Department for Education

Draft: Statutory guidance for Children Not in School

Contents

Foreword from the Minister for Early Education 1

Summary 2

- Legislation this publication refers to 2
- Who this publication is for 2
- General Principles 3

Children required for inclusion on the Children Not in School registers 8

- Children in elective home education 8
- Children who are flexi-schooled 8
- Home educated children aged 14-16 who attend further education colleges or other 16-19 providers part-time 9
- Children not registered at a school who attend alternative provision 9
- Children receiving their education from full-time online providers 10
- Child performers and activities for those who are not registered at a school 10
- Children in Education Otherwise Than at School who are not registered at a school 10
- Children who have been excluded from school and are no longer on a school roll 11
- Children who are in custody and not on a school roll 11
- Children Missing Education 11

How local authorities identify children eligible for inclusion on Children Not in School registers 12

- Children who have never attended school 12
- Deregistering children from school 13

Duty on parents to secure an efficient, full-time, suitable education for their children 21

- Children with SEND 22
- Children who are child performers or engaging in paid sport, dance or modelling 23
- Educational Content, Methods and Approaches 23
- Using out-of-school settings as part of elective home education 23

Children Not in School Registers 25

- Form of the registers 25
- Information local authorities must record on their registers 25
- When and how local authorities must request updates from parents 29
- Information local authorities must record on their registers if they hold it or can reasonably obtain it 31
- How local authorities must update and verify their registers 33
- Local authority requests for information from providers of out-of-school education 34
- Privacy of information held on the registers 41
- How local authorities should use the information recorded on their registers 42

Support for Families Educating at Home 45

- Advice and Information 45
- Forum meetings between the local authority and parents 48
- Support for Children Not in School with SEND 48
- Requests for EHC needs assessments for EHE children 49

How local authorities consider whether a child appears to be receiving suitable education 50

- Informal enquiries 50
- The home and other settings where the child is being educated 51
- Home Visits 52

What local authorities do when it appears that a child not in school is not receiving a suitable education and/or education in their best interests 58

Preliminary notices 58

School attendance orders 61

Safeguarding 73

The role of the local authority 73

When safeguarding powers may be relevant in cases of unsuitable education 73

Safeguarding powers for children not in school 74

Oversight of local authorities in relation to children not in school 77

The role of the Department for Education 77

Ofsted 78

Complaints 78

Annex A – Local authority policies and practices 81

Annex B – Key considerations for parents before deciding to home educate 83

Annex C – Key Definitions 86

Annex D – Template Forms 88

Annex E – Data Handling, Privacy and Information Sharing 105

Annex F – Worked Examples and Special Cases 111

Foreword from the Minister for Early Education

All children deserve to receive a suitable education that enables them to thrive and achieve. Parents are responsible for securing that education and have the right to do so in the way they believe is best for their child. For most children, this means attending school. For others, education is provided outside of the school system, such as through home education.

In recent years, the number of children being educated outside of the school system has increased significantly. Children not in school are a diverse group with a wide range of needs, experiences and circumstances; and many parents make considerable sacrifices to support their children to flourish. But for some children, being out of school can mean that unmet educational needs, vulnerability, or risks of harm go unnoticed. As the number of children not in school has grown, it has become increasingly important that local authorities can identify children who may need support, ensure they are receiving a suitable education, and intervene where there are concerns. Every child deserves to be seen, supported and safeguarded.

The Children's Wellbeing and Schools Act marks a major step forward in achieving that aim. For too long, local authorities have lacked the tools they need to identify children whose educational needs may not be being met or who may be at risk of harm. The Act changes that. For the first time, local authorities will have a comprehensive and consistent framework for understanding which children are not in school and the education they are receiving, together with stronger powers to act where concerns arise. Crucially, it also recognises the important role of home educating parents by introducing, for the first time, a duty on local authorities to provide support when it is requested.

These reforms have been many years in development and reflect the contributions of parliamentarians, local authorities, parents, home education representatives, schools, safeguarding partners and many others. They establish a clearer, fairer and more coherent system that respects parental rights whilst ensuring that every child can be identified, supported and protected where necessary.

This guidance explains how the framework should operate in practice. By working together, parents, local authorities and partners can ensure we achieve the best outcomes for all children, whatever their educational path.

Summary

The guidance sets out the roles and responsibilities of parents and local authorities in England in relation to children of compulsory school age who are not in school. It explains how parents and local authorities must meet the relevant duties under the Education Act 1996, including those inserted into that Act by the Children's Wellbeing and Schools Act 2026.

Throughout the guidance, the following terms are used:

- must = a legal requirement
- should = an expectation set out in statutory guidance, which should be followed unless there is a good reason not to
- may = a person or organisation has discretion to take the action if appropriate
- good practice = a suggested approach as to how the action or activity could be carried out

This guidance applies from *[Insert date]* and replaces the Elective Home Education guidance for local authorities and parents.

Legislation this publication refers to

This guidance refers to the:

- Children's Wellbeing and Schools Act 2026

Who this publication is for

This guidance is for:

- local authority officers with responsibility for children not in school, for example, elective home education leads
- parents of children not in school, including children who are electively home educated or flexi-schooled (but not those who are severely or persistently absent[1]
- parents who intend to withdraw their child from school
- throughout this guidance, 'parents' should be taken to include all those with parental responsibility, including guardians (and foster carers, although in this case the local authority may be the corporate parent)

This guidance may also be useful for:

[1] See Working together to improve school attendance: July 2026

- school and college leaders (though more detailed guidance is included in Keeping Children Safe in Education)
- local authority Children's Social Care officers (though more detailed guidance is included in Working Together to Safeguard Children)
- out-of-school education providers (though more detailed guidance is included in Out-of-school settings: safeguarding guidance for providers)
- local authority officers who issue child performance licences
- children Missing Education local authority officers

Local authorities should read this guidance alongside the following statutory guidance:

- Children Missing Education
- Working Together to Safeguard Children
- Keeping Children Safe in Education
- SEND Code of Practice: 0 to 25 years
- Unregistered independent schools and out-of-school settings (non-statutory guidance)

General Principles

The following principles underpin this guidance and should inform how parents and local authorities exercise their respective responsibilities in relation to children not in school.

Children's rights, wellbeing and individual needs

- Every child is entitled to an education that supports them to thrive and achieve – whether that education takes place in school or otherwise.
- The wellbeing, education and individual circumstances of the child should be at the centre of decision-making.
- Children have their own views, wishes and experiences. Where appropriate, local authorities should seek to understand the child's perspective and take them into account alongside other relevant evidence and professional judgement.
- Home education is not itself a safeguarding concern. Safeguarding concerns should be based on evidence of risk, not solely on where or how a child is being educated.

Parents' rights and responsibilities

- Parents have the right to educate their children otherwise than at school.
- Parents are responsible for securing an efficient, full-time, suitable education for their children of compulsory school age.
- Parents who home educate assume full responsibility for their child's education, including financial responsibility.

- Parents do not need teaching qualifications or specialist training to provide a suitable education.
- Parents may choose from a wide range of educational approaches and methods. No particular educational philosophy or model is required by law.
- No parent should feel forced to withdraw their child from school due to their child's SEND.

Local authority responsibilities

- Local authorities must make arrangements to identify children of compulsory school age living in their areas who are not registered at school and not receiving a suitable education.
- Local authorities must carry out their functions relating to children not in school in accordance with the relevant legislation and must have regard to this and other relevant statutory guidance.
- Local authority action should be lawful, proportionate, evidence-based and tailored to the individual circumstances of the child and family.
- Local authorities should build constructive relationships with families based on openness, transparency and mutual respect.
- Local authorities should not make presumptions about the suitability of a child's education based on the parents' reasons for home educating.
- Local authorities should ensure families can access information about support. Requests for support should not be treated as evidence of unsuitable education.
- Local authorities have legal duties in relation to children with SEND[2], regardless of whether they are in school, and must also have regard to the statutory guidance, the SEND Code of Practice: 0 to 25 years.[3]

Training expectations for local authority officers

Alongside utilising this guidance, local authorities should ensure that staff responsible for education welfare, attendance enforcement and safeguarding receive appropriate training on:

- the legislative framework and statutory duties relating to the Children Not in School measures
- evidence gathering and assessment of suitability of education
- communicating with parents
- legal and safeguarding processes

[2] This includes a duty under section 22 of the Children and Families Act 2014 to try to identify all children in their areas who (a) have or may have SEN, or (b) have a disability.
[3] The Code emphasises the importance of local authorities and their partners working closely with parents and provides specific information about SEND in relation to home education.

- the range of educational approaches that families may adopt
- understanding the additional considerations for families that have experienced or are experiencing domestic abuse in relation to children's educational arrangements, including appropriate case handling and safeguarding responses
- information sharing and data protection
- the relevant appeals and complaints processes including decisions relating to consent, school attendance orders, local authority conduct and the role of the Department in these processes

The Department for Education is developing a training package for local authorities, in collaboration with local authority and home education representatives, to support implementation of the Children Not in School measures. Further details will be shared in due course.

Additional considerations for specific groups of children

While the general principles in this guidance apply to all children not in school, there are additional considerations for some groups of children and their families. Some families may face circumstances that affect how a child accesses education and make it more likely for them to consider alternatives to full-time attendance at school. These may include, but are not limited to, children with special educational needs and disabilities (SEND), families that have experienced or are experiencing domestic abuse, children whose families live nomadically and children who are child performers or engaging in paid sport or modelling. Information relevant to these groups is signposted throughout the guidance.

Children with SEND

For children with SEND, parents will want to think carefully about how their child's educational, developmental and support needs will be met if they choose to home educate them, including any support currently provided through a school or other setting. Where a child has SEND, particularly if they have an Education, Health and Care (EHC) Plan, there may be additional responsibilities or processes that local authorities and parents should take into account. Local authorities and parents can find SEND-specific guidance in the following sections:

- Key considerations for parents before making a decision to home educate
- Duty on parents to secure an efficient, full-time, suitable education for their child
- Support for Children Not in School with SEND
- Requests for EHC needs assessments for home educated children
- Issuing school attendance orders for children on EHC plans

Families that have experienced or are experiencing domestic abuse

Domestic abuse has a significant impact on children, and they may experience it in a variety of ways. They might be the subject of controlling and coercive behaviour, hear or see the abuse, witness its effects or become aware of it via other means. Regardless of how children experience domestic abuse, they will be impacted.

In their engagement with families who have experienced or are experiencing domestic abuse, local authorities must have regard to statutory guidance on domestic abuse and relevant sections of Working Together to Safeguard Children.

Local authorities should be alert to indicators that domestic abuse may be occurring and follow their local safeguarding procedures where concerns arise. They should also consider whether referrals or signposting to appropriate support services is required for both child and adult victims.

Local authorities should be aware of any Operation Encompass notifications that have been made to a child's previous educational setting or local authority. Operation Encompass is a statutory information sharing duty in England and Wales whereby police must notify a child's educational setting where they have attended a domestic abuse incident in the child's home, whether the child was physically present or not. This notification should be made before the start of the next school day. Where a child does not attend an educational setting, the police should inform the relevant local authority. This does not replace safeguarding referrals.

Local authorities should also be aware that perpetrators of domestic abuse frequently use systems and processes as a means of continuing coercive or controlling behaviour, including after separation. Care should be taken to ensure that information sharing, parental engagement and decision-making processes do not inadvertently facilitate abuse or increase risk to a child or adult victim.

Local authorities and parents can find domestic abuse-specific guidance in the following sections:

- Consent and domestic abuse
- When and how local authorities must request updates from parents
- Subject Access Requests
- The home and other settings where the child is being educated
- How local authorities should conduct home visits
- Contents of the preliminary notice
- School Deregistration and Applications for Consent to Home Educate
- Parental rights
- Annex F - Worked Examples and Special Cases

Families who live a nomadic lifestyle

Parents who live nomadically should ensure they are familiar with their legal responsibilities including, where applicable, the duty to provide information for local authorities' Children Not in School registers. Where a family moves to a new area, parents must provide the required information to the new local authority, even if they expect to be resident there only temporarily, and they must inform their previous local authority that they have moved.

Local authorities should work constructively with nomadic families and, where appropriate, with other local authorities to support continuity, minimise administrative burdens and ensure that children are recorded on the correct Children Not in School register.

The following sections of this guidance are particularly relevant for nomadic families and the local authorities working with them:

- Children required for inclusion on the Children Not in School registers
- Duty on parents to secure an efficient, full-time, suitable education for their child
- How local authorities consider whether a child appears to be receiving a suitable education
- What local authorities do when it appears that a child not in school is not receiving a suitable education and/or education in their best interests

Children who are child performers or engaging in paid sport, dance or modelling

Some children who are child performers or who are engaged in paid sport, dance or modelling are home educated or flexi-schooled. These arrangements can support children to continue their education alongside significant periods of travelling, training, rehearsing, competing or performing. Parents must ensure that their children's educational arrangements remain suitable, full-time and efficient. Ensuring that suitable educational arrangements are in place is often also a condition of a child performance licence being granted.

The following sections of the guidance may be particularly relevant for parents of these children, and the local authorities and out-of-school education providers engaging with them when considering how they must fulfil their responsibilities:

- Child performers and activities for those who are not registered at a school
- Duty on parents to secure an efficient, full-time, suitable education for their child
- How local authorities consider whether a child appears to be receiving a suitable education

Children required for inclusion on the Children Not in School registers

Children in elective home education

Elective home education means a parent choosing to provide a child's education at home themselves or using other education providers. These education providers may include, for example, supplementary schools, tuition centres, online provision, community clubs, parental support groups which offer tuition or provision made at further education colleges for children aged 14 and over. Parents can choose to educate the child outside of the family home, for example, in libraries, community centres or parks. Some of the reasons for deciding to home educate and considerations parents should bear in mind about doing so can be found in Annex B.

Children who are flexi-schooled

Flexi-schooled children are educated at home some of the time while also being registered at a relevant school[4] and attend that school for part of the time. This is different from being on a part-time timetable. If a flexi-schooled child is of compulsory school age they must, overall, be receiving full-time education even if this is split between school provided education and home education.

If parents wish to make such arrangements with a school, they should discuss this with the school concerned. The school is under no obligation to accept such an arrangement and should only agree to a flexi-schooling arrangement under exceptional circumstances. It is good practice for schools to inform local authorities of instances of flexi-schooling so local authorities can be reassured they are aware of all flexi-schooled children in their areas.

