that a child is receiving suitable education - and in the local authority's opinion it is expedient that the child should attend school then the local authority must, as directed in section 437(3), issue an SAO.

- 5.6 Section 437(3) refers to the serving of school attendance orders:

If (a) parent on whom a notice has been served under subsection (1) fails to satisfy the local authority, within the period specified in the notice, that the child is receiving suitable education, and
(b) in the opinion of the authority it is expedient that the child should attend school, the authority shall serve on the parent an order (referred to in this Act as a 'school attendance order'), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.'

- 5.7 Where a maintained school is named in a school attendance order, the local authority must inform the governing body and the head teacher⁴⁰.
- 5.8 Where a maintained school is named in a school attendance order, the governing body and the local authority (in the case of a maintained school) must admit the child to the school⁴¹.
- 5.9 ~~There would have to be exceptional circumstances for local authorities to justify not making an SAO, for example:~~ The best interest, views and voice of the child must be at the forefront of any action taken when considering a SAO. The Local Authority may use their discretion when considering that the issuing of an SAO may, in certain circumstances, not be the best course of action. For example:
- if the child will shortly cease to be of compulsory school age
 - if the child has physical, medical or educational needs leading to extreme vulnerability in a school setting, the local authority should consider alternatives such as tuition provided by the authority itself
 - the parent is actively working with the authority to improve the home education and seems likely to achieve suitability. ~~within a very short time~~

Special educational needs

- 5.10 Where a child has a statement of SEN, then under - section 441 Education Act 1996⁴²:
- If the statement specifies the name of a school, that school shall be named in the order
 - If the statement does not specify the name of a school, the local authority shall amend the statement so that it specifies the name of a school, and that school shall then be named in the order
 - If a school attendance order is in force in respect of a child for whom the local authority maintain a statement and the name of the school specified in the statement is changed the local authority shall amend the order accordingly.

Additional Learning Needs -

- 5.11 Where a child has an IDP, then under section 441A Education Act 1996⁴³
- If the IDP specifies the name of the school, that school must be named in the order
 - If a school attendance order is in force for a child for whom an individual development plan is maintained in which a particular school is named, and the name of the school in the plan is changed, then the local authority must amend the order accordingly
 - If a school attendance order is in force for a child for whom no individual development plan is maintained in which a particular school is named, and an individual development plan in which a particular school is named begins to be maintained for the child, then the local authority must amend the order accordingly.

After a school attendance order is served

- 5.12 Following the issue of an SAO, parents may present evidence to the local authority that they have now made satisfactory arrangements for the child's education and apply to have the order revoked. ~~The local authority should refer to paragraphs 4.21 – 4.30 (Assessing suitability of education) of this Guidance in considering the evidence.~~ If, having considered the evidence, the local authority is of the opinion that the parents have made satisfactory education arrangements, the order must be revoked.
- 5.13 ~~Regardless of whether or not the parents have sought revocation~~ **When there is no request for revocation and when it is in the best interest of a child to attend school, if they if the parents** do not cause the child to attend school, the authority should consider prosecution, and should proceed with this unless there is very good reason not to do so. Under section 447(1) of the 1996 Act, a local authority considering prosecuting a parent for noncompliance with an SAO must consider either as an alternative to prosecution or as well as prosecution, making an application for an education supervision order (see below).
- 5.14 If the local authority does prosecute the parents for not complying with the order, it will be for a court to decide whether or not the education provided is suitable. If satisfied that the parent is fulfilling their requirement to provide a suitable education, the court can direct that the order shall cease to be in force.
- 5.15 An SAO will remain in force whilst the child is of compulsory school age unless:
- it is revoked by the local authority
 - upon prosecution, the court directs the SAO to cease to be in force
 - a successful application has been made to the court to direct that it ceases to apply.
- 5.16 Where parents have not complied with an SAO for reasons other than a difference of opinion, local authorities should be mindful of their public responsibilities as prosecutors.
~~If local authorities are reluctant to prosecute for reasons connected with costs, they may wish to seek legal advice about the prospect of obtaining a cost order against a successful defendant on the basis that the prosecution would have been unnecessary if not for the defendants' unreasonable conduct.~~
(Note: Please remove the rest of this section, given that there is currently no independent appeals process in place).
- 5.17 It is important to note that the offence of not complying with a specific SAO is only committed once. Therefore, if parents are not compliant with the order after conviction, the process of serving a notice must be undertaken again. This means that a parent willing and able to be fined repeatedly can continue the unsatisfactory provision of home education provision indefinitely. The implication of this is that the local authority will need to consider using powers other than education law. See section 5.18 onwards on ESOs and section 7 on safeguarding.

Education supervision orders (ESO)

- 5.18 Local authorities have a formal supervisory role in the education of children who are subject to an ESO under section 36 of the Children Act 1989. Applying for an ESO ~~will often~~ **may** be the proportionate response when parents are not complying with an SAO, **in exceptional cases**.
- 5.19 **Local Authorities should show sensitivity to the potentially complex circumstances of each family and carefully consider the impact of their decisions on a case by case basis.** A local authority must under section 447 of the Education Act 1996 consider applying for an ESO before a decision to prosecute parents for poor attendance or failure to comply with an SAO is made. A local authority can apply for an ESO instead of or as well as prosecuting the parents. If a local authority chooses not to apply for an ESO, it should record/provide evidence of its consideration and the reasons it was not considered appropriate.
- 5.20 An ESO makes the local authority responsible for advising, assisting and befriending and giving 'directions' to the supervised child and his/her parents in such a way as to ensure the child is properly educated.⁴⁴
- 5.21 The local authority is under a duty, when settling the terms of any such directions, to give 'due consideration' to the 'wishes and feelings' of the child (having regard to the child's age and understanding) and the child's parents⁴⁵. This might result in improved home education, however, an ESO imposes a duty on parents⁴⁶ to allow the local authority reasonable contact with the child. Where an ESO is in force, there are a number of implications for parents and the child. Parental duties under sections 7⁴⁷ and 444⁴⁸ Education Act 1996 are superseded by their duty to comply with any directions in force under the ESO.
- 5.22 Persistent failure to comply with directions given under an ESO is an offence unless the parent can show that they have taken all reasonable steps to comply, or that the direction is unreasonable. The offence carries a fine " not exceeding level 3 on the standard scale"⁴⁹ per parent for each child not receiving a suitable education.

Application

- 5.23 An ESO can be used to ensure that a child receives full-time education suited to their age, ability, aptitude and to any SEN/ALN they may have, and that parent and child are given sufficient support and guidance.
- 5.24 An ESO will normally cease to be effective:
- after one year
 - when a child is over compulsory schooling age
 - when a care order is made in respect of the child and/or
 - when discharged by the court following an application from the child, a parent of the child or local authority.

5.25 On the application of the local authority a court can extend an ESO before it would otherwise expire for up to three years, if it is thought necessary to ensure that the child's education continues to progress. Such an application may not be made earlier than three months before the ESO is due to expire. Courts may not make an ESO when the child is already in the care of the local authority.

Process

5.26 An 'ESO' is a 'family proceedings' matter as defined by the Children Act 1989, which regards the welfare of the child as the main concern.

5.27 When applying for an ESO, local authorities should provide the court with a report on the child, which should include the following information:

- relevant details on the child's circumstances, including age, **gender**, background and any particular physical, emotional or educational needs (including any SEN/ALN the child may have)
- ~~assessment of the causes of the child's poor attendance~~
- medical assessment, if relevant
- ~~indication of the attitudes of the child, parent, school and other agencies towards the poor attendance~~
- short description of the effect of work already undertaken
- reasons why an ESO is being requested and assessment of how the child might be disadvantaged should an ESO not be made
- outline of the intended intervention, including targets for timing and monitoring, and
- programme of the intended work, indicating role of child, parents and school **if applicable**, with an indication of how the local authority believes this will help to resolve the problem and ensure that the child ~~attends school regularly~~ **receives a suitable education**.

5.28 The court must also consider the child's welfare needs (a list of these is given in section 1(3) of the Children Act 1989⁵⁰), and the wishes and feelings of the child need to be sought and **must be** taken into consideration.

5.29 An ESO should be reviewed at regular intervals, through discussion between supervising officers and their managers.

Support for home educated children

6.1 **As stated in point 2.21, Local Authorities do not have any statutory duties with regard to Elective Home Education, simply a duty to identify children who are not in receipt of a suitable education.** Parents who choose to home-educate their children must be prepared to assume full **responsibility for this education, including full** financial responsibility, **including such as** bearing the cost of any public examinations (**where applicable**). However local authorities are encouraged to provide support where resources permit.

The Welsh Government has put in place a financial support package for home education, with budget allocated to each of the 22 local authorities. Local authorities should carefully consider how they will utilise the allocated funds to provide effective and meaningful support for home educators in their locality. Local authorities should be expected to evidence to the Welsh Government how the funds have been spent and, where possible, evidence outcomes of the spending.

- 6.2 Local authorities are expected to assist home educating parents, recognising that home educating parents can adopt a rich and diverse range of approaches to home education and use a variety of philosophies and methods. Local authorities should, where possible, promote access to learning opportunities available to all children in their area.
- 6.3 Welsh Government has worked with local authorities to agree a wider package of support, which will afford consistency of offer from local authorities to EHE families and their children.

Clear information

- 6.4 Local authorities should provide clear and accurate written information on their home education policies on their website on a page specifically for home education, including contact details for home education support organisations where available.

This information should include, at a minimum:

- The law determining the legal status of home education (Education Act 1996), stating that home education is a valid alternative to school attendance, equal in law
- The Local Authority EHE policy
- This guidance and the Home Educator's Handbook
- Details of complaints/appeals procedures in respect of local authorities' dealings with home educating families
- Any available support offer
- Exam centre options available to home educators in the local area, whether or not these are provided directly by the local authority
- Contact information for local authority home education officers, including a photograph and biography. (Note: This would be a positive move to reassure families of the individuals that are employed to support their home education journey, and allow easy identification of genuine officers.)

- 6.5 Local authorities should provide parents who are, or who are considering, home educating with a named contact within the authority, familiar with home education policy and practice and having an understanding of the diversity and range of educational philosophies and a link to/copy of Welsh Government's Handbook for Home Educators.
- 6.6 Local authorities should, as far as practicable, ensure that staff who may be the first point of contact for a potential home educating parent, for example, answering telephone enquiries, understand the right of a parent to choose home education.

Practical support and resources

6.7 Some of the ways in which local authorities might choose to support home educating families include:

- Providing regular opportunities for feedback of the experiences of home educators in their area and, where applicable, adjusting policies and practices in light of their feedback and suggestions
- Working in collaboration with other Local Authorities in their region to provide joint activities / resources and to share examples of best practice
- Developing a webpage on the local authority website specifically aimed at home education (see 6.4)
- Providing general advice about home education, home education guidance and available support resources
- Facilitating access to any discounted rates for educational materials and/or activities
- Informing home educating families of any projects or programmes which might reasonably be accessed by home educated children
- Providing access to local authority owned community and sports facilities on the same basis as for school children
- Holding information and engagement events in collaboration with other services and organisations such as Careers Wales, Youth Services etc.
- Providing enhanced library provision for home educating families
- Agreeing to implement the wider package of support offer which is outlined below: -
 - opportunity to sit examinations in an identified examination centre that can accommodate the appropriate range of examination boards required for home educators and also assessment for and placement of access arrangements where required.
 - access to local authority counselling services
 - access to Careers Wales services
 - ALN advice in line with ALNET 2021
 - Access to CADW
 - Access to the local authority offer of support for home educated children developed using any funding allocated by Welsh Government in relation to Elective Home Education.
 - Facilitating access to Hwb where possible

Youth services

6.8 Home educated children should have access to the wide range of support services available, such as careers advice and youth support services. In many cases such provision is freely available and offers children a range of informal and often accredited learning opportunities and access to support which can enhance their learning and well-being.

6.9 Local authorities in Wales are responsible for the provision of youth support services that offer learning opportunities to children and young people aged 11 to 25. This is as a result of a direction given by the Welsh Ministers to local authorities to 'provide, secure the provision of or participate in the provision of youth support services'

through section 123(1) of the Learning and Skills Act 2000⁵¹. Youth support services are defined as the services which, in the opinion of the Welsh Ministers, will encourage, enable or assist young persons (directly or indirectly) to:

- to participate effectively in education or training
- to take advantage of opportunities for employment, or
- to participate effectively and responsibly in the life of their communities.

- 6.10 Some local authorities provide links to youth support services, through information packs to home educating families. Others promote access to specialist educational support services such as education psychologists and the school age nursing service (to which all school age children are entitled). It is recommended that local authority staff responsible for engaging with home educating families have up to date knowledge of the breadth of such services in their area. This will enable them to advise families on provision which may enhance the educational experience of home educated children. These should include local networks, for example, youth forums and other sources of advice and support available for children and young people.
- 6.11 Alongside these services, the Welsh Government provides grant funding to local authorities to support their youth work offer to young people. Youth work aims to enable young people to develop holistically, facilitating their personal, social and educational development. In this way, it aims to help them to develop their voice, influence and place in society and to reach their full potential. **Local authority funded youth work is one of many potential options families may decide to utilise.**
- 6.12 Funding is also provided to support delivery of the Youth Engagement and Progression Framework⁵². The Framework plays an important role in implementing effective approaches to supporting young people not in education, employment or training (NEET), or those at risk of becoming NEET. It provides a systematic mechanism for identifying those in need of support, establishing the support available, and the tracking of progress of young people as they make the transition from education into further education or employment. It requires a multiagency approach to avoid duplication and the risk of young people being passed unnecessarily from one organisation to another. Local authorities are responsible for the Framework's implementation.
- 6.13 Each local authority in Wales has a youth forum. Local authorities should make information on their forums available to home educators. The forums provide an opportunity for young people to get involved in their local community, and to tackle issues that affect children and young people where they live. Each forum in Wales works differently but the issues are always identified by young people who then campaign for change. Some areas also have children's forums.

Case Study1: Blaenau Gwent

Within Blaenau Gwent the Inclusion Service works closely with the Youth Service to offer support to home educated young people, especially those of Year 11 age. Home Educated young people of the Year 7-10 age group are able to access more generic youth work

support and counselling, which includes access to social group activities and learning opportunities. For learners in Year 11, there is the additional offer of support for transition from the youth workers. These workers are able to support young people with work experience opportunities, visits to college, training providers and help link with a range of other services, including Careers Wales. They also work with young people to develop their confidence, self-esteem and social skills, through group work and individual support, along with practical activities such as making sure they have bank accounts.

Examination Access

- 6.14 Parents are responsible for the costs of any examinations **their children may choose to sit**. Examinations have to be taken at an approved examination centre, and Welsh Government has worked with local authorities to enable home educating families to access WJEC examinations at an identified examination centre. ~~It will be the responsibility of the home educator to contact the local authority and enquire about the precise way in which they handle private candidates.~~ **Local authorities should provide information on their website, detailing the support offered for exams access for home educated children. The website should detail all applicable exam centres in the local area, not just those provided by the local authority.**
- 6.15 All local authorities have agreed to accept independent candidates from home educated families at an identified examination centre⁵³. Further education colleges should also be encouraged to open up their facilities to home educated children for examinations. **Local authorities should ensure exam centres are able to provide access to the range of exam boards utilised by home educators. Authorities should also ensure that each exam centre is able to provide all suitable access arrangements to ensure candidates with ALN are not disadvantaged or discriminated against, including providing timely access to assessment for such provision.**
- 6.16 Local authorities should, where possible, direct home educating families to schools and centres that will let external students sit exams. Home education officers ~~are encouraged to~~ **should** work with identified examination centres providers in their local authority to accommodate home educated children where possible.

Case Study 2: Rhondda Cynon Taff

“Home educating parents with 14–16-year-old children are consulted on the range of qualifications that they are interested in pursuing and what may be viable from an EOTAS administration perspective. Joint monthly coffee mornings are held with home educators and parents of EOTAS children. Professionals from a range of agencies, including Educational Psychology, Counselling, Careers Wales, College and Portal training, are also present at the coffee morning to offer advice.”

Case Study 3: Monmouthshire

Monmouthshire identified the Pupil Referral Service as a centre which could host external examination candidates. Elective Home Education Officers engaged parents of year 11 learners within the home educating community to offer these learners the opportunity to sit examinations within the Pupil Referral Service. Non-examined assessment work was also marked by Pupil Referral Service teachers, The Pupil Referral Service Coordinator also registered the centre as an IGCSE examination centre which enabled a range of examination boards to be offered to learners and Elective Home Education Officers and Education Welfare Officers were also trained as examination invigilators as they had not taught the learners.

Flexi-schooling

6.17 The best interests of the child should be at the heart of decision making by both local authorities and schools. When considering how best to support a child, it is important to recognise that school may not be suitable for every child. Instances where flexi-schooling would be beneficial to the child can include (but are not limited to):

- where the family would prefer home education but, for financial reasons, is unable to accommodate this
- where the child would benefit from greater time with family while also enjoying some aspects of school
- where the child is transitioning back into school
- where the child is transitioning into school for the first time
- the child has an autism spectrum condition (ASC) and finds school challenging
- the child is suffering from school phobia or anxiety
- the child has an illness

Flexi-schooling may often be a long-term arrangement (which may be reviewed on a regular basis, e.g. annually, and at headteacher's discretion). It need not be considered only as part of a plan to achieve full time attendance at school.

6.18 It is important to note that flexi-schooling is distinct from home education. Flexi schooling is an arrangement between parents of a child and the school where the learner is registered in the normal way, but only attends the school part time. The rest of the time the learner is educated at home but will continue to remain on the school roll.

6.19 Home education is a valid choice and can be the best option for both the family and the learner. However, this is not necessarily the case for all families. Flexi-schooling ~~means who may be home educated are still in mainstream school for some of the time and are therefore able to experience its benefits.~~ may offer children the opportunity to experience the unique benefits of both school and home education.

6.20 Flexi-schooling can in some circumstances be a valid way to offer educational support to learners and local authorities are encouraged to work with head teachers for them to consider whether they can facilitate flexi-schooling where it is in the best interests of the child.

6.21 Under the current [All Wales School Attendance Framework](#), flexi-school learners are recorded under attendance code 'C' which counts as an 'authorised absence' from school. Whilst this will impact the attendance figures of the school, the Welsh Government has taken a more holistic approach to school improvement by removing the calculation of school performance data (including attendance data) that formed Step 1 of the National Schools Categorisation System. This means the context of the school (including flexi-schooling arrangements) will be more prominent when coming to a judgement on the school's self-evaluation and capacity to improve. **Agreed flexi-schooling arrangements should not be considered as negative by Estyn inspectors.**

Safeguarding ~~and home education~~

Please Note: It is not possible to fully address the issues with Section 7 of this guidance simply by editing the following subpoints. This section needs further thought to avoid changing thresholds for safeguarding intervention in any unlawful or counterproductive way. Thus any proposed edits in section 7 do not fully address the issues here.

- 7.1 Home education is not in itself, a safeguarding risk. However, whether in school or home educated, the safety and wellbeing of all children and young people should be of the utmost importance to all involved.
- 7.2 Positive engagement with home educating families can support mutually respectful and trusting relationships which foster improved outcomes for children and young people. However these can only be delivered and sustained when key individuals and bodies work together to design and deliver more integrated services to meet the needs of children and young people.
- 7.3 Effective safeguarding arrangements in every local authority area should be underpinned by ~~two~~ several key principles, including:
- safeguarding is everyone's responsibility: for services to be effective each practitioner and organisation must play their full part both individually and in collaboration, and
 - a child-centred approach: for services to be effective they should be based on a clear understanding of the personal outcomes for the child and what matters to them. The rights of the child should be central to the approach and their best interests should always be paramount.
 - Safeguarding laws and practices apply only to specific and individual cases where there are justifiable and reasonable concerns for the wellbeing of a child. Practices/laws should not be applied in a universal or generalised context, for example, regarding all home educated children as 'at risk' simply because they are home educating.
 - Authorities should be mindful that their actions do not in any way deter families from choosing to engage in opportunities where natural primary safeguarding measures can operate, including access to health care, support and community services.

Safeguarding children at risk

- 7.4 Part 7 of the Social Services and Well-being (Wales) Act 2014 (the 2014 Act) sets out what must and should be done to safeguard children and adults. This applies to all children regardless of where and how they receive their education.
- 7.5 [Section 130](#) of the 2014 Act contains a duty on the relevant partners ⁵⁴ of a local authority and the relevant youth offending team to inform the authority if they have reasonable cause to suspect that a child in its area is a child at risk (or if the child is in the area of another local authority, to inform that other authority).
- 7.6 Section 130(4) defines a 'child at risk' as a child who:
- is experiencing or is at risk of abuse, neglect or other kinds of harm, and

- has needs for care and support (whether or not the local authority is meeting any of those needs).
- 7.7 When a child has been reported under section 130, the local authority must consider whether there are grounds for making enquiries under section 47 of the Children Act 1989.
- 7.8 Part 9 of the 2014 Act requires co-operation and partnership between the local authority and its relevant partners and others. [Section 164](#) provides that if the local authority requests the co-operation of, or information from its relevant partners and others mentioned in subsection 4 in exercising any of its social services functions, the person must comply with the request unless it considers that doing so would be incompatible with its own duties or would otherwise have an adverse effect on its own functions. A person refusing to co-operate or provide information must give written reasons to the local authority explaining its decision to refuse. (Section 164(3)). Similarly, Section 164A enables a local authority to request the co-operation of local authorities in England.
- 7.9 Section 28(2) of the Children Act 2004 places a duty on certain persons⁵⁵ and bodies to make arrangements for ensuring that their functions are discharged having regard to the need to safeguard and promote the welfare of children. The persons and bodies to whom this duty applies are listed in section 28(1).
- 7.10 Under section 135 of the 2014 Act, the Safeguarding Children Board's objectives are to protect children in its area who are experiencing or are at risk of abuse, neglect or other harm and to prevent children in its area from becoming at risk of abuse, neglect or other harm. Section 137 provides the Safeguarding Board with the power to request specified information from a qualifying person or body provided that the purpose of the request is to enable or assist the Board to perform its functions.
- 7.11 No single practitioner can have a full picture of a child or their family, therefore, **if a specific child is considered to be at risk**, support to families should be delivered as part of a co-ordinated multi-agency approach. The ability to work across and between agencies is essential to build a better understanding of the whole family's circumstances and their needs for care and support. Strong working relationships and a multi-agency approach can prevent needs escalating and identify when a child or family member is at risk.
- 7.12 Everyone in education services, whether employed by the local authority or otherwise, who comes into contact with children and their families has a role to play in safeguarding children.

Home education

- 7.13 There is no evidence to suggest that home educated children are at greater risk of neglect or abuse than children who are educated at school. Home education is a

positive experience for many children. ~~However, schools and education settings can play an important role in safeguarding children. They are places where children can may be routinely seen and heard.~~

Note: Please remove the above sentences of this section. As evidenced by safeguarding data and police reports, abuse can and does occur within school settings. So, whilst it may be claimed that a school setting provides an opportunity for safeguarding, this may not always be the case. The statements above are thus both inaccurate and insensitive to those that have experienced safeguarding issues whilst at school. The above also fails to take into account that home educated children are 'seen' in their local home educating communities, suggesting that being 'seen' at school is in some way the superior option.

It is important, ~~therefore~~, that all children enjoy the right to be safe, regardless of how and where they receive their education.

- 7.14 A parent's **family's** decision to home educate is not ~~in itself a~~ grounds for concern about the safety and well-being of the child. However, as with any child regardless of where they are educated, there may be circumstances which, individually or combined, give practitioners cause to seek further information about a child.
- 7.15 Local authorities should approach all cases where the suitability of home education is in doubt using their powers in the Education Act 1996 (please refer to section 5), but they should also be prepared, if a **serious and long-term** lack of suitable education appears likely to impair a child's development, to fully exercise their safeguarding powers and duties to protect the child's well-being. ~~which includes their suitable education.~~
- 7.16 In exercising safeguarding powers, a local authority ~~would normally begin an~~ **may decide to begin an** investigation under section 47 of the Children Act 1989, on the basis that ~~a lack of information about a child's educational provision, is capable of satisfying~~ the 'reasonable cause to suspect' significant harm test under that provision **is met**. Reasonable cause can include **a substantiated suspicion of long term lack of education provision** ~~the lack of any substantive information about a child's education,~~ so if the 'if it appears' test in s.437 (1) is satisfied, then there ~~will usually be~~ **may be** reasonable cause in terms of s.4, **depending on the individual circumstances of the case.** ~~These enquiries~~ **A safeguarding investigation** can include taking steps to gain access to the child **only when there is serious cause for concern in that specific case.** The outcome of enquiries following a section 47 investigation will therefore enable a local authority to decide whether action should be taken to protect the child's welfare.
- 7.17 If following the section 47 investigation a local authority concludes that the significant harm threshold is met, but parents fail to remedy the concerns identified, it may be necessary to apply for a care order. A **long-term** failure to provide education **is may be** capable of satisfying the threshold criteria of 'significant harm' under section 31 of the Children Act 1989.
- 7.18 'Harm' can include the impairment of health or development, and development means physical, intellectual, emotional, social or behavioural development⁵⁶, so the provision of **an entirely** unsuitable education, **over a sustained period of time, can could** amount to this. The causing of significant harm ~~need~~ **may** not be intentional or

deliberate, but case law⁵⁷ indicates that it must be ‘considerable, noteworthy or important’. This is a key point for local authorities in considering whether the use of safeguarding powers is appropriate in a case relating to a child who is **obviously** not receiving a suitable education. However, local authority staff should be clear that when the use of safeguarding powers is justified, they should be used.

7.19 Safeguarding is everyone’s responsibility and agencies should ensure that practitioners coming into contact with children are aware of the arrangements set out in the Wales Safeguarding Procedures and in Welsh Government [working-together-to-safeguard-people-volume-5-handling-individual-cases-to-protect-children-at-risk.pdf \(gov.wales\)](#)⁵⁸ issued under the 2014 Act.

7.20 The All Wales Safeguarding Procedures, published in autumn 2019, ~~is~~ **are** supported through a number of All Wales Practice Guides on safeguarding children in specific circumstances. These multi-agency Practice Guides provide information about responding to safeguarding issues. This includes an All Wales Practice Guide with a section on Safeguarding children who are home educated.⁵⁹

Information sharing

7.21 Information sharing is central to good safeguarding practice. Practitioners must share information in accordance with data protection legislation. Data protection legislation allows for the sharing of information and should not be automatically used as a reason for not doing so. One of the specific circumstances which provides for information sharing is to prevent abuse or serious harm to others. When information is not shared in a timely and effective way, decisions made may be ill informed and lead to poor safeguarding practice and leave children at risk of harm. The Welsh Government has issued guidance on [www.gov.wales/working-together-
safeguard-people-code-safeguarding-practice](http://www.gov.wales/working-together-safeguard-people-code-safeguarding-practice)⁶⁰ which provides further advice.

A child or young person not in contact with universal services

7.22 There may be circumstances where a child ~~has not~~ **may not have** had direct contact with public services for a significant period of time. This is not in itself evidence that a child is at risk of harm but should make practitioners think about what further action they may need to take in discussion with the senior officer responsible for home education.

An All Wales Practice Guide⁶¹ has been made available to provide further advice and which is to be used in conjunction with the All Wales Safeguarding Procedures.

~~There have, however been a number of cases where children out of contact with public services have been significantly harmed⁶² There may be cases where there are grounds to report a safeguarding concern to Social Services when there is evidence to suggest that there has been no direct contact between a child and public services for a prolonged period.~~

There may be cases where there are grounds to report a safeguarding concern to Social Services when there is evidence to suggest that there has been no direct

contact between a child and public services for a prolonged period. However, this referral should only take place where there is reason to suspect there is a risk of harm in that specific case, not as a matter of routine. There may be many legitimate reasons why parents and children may not have needed to access public services, for example there may be no need to access an NHS doctor if there are no health concerns. Parents and children exercising their rights to privacy of family life should not be considered a safeguarding risk.