

## ▶ Elected Home Education

### ▶ London Councils' response to the Department for Education consultation on establishing a local authority registration system for children not attending state-funded or registered independent schools

London Councils represents London's 32 borough councils and the City of London. It is a cross-party organisation that works on behalf of all of its member authorities to make the case for powers, freedoms and resources to best serve the needs of London's residents and businesses.

#### General Comments

London Councils recognises that the majority of children who are home educated do not present any risk factors in terms of vulnerability, such as safeguarding or radicalisation. However, the current lack of legislative and regulatory oversight makes it very difficult to ensure that vulnerable children who are being home-educated are identified and protected from harm.

Therefore, we welcome the government's proposal to introduce a duty for local authorities to maintain a register of home educated children as well as the duty for parents and carer to supply information to the local authority about the education children in their care are receiving. However, we would urge the government to also include mandatory monitoring as part of any proposed legislation.

As with the issue of registration, current efforts by local authorities to monitor home educated children are only as effective as they can be with parents who are willing to engage with them. Some parents do not want local authorities to carry out any monitoring visits, and this makes it difficult for the local authority to know whether children are receiving a good quality education or whether they are suffering or are likely to suffer harm. London Councils feels that without legislative change to ensure mandatory annual monitoring visits, alongside mandatory registration, the current arrangements for elective home education will never be fully effective in ensuring that all children are protected from harm and receiving a good standard of education.

It is important that local authorities are fully funded to meet any additional duties around elective home education, as local authority budgets are already significantly constrained.

## The introduction of a duty on local authorities to maintain a register of children of compulsory school age who are not registered at a school of specified type

### Do you agree that local authorities should be obliged to maintain a register of children who are not registered at specified schools (those listed at paragraph 2.2) or being educated under s.19 arrangements?

London Councils agrees that local authorities should have a duty to maintain a register of children who are not registered at specified schools or being educated under s.19 arrangements. It is important that local authorities have a register of all the home-educated children in the local area, for the following reasons:

- Children educated outside of mainstream education are likely to have less contact with statutory agencies and, in some cases, no contact at all and we are concerned that this poses a risk that abuse or neglect will go unnoticed by those with a responsibility to safeguard children. We recognise that only a minority of home educated children present these risk factors, but it is only by monitoring all home educated children that local authorities can identify those children that are vulnerable to harm and act to protect them. In particular, London Councils feels that children on a child protection plan or children in need should only be able to be home educated with the local authority's support.
- Similarly, the experience from the London boroughs suggests that children being home educated can be isolated from mainstream society and be more vulnerable to extreme views. Some home educated children access illegal unregistered schools. A minority of unregistered schools have been found to promote extremist ideologies including inciting people to violent extremism. It is important that local authorities can monitor children outside of mainstream education to ensure that they are not being subjected to radicalisation. In particular, government should ensure that any unregistered education settings are permanently closed down.
- We recognise that some children do not have access to good quality education provision through home education. It is important that checks are in place to ensure that all home educated children are accessing a good quality education and can therefore benefit from subsequent employment opportunities.
- We also have concerns about schools off-rolling some pupils, particularly those with Special Educational Needs and Disabilities. At present it is very hard for local authorities to track where this poor practice is taking place; mandatory registration for home educated children would help identify and deal with instances of unlawful exclusions. This would not only enable families in this situation to get support in finding a school that would meet the child's needs, but would also act as a deterrent to schools practising off-rolling, due to the increased likelihood of instances of off-rolling being picked up.

We support the idea of making it mandatory for parents and carers to register children in their care as home-educated in the local authority in which they reside, as well as introducing a duty for local authorities to hold data on all home educated children locally.

It is important that local authorities are fully funded to meet any additional duties around elective home education, as local authority budgets are already significantly constrained.

**And should such a register specify whether they are attending an educational setting (other than their own home) during school hours?**

Yes, the register should specify whether they are attending an educational setting (other than their own home) during school hours.

London Councils has considerable concerns about the provision of education offered by unregistered schools. The government should be able to permanently close down unregistered settings where the education provision has been deemed substandard. At present, many unregistered settings close after an Ofsted visit has determined them to be illegal but they can open up in a new guise, either in new premises or with a reduced intake or hours so that they are no longer technically a school. Mandatory registration and monitoring visits will also help local authorities glean information about any unregistered settings in the area to which parents might be sending their children. Similarly, a clearer definition of what constitutes a school would help reduce the loopholes through which some unregistered schools slip.

These measures would help to ensure that local authorities are aware of all the children in the local area and where they receive their education, which would enable them to better identify any children at risk.