Parents have responsibility for the child's welfare when at home, and any education provider who is teaching the child at the time (at home or elsewhere) will have a duty of care. Local authorities, however, have duties in relation to the safety and welfare of all

[4] "Relevant school" is defined in section 434B of the Education Act 1996, and means:

- a school maintained by a local authority,
- a non-maintained special school (within the meaning given by section 337A),
- an Academy school or alternative provision Academy,
- an institution within the further education sector that provides secondary education suitable to the requirements of children who have attained the age of 14 years,
- an independent educational institution within the meaning of section 92(1) of the Education and Skills Act 2008, that is registered under section 95 of that Act (register of independent educational institutions),
- a school that is included in the register of independent schools in Wales (kept under section 158 of the Education Act 2002), or
- a school within the meaning of section 135(1) of the Education (Scotland) Act 1980

children in their areas, including those who are flexi-schooled. Local authorities must also identify whether the home education elements of the child's education appear suitable, taking into account what the child is also learning at school.

Home educated children aged 14-16 who attend further education colleges or other 16-19 providers part-time

Home educated children aged 14-16, may attend further education colleges, sixth-form colleges and 16-19 academies, part-time to receive tuition in specific subjects. If a parent is interested in this, they should ask the college concerned if it has any such arrangements. The college is under no obligation to make such provision. When children who are educated at home attend such college settings part-time, then the provision made should be considered by the local authority in deciding whether the education provided, as a whole, for the child is suitable.

The 16 to 19 Bursary Fund is not payable to young people whose parents elect to home educate them after the age of 16. Further information on available funding can be found in the guidance on 16 to 19 funding: how it works - GOV.UK.

Children not registered at a school who attend alternative provision

Alternative provision (AP) is education that takes place outside of mainstream and special schools. It may be arranged by local authorities for pupils of compulsory school age who, due to school exclusion, illness, or other reasons, cannot currently receive a suitable education elsewhere.

Schools can also arrange AP for children on a suspension (fixed period exclusion), and for children being directed by schools to off-site provision to receive education intended to improve their behaviour. Where these children remain registered at a school, they are not in scope of the registers.

The commissioner (either the local authority or school) remains responsible for making sure the education is suitable, safe and meets the child's needs.

Children receiving their education from full-time online providers

Some children receive all of their education from full-time online providers[5]. Some of these providers are accredited by the Department for Education. However, they are not schools and the children attending them are considered to be "not in school". Parents of these children are responsible for providing information to the local authority for the registers.

Child performers and activities for those who are not registered at a school

Some children of compulsory school age take part in public performances, paid sport and paid modelling activities that require a licence to do so[6]. If these children are not registered at a school (for example, they are home educated) then this guidance applies. It also applies where they meet the criteria for inclusion on another basis, for example being flexi-schooled.

Children in Education Otherwise Than at School who are not registered at a school

Education Otherwise Than at School (EOTAS) is special educational provision otherwise than in a school, post-16 institution or relevant early years provider. It is arranged and funded by a local authority for a child or young person that usually has an Education, Health and Care (EHC) plan and for whom the local authority has decided it would be necessary[7]. EOTAS packages often include education delivered in non-school alternative provision settings or through an online education provider, arranged alongside therapeutic and health provision, such as speech and language therapy

[5] 'Online education' means education provided remotely through digital technologies. This guidance uses the term "full-time online provider" to refer to providers of full-time online education to compulsory school age children in England. These providers can apply to be accredited by the Department for Education; more information is available at Online education accreditation scheme - How the scheme works.

[6] The legislation for licensing is set out in The Children (Performance and Activities) (England) Regulations 2014. Performance licences are granted by the local authority but will only be approved if the local authority is satisfied that the child's education will not suffer because of taking part in a performance or activity for which the licence is requested. The applicant for the child performance licence must provide details in the application concerning the education the child will be provided with during the licence period and any education arrangements made must meet the requirements set out in the regulations. The local authority is responsible for enforcing the licensing requirements and may carry out inspections, including of the premises where the child is receiving their education, to check the conditions are being met.

[7] Section 61 of the Children and Families Act 2014

Children who have been excluded from school and are no longer on a school roll

There are two types of exclusions:

- suspension (sometimes referred to as fixed-term or fixed-period exclusion)
- permanent exclusion

This guidance will apply for children who have been permanently excluded as soon as their name is removed from the school roll, unless they have been registered at another school. Parents of these children should refer to the subheading that describes their child's new educational arrangements (for example, children in AP or home education).

Children who are in custody and not on a school roll

A child's period in custody may result in them being removed from the school roll (if they were on one initially). Children who are detained remain entitled to receive suitable education.

Children Missing Education

Children missing education (CME) are children of compulsory school age who are not registered pupils at a school and are not receiving suitable education otherwise than at a school. CME may include children:

- who are receiving unsuitable home education
- who have been offered a school place for a future date but have not yet started
- whose parents are in the process of applying for a school place for them
- whose whereabouts is unclear or unknown

For further information, please see children missing education: statutory guidance for local authorities

How local authorities identify children eligible for inclusion on Children Not in School registers

Where a local authority is commissioning alternative provision or EOTAS for a child, they should have detailed awareness of the child's educational arrangements and needs.

However, if a local authority is not commissioning or otherwise involved in a child's education, they will typically need to be provided with information from parents, schools, or other organisations to enable them to identify the child.

Children who have never attended school

Some parents choose not to send their children to school when they reach compulsory school age. In these cases, once the child reaches compulsory school age, parents must contact their local authority so their child can be added to the authority's Children Not in School register.

Local authorities will also need to identify children who are already of compulsory school age[8] and have never been registered at school, including where their parents do not come forward. The arrangements described below, including collaboration with appropriate partners and the power to request information from out-of-school education providers, can support local authorities to identify these children.

Parents of children not receiving a suitable education may be less likely to proactively register with the local authority. Given that local authorities must make arrangements to identify children not in school in their areas who are of compulsory school age and not receiving a suitable education, local authorities should collaborate with appropriate partners (for example, GPs and other health professionals[9], housing providers, police, Youth Justice Services, Border Force and other public sector bodies) to help them establish the identities of these children. Local authorities should aim to develop data and information sharing agreements that refer to the appropriate lawful basis for the sharing of

[8] School admissions: School starting age - GOV.UK

[9] 9 When collaborating with health professions this should be via the joint and equal statutory child safeguarding partnership between LAs, ICBs and Police, not via individual professionals.

the relevant information to support this[10], in accordance with the Information Commissioner's Office data sharing code of practice[11].

Relevant information could include instances where there is reason to believe that a vulnerable child or one at risk of harm may not be registered at a school, or there is reason to believe that a child may not be receiving suitable education and this is associated with concerns about the child's welfare, neglect or risk of harm. This does not mean such professionals should share information on every home educated child they come across, as home education is not itself a risk. Local authorities should also use this engagement as an opportunity to inform these professionals about parents' right to educate their children otherwise than at school.

Where a local authority identifies a child who is not in school and is also on a child protection plan (or has been on a plan in the last five years), or is subject to a child protection enquiry under section 47 of the Children Act 1989, it should consider whether it would be in the child's best interests to attend school (see sections 'Best interests of the child' and 'Children not in school subject to child protection activity').

Local authorities may also identify children who are eligible for inclusion on their Children Not in School registers through their power to request information from out-of-school education providers (see section 'Local authority requests for information from providers of out-of-school education').

Deregistering children from school

Local authorities who take steps to ensure good communication with schools in their areas may receive advance notice of children whose parents may be contemplating requesting that their child be deregistered from the school roll.

Where a school (or a further education college which has students aged 14-16 on its register) becomes aware that a parent is considering withdrawing their child from school/college for home education, it should inform the local authority in which the child lives so that a meeting with parents (and ideally the school/college) can be offered[12].

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[10] Section 10(1) of the Children Act 2004 requires local authorities to make arrangements to promote cooperation between the authority, relevant partners and other appropriate persons or bodies exercising functions or activities relating to children. Under section 10(2), these arrangements must be made with a view to improving children's wellbeing, including protection from harm and neglect and education. The Department also recommends that local authorities establish information-sharing protocols to support appropriate information sharing where there are concerns about the suitability of a child's home education and potential neglect causing significant harm. Local authorities should have regard to the importance of parents and other carers in improving children's wellbeing (section 10(3)).

[11] Information sharing advice for safeguarding practitioners

[12] For more details see Elective Home Education section of Keeping children safe in education - GOV.UK

However, parents can choose to decline the offer of a meeting and proceed with the appropriate process to withdraw their child if that is their choice. The exception to this is if the child lives in a local authority area that is participating in the pilot scheme for mandatory meetings.

Parental notification

If a parent wishes to remove their child from school, they should notify their child's school in writing. The school must inform their local authority (and the local authority in which the child lives, if different) of the parent's intention and the child's local authority should then confirm whether the child will require consent to be withdrawn (as set out below), or if they are in an area that is participating in the pilot scheme for mandatory meetings.

Where a school is already aware that a parent of a child will require consent, the school should notify the relevant local authority or authorities and direct the parent to make an application for consent.

Local authority checks to confirm if a child requires consent

A parent must get consent from the relevant local authority before withdrawing a child from school for home education if their child is:

- subject to current enquiries under section 47 of the Children Act 1989 (Child protection enquiries).
- on a child protection plan (or has been subject to a plan in the last five years ending with the date on which an application is made).
- registered at a special school[13] under arrangements made by a local authority.

In most cases, the local authority will be able to quickly confirm to the school if a child requires consent as it will hold records of any child protection activity or arrangements it has made for the child to attend a special school. Where the local authority is aware that a child has lived in another local authority area at any time during the previous five years, the local authority should contact the other area(s) to establish whether the child has been subject to a child protection plan within that five-year period, if this is not already known.

Local authorities should ensure that they have checked if a child requires consent for multiple reasons. For example, if a local authority is aware that a child at a special school has lived in a different local authority area in the past five years, they should confirm with the relevant authority or authorities if the child was on a child protection plan.

[13] This includes independent schools within the meaning of section 463 of the Education Act 1996 which are specially organised to make special educational provision for pupils with special educational needs

Where a local authority confirms that the parent of the child does not require consent, and the child does not live in a mandatory meeting pilot area, it should inform the school, who must remove the child's name from its admission register[14]. The school must then notify its local authority of the pupil's name being deleted from its admissions register, and the local authority that the child lives in will include the child on its Children Not in School register. The child's parent will be required to provide information to the local authority for this register (see the section on who must provide information for registers).

Where a local authority has confirmed that a parent requires consent, the child's school should notify the parent that they are required to get consent from the local authority before withdrawing their child.

Where a local authority has confirmed that a parent lives in a mandatory meeting pilot area, the child's school should notify the parent that they are required to attend and participate in a meeting with the local authority before withdrawing their child. The local authority should organise the meeting. Separate guidance will be provided to support local authorities to plan, facilitate and record the outcome of these meetings.

If a child is attending any school in accordance with a school attendance order, this order must be revoked by the local authority before the child's name can be removed from the admission register (see section Review and Revocation). If parents wish to change the school named on the order, they can ask the local authority to amend it to name the different school without revoking it.

Consent applications

A parent can submit their own application to the relevant local authority for consent or request that their child's school submit it on their behalf. Applications should be submitted to the local authority which is conducting the child protection activity or has made arrangements under which the child has been registered at a special school.

Where a child was subject to a child protection plan in the last five years and the plan has been closed down, the application should be submitted to the local authority that last held the plan. Where that local authority differs to the child's current local authority, the local authority that last held the plan should work closely with the child's current local authority to make the consent decision.

Applications should contain information demonstrating that suitable arrangements have been made for the child to be educated otherwise than at school and that it would not be in the child's best interests to attend school.

[14] Regulation 9(1)(f) of the School Attendance (Pupil Registration) (England) Regulations 2024

Consent decision

The local authority must decide without undue delay whether to grant consent and must only refuse consent if it considers that:

- no suitable arrangements have been made for the child to be educated otherwise than at school, or
- it would be in the child's best interests to receive education by regularly attending school

The child's school should provide the local authority with any relevant information it may request to assist its decision-making, where it is satisfied that it can lawfully do so. In local authorities participating in the mandatory meetings pilot, this meeting should form part of the mandatory meeting.

Where a consent decision, or best interests' decision, is being made in respect of a child currently subject to child protection enquiries, currently on a child protection plan or previously on a child protection plan in the past 5 years, the social care team within the local authority should lead decision making with input from the elective home education team. Where a consent decision is being made regarding a child currently attending a special school, the local authority elective home education team should lead decision making with input from the SEND team where appropriate.

Suitable arrangements

In demonstrating that they have made suitable arrangements, a parent should show how they plan to fulfil their duty to cause their child to receive a full-time, efficient education that is suitable to their child's age, ability, aptitude and any special educational needs they may have. This should not just contain a list of resources or platforms that the parent plans to use but show how they intend for the child to make progress according to the child's age, ability, aptitude and any special educational needs they may have.

Local authorities should be mindful that if consent is granted for the child to be home educated, the child's home education provision may change from the initial plan outlined in the parent's application. Such flexibility should be afforded to the parent as long as the provision is suitable. See section 'Duty on parents to secure an efficient, full-time, suitable education for their children' for further information on suitable education.

Best interests of the child

Local authorities will need to consider whether it would be in a child's best interests to attend school when deciding whether to give consent for a child to be withdrawn from school.

Local authorities will also need to consider the child's best interests when deciding whether to issue a preliminary notice for a school attendance order for children who are

currently subject to section 47 enquiries, child protection plans (or who were subject to a child protection plan within the previous five years) and who are not currently registered at a school.

The decision regarding a child's best interests should be informed by relevant multi-agency evidence and professional judgement. Local authorities should consider the views of the parents, the child where appropriate, any practitioners involved with the child, the overall evidence relating to the child's welfare and needs, and any differing professional opinions. Where views differ, the local authority should be able to explain how those views were considered in reaching its decision.

When making a decision on a child's best interests, local authorities should consider as part of their determination the following factors. The weight given to each factor should depend on the individual circumstances of the child.

Child's views, wishes, and lived experience

Local authorities should consider:

- the child's perspective, having regard to their age and understanding
- the child's lived experience and day to day wellbeing
- the likely impacts of withdrawal from school (when considering whether to grant consent) or attending school (when considering whether to issue a preliminary notice) on the child

The child's safety and welfare

Local authorities should consider:

- any harm the child has suffered or is likely to suffer
- whether withdrawal from school (when considering whether to grant consent) or attending school (when considering whether to issue a preliminary notice) would increase or reduce any identified risks
- protective factors that support the child's safety and welfare, including the role of school attendance

The child's educational, physical and emotional needs

Local authorities should consider:

- the child's educational needs and how they would be met
- the child's physical and emotional wellbeing
- the likely effects on the child of a change in educational arrangements

For the purpose of determining a child's best interests, 'harm' should be understood in broader terms than the statutory definition of harm in section 31 in the Children Act 1989,

and may occur within or outside the home, in education settings or online. This may include, but is not limited to, abuse, neglect, exploitation, bullying, self-harm and other risks to the child's safety or wellbeing. Local authorities should consider both harm suffered, or likely to be suffered, by the child, and any risk that the child may pose to themselves or to others.

Consideration of changes of circumstances in the case of children previously on a CPP, such as adopted children

Where a child has been subject to a child protection plan within the previous five years but is not currently subject to a section 47 enquiry or child protection plan, local authorities should consider the extent to which the circumstances that led to the child protection plan remain relevant to the child's current welfare and best interests.

In applying these factors local authorities should consider any significant changes in the child's circumstances, including changes to care arrangements, legal status, family composition, parental capacity and practitioner assessment of the child's welfare, safety and risk.

Local authority collaboration and multi-agency working

Where a child is currently subject to a section 47 enquiry or child protection plan, local authority CSC teams will have looked at the best interests of the child when making their assessments. Local authorities should take account of relevant assessments, plans and practitioners' views. CSC and Elective Home education (EHE) teams should work collaboratively to inform the consent decision.

Decisions in relation to children currently subject to a section 47 enquiry or child protection plan or previously subject to a child protection plan within the previous five years should be subject to appropriate oversight through the Multi-Agency Child Protection Team. The approach should be proportionate to the child's circumstances and should complement, rather than duplicate, existing safeguarding activity.

Notification of consent decision

The local authority must notify the following people of its decision:

- the parent who made the consent application
- any other parent of the child (if contact details are known), unless exceptional circumstances apply
- the child's school

The local authority should provide clear reasons for its decision as part of this notification.

The local authority may choose not to notify any other parent of the child if 'exceptional circumstances' apply. Exceptional circumstances include if notifying a parent could place

the child or another parent in danger (see the section on 'Consent and domestic abuse' for further details). The child's school should notify the local authority of any relevant information it has that could impact who the local authority notifies.

The child's school must not delete the child's name off its admissions register until it has received notification of the local authority's decision to grant consent. The school must inform the local authority of this deletion, and the local authority must add the child to its Children Not in School register. The child's parent will then be required to provide information for this register (see the sections on 'Information local authorities must record on their registers' and 'Who is required to provide the information')

Consent appeals

Where consent is not granted, a parent may decide to make a further application. The local authority will only be required to consider such an application after six months has passed since the date of the previous application.

If a child is no longer subject to a child protection enquiry (or if five years has elapsed since they were on a child protection plan), the parent can withdraw them from school for home education without needing to re-apply for consent (unless they attend a special school by arrangement of a local authority).

Where a parent wishes to appeal a local authority's decision to grant or refuse consent, they can refer the matter to the Secretary of State, who may:

- uphold the local authority's decision (if consent has been granted)
- give a direction to the local authority that consent should be granted (if consent has been refused) or confirming the decision
- refer the question back to the local authority (in both cases)

Parents who wish to make an appeal to the Secretary of State should send their application to the Department for Education.

Consent and domestic abuse

When considering consent applications for children in families where domestic abuse is currently or has previously taken place, the local authority should ensure that there is relevant domestic abuse specialism as part of its CSC team making the decision. Local authorities should also seek to involve individuals and services which have established relationships with the family and can offer information and support. This might include the child's school or someone from an Early Help service.

As part of their consideration, local authorities should ensure that they have all relevant information relating to the family, such as Operation Encompass notifications and any referrals to Multi-Agency Risk Assessment Conferences.

Local authorities should also be mindful that discussion of domestic abuse, whether the abuse has been perpetrated recently or not, as part of consideration of a consent application could likely be traumatising for a parent and child.

In considering whether ‘exceptional circumstances’ apply, and if so a parent of a child should not be notified of the consent decision, local authorities should consult with the parent who made the application, the child’s school and any other relevant agencies. A local authority should be aware of the impact of identifying where a child and parent lives (even if it is just which local authority area they are in) and if this could place the child/parent at risk of harm. Situations where a parent has had to move for their protection because of domestic abuse perpetrated by another parent or where a parent is a protected person in proceedings arising from domestic abuse are likely to be exceptional circumstances.

Local authorities should also be mindful of the potential for an abusive parent to manipulate the consent appeals process to frustrate the wishes of another parent. To mitigate against this, local authorities should ensure they keep records of how consent decisions are made and should note in these records if they believe a parent could seek to appeal the decision.

Duty on parents to secure an efficient, full-time, suitable education for their children

Parents who are home educating or flexi-schooling their children of compulsory school age should be ready to provide some information to show that education appears:

- **efficient** – there is no statutory definition of "efficient education", but it is often explained as meaning education which "achieves what it sets out to achieve". When considering efficiency, a local authority should focus on whether the child is making progress over time in relation to the parents' learning aims and the child's starting point and individual needs
- **full-time** – there is no statutory definition of what constitutes a "full-time" education. For registration of an independent school or institution, the Department generally considers "full-time" to be more than 18 hours operating per week[15]. However, this should not be applied directly to home education. In contrast to school-based provision, home education is typically more flexible and individualised, and may include one-to-one learning, small-group activities, and a range of informal or experiential learning opportunities. Children may also learn outside conventional school hours and terms. These approaches can enable children to make effective progress in fewer or more hours than would usually be required in a classroom setting. Local authorities should consider these factors, as well as any special educational, disability or health needs that a child may have, when deciding whether education is full-time for a particular child
- **suitable education** – there is no statutory definition of "suitable" education. What is suitable depends on the child's age, ability and aptitude, and any special educational needs they may have, and so local authorities should consider suitability on an individual basis

In general, parents should be prepared to show the local authority that the education their child is receiving:

- is efficient, by providing information about how the education being received aligns with the aims of their child's learning
- is full-time, by giving a high-level overview of the time spent on learning.
- includes literacy and numeracy at a level appropriate to the child's age, ability, aptitude and any special educational needs
- includes enough secular education to allow the child to participate fully in life in the UK beyond the community in which they were brought up. A solely religious education is unlikely to be suitable

[15] Departmental guidance for proprietors and prospective proprietors of independent schools in England

- does not directly conflict with or undermine fundamental British values, which are "democracy, the rule of law, individual liberty, and mutual respect and tolerance of those with different faiths and beliefs"[16]. Parents do not need to show that they are proactively teaching these values. When considering whether this criterion is met, local authorities may consider all relevant evidence, including information outside the educational plan or materials provided by the parent if it may reasonably indicate that attitudes or beliefs that undermine or conflict with these values are being promoted to the child
- provides opportunities for the child to socialize and mix with a range of people and peers and to participate in the wider community and does not result in harmful isolation
- is being delivered in an environment that enables learning to take place. The home or other learning environments should not be so noisy, overcrowded or unsafe that it prevents the child from learning or making progress. If the learning environment poses significant barriers to learning, or presents safety risks, this may indicate that the education is not suitable or that there are safeguarding concerns

Parents do not need to have formal qualifications or training to provide their children with a suitable education. Parents from all educational, social, linguistic, religious, and ethnic backgrounds successfully home educate and these factors should not raise concerns about suitability.

If, at any stage after removing a child from school for home education, it becomes clear to the parent that they cannot provide suitable home education, they should contact the local authority as soon as possible to apply for a suitable school place for their child, minimising any interruption to education. Parents can apply for a place at any mainstream school at any time. If the child is of compulsory school age, the local authority must find a suitable school place or ensure that education is provided in some other way. This may not be in the parent's choice of school.

Children with SEND

Where a child has special educational needs or a disability (SEND), meeting those needs is likely to be crucial in ensuring the success of home education. The judgements which a local authority must make regarding suitability of education must always take into account any special educational needs the child may have. A local authority should not require a formal diagnosis or third-party evidence before considering a child's possible SEND. Parents' views and reports should be given due weight particularly where formal assessments are being sought. However, if the local authority has reasonable grounds to doubt the accuracy of the parents' views or reports then the local authority may seek

[16]Promoting fundamental British values through SMSC

further information relevant to its assessment of the suitability of the education being provided.

Children who are child performers or engaging in paid sport, dance or modelling

The duty for parents to secure suitable education for their children is not affected if the child is a child performer or engaging in paid sport, dance or modelling. The duty remains with the parents.

While some contracts may include aspects of education for the child, for example for child performers, it is still the responsibility of the parent to ensure that such education is suitable and actually taking place.

Reporting the details of such education to their local authority also remains the same for these parents as for all parents of children on the CNIS registers and local authorities should consider such education in the same way as all children on the register.

Educational Content, Methods and Approaches

There are no specific legal requirements regarding the content of home education, for example:

- the National Curriculum does not need to be followed and individual subjects from the curriculum do not need to be taught as part of home education
- detailed lesson plans or formal lessons are not required
- work does not need be marked (or, in some educational pedagogies, need to be produced)
- progress and development objectives do not need to match school-based, age-specific standards
- there is no requirement to undertake exams or acquire qualifications

Home education varies widely. Some parents choose to use structured, timetable-based approaches similar to school; others use informal, flexible or child-led approaches. Neither approach is inherently better.

Using out-of-school settings as part of elective home education

Parents can use the services of out-of-school education providers, such as tutors or supplementary schools, to meet their duty to secure their child a suitable, full-time, efficient education, but in doing so they are responsible for ensuring any provider they are using is suitable. Many providers of out-of-school education are unregulated under education and

childcare law. Parents should read the out-of-school settings safeguarding guidance to understand what checks they may want to undertake on providers.

Work Experience

Work experience provides young people with opportunities to develop practical skills, build their understanding of the workplace and support their progression into employment. Parents can choose to include work experience within their child's home education programme.

Work experience is mostly undertaken by children and young people aged 14 to 16, usually in the form of a 1–2-week block placement. However, it does not need to be restricted solely to this age group.

The arrangements for a work experience placement should be clearly documented. Where work experience placements do not exceed 20 days per year the employers providing the placements will be exempt from the provider duty, therefore parents should be able to clearly illustrate where this is the case.

We would expect that employers keep clear records to enable them to demonstrate that this was work experience and not child employment.

The employer, young person and their parents should agree the placement schedule in advance.

Where a child appears to be engaged in employment not permitted by child employment laws, local authorities should discuss any concerns with the employer and parent and, where unresolved, should consider safeguarding referrals. This is the case whether the employment is with an external company, or within a family business, such as working in a family-owned restaurant or shop on weekday evenings or weekends.

Parents arranging work experience independently or with the support of their local authority (or local intermediaries contracted by the local authority), should check that the employer has public liability insurance, that they have safeguarding processes in place to ensure the child is adequately supervised, and they have an up-to-date risk assessment that ensures the employer has considered any safety adjustments to accommodate a young person at their working premises. The Health and Safety Executive guidance for employers has a section on work experience.

Parents should also be aware that not all employers will have staff with DBS checks. Some employers may employ people with previous spent convictions, so parents may wish to check if this is the case and any implications this has for their child doing their work experience there.

Children Not in School Registers

Each local authority in England and Wales is required to keep a register of children in their areas who are not in school. Children who live in a local authority in England but who are attending school full-time in Scotland or Wales **do not** need to be included on Children Not in School registers.

Parents of most children who are required to be registered must give certain information for these registers. Some out-of-school education providers must also give information when requested to do so by local authorities.

Identifying and recording children on their registers will support local authorities to take early and proportionate action where there are concerns regarding the suitability of education or risks to a child's welfare, or potential risk of harm, including where the child may require help, support or protection.

Form of the registers

Local authorities must use an electronic management information system to keep their Children Not in School registers.

Local authorities must request information for the registers from parents using the following registration form(s): Annex D.

Parents should ideally provide information for the registers using the correct form (see **Annex D**) to ensure information is captured accurately, but may also choose to provide information through another written format.

Information local authorities must record on their registers

For each child eligible to be included in the register, the following information must be recorded by the local authority:

- child's full name, date of birth, and address
- child's previous address: if the child has lived at their current address for less than 12 months
- any additional addresses for the child if the child lives at more than one address
- parents' full names and addresses
- the following details about the child's education provision:
- the name of each parent who is providing education to the child

- an estimate [17]of the amount of time that the child spends receiving education from each of their parents
- an estimate of the total amount of time that the child spends receiving education from persons other their parents
- if a particular provider (an individual or an organisation), other than the child's parents provides education to the child for more than 6 hours per week:
- the name and address of the provider
- a description of the type of provider that it is (for example, supplementary school)
- the postal address of each place where the education is provided (if that is different from the address of the provider) or the website or email address of the provider if that education is provided virtually
- an estimate of the amount of time that the child spends receiving education from that provider
- an estimate of the amount of time the child spends receiving that education without any of their parents being actively involved in their child's tuition or supervision[18]

A description of the activities that count as 'education' for the purposes of the registers can be found in Annex C - Key Definitions.

Local authorities may obtain this information through various means:

- provided by parents in line with the parent(s)' duty to provide information for the registers
- gathered from information already held on existing voluntary registers of home educated children
- information may be supplied by out-of-school education providers who are required to provide information to the local authority
- provided by schools when a child is deregistered as a pupil

Who is required to provide the information

Parents of the following children have a legal duty to provide information for their local authority's Children Not in School register:

- home educated children
- flexi-schooled children

[17] "Estimates" must be recorded using the following ranges: 0 hours; 1-5 hours; 6-10 hours; 11-15 hours; 16 hours+

[18] Without their parents' "active involvement" means that no parent of the child is directly teaching, retaining responsibility for the child's behaviour, safety or learning during the activity, or engaging with the child's learning at the time. The child may be learning independently or taking instruction from another person whilst the parent is observing or physically present.

- home educated children aged 14-16 who attend further education colleges or other 16-19 providers part-time
- children receiving their education from full-time online providers
- child performers who are not registered at a school
- children who have been excluded and are no longer on a school roll
- children who are in custody[19] and not registered at a school
- children Missing Education

Parents of children receiving all of their education at AP in a non-school setting and who are not registered at a school or children who are receiving full-time education by EOTAS or EOTAS in combination with arrangements made by the local authority under section 19 (in England) or section 19A (in Wales) of the Education Act 1996 are not required to provide information for the registers as local authorities will already hold the required information.

Each parent of a child who is eligible to be included on the registers is required to provide the information local authorities must record on their registers if they know it, unless the child is receiving full-time education by:

- EOTAS or
- EOTAS in combination with:
- arrangements made by the local authority under section 19 (in England) of the Education Act 1996,
- arrangements made by the proprietor of the school at which the child is a registered pupil, and/or,
- attendance at a relevant school

Parents who are required to provide information for registers do not need to contact their child's other parent for the purpose of obtaining information from them.

Where parents are not required to provide information for registers, the local authority should add all the required information to the register within 15 days of the child becoming eligible for registration. This will often require those responsible for updating the register to work with colleagues in other parts of their local authority, but it is the responsibility of the local authority that such information is shared securely and promptly so that the register is kept up to date.

[19] If the parent does not know the required information as to which out-of-school education providers are being engaged to educate their child whilst they are detained, the local authority the child normally lives in should contact their local Youth Justice Service to acquire this information.

Children in custody

For those children who are placed in a Secure Children's Home the local authority where the Secure Children's Home is physically located is responsible for ensuring that suitable education is available within the home.

The local authority that placed the child in the secure home retains the legal duty to promote the child's educational achievement. They must:

- cooperate with the secure home to establish an immediate educational plan
- provide full information on the child's academic history, including any Education, Health and Care (EHC) plan
- must not cease an EHC plan when a child or young person enters custody. They must keep it while the detained person is detained and they must maintain and review it when the detained person is released

For children placed in a Secure Training Centre, Young Offender Institution or Secure School, education is provided within the custodial establishment. Local authorities seeking information about a child's education while in custody should contact the relevant establishment and, where necessary, their Youth Custody Service contact.

Unless there are exceptional circumstances, children in custody, who are not registered with a school, should be placed on the CNIS register of the local authority in which their parents reside.

Child Performers

While performance licences usually include educational provision, it is the legal responsibility of the parents of the child to ensure their child receives a suitable education while performing.

Local authorities should ask the parents as normal for details of their child's education. If parents are unable to provide these details, they may ask the local authority to use the relevant provider contact details which were included in the license agreement.

When must parents provide the information?

When a child becomes eligible for registration

When a child becomes eligible for registration, for example upon reaching compulsory school age or when they are removed from a school roll to be home educated, their parents usually have a duty proactively to provide the required information to their local authority within 15 days (see section on 'Who is required to provide the information for exceptions to the parent duty').

If the parent does not provide the required information, the local authority should write to the parent requesting it. Where requested, the information must be provided by the parent within the timeframe stipulated by the local authority, which cannot be less than 15 days.

When there is a change to the required information

In the event that there is a change to the following information, parents must notify the local authority within 15 days of becoming aware of the change:

- child's name
- child's address
- parent(s)' name(s)
- parent(s)' address(es)
- parent(s) providing education to the child

If the information about the child's education provision changes, the parent(s) should keep a note of those changes. The local authority must request an update about the child's education provision at least once a year, but may not do so more frequently than once every 3 months.

When that request is made, the parent(s) must respond to it with either the updated information, or confirmation that there has been no change, within the timeframe given by the local authorities, which cannot be less than 15 days. If there is an update to be provided, all changes that occurred during the entire period since the last request must be included.

When a child is no longer eligible for registration

Parents must also notify the local authority if the child is no longer eligible for registration because the child:

- no longer lives in the local authority's area
- is no longer in one of the educational arrangements that makes them eligible for inclusion on the registers (for example, the child moves from home education to attending a relevant school full-time as a registered pupil)

This notification must take place within 15 days of the change.

When and how local authorities must request updates from parents

Local authorities are required to request updates from parents regarding the required information on the registers concerning their child's education provision at least annually (but no more frequently than every three months).

For most families registered with local authorities, an annual request for this information should be sufficient. However, if a family is new to home education or the local authority has concerns about the child's education provision, a 3-monthly or 6-monthly request may be appropriate. Requests for updates more frequently than annually should not be standard practice for all home-educating families in the local authority.

The onus for establishing any remaining missing information will rest with the local authority, who should make reasonable efforts to find out that information from other sources if parents are not in possession of it.

Extensions to time to submit information

There will be some instances where a family should be afforded more time to reply to a request for information. These cases include but are not limited to key transition points such as:

- becoming new parents
- getting married or separated, with associated administrations such as legal name changes
- becoming foster or adoptive parents
- suffering redundancy
- suffering a bereavement
- taking on new caregiving responsibilities
- managing the impact of an ongoing health condition(s)
- having to move at short notice for their protection due to domestic abuse

How local authorities should inform parents of their registration duties

In most cases, local authorities should expect to receive the required information for their registers from parents. Therefore, it is important that the local authority publicises the registration duties to parents in their areas, so they are aware of what information they must submit and when.

Communications about the registration duties should include:

- the legal basis for the register
- who is required to give information for registers
- the information required from parents and the deadline for submissions
- how parents can provide the information (for example, online form and/ or paper form)
- information on parents' rights and responsibilities, including the duty to ensure their child receives a suitable education

- what will happen if information is not provided (for example, risk of school attendance order process starting)

Communications methods local authorities may wish to use include:

- updating their websites and other relevant materials to make reference to the new duties
- directly contacting parents of children they believe to be eligible for registration

Local authorities should also notify other organisations in their area, such as:

- directly contacting schools, and Further Education settings that may provide education to 14-16 year olds, in their areas to inform them of the new duties for parents
- directly contacting any out-of-school education providers they have existing relationships with to inform them of the new duties on parents and providers, and otherwise publicising the new duties via local communication channels that are likely to reach these providers

Local authorities should ensure that all written communications are accessible,, this including by providing alternative formats or translated versions where required.

Failure to provide information for registers

Failure of a parent to provide compulsory information to the local authority, or provision of incorrect information, would enable the local authority to conclude that the child does not appear to be receiving a suitable education. In such cases, the local authority must issue a preliminary notice to the parent(s) requiring them to provide evidence that their child is receiving a suitable education (see section 'When a Preliminary Notice may be served' of this guidance).

Information local authorities must record on their registers if they hold it or can reasonably obtain it

Local authorities must record on their registers, where they already hold it or can reasonably obtain it, the following additional information for each child on their registers:

- sex
- ethnicity
- whether child has English as an additional language/child’s first language
- whether child has EHC plan or is in receipt of other forms of SEN support
- whether child is a child in need
- whether child is a Looked After Child
- whether child is on a child protection plan/was on one in the last five years

- whether child is a young carer
- previous school(s) attended
- why the child is eligible for CNIS registration, for example if they are home educated, a Child Missing Education, and so on
- reasons why child is home educated, CME, and so on (for example, mental health, school dissatisfaction)
- whether the child would be considered eligible for Free School Meals if in school
- length of time children have been missing education
- number of preliminary notices to School Attendance Orders (SAOs) issued
- number of SAOs issued, revoked, prosecuted
- number of requests being made under support duty, number of requests met and type of support requested and/or provided
- number of assessments of child's home/learning environments, including number of home visits requested and refused
- number of complaints received from parents and number of complaints resolved
- if the child is/will be preparing to sit any formal qualifications in the current academic year
- if so, the qualification type, subject and exam board
- what exam centre/school is providing this service

Local authorities may reasonably obtain this information by:

- **cross-checking existing local authority records for the information and adding it to their registers if they hold it.** For example, information may be held within a child's existing education, children's social care or SEND record
- **receiving it from schools when a child is deleted from the school roll,** for example information concerning a child's status as a young carer that can be used to consider the impact on that child of becoming home educated
- **requesting the information from the parents of the registered child.** However, parents have no obligation to provide this information if they do not wish to and are not required to give any reasons for declining the request. Unlike the provision of compulsory information, where a parent declines to provide this voluntary information the local authority must not make any conclusions regarding the suitability of the child's education merely due to a parent's decision to decline to provide this voluntary information
- **making routine, lawful requests to other public bodies.** In the course of their education and safeguarding duties, local authorities may request and share information with other local authorities, schools and safeguarding partners. If any of the required information for Children Not in School registers is identified as part of these requests, local authorities must record it

Registers may also include any other information that the local authority considers appropriate. This could include, for instance:

- a concern received by a local authority that does not meet the threshold for a section 47 enquiry, but which would still be useful for the local authority to make note of in case more concerns are raised
- information that is personal to the child, such as correspondence from a third party about the child, or information about the content of the child's education or abilities

How local authorities must update and verify their registers

In general, local authorities should take reasonable steps to establish the accuracy of the information before updating the register or taking decisions based upon it.

Local authorities should:

- consider information from all relevant sources
- seek clarification from the individual or organisation that provided the information
- maintain a clear record of the information received, and any action taken to verify it
- have regard to any court orders, legal restrictions, or safeguarding considerations that may be relevant
- provide parents with an opportunity to correct factual inaccuracies in personal data held about them or their child

Local authorities should establish regular review points and undertake periodic audits and data quality checks to confirm that information on their registers remains accurate, identify gaps and remove duplication. Local authorities should keep appropriate records of these checks and how information on the registers has been verified.

Local authorities should verify the accuracy of information on their registers by:

- engaging with parents to gather the required information
- carrying out proportionate checks against other data sources, such as school admissions, social care records and other local authority records where lawful to do so
- following-up where information appears incomplete, inconsistent or out-of-date, including making reasonable enquiries with parents or requests for information to out-of-school education providers

Local authorities should update records as soon as reasonably practicable after new information is received. Where amendments are made, local authorities must ensure the registers show the original entry, the amended entry, the reason for the amendment, the date on which the amendment was made, and the name of the person who made the amendment.

Local authority requests for information from providers of out-of-school education

A key element of the Children Not in School registration duties is the ability for local authorities to make requests for information from providers of out-of-school education.

The information received from providers will help local authorities to:

- identify children who are eligible for inclusion on their Children Not in School registers, but whose parents have not proactively come forward to register them
- cross-check some of the information held for children who are already on their Children Not in School registers where there are concerns about the accuracy of this information

Many children who are not in school will attend out-of-school education providers, such as private tutors, supplementary schools, forest schools, or specialist providers for children with SEND. Children's attendance at these providers can vary from one or two hours to several hours per week, potentially representing a substantial portion of the child's overall time in education.

Out-of-school education providers will be required to give certain information to the local authority **if the local authority requests them to do so** and if the provider:

- provides any programme or course of education, or any other kind of structured education, that is provided otherwise than as part of the education provided by a school[20]
- is educating at least one child living in England or Wales for more than 6 hours per week without any parent of the child being actively involved in the tuition or supervision of the child
- is not included on the list of exempted providers

The following are not considered out-of-school education providers for the purpose of this guidance:

- providers whose primary purpose is childcare, such as childminders and nurseries
- providers of healthcare or therapeutic services that are not educational in nature (for example, speech therapy)
- unsupervised learning platforms which the child has not been directed to use – for example, websites of learning resources, e-learning platforms, and recorded video tutorials. Such platforms are considered out-of-school education if the child is directed to use them by a provider

[20] Where multiple tutors or instructors operate under a single organisation's name or management in a shared premises, they should be treated as a single provider for the purpose of this definition.

- competition events or performances – for example sporting tournaments or dance performances would not normally be considered education if the primary purpose is participation in the competitive event or performance. Structured tuition or coaching delivered in preparation for such events, however, will normally be considered out-of-school education

How local authorities should inform providers of the duty to give information

Out-of-school education providers may initially be unaware of the duty to give information for local authority Children Not in School registers, particularly if they are a new provider.

In many cases, local authorities may already have connections with out-of-school education providers as part of their existing education and safeguarding duties[21]. However, local authorities should consider any particular types of providers that are in scope of the duty that they may not have good pre-existing engagement with and identify strategies for reaching these providers.

When communicating the duty to out-of-school education providers, local authorities should include the following:

- an explanation of the provider duty
- a clear outline of which providers are in scope of the duty and which are exempt
- details of what information providers will be required to give if requested to do so by the local authority
- how such a request will be made
- a reminder to providers to communicate with parents that their data may be provided to the local authority, and to make any necessary updates to Privacy Notices
- a link to a dedicated page on the local authority website which outlines the above information as well as answers to Frequently Asked Questions
- a named contact and their contact details at the local authority that they can contact if they have questions or concerns

Information providers will be required to give to local authorities

Where a local authority reasonably believes that a person is providing out-of-school education to a child eligible to be included in the registers, for more than 6 hours per week, without any parent of the child being actively involved in the tuition or supervision of the

[21] "Working with voluntary, charity, social enterprise (VCSE) organisations and sports clubs" Working together to safeguard children 2026

child, the authority may request the following information from them, and they will be required to provide it:

- whether they are providing education to any child living in England or Wales for an amount of time above the threshold (or whether they have done so in the last 3 months)
- the child(ren)'s full name
- the child(ren)'s date of birth and home address
- the total amount of time that they provide out-of-school education to the child(ren)
- the amount of time that they provide out-of-school education to the child(ren) without any parent of the child(ren) being actively involved in the tuition or supervision of the child(ren)

Local authorities may either make a request for information about:

- a particular child or
- any children living in England or Wales

who are attending the provider for more than 6 hours per week without their parents being actively involved in their tuition or supervision.

If a local authority believes that making a request to a provider will result in a large volume of information that is unlikely to assist the authority in meeting its statutory education or safeguarding duties, they should consider making tailored requests for information about particular children instead. Providers for whom local authorities may wish to make tailored requests include:

- providers that cater primarily towards full-time school-attending children for 6 or more hours per week (for example, uniformed youth organisations, holiday clubs, and so on)
- providers that are likely to hold information on a large number of children who do not live in the local authority's area (for example, online providers that cater to children from across the UK or internationally)

In order to identify providers that may be in-scope of the duty to provide information local authorities should:

- analyse the existing information from parents on their Children Not in School registers to identify which providers children on the registers are attending for more than 6 hours per week
- contact the local authority lead for out-of-school settings (if there is one) to request any information they have on relevant providers in the area

There is no expectation for local authorities to request information from every provider that may be in-scope of the duty. Local authorities should prioritise providers for requests if they:

- primarily cater for home educating children or
- have concerns about the suitability or safety of the provision for a particular child or children in general or
- have concerns about the accuracy of information given by a parent in relation to their child's attendance at the provision

Providers that are exempt from the duty to provide information

Certain providers of out-of-school education are exempt from the duty to provide information to the local authority, regardless of whether they meet the other requirements (for example, educating a child for more than 6 hours per week). These are:

- providers registered with the Department for Education's Online Education Accreditation Scheme
- museums and galleries accredited under the Arts Council England Museum Accreditation Scheme
- libraries provided by, or on behalf of, a local authority under statutory library services
- providers that are solely providing temporary work experience placements to children

How to request information from out-of-school education providers

If a local authority decides to request information from a provider, the authority must send a written notice to the provider through the most appropriate means.

This notice may be served in the following ways:

- by sending it to or leaving it at the place where the out-of-school education is provided, this may be done by email for online providers
- by delivering it to the named individual
- by leaving it at the named individual's usual or last known place of residence
- by sending it in a prepaid letter addressed to the named individual at their last known place of residence

There may be more than one person at the provider who is providing the out-of-school education. Where this is the case, the local authority should address the notice to the person who it believes is most likely to be in possession of the required information, or in the case where no individual is known just to the provider.

The notice must specify how long the person has to comply with the request and this must be at least 15 days (beginning on the day on which the notice is served). Where a local authority understands or has reason to believe that a provider will not be operating over a given period of time, for example Christmas, Easter or school summer holidays the local

authority should either extend the period of time for the provider to respond or send the notice when they know the provider will be open again.

There is no specified limit on how many requests for information local authorities can make from the same provider per year. When considering whether to make multiple requests to the same provider, local authorities should first consider how likely it is that the information being provided will have changed or will otherwise be of use (for example, local authorities should consider whether it is likely that multiple new children who are eligible for registration have joined the provision).

Local authorities should also consider the resources they will need to process the information given to them by providers. Where a provider offers online or hybrid provision and/or also caters to school children, it could potentially result in the local authority receiving information on children who are not required to be on their Children Not in School register.

The notice should specify how the person should provide the information to the local authority, for example by including a link to an electronic form or an email address for a named contact at the local authority. The notice should make clear that providers are under a legal duty to comply with the requirement in the notice and provide the requested information before the end of the specified period.

How information received from providers should be verified by local authorities

When the information requested from the provider is received by the local authority, the officer(s) responsible for maintaining and updating the Children Not in School register should cross-check the names and addresses received from the provider with those on the register.

If the provider has identified children that do not currently appear on the register, there are a few possibilities:

- the child lives in the local authority's area and is eligible for inclusion on the register (because they are home educated, for example)
- the child lives in the local authority's area but is not eligible for inclusion on the register (for example, because they attend school, but have been captured in the provider's information because they are attending the provision on an extra-curricular basis for more than 6 hours per week)
- the child does not live in the local authority's area, but is possibly eligible for inclusion on another local authority's Children Not in School register

If the child lives at an address within the local authority, the responsible officer should arrange to cross-check lists of children who are known to attend school.

Once the officer is reasonably assured that the child living in their area is not in school, they must register the child and then send a request for information to the parent(s) of the child. See the sections on which information must be recorded on registers and what parents must provide.

If the child lives in another local authority's area and is possibly eligible for inclusion on the other local authorities' Children Not in School register the officer may want to pass on the name of the provider to their counterpart in the relevant local authority so they may use the provider duty to obtain information for their CNIS register.

What happens if information is not provided or incorrect information is provided?

The required information is information that most providers should already collect for operational or safeguarding reasons. If the provider does not already have all the information to hand, they should attempt to collect it from the parents of the relevant children registered at the provision.

The provider does not need the consent of the parent to provide information to the local authority. However, providers should ensure their privacy notices make clear how the data they collect from parents may be processed.

If a local authority is satisfied that a person on whom a request for information was served has failed to provide the information or has provided incorrect information, they can require the person to pay a monetary penalty. Local authorities should ensure that this power is exercised fairly, proportionately, and consistently, and that providers are given appropriate opportunity to provide the requested information or correct honest errors before any warning notice is issued or penalty is imposed.

If a local authority issues multiple requests for information, the local authority can issue a penalty for each instance of non-compliance.

Local authorities and providers should be aware that monetary penalties cannot be issued until [date to be confirmed]. This grace period will give providers time to review and update their policies, and to gather any required information they may not yet hold.

Monetary Penalties

Issuing a Warning Notice

Before imposing a monetary penalty, the local authority must issue a warning notice to the provider who has failed to comply with the duty to provide information. The warning notice must include:

- the grounds for the proposed penalty (why the local authority is satisfied that the person has failed to comply with their duty)
- the amount of the proposed penalty - [£300] if paid within at least 28 days of the notice being served, rising to [£600] if paid late
- the person's right to make representations

Local authorities should ensure that the notice is clear and accessible and sufficiently detailed to enable the person to understand and respond to it.

Representations

The person on whom the warning notice has been served must be given a fair opportunity to make representations.

The person has 14 days from the date of the warning notice being served (date of email or confirmed postal delivery) to submit written representations; or, if within those 14 days, the person gives written notice to the authority that they intend to make representations, they must be given 28 days from that notification to submit representations.

Local authorities should consider all representations carefully and impartially and take into account any evidence provided.

Decision on whether to impose a penalty

After receiving representations, or where the deadline for representations has passed, the local authority must decide if it will impose the penalty.

The local authority can only require the person to pay the penalty if they are still satisfied that they have not complied with their duty to provide information. If the local authority decides to not issue the penalty it must inform the individual who it issued the original notice to and should do so in writing.

Issuing a Penalty Notice

If the local authority decides to impose a penalty, it must issue a penalty notice. The notice must include:

- the grounds for imposing the penalty
- the amount to be paid - £300
- how payment may be made
- the deadline for payment (which must be at least 28 days beginning with the day on which the notice is served)
- the consequences of late payment (penalty increases to £600)
- the person's right of appeal

The local authority may withdraw the penalty notice at any time. This may happen if circumstances change or new information comes to light which suggests that the person has complied with their duty, for example.

Appeals

A person who receives a penalty notice may appeal to the First-tier Tribunal using any of the following grounds:

- the decision to require payment of the penalty was based on an error of fact
- the decision was wrong in law
- the decision was unreasonable.

The Tribunal may:

- quash the penalty notice
- confirm the penalty notice
- reduce the amount

The requirement to pay the penalty is suspended while the appeal is ongoing.

If the person does not pay the whole or any part of a monetary penalty which they are required to pay under the penalty notice, the penalty or part of the penalty is recoverable as if it were payable under an order of the county court.

What local authorities should do if they have concerns about a provider

If a local authority has concerns relating to the safety or suitability of an out-of-school education provider, it should report them to the local authority safeguarding team, and any other relevant safeguarding partners.

If a local authority suspects that a provider is or may be acting as an independent unregistered school it should report this to Ofsted at unregisteredschoolreferrals@ofsted.gov.uk.

Further information can be found at: Unregistered independent schools and out-of-school settings: guidance for local authorities - GOV.UK

Privacy of information held on the registers

Regardless of the source of the information (such as parents, providers or safeguarding partners), the information held on Children Not in School registers is protected under UK-General Data Protection Regulation (UK-GDPR) and the Data Protection Act 2018. These legislative frameworks support the sharing of relevant information where this is necessary for the purposes of keeping children safe and promoting their education and welfare.

Effective information sharing between appropriate agencies is an essential component of this and a failure to share relevant information can place a child at risk.

However, any sharing of personal data must be lawful, necessary and proportionate, and must be limited to what is required to achieve a clear and legitimate purpose. In exercising these functions, local authorities should ensure that they strike an appropriate balance between the need to share information to safeguard and support children, and children's and families' rights to privacy.

Each local authority is an independent data controller and responsible for the data it receives, stores and processes in connection with its Children Not in School duties.

Local authorities must not make any information from their registers public that would cause a child or parent to be identified or assist in their identification alongside other information. Local authorities may make public aggregated or anonymised data at a high level – such as statistics on the number of home educated children in their area, reported reasons for decisions to home educate, or on the usage and rates of preliminary notices and school attendance orders – provided that individuals cannot be identified from such information.

How local authorities should use the information recorded on their registers

Information on the registers will enable local authorities to:

Identify children who may not be receiving:

- **a full-time education** – Registers must record information on estimates of time the child is receiving education from their parents and other persons or organisations. While there is no set number of hours that constitute "full-time" education, local authorities should prioritise making further enquiries to parents if the number of hours looks like they may not represent full-time education for the particular child.
- **an efficient education** – Local authorities are required to request updates on information on the registers relating to a child's education provision at least annually (but no more frequently than every three months). If parents outline many changes over a short period of time – for example, frequent changes of education providers – this may warrant further enquiries into the nature and continuity of the child's education provision. Information that suggests a child is receiving most of their education from a provider in one subject, rather than a broad range of topics, may also warrant further enquiries to establish whether the education being received is efficient and suitable.

- however, local authorities should always follow-up with informal enquiries to ascertain whether this is the case, rather than progressing to the school attendance order process.
- **a suitable education** – if a parent has failed to provide the required information on a child's education this should prompt the local authority to make further enquiries as soon as possible

Promote the safeguarding and welfare of children in their areas by:

- identifying children who may be attending unsafe out-of-school education provision (for example, illegal independent schools or institutions) where there may be concerns about the child's welfare or safety
- sharing relevant information from their registers with safeguarding partners and other relevant agencies when legally permitted to do so
- ensuring that safeguarding concerns are recorded on registers, as well as any decisions or actions taken as a result of these concerns
- identifying children who may require help, support or protection, and ensuring appropriate referral, assessment or safeguarding action is taken where concerns about a child's welfare or risk of harm are identified

Support registered families by:

- facilitating access or signposting to voluntary, community, specialist or family help services or groups where wider needs are identified via information held on the registers. For example, where a child is identified as a young carer, considering the impact of becoming home educated on the young carer and ensuring that the family has been signposted towards the support available
- using information on the registers to tailor any local support offer to the known needs of the cohort of electively home educated children in the local authority's area
- informing them about bi-annual engagement forums

Identify opportunities for improvement in local practice by:

- recording and analysing the outcomes of complaints made to the local authority concerning their Children Not in School functions
- recording and analysing parents' reasons for home education, particularly where these are negative – such as dissatisfaction with schools

Local authorities should not use the information on their registers to:

- make automatic decisions as to whether education is unsuitable or, where relevant, not in the child's best interests. If information recorded on the registers gives a local authority cause for concern, it is important that this is followed up by informal enquiries so the parent has an opportunity to put the information into context

- share information with third parties except where legally permitted or required

Support for Families Educating at Home

Advice and Information

If requested to do so by an eligible parent whose child is registered with them, local authorities must provide advice and information relating to the education of the child.

This may include:

- advice about the education of the child
- information about sources of assistance for the education of the child
- Information about access to GCSE examinations

The local authority has discretion as to the nature of the advice and information provided, however it should seek to meet any reasonable request from eligible parents.

Whilst local authorities are only required to provide advice and information in response to requests from parents, they should consider making information and resources available more widely to help meet common support needs without the need for individual requests. To support this, local authorities may choose to publish a common support offer on their website or through other accessible channels. This could include information, advice and resources that address frequently raised issues or needs that are relevant to communities in their area. Providing such information on their websites or elsewhere may help parents access support more quickly and reduce the need for repeated individual enquiries.

Who is eligible?

Local authorities must provide advice and information to any parent of a child registered on their Children Not in School register who requests it unless one of the following apply:

- the child is a registered pupil at a relevant school (such as if the child is flexi-schooled)
- the child is receiving educational provision the local authority was required to arrange under section 19 of the Education Act 1996
- the local authority is required to secure special educational provision for the child under section 42(2) of the Children and Families Act 2014 (such as if the child has an EHC plan and is not home educated).

Local authorities are not required to respond to requests for advice and information from parents of these children because support is already available to them via a different route (for example, through the section 19 support arranged by the local authority or via the school they are registered at).

How local authorities should determine the support which they provide

When determining the support to be provided, the local authority should remain mindful that home educating parents retain responsibility to provide a suitable education to their child. Support provision should not encroach upon parental responsibility or otherwise appear as though the local authority is adopting responsibility for the education of the child.

Advice and information the local authority may be required to provide to parents on request includes:

- signposting to reputable local, national and online resources. This may concern general home education or be subject/topic specific. This might include signposting to:
- information about careers and skills, such as via the National Careers Service website or the Youth Employment UK Home Education Course
- national educational resources such as Oak National Academy or BBC Bitesize
- the local authority's SEND Local Offer
- information regarding access to GCSE examinations[22], including:
- how to access examinations as a private candidate
- how to access regulated qualifications as specified by Ofqual[23]
- signposting to The Joint Council for Qualifications (JCQ) – the membership organisation representing the eight largest awarding organisations which offers advice and a tool to assist with accessing examinations as a private candidate
- signposting to home educator led examination resources such as Home Educators' Qualifications Association and Home Ed Exams
- up-to-date information regarding exam centres in the local authority's area[24], such as the subjects and awarding organisations offered
- General aid in navigating/adjusting to elective home education

In the event that the local authority identifies common themes of support requests being made by families in their area, the local authority may decide to arrange webinars, pre-recorded advice videos, in-person drop-in sessions or other formats to efficiently provide advice and information to eligible families in their area. Local authorities should consider whether there are additional support and resources they could offer families in their areas, provided that this would not adversely impact on the delivery of other services.

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[22] Parents may wish to obtain this information from local authorities when selecting qualifications to study, as it may maximise the number of centres able to offer a place to sit examinations in the future.

[23] Where a local authority receives a request for support regarding a subject or awarding organisation not offered in their local area, they may consider their duty to provide support to be fulfilled if they have signposted to national sources of information.

[24] Local authorities may also choose to include this information for exam centres in neighbouring areas.

Parents' requests for support and what support was provided must be recorded on the local authority's Children Not in School register. This will support local authorities to improve their service towards families in their areas (for example, by analysing if there are repeated requests for similar types of support). The local authority should not consider a parent's request for support as part of any judgement of the suitability of home education.

When a parent's request for advice or information is declined

Local authorities must provide advice and information to any eligible parent when requested, unless it would be unreasonable to do so.

Some example reasons why the local authority may consider it unreasonable to deliver the nature of support requested by a parent include:

- the request risks appearing to transfer some responsibility for the child's education to the local authority
- the cost implications of the request would be unaffordable to the local authority, including where the local authority considers that granting a single request may create a precedent which would then be unaffordable for the local authority
- the advice or information requested would create an unacceptable level of legal risk for the local authority

In circumstances where the request is considered unreasonable to deliver, the local authority should inform the parent promptly and provide specific reasons for this decision.

The local authority must still provide advice or information to the requesting parent, and should consider appropriate alternative options which can be offered to the parent, guided by the original aim of the parent's request. For example, if the parent had requested that the local authority recommend a tutor to support the teaching of phonics, the local authority may decline this on the basis that such a recommendation may transfer some responsibility for the outcome of the tuition to the local authority. The local authority could as alternative support options:

- signpost the parent towards local and national home education support groups and organisations who may be able to make such a recommendation
- signpost the parent towards a directory of such tutors if known
- provide advice to the parent about considerations when selecting a tutor (including safeguarding considerations)
- signpost the parent to reputable online resources

Forum meetings between the local authority and parents

The local authority must proactively offer forum meetings twice per year with eligible parents (see 'Who is eligible?' above). The local authority must make arrangements for the forum to take place if at least one parent accepts.

The discussion at forum meetings must be focused on Children Not In School registers and/or School Attendance Orders, including feedback or suggestions regarding:

- operation of Children Not in School registers, including content and maintenance of the registers
- the duty on parents to provide information for the registers
- the duty on education providers to provide information for the registers
- use of information on the registers
- the legal duty on the local authority to provide advice and information to eligible parents who request it
- the school attendance order process, including preliminary notices, amendments and revocation of school attendance orders

Due consideration should be given to all queries and comments.

In arranging and operating the forum meetings the local authority should remain mindful of the requirement to protect individual personal data, and should ensure that attending families are clear that there is no requirement to share any details regarding their personal circumstances or to identify themselves to other forum attendees, unless they choose to do so. The local authority should similarly take steps to ensure that only persons eligible to attend the forum meetings are able to do so.

The local authority should consider accessibility arrangements for home educating families in their area and may consider it appropriate to offer a virtual or hybrid forum to some families (for example, in geographically larger areas where travel implications may present a barrier) or to offer an in person only forum to families who may otherwise experience barriers to attending a forum. The local authority should seek to ensure, as far as possible, that parents of children not in school in their area are able to access at least one forum per calendar year.

Support for Children Not in School with SEND

Local authorities can use the high needs funding block of the Dedicated Schools Grant to provide support services for children of compulsory school age with SEN, whether or not they have an EHC plan, and in relation to education otherwise than at school under section 19 of the 1996 Act. The high needs funding block of the DSG to local authorities is intended to support educational provision for children and young people in the authority's area (including home educated children) who require additional resources to participate in

education and learning. However, the majority of this high needs funding is for those with complex needs (typically those with EHC plans) attending schools and colleges. Direct support to the parents, if given at all, should relate only to costs incurred by parents as a result of the SEN of the child, insofar as these can reasonably be identified. Costs that would be incurred regardless of SEN, simply as a consequence of home education (for example the cost of day-time heating), would not normally be funded.

Requests for EHC needs assessments for EHE children

Parents educating a child with SEN at home already who come to believe that their child may be eligible for an EHC plan can ask the local authority to carry out a statutory EHC needs assessment[25]. The local authority must consider the request within the same statutory timescales and in the same way as if the request had come from a different source, such as a school.

[25] The SEND Local Offer must contain information about how to request an EHC needs assessment.

How local authorities consider whether a child appears to be receiving suitable education

Informal enquiries

Local authorities are expected to make informal enquiries with all home educating families at least once a year to check that children not in school in their areas appear to be receiving a suitable, full-time, efficient education. This enquiry may include asking if the education is following any aspects of the national curriculum or if the child is working towards any specific qualifications. This includes families who are home educating in combination with another educational arrangement (for example, flexi-schooling families).

Where possible, local authorities should align the process for requesting information from parents for Children Not in School registers with the process for requesting information from parents as to the suitability of their child's education. Making these requests together will help ensure that local authority contact with parents does not become overly burdensome and will support local authorities to understand the context behind some of the high-level information included on the Children Not in School registers. Any information received regarding the suitability of the education a child is receiving may be recorded on the CNIS register in the "any other relevant information" section by the local authority.

When local authorities request information as part of these informal enquiries, they should:

- be open to parents providing information in a format of the parents' choosing – for example, this could be a written report about the child's education, samples of work, a conversation about the child's education, or videos or photographs showing how the child is educated
- make clear which factors they will consider when considering whether education appears suitable, including in terms of the home environment and other settings where the child is being educated
- set out estimated timelines for coming to a view on whether education appears suitable and how parents will be informed of this decision
- if education appears suitable, make clear when and how the family can next expect to receive a request for information from the local authority
- if education appears unsuitable:
- set out clearly why the local authority has come to this view
- provide suggestions on how parents may show that education is suitable, and
- set out next steps – for example, in terms of what formal requests for information the parent should expect as part of the school attendance order process

Some scenarios where questions may arise relating to the information received from parents can be found in Annex F.

Additional considerations for children on EHC plans

If a home educated child has an EHC plan, the local authority remains responsible for reviewing the EHC plan at least annually for as long as it maintains the plan. This review must include checking that the 'alternative arrangements' made in relation to the special educational provision set out in the plan by the parents remain 'suitable'. This review remains distinct from the separate assessment the local authority must make regarding the suitability of the child's home education. However, local authority SEND and home education teams should work closely together: to minimise the demands on the time of the family, to use information already gathered when it remains up to date rather than request it again, and generally to coordinate the decision-making.

Duties remain in force over any special educational and healthcare provision set out in Sections F and G of the EHC plan respectively, unless suitable alternative arrangements are considered to have been made by the child's parent(s).

The home and other settings where the child is being educated

The child's home and other learning environments are central to their ability to access a suitable education. Local authorities must consider where the child lives and the other settings where the child is being educated that the local authority knows about:

- within 15 days of registering a child on their Children Not in School register
- when determining whether to serve a preliminary notice
- when determining whether to serve a school attendance order

To meet this requirement, local authorities should consider:

The child's living arrangements and how these interact with their ability to access education, such as:

- whether the child is ordinarily resident at the address(es) provided – Children who do not live in one place may experience more challenges in accessing a suitable education
- whether the child lives with and receives education from each of their parents, or a particular parent – Considering whether a child receives education across multiple households and/or from multiple parents helps local authorities to understand who holds day-to-day responsibility for the child's educational arrangements
- whether there is any known or suspected overcrowding or other health and safety issues at the address(es)
- whether the child is living in temporary accommodation – temporary accommodation may not provide an environment conducive to suitable education where the education is being delivered in the home

Child or family circumstances that impact their ability to access a suitable education and/ or, where relevant, education that is in their best interests, such as:

- ill health or disability of the child or family member who they reside with – whilst the majority of health needs and disabilities may not prevent delivery of a suitable education, the local authority should consider on a case by case basis whether the home environment in this context might impact on the child's education.
- children with caring responsibilities – If a parent or other family member is in ill health or has a disability that requires a high level of care, the local authority should reassure itself that the child's education is not suffering due to caring responsibilities or wider care arrangements within the home.

Whether there are any known safeguarding factors associated with the child's living arrangements, such as:

- records of domestic abuse, neglect, substance misuse, previous or ongoing involvement with children's social care, or other known safeguarding vulnerabilities associated with the child's living arrangements – while safeguarding concerns do not always indicate that home education is unsuitable, a child's sense of safety and emotional wellbeing are key to their capacity to engage consistently in education.

In most cases local authorities will be able to make the above assessment using appropriately shared information that they already hold on the child's living arrangements, or publicly available information. This is more likely to be the case where the family is already known to the local authority, or where there has been recent direct engagement with the child and parent.

The local authority's assessment in this context must be focussed upon whether the child's learning environment(s) are likely to interfere with the provision of a suitable education. Local authorities must record their assessments on the Children Not in School registers, regardless of whether any concerns are identified.

Where the local authority does not have sufficient information to be satisfied that the child's living arrangements support access to a suitable education, or where there are emerging concerns about whether the child's living arrangements support access to suitable education and/or education that is in their best interests (where relevant), they should request to visit the child in their home (a formal visit request).

Home Visits

Seeing the child in their home can be an invaluable way for local authorities to consider whether it appears that they are receiving suitable education and/or education in their best interests.

Local authorities are not expected to visit all families as a matter of course. Decisions about whether to request a home visit should be proportionate and based on the sufficiency and reliability of the information available.

Local authorities should consider prioritising the following families when requesting home visits:

- children for whom they have insufficient information to make an assessment of their home environment
- children for whom they are concerned that the home environment is not conducive to or may pose challenges to accessing a suitable education
- unless a recent visit has already taken place and there are no concerns that circumstances may have changed, children who are on child protection plans, were previously on child protection plans in the last five years, or are subject to current section 47 enquiries. Local authorities should consider whether home education appears to be in the best interests of these children
- children for whom Operation Encompass notifications have been made to the local authority or previous education setting
- children who are on Children in Need plans
- children who are currently or have previously been subject to care and supervision orders and proceedings (subject to consideration of any significant changes in the child's circumstances).

How local authorities should request home visits

Local authorities should make the request to visit the child in their home(s) in writing to the parent(s) of the child. If the request for the visit is being made at the point of Children Not in School registration, the local authority must make the request within 15 days of registering the child. After this point, the local authority may request a visit if they are considering issuing a preliminary notice or school attendance order. At these stages, the request for a home visit must be made to the parent(s) who would be served the notice or order, respectively.

The written request should:

- explain the statutory basis for the request in plain language
- set out the purpose and scope of the visit, including what the authority is seeking to understand and who will attend. It is important that the local authority make clear that the child must be present for at least part of the visit because the purpose is to "visit the child inside any of the homes in which the child lives". This is especially important if the local authority is making a request in relation to a child that lives between multiple addresses.

- make clear that the focus is on how the home environment relates to the child's educational arrangements, and is not an inspection of the general quality or condition of the home
- make clear what information will be recorded during and after the visit
- suggest a suitable time for the visit with at least one week's notice
- provide contact details so the parent can accept the visit, request changes to the details of the visit such as asking for a new time, or reject the visit
- make clear what the next steps are should a parent accept or refuse the visit
- where relevant, explain how the visit relates to any concerns regarding the suitability of education and why existing information is not sufficient for the local authority to reach a view

How local authorities should conduct home visits

If a parent accepts the request for a home visit, the Elective Home Education officer should:

Before the visit

Confirm with the parents:

- the identity of the local authority staff who will conduct the visit.
- whether they, the child or other persons who will be present during the visit have particular needs or communication preferences for the visit. Local authorities should be aware that home visits can be distressing or cause anxiety for some families.
- whether any other persons might be present during the visit, such as a supportive third party to be in attendance (such as a non-resident carer or advocate, to be arranged by the parent).
- any other details relevant for the local authority to be aware of in advance of attending the home (such as cultural requirements).

During the visit:

- show relevant identification evidence, introduce themselves clearly, explain their role, and reiterate the purpose and intended duration of the visit
- where appropriate, seek to speak with the child in an age-appropriate and sensitive manner
- seek to understand how the child's education is organised and supported in practice
- explain any information that will be recorded during the visit and how it will be used in assessing suitability of the child's education (and best interests where appropriate)

- remain focussed on the purpose of the visit ie to consider the child's learning environment within the home and whether the environment may interfere with the provision of a suitable education

The elective home education officer should not:

- Comment on cleanliness/tidiness, décor or lifestyle choices unless it directly impacts on the child's education
- Inspect bedrooms or belongings unless the parent feels it is directly relevant to show the local authority these spaces to contextualise the child's education
- Form judgements based solely on housing type or size

After the visit

Following the visit, local authorities must:

- make a clear and factual record of the visit, and share this with the child's parent(s) who were present during the visit
- communicate conclusions and next steps to parents in writing, ideally within 15 days
- in the event that safeguarding concerns were identified in the course of the visit, this should be shared and recorded in accordance with local safeguarding and information-sharing procedures

The local authority must:

- record conclusions on their Children Not in School registers, as to:
- whether a preliminary notice will be issued (when the visit took place at the point of registration or as part of considering whether to issue a preliminary notice)
- whether a school attendance order will be issued (when the visit took place as part of considering whether to issue a school attendance order). If the local authority decides to issue an order, the school consultation and nomination process should be commenced without delay

What local authorities must do if a request for a home visit is refused or not responded to

If the parent on whom the request was made refuses the request by the local authority to see the child in their home, the local authority must take this refusal into account when deciding whether to issue a preliminary notice or a school attendance order (depending on whether the request for the visit was made upon registration or as part of the school attendance order process). Non-response from the parent on whom the request was made should be considered a refusal.

In considering whether to issue a preliminary notice/school attendance order, local authorities should consider:

- whether the refusal has resulted in insufficient information to help the authority assess that education appears/is suitable, or, where relevant, in the child's best interests
- any reasons given by the parent for refusing the visit
- whether any adjustments or flexibilities to visit arrangements were proposed
- whether it is appropriate to issue the preliminary notice to one or all parents

A refusal may carry different weight depending on the circumstances. For example, a refusal is likely to be more significant if the authority has insufficient or conflicting information about the child's circumstances. A refusal to permit a home visit should not, by itself, be taken as evidence that education is unsuitable or that the child is at risk of harm.

When a refusal has been relied upon as a relevant factor in deciding to issue a preliminary notice or School Attendance Order, the local authority should:

- record on their Children Not in School registers that the refusal has been taken into account
- explain to the parent in writing how the refusal impacts the authority's ability to assess that the child appears to be or is receiving a suitable education or, where relevant, education in their best interests
- explain to the parent what other factors were taken into account alongside the refusal of the home visit in coming to a decision

What local authorities should consider when assessing the settings where the child is being educated

To meet the requirement to consider the settings where the child is being educated (that the authority knows about), local authorities should primarily rely on information that they already hold on these settings or information that they can reasonably obtain where lawful to do so.

Local authorities should consider:

- the role and purpose of each setting it knows about within the child's overall educational arrangements and how it contributes to a suitable education or, where relevant, education in the child's best interests
- whether the child can participate safely and appropriately in relation to their age, ability, aptitude and any special educational needs they may have
- whether there are any known safeguarding or health and safety concerns regarding the setting or the individuals employed or otherwise engaged by the setting

Local authorities do not have the power under the Children Not in School provisions to request to visit the settings where the child is being educated, but they may work with partners who have powers under other legislation and in particular circumstances to visit these settings. More information is available in Unregistered independent schools and out-of-school settings: guidance for local authorities - GOV.UK.

What local authorities do when it appears that a child not in school is not receiving a suitable education and/or education in their best interests

This section focuses on what local authorities should or must do when a child appears to not be receiving a suitable education. The factors to be considered in whether an education is suitable are outlined in the previous section on education assessment. For information on what local authorities should or must do in cases concerning child protection enquiries or plans, see the Safeguarding section of this guidance.

Preliminary notices

If, following informal enquiries, it appears to the local authority that a child is not receiving suitable education, whether by regular attendance at school or otherwise, the local authority must commence formal enquiries by serving a preliminary notice on the child's parent(s).

A preliminary notice requires the parent it is served upon to satisfy the authority that their child is receiving an efficient full-time suitable education in line with the child’s age, ability, aptitude, and any special educational needs the child may have and/or that it is in the best interests of the child to receive education otherwise than by regular attendance at school.

Local authorities should note that a refusal by parents to provide any information in response to informal enquiries will in most cases mean that the authority has a duty to serve a preliminary notice. This is because, where there is no other information to suggest that the child is receiving a suitable education and the parents have not provided information about the education being received, the authority may reasonably conclude that the child does not appear to be receiving a suitable education.

When a preliminary notice must be served

A local authority must serve a preliminary notice in cases where it appears that a child of compulsory school age:

- is not receiving a suitable education, either by regular attendance at a school or otherwise, or
- is subject to a section 47 enquiry, child protection plan or has been subject to a child protection plan in the last five years, is not regularly attending school and it would be in their best interests to receive their education through regular school attendance

The factors to be considered in whether an education is suitable are outlined in the 'How local authorities consider whether a child appears to be receiving suitable education' section of this guidance.

The factors to be considered in whether it would be in a child's best interests to regularly attend school are outlined in the 'Best interests of the child' section of this guidance.

In some cases, both sets of factors will need to be considered and, if a preliminary notice is served, the parent it is served upon will have to satisfy the authority that their child is receiving a suitable education that is in their best interests.

When a preliminary notice may be served

A local authority has discretion to issue a preliminary notice to a child's parent(s) in cases where it appears that:

- the child is eligible to be included on the local authority's Children Not in School register, the local authority has requested information from the parent to confirm this and asked them to provide the required information, and the parent has not provided this information within 15 days of the child becoming eligible for registration, or not provided the correct information
- the parent is required to notify the local authority of changes to, or provide updates at the local authority's request to, the information parents must provide for registers, and has either failed to do so within the relevant timeframe (see 'When must parents provide the information?') or has provided incorrect information, or
- the parent is required to provide on request the information parents must provide for registers and notify the local authority of changes or updates to that information, and has either failed to do so or provided incorrect information

The information that parents are required to provide for local authority Children Not in School registers is the basic, high-level detail of how, where and by whom a child is being educated. If a local authority does not receive this information or is provided with incorrect information then it is unlikely that the authority will be able to conclude that education appears suitable.

Before deciding whether to serve a preliminary notice

When deciding whether they should or must serve a preliminary notice, the local authority must consider all the information available to them about the child's education, including:

- any settings which the local authority is aware of where the child is being educated
- where the child lives (including if they reside at multiple addresses)
- the child's home environment, including whether a request to visit the child's home was declined or not responded to by the parent

The local authority should also consider any information about the education provided by the child's parents or by other individuals or organisations – this could be in the form of educational reports, examples of work or speaking with the child or parent for example.

A parent's refusal to allow a home visit must be a relevant factor in the decision-making process. A parent's refusal to provide samples of the child's work should be a relevant factor, but these refusals will not, by themselves, ordinarily justify the service of a preliminary notice. The authority should instead reach its view based on all the information available to it. Local authorities should also take reasonable steps to ensure that correspondence and enquiries have been received and that any lack of response is not simply due to the family being unavailable.

Children not in school subject to child protection activity

As part of their implementation of the new measures, local authorities should review their current cohort of children not in school to identify children who are subject to a section 47 enquiry, on a child protection plan or who have been subject to a plan in the past five years. For these children, local authorities should consider if it would be in their best interests to attend school, and if so, must issue a preliminary notice.

Local authority children's social care teams should ensure that they notify relevant local authority education teams (such as elective home education) when they begin a section 47 enquiry or initiate a child protection plan in relation to a child who is eligible for inclusion in CNIS registers. This is to ensure that education teams are aware of these children and are able to consider whether it would be in the child's best interests to attend school.

For these children, consideration of their best interests should be routinely reviewed, with the frequency determined by the level of concern and on a case-by-case basis. At each review point, a local authority should consider the child's best interests and consider if further action is required, such as a preliminary notice being issued.

Contents of the preliminary notice

Once it has decided to serve a preliminary notice, the local authority must serve it without delay, but within 5 days of the circumstances giving rise to the notice

The local authority must state in the notice:

- why it is being served
- the period in which the parent must respond. This must be at least 15 days, beginning on the date the notice is served

In some circumstances, the local authority may use its discretion to allow the parent extra time to respond to the notice. Some examples of when an extension may be appropriate include, but are not limited to, key transition points such as:

- suffering a bereavement
- diagnosis of a serious illness, long-term health condition, or disability
- medical emergency
- admission to hospital
- having to move at short notice for their protection due to domestic abuse

Extensions may also be appropriate to allow parents to compile or obtain information they do not have immediate access to, such as details of an education provider or evidence of work being done at a setting where the parents are not supervising the education.

Considering the parent's response to a preliminary notice

The local authority should review any information the parent submits in response to the preliminary notice as soon as possible to come to a decision as to whether the child is receiving a suitable education, and/or where relevant, education in their best interests, and therefore whether a school attendance order must be served.

The local authority should not dismiss information provided by the parent because it is not in a particular form preferred by the authority (for example a report, when a meeting was requested).

The local authority should consider any response by the parent, together with:

- information provided before the preliminary notice was issued
- any other information it holds about the education the child is receiving, including information obtained from sources other than the parent (such as out-of-school education providers the child is using)
- any relevant information it holds about a child's age, ability, aptitude and special educational needs (if any) as well as their best interests, where relevant. This may be information obtained from a child's previous school, other local authority teams, or relevant agencies

School attendance orders

A school attendance order may be issued on the grounds that:

- a child is not a registered pupil at a school and is not receiving a suitable education through other means
- it would be in a child's best interests to attend school to receive their education
- a child is both not receiving a suitable education otherwise than at school and it would be in their best interests to attend school

Deciding whether to issue a school attendance order

Suitable education

If, after reviewing all relevant information, including the outcome of any visit that took place, the local authority decides that it is satisfied that the child is receiving a suitable education then no further action is required.

However, if the local authority is not satisfied that the child is receiving a suitable education[26] and considers that it would be expedient[27] for the child to attend school, they must serve a school attendance order on the child's parent. A school attendance order requires the parent on whom it is served to register their child at the school named in the order.

Best interests

If, after reviewing all the relevant information, the local authority is satisfied that the child is receiving education that is in their best interests, no further action is required.

However, if the local authority is not satisfied that the child is receiving education that is in their best interests, and considers that it is expedient for the child to attend school, they must serve a school attendance order on the parent.

In cases where a preliminary notice was served due to a child being subject to a section 47 enquiry or a child protection plan within the previous five years, a school attendance order must not be served where the child is no longer subject to such an enquiry or a child protection plan (and the LA is not aware of any section 47 enquiries or continuing child protection plan within the past five years). The LA may only serve a school attendance order if it is not satisfied that the child is receiving a suitable education (provided this was a condition of the preliminary notice).

In cases where a preliminary notice has been issued solely on the basis of a child being subject to section 47 enquiries or a child protection plan within the last five years, and the local authority's view that it would be in the child's best interests to attend school, but the local authority later forms the view that the child may not be receiving a suitable education, the local authority would need to serve an additional preliminary notice before considering whether to serve a school attendance order on that basis

[26] Whether based on information received within the time limit allowed for submissions, or in the absence of any information received in that period.

[27] In *Phillips v Brown* [1980], 'expedient' was defined as 'advantageous, fit, proper or suitable to the circumstances of the case'.

Whether it is expedient for the child to attend school

As part of its consideration as to whether it must serve a school attendance order, the local authority must decide whether in its opinion it is expedient that the child should attend school. There are cases in which the local authority might reasonably take the view that it is not expedient. Examples where this position could be justified include:

- if the child is within a few weeks of ceasing to be of compulsory school age
- if the child has physical, medical or special educational needs leading to extreme vulnerability in a school setting, and the local authority should then consider alternatives, such as tuition provided by the authority itself
- the parent is actively working with the authority to improve the EHE and seems likely to achieve suitability within a very short time
- if there are ongoing care proceedings and it is likely that the child will shortly move to live with another family member or carer outside the local authority's area

Issuing a school attendance order

If a local authority decides that it must issue a school attendance order, it must serve the order without delay and within five days after deciding which school to name in the order.

Local authorities should communicate clearly, sensitively, and in plain language. Guidance and correspondence about school attendance orders should:

- explain the purpose of the order and the legal duties involved
- offer support to help parents achieve compliance
- provide information on rights of review and appeal of the order
- include template documents where applicable (for example, model preliminary notice, school attendance order form, revocation notice)
- record whether a preliminary notice or school attendance order has been issued to a parent on the child's Children Not in School register record, including relevant information relating to the process, such as that relating to communications and meetings with the parent.

Procedure for naming a school in a school attendance order

Before serving a school attendance order, the local authority must normally[28] serve a school nomination notice on the parent. A school nomination notice is a formal notice in writing that:

- informs the parent of the local authority's intention to serve the order

[28] Other than in cases where the child concerned has an EHC plan

- specifies the school which the authority intends to name in the order and, if the local authority considers it appropriate, one or more other schools which it regards as suitable alternatives
- explains the parent's rights to select one of the schools named in the notice or apply for a different school

Choosing the school to specify in a nomination notice

Before deciding to specify a school in a school attendance order, the local authority must consult with each school's governing body and, where another local authority is responsible for the school's admission arrangements, that local authority. Where the school is an academy or alternative provision academy, the local authority must consult the proprietor. Consultation and any responses should normally be undertaken in writing, such as by email, so that the local authority can maintain a clear record of the views received, the issues considered and the reasons for its decision

Local authorities should not apply blanket policies when identifying schools to be specified in a nomination notice. They should consider schools with available places in light of the child's location, age, ability, aptitude, any special educational needs, wider individual circumstances.

Where a local authority is considering naming a school the child has previously attended, it should take reasonable steps to understand and evaluate relevant evidence about the child's previous experience at that school, including any factors that may have contributed to the child leaving. This should inform the local authority's assessment of whether returning to that school would be an appropriate choice for the child, and whether any support or safeguards would be needed to enable the child to attend successfully.

A school may not be named in a school nomination notice if:

- the child has been permanently excluded from it
- admitting the child would cause the school to exceed its class limit on pupil numbers and prejudice the provision of efficient education or efficient use of resources

A school may not be named in a school nomination notice if:

- the child has been permanently excluded from it
- admitting the child would cause the school to exceed its class limit on pupil numbers and prejudice the provision of efficient education or efficient use of resources
- this does not apply where the local authority is responsible for the school's admissions arrangements, or where the school is a reasonable distance from the

child's home, and there is no other school in the area that could be named and which is a reasonable distance from the child's home

Following consultation, each school under consideration must be notified in writing. This must be done without delay, and in any event within 15 days starting from the end of the parent's deadline for providing evidence of suitability (and/or best interests) in response to a preliminary notice.

Any school that receives notice that it is to be named in the school attendance order may apply to the Secretary of State for a direction to appeal that decision. That application must be made by the school within 10 school days of the notice being served. If the notice is served on a non-school day, the application must be made within 10 school days of the first school day that occurs following service of the notice. If the local authority is not informed that a direction is being sought within the time limit, the school nomination notice must be served on the parent without delay, and in any event within five days of the expiry of the school's time to seek a direction.

All nomination appeals should be sent to the Secretary of State using the customer help portal. To enable the Secretary of State to make an informed decision, it is important for schools to clearly set out the reasons for appealing being named in the order. The Secretary of State will either confirm that the proposed school is to be named in the notice, or refer the matter back to the local authority to reconsider its decision.

Issuing school attendance orders to children with EHC plans

Local authorities must consider the same factors for issuing a school attendance order as they do for other children who are educated at home but who are not receiving a suitable education or whose best interests would be served by education in school. The consideration of suitability may also be more complex and local authorities may need to draw on a wider variety of information, for example educational psychologist reports. Parents who have withdrawn a child from a setting they regarded as unsatisfactory may co-operate more willingly with this process if the authority is willing to explore options which are different in nature from the previous setting.

Local authorities are not required to follow the school nomination process when the child concerned has an EHC plan. In these cases, the school named in the EHC plan must be named in the school attendance order. If the EHC plan does not specify a school, the local authority must amend the plan to name the school, in line with the usual procedures for amending an EHC plan, and then name that school in the order.

A local authority should not instruct a school to add a child's name to its admission register without the parent's agreement. This would cause the parent to commit an offence if the child does not attend the school. It is not lawful for a school to add a child's name to the register without the parent's agreement, and local authorities should ensure that both

schools and local authority staff understand that. It is up to the child's parent to arrange for their child to be registered as a pupil at the school after receiving a school attendance order.

Parents' opportunity to secure a different school

Where a child does not have a EHC plan, parents have 15 days from the date the school nomination notice is served to select a school specified in the nomination notice or to apply to an alternative school for their child to the school or schools named in the notice[29].

If the notice names one or more alternative schools and the parent selects one of those schools within the 15-day period then the local authority must name that school in the school attendance order.

Parents may also apply for a place at another school during the 15-day period. This includes maintained schools, academies and alternative provision academies, and independent schools where the local authority is to be responsible for paying the fees. If a place is offered and, in the case of a non-maintained schools where the local authority will not be paying the fees, the school is suitable for the child's age, ability, aptitude and any special educational needs the child has (if any) then the local authority must name that school in the school attendance order.

Parents should notify the local authority of any applications they make and any offers of places received during the 15-day period. If parents do not notify the local authority, there will be no obligation to name the preferred school in the order if the child is offered a place there.

Issuing and amending a school attendance order

Once it is determined which school is to be named in the order, the local authority must issue the order without delay, and in any event within five days of that decision being made. The local authority must also notify a maintained school's governing body and head teacher, or academy's proprietor and principal, and the child must be admitted to the school as soon as they receive the parent's application for a place there.

The parent should ensure the child is registered and attending the named school as specified in the order. A school attendance order remains in force until revoked by the local authority or a court directs that it should no longer be in force (as set out in the following section on 'Review and revocation'), or when the child is no longer of compulsory school age.

[29] School nomination notices do not apply when the child has a EHC Plan.

If at any time whilst the order is active the parents identify a school they would prefer their child to attend, and their child is offered a place at that school, the local authority should be notified and must amend the order to name that school. This does not apply in cases where the child has an EHC plan that names a school.

If a school attendance order is active and the child is issued with an EHC plan that specifies a school, the local authority must ensure that the school attendance order is amended to name the school that is named in the plan. If the named school in the plan changes, the school attendance order must be amended accordingly to match.

Whilst the order is in force:

- if the parent fails to comply with the requirements of the order (including not registering their child at the named school), the parent is guilty of an offence unless they have a defence for not doing so[30]
- if the child fails to regularly attend school once registered, their parent may be guilty of an offence subject to the reasons for the non-attendance[31]

Form and content of a school attendance order

The following information must be included in a school attendance order:

1. Child's Details

- Full legal name, date of birth, and address
- Unique pupil number (where applicable)

2. Parent(s) or Guardian(s)

- Full name(s), relationship to the child, and contact details

3. Grounds for Issue

- A clear statement of the reasons the local authority is not satisfied that the child is receiving a suitable education and/or not satisfied that it is in their best interests to receive education otherwise than by regular attendance at school
- Reference to any previous communications concerning requests for and assessment of information about the child's education and/or best interests, or preliminary notices issued

4. Named School

[30] Section 436Q of the Education Act 1996

[31] Sections 444(1) and 444(1A) Education Act 1996, respectively

- The name and address of the school at which the child is required to become a registered pupil
- Confirmation that the school (maintained or academy) has been consulted and can admit the child
- Reasons for why the local authority believes it is an appropriate school for the child

5. Compliance Requirements

- The date by which the parent must cause the child to be registered and attend

6. Legal Consequences

- A plain-language explanation that failure to comply with the order constitutes a criminal offence
- Outline of penalties and the potential for additional prosecution if non-compliance persists

7. Amendment, Review and Revocation

- Information on how parents can request that the local authority amend the order by substituting a different school
- Information on how parents may present evidence of arrangements made for suitable education and/or education that is in the child's best interests or request revocation of the order
- Circumstances under which the local authority must revoke an order
- Procedure for referring the case to the Secretary of State for a review of whether the order should remain in force

8. Administrative Details

- Name and title of the authorised officer issuing the order
- Date of issue
- Method of service (for example by recorded delivery, hand delivery, or authorised electronic means).

Review and Revocation

Local authorities should keep active school attendance orders under regular review and should revoke them promptly where of the view that parents have demonstrated that the child is receiving suitable education and/or education that is in the child's best interests.

Each local authority should maintain accurate records of all school attendance orders issued, revoked, and prosecuted for breach, and associated communications and decisions.

For orders issued only on best interests grounds, the local authority must revoke the order if the child is no longer subject to a section 47 enquiry or child protection plan and the local authority is not aware of the child being subject to a plan in the previous five years.

At any stage following the issue of an order, a parent may apply to have the order revoked by presenting evidence to the local authority demonstrating that the grounds for the order being issued no longer apply.

Where a parent applies to have a school attendance order revoked, the local authority must comply with the request unless they are of the opinion, having considered the parent's evidence, that the parent has not made the necessary arrangements.

If the child has an EHC plan which names a school, the parent is not able to apply for the school attendance order to be revoked on these grounds. The parents should apply for a review or reassessment of the child's needs[32].

If a local authority refuses to revoke a school attendance order, a parent can choose to refer the matter to the Secretary of State, who will give a direction to the local authority either confirming the order or revoking it. Requests for the Secretary of State to revoke an order should be sent to the Department for Education.

Requests should include key information such as the child's name, date of birth and evidence to demonstrate that arrangements have been made for the child to receive a suitable education and/or arrangements have been made for the child to receive education otherwise than at school that is in their best interests. This might include a plan for the child's home education or other information submitted to the local authority to demonstrate a suitable education and/or education that is in the child's best interests is being provided.

Upon receipt of a request to consider revocation of an order, the Department will contact the parent within 10 working days and seek any further evidence or information that the parent wishes to offer to support their application. The Department will also contact the local authority and ask it to provide information and evidence to support the Secretary of State's consideration.

Once a decision has been made, the Department will notify the parent and the local authority of the outcome.

Enforcement

While a school attendance order is in force, parents must comply with it (even if they are seeking revocation by the local authority or a direction from the Secretary of State). If they do not comply with it whilst it is in force by causing their child to be registered at the

[32] SEND code of practice: 0 to 25 years - GOV.UK

named school, then the local authority should consider prosecution for breach of the order. The local authority should proceed with this unless there is very good reason not to do so. The case will be heard at the Magistrates' Court. It is a defence if the parent proves they are providing, otherwise than at school, a suitable education for the child and/or education that is in the child's best interests (depending on which grounds the order was issued under). Each case will be treated on its own facts and circumstances, and sentence will be determined at the discretion of the court.

If the court is satisfied that the parents have a defence, parents may be found not guilty of the offence, and the court may direct that the order is no longer in force. It will be at the court's discretion as to whether the order is revoked in the case of the parents being found not guilty, and depend on the unique circumstances of each individual case. If the court is not satisfied, parents may be convicted for breach of the terms of the order. The consequence can be a fine of up to £2,500, imprisonment not exceeding the maximum, or both, and a criminal record. In the event of a conviction, the local authority can apply for a parenting order which carries requirements as to counselling and other conditions designed to reduce the likelihood of a further offence.

Parents who continue to breach a school attendance order after conviction may be prosecuted again for the ongoing breach without the need for the local authority to issue a new preliminary notice, consider new evidence, or issue a new school attendance order. As a second prosecution would cover the period of non-compliance following the conclusion of the original prosecution case, this does not constitute 'double jeopardy' and the parent would not be prosecuted twice for the same offence. Where a parent is convicted and fined but still does not send their child to school, local authorities should consider using other powers at their disposal, such as other education powers or their safeguarding powers, where failure to provide a suitable education could be a form of educational neglect.

Other education powers when a child is not receiving a suitable education

In some cases, local authorities may need to consider using the below education powers following, or as an alternative to, or as well as, prosecution for non-compliance with a school attendance order.

Education supervision orders

In some cases, the local authority may decide that the circumstances justify applying to a court for an education supervision order (ESO) under section 36 of the Children Act 1989. These orders give local authorities a formal supervisory role in the education of children who are subject to them.

The High Court or the Family Court can make an ESO if satisfied that a child of compulsory school age is not receiving an education that is efficient, full-time, and suitable to the child's age, ability and aptitude and to any SEN they may have. Where a SAO is in force for the child but has not been complied with, there is a presumption that the child is not receiving a suitable education unless otherwise demonstrated.

The use of an ESO should be considered as an alternative to, or as well as, prosecution for non-compliance with a school attendance order. Use of an ESO does not depend on the 'significant harm' threshold being met[33]. Applying for an ESO may be the proportionate response when parents are not complying with a school attendance order.

An ESO enables the local authority to give directions as to the way in which a child is to be educated, although the local authority is under a duty to give 'due consideration' to the 'wishes and feelings' of the child and the parent(s); and this might result in improved home education provision. However, an ESO imposes a duty on parents to allow the supervisor (the local authority) reasonable contact with the child, though this need not necessarily be at the child's home - unless the court imposes a visit at home as a specific condition of the order (paragraph 16 of Schedule 3 to the 1989 Act). Persistent failure to comply with a direction 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[34]. In such cases of persistent failure, the authority should make clear to the parents that failure to comply with an ESO may result in an application to the court for a care order if the significant harm threshold is met. This makes ESOs, if appropriate, potentially useful in ensuring that a child is suitably educated.

If an ESO is made, any school attendance order in force will no longer have any effect. If the court refuses to make an ESO (for instance, because the parent has shown that the child's education is suitable), then it may also direct that the school attendance order stops having effect.

Parenting orders

Under section 369 of the Sentencing Act 2020, when a person is found guilty of breaching a school attendance order, the court can make a parenting order. A parenting order requires the parent to attend up to three months of counselling or guidance (which can be specified by the local authority via the court). The court can add other requirements intended to prevent the parent committing the offence again. Such an order can only be made if the Secretary of State has confirmed that there are local arrangements in place for

[33] Section 31 of the Children Act 1989 – 'that the child concerned is suffering, or is likely to suffer, significant harm'

[34] It is also a defence if the parent complied with a requirement, or directions given under a requirement, in a supervision order and it was not reasonably practicable for them to comply with both the ESO and the supervision order

implementing parenting orders. A breach of the order can result in a fine. Local authorities should consider whether there is scope for seeking such an order in appropriate cases, including when parents are repeatedly found guilty of breaching a school attendance order.

Templates and Supporting Tools

Local authorities are encouraged to include the following within local operational guidance:

- Template preliminary notice
- Template school order attendance form
- Template revocation notice
- Checklist for considering suitability of education
- Process flowchart summarising statutory stages of the School Attendance Order process
- Example wording for parent correspondence

These templates can be found in Annex D.

Safeguarding

The role of the local authority

Local authorities have a duty to promote the wellbeing of children and to safeguard and promote the welfare of children in their area[35], whether those children are in school or not.

Whilst a child not being in school is not in and of itself a safeguarding risk, it may present particular safeguarding considerations given the role school attendance plays as a protective factor against wider harms and ensuring that children are visible to services that are there to protect them.

Local authorities must ensure that their education functions are exercised with a view to safeguarding and promoting children's welfare. They should:

- Recognise that safeguarding duties apply to all children, regardless of how they are educated
- Ensure that children not in school are considered within local safeguarding arrangements and processes

Local authority EHE teams should therefore work closely with children's social care teams to ensure that relevant information on individual children is shared for the purposes of safeguarding, complying with relevant data protection legislation and statutory guidance on the information sharing duty.

When safeguarding powers may be relevant in cases of unsuitable education

A situation in which a child is not receiving a suitable education requires action by a local authority under education law, as described in the section 'What local authorities do when it appears that a child not in school is not receiving a suitable education and/or education in their best interests'. Such situations could also indicate unmet needs or wider safeguarding risks, such as abuse, neglect or exploitation, as well as placing the child at further risk of these and other harms. In severe and sustained cases, where all avenues of support have been facilitated by local authorities and other partners, but the child remains out of suitable education, this is likely to constitute educational neglect.

Local authority child safeguarding powers may therefore be required to address this neglect. This will depend on the facts of the case, but local authorities should consider whether they ought to take action under safeguarding law, especially where the steps

[35] Sections 10 and 11 of the Children Act 2004

described above have not been, or seem unlikely to be, sufficient to address a risk to a child's welfare.

In the light of this, local authorities should ensure that their published policies, and their staff, clearly state the circumstances where safeguarding action is likely to be appropriate in cases where a child is not, or may not be, receiving suitable education.

Where professionals have early indications that a child's lack of a suitable education could be the result of educational neglect, they should collate evidence to enable timely information sharing and seek to secure the appropriate response through Family Help or children's social care.

A failure to provide suitable education can satisfy the significant harm threshold. 'Harm' can include the impairment of health or development, which means physical, intellectual, emotional, social, or behavioural development and the provision of unsuitable or no education clearly can amount to this. The significant harm need not be intentional or deliberate, but case law[36] 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 the education of a specific child. Local authority staff should be clear that when the use of safeguarding powers is justified, they should be used.

Whether the provision of unsuitable education does amount to significant harm will always depend on the particular circumstances of the child, and whether those circumstances mean that the child's development is being, or is likely to be, significantly impaired. Case law does provide examples of where the lack of suitable education has amounted to significant harm[37]. Although some cases will be relatively clear-cut (for example if a child was being provided with no education at all for months), in other cases a local authority may need expert advice from teachers or educational psychologists, preferably those with some familiarity with educational approaches which are wider than conventional schooling.

Safeguarding powers for children not in school

Statutory guidance on local authority safeguarding and child protection powers can be found in in Working Together to Safeguard Children.

[36] *In re B (A Child) (Care proceedings: Threshold Criteria)* [2013] 1 WLR 1911.

[37] *Re S (A Minor) (Care Order: Education)* [1978] QB 120 and *Re O (A Minor) (Care Proceedings: Education)* [1992] 1 WLR 912.

Section 47 enquiries

Sometimes the local authority may not have been able to obtain sufficient information to determine whether the significant harm threshold is met and the authority should consider a section 47 enquiry[38], which requires an authority to make enquiries to enable it to decide whether action should be taken to protect the child's welfare, if it has reasonable cause to suspect the 'if it appears' test in the Education Act 1996 is met. Reasonable cause can include the lack of any substantive information about a child's education, so if the 'if it appears' test is satisfied, then there may be reasonable cause in terms of section 47. As part of their section 47 enquiries, local authorities may take such steps as are reasonable to gain access to the child.

Child Assessment Orders

The local authority may apply to a court for a child assessment order, which enables them to carry out an assessment of the state of the child's health or development, or of the way in which they have been treated[39]. For such an order to be made there must be reasonable cause to suspect that the significant harm threshold is met, an assessment is necessary to determine whether the threshold is met, and it must be unlikely that an assessment would be made or be satisfactory without such an order.

Care and supervision orders

If it is concluded that the significant harm threshold is met but the parents continue to refuse to remedy the situation, it may be necessary