**Should the register be widened still further to also include children who are being educated under s.19 arrangements?**

Yes, London Councils believes that all children being educated in educational settings in school hours (other than the specified types of school) should be subject to a registration scheme to help ensure that local authorities are aware of all the children in the local area and where they receive their education. Including children being educated under S.19 arrangements on the register would allow local authorities to have better oversight of the providers within their area, enabling local authorities to better identify safeguarding concerns or the delivery of a poor standard of education provision for all children in the local authority area.

**Should the register include flexi-schooled children (ie those who are educated at home or elsewhere for some of the week during school hours but are also on the admission register of a state-funded or registered independent school)?**

Yes, the register should include register include flexi-schooled children. London Councils believes that all home educated children should be subject to a registration scheme, irrespective of whether and how regularly they attend an education setting during the week. This would help local authorities identify the vast majority of the children in the local area, which would enable them to better identify any children at risk.

**What information do you think the register should contain about each child and its parents?**

London Councils suggests that parents who elect to home educate their children should fill in a similar form to parents applying for a mainstream school place. This would ensure parity between the different groups of parents and prevent unnecessary conflicts and bureaucracy.

**Do you think that the DfE should prescribe a national format for a register?**

Yes, the DfE should set out a national format to ensure consistency of approach. This would help with managing GDPR requirements and protect local authorities from claims of being over or under zealous in their data collection. It would also provide home educating families with clarity around the information they are expected to provide to local authorities. This data should be collated and published by the DfE.

**What views do you have on the sharing of data on an authority's register with other local authorities and other agencies?**

The legislation should come with data-sharing protocols to ensure councils are able to pass relevant information to each other, in order for the local authority to appropriately fulfil its safeguarding duties - so that young people at risk do not fall through the gap if their family moves across borough boundaries. It would be also necessary to share data between local authorities when a child attends an education setting outside their home local authority area. Sharing of data would also help local authorities identify off-rolling.

There is scope for cross-borough collaboration for maintaining the register and implementing monitoring processes. This could be bi-/multilateral, sub-regional or Pan-London. The legislation should permit joint working arrangements where councils agree.

London Councils also proposes that, alongside sharing data with other local authorities, the government also establishes a new requirement for local authorities to inform the registered GP where any child is electively home educated. This would help to ensure that vulnerable children do not fall through the net and by understanding the child's circumstances better it may help to inform diagnosis, for example where a child may be experiencing frequent childhood illnesses.

**Do you think that a local authority should include any information about a child on its register which has been legally obtained from other agencies?**

Yes, this would be necessary to enable local authorities to fulfil their safeguarding duties and duty to ensure children are accessing a good quality education. Including information which has been legally obtained from other agencies could assist with identifying children whose parents or carers have failed or refused to register them and may therefore be at risk.

**Do you agree that a register held by a local authority should be open to inspection by other bodies as prescribed by the Secretary of State, in order to check whether the local authority is carrying out its obligations to maintain the register?**

Yes, it would be appropriate for local authorities to be open to inspection on the home education register, which would provide transparency and reassurance to parents that local authorities are managing the register effectively.

**Do you agree that local authorities should have to make annual returns of collated data from the register to DfE for statistical purposes?**

Yes, as long as the DfE provided funding for local authorities to fulfil this duty.

**[for local authorities only] What does the local authority believe would be the approximate additional annual cost of maintaining a register for its area? This should so far as possible**

**include any costs already incurred on voluntary registration, but exclude other costs incurred by the authority in relation to home education and children missing education. It would be helpful to set out the basis for the estimates.**

London Councils does not represent a local authority area and therefore cannot respond to this question. It is important that any additional funding provides an Area Cost Adjustment for London to cover the higher costs incurred by the London Boroughs in recruiting additional staff to maintain the register.

**Do you have any other comments on either the principle of registration or practical issues related to registration on the basis proposed?**

Local authorities have reported that EHE is often used as a cover to off-roll pupils who are impacting negatively on a school's results or resources. London Councils understands from its member authorities that there is a growing issue with some mainstream schools off-rolling pupils, where parents may be told that the child's current school cannot meet their needs and should be educated elsewhere, often at home.

The main drivers behind schools taking this approach appear to be performance, particularly the pressure schools feel under to keep up with other local schools, and the rising cost pressures facing schools which are resulting in less support available to help pupils who may need additional support, such as pupils with SEND.

Currently, off-rolling goes unnoticed in many cases, as parents may decide to home educate their child due to pressure from the school, but might not report this decision to the local authority. Mandatory registration would help local authorities identify and deal with instances of unlawful exclusions. This would not only enable families in this situation to get support in finding a school that would meet the child's needs, but would also act as a deterrent to schools practising off-rolling, due to the increased likelihood of instances of off-rolling being picked up.

**Proposal: creation of a duty on parents to register their child with local authority if not registered at specified types of school**

**Do you agree that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement?**

Yes, parents that choose to home educate their children should be put under a duty to allow local authorities to fulfil their monitoring visits. Without this duty it will be very difficult for local authorities to maintain an accurate register of home educated children in the local area. Therefore, London Councils would argue strongly for both duties to be implemented together in order for local authorities to fully be able to fulfil their safeguarding duties to all children.

**Whether or not you agree with the imposition of a legal duty, if one was created what data should parents have to provide about their child?**

London Councils suggests that parents who elect to home educate their children should fill in a similar form to parents applying for a mainstream school place. This would ensure parity between the different groups of parents and prevent unnecessary conflicts and bureaucracy.

**Do you agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration?**

Yes, London Councils agrees that there should be sanctions attached to non-compliance, such as School Attendance orders or Education Supervision orders, but does not have a view on the most effective sanction. It is important to have some sort of sanction in place to underpin mandatory registration.

**Whether or not your response to 15 was 'yes', do you think that the most effective consequence for non-compliance with the registration process is that it authorises the local authority to begin the school attendance order process by serving a s.437(1) notice on the parents, which begins the formal process of considering suitability of education and whether a child should attend school?**

London Councils does not have a particular view on the most effective sanction for parents. It is important that the frequently burdensome arrangements required to monitor compliance and implement sanctions are appropriately funded by government in order to ensure consistency and effectiveness of these measures.

**Proposal: creation of a duty on proprietors of certain education settings to respond to enquiries from local authorities**

**Do you agree with the general approach that the proprietors of settings providing education in school hours - other than specified types of school - should be under a duty to supply information to local authorities about any child in scope of the proposed register?**

Yes, London Councils agrees that proprietors of settings providing education in school hours should be under a duty to supply information to local authorities about any child in scope of the proposed register. This would help identify potential gaps in provision during school hours which is important for duties around safeguarding and ensuring children are receiving high quality education.

Including all education settings in the scope of the duty would help local authorities have full oversight of the alternative education providers within their area which would enable them to identify and reduce unregistered settings. London Councils has considerable concerns about the provision of education offered by unregistered schools. The government should be able to permanently close down unregistered settings where the education provision has been deemed substandard. At present, many unregistered settings close after an Ofsted visit has determined them to be illegal but they can open up in a new guise, either in new premises or with a reduced intake or hours so that they are no longer technically a school. Mandatory registration would help local authorities glean information about any unregistered settings in the area to which parents might be sending their children. Similarly, a clearer definition of what constitutes a school would help reduce the loopholes through which some unregistered schools slip.

**Which settings do you think should be included in the scope of the duty?**

Including all education settings who operate during school hours in the scope of the duty would help to identify and reduce illegal unregistered settings.

**Which information should proprietors of the settings in scope be required to (a) keep in the setting's own register and (b) supply on request to the local authority about a child in scope of the registration requirement?**

London Councils believes that the proprietors should, at a minimum, keep and provide details of the individual locations used for the education setting, a start date of a child, the locations attended by each child, and the hours of attendance. This information should be supplied to local authority upon request.

**Do you agree that there should be a sanction on the proprietor for non-compliance with a duty to supply information about a child in scope of the registration requirement?**

London Councils agrees that there should be sanctions attached to non-compliance but does not have a view on the most effective sanction. It is important to have some sort of sanction in place to underpin mandatory registration.

**If your answer to 22 was 'yes', which type of sanction would you favour? For example should there be an offence which carries a fine, or should enforcement be via a court order requiring release of information?**

London Councils does not have a view on the most effective sanction.

**Proposal: creation of a duty on local authorities to provide support to parents who educate children at home**

**Do you agree that there should be a statutory duty on local authorities to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations?**

London Councils recognises the benefits in supporting home educated children but any duty needs to be funded appropriately and clearly defined, as the scope of this duty could be extremely wide. At present some local authorities provide support to home educating families but the type and volume of support varies significantly.

**If such a duty were to be created, which of the following should it encompass:**

- advice on home education and sources of support - whether provided directly by the authority or available elsewhere;**
- assistance with the cost of examination fees incurred by private entrants (possibly with specified minimum levels);**
- local authority support for local home education groups and forums which would provide both collective and individual help to families;**
- negotiation of free or discounted admission for home educated children to facilities and other destinations which school children attend on an organised basis;**
- Carrying out, and publicising the results of, checks on private tutors;**
- providing regular information and contacts for home educating families through newsletters; and**
- making local arrangements for home educated children to participate in programmes normally conducted through schools, eg immunisation, sight and hearing tests, etc**

London Councils argues strongly that local authorities need sufficient funding to be able to deliver any new duties. A number of the activities set out in the list would be incredibly time-consuming and therefore costly. We are

proposing that it would be more efficient for the DfE to provide some of the activities centrally, including: advice for parents, cost of examination fees and negotiation of discounts.

In addition, we do not believe it would be possible for local authorities to appropriately vet the education provided by all private tutors, without considerable additional resource and guidance being provided by the government. Instead, it would be helpful if the guidance for parents on choosing a tutor was clearer. In particular, it is important to stress to parents that they need to seek assurances in terms of DBS checks and appropriate references when engaging tutors.

**What are the potential difficulties in ensuring that such a duty is properly discharged by a local authority?**

Local authorities recognise the benefits in supporting home educated children but need to be funded appropriately to fulfil any statutory duty in this area.

Many London boroughs have difficulty engaging with home educators. Therefore we feel there needs to be a clearer expectation on parents to engage with local authorities to access support.

**Should the duty to provide support on request be limited to children whose details are included on the proposed register?**

Yes, the duty to provide support on request should be limited to children whose details are included on the proposed register as a further incentive to encourage parents to comply.

**[for local authorities only]. What expenditure does the authority already incur on support for home educated families, what types of support does this cover and approximately how many children are in scope of the support?**

London Councils does not represent a local authority area and therefore cannot respond to this question.

**Do you consider that support for home-educating parents should be provided by the Department for Education?**

Yes

**If your answer to 32 was 'yes', what forms of support do you believe are particularly suited to being provided on a national rather than local basis?**

- Advice for parents: it would be more efficient for this to be provided nationally to avoid duplication of efforts at the local level.
- Learning resources: it would be more efficient for this to be provided nationally to avoid duplication of efforts at the local level.
- Places to sit exams: local authorities do not have a formal relationship with academies and free schools. The DfE would have access to a wider range of schools and settings to approach to arrange places for children to sit exams.
- Funding for exams: if local authorities had this responsibility, it would need to be funded by the DfE. It would be more efficient for grants to be provided directly by the DfE.
- Negotiation of free or discounted admission for home educated children to facilities and destinations which school children attend: It would be more efficient for this to be provided nationally to avoid duplication of efforts at the local level. This would be difficult to implement without a registration

scheme as facilities or destinations would need a way to identify children who are being home educated which would require some form of identification or registration number.

## Other matters

### **Do you have any other comments on the government's proposals for legislation relating to registration and support for home education?**

London Councils does not agree that there should be any changes made to the provision in Regulation 8(2) of the Education (Pupil Registration) (England) Regulations 2006 (requiring local authority consent to the removal of a child's name from the roll of a maintained special school if placed there under arrangements made by the local authority) for any child attending a Special School and who is subject to an Education Health Care Plan. We believe that it is vital that arrangements for pupils with special educational needs must be subject to oversight and review from the local authority and until such time as that local authority is satisfied and agrees that any educational provision being made other than at school is wholly suitable to that child and the needs / level of support that are identified within the EHCP.

London local authorities have raised concerns with us about the increase in the number of children being taken off school rolls to become home educated whose parents are unable to make suitable arrangements for them and within a few weeks or months they apply for a school place via in year admissions. This can be very disruptive for a child's education. Therefore London Councils is advocating for a cooling off period, for example of 10 school days after the parent has reported that they would like to home educate, to give the local authority the opportunity to meet with the parent/carer and be sure that they are clear about the responsibilities that home education entail. If they then reconsider their decision, their child can be reinstated automatically at the school previously attended within that 10 day period. This would help to ensure that schools are less likely to take children off the school roll without careful consideration and parental support. Similarly, parents would benefit from receiving support to help them make a more informed decision about home education.

London Councils believes that when a child is taken off the school roll to become home educated there should be a commensurate reduction made to the remaining Age Weighted Pupil Unit (AWPU) amount of funding, along similar lines to what happens when a child is permanently excluded. This could help to reduce the number of children who are taken off roll by the school and also ensure parity in the funding system with excluded children. However, London Councils feels that the biggest deterrent to schools off-rolling pupils would be if Ofsted were to change their inspection framework to take into account inclusion. If Ofsted reviewed the proportion of children being off-rolled and queried any identified concerns as part of the standard school inspection, this would help incentivise schools to be more inclusive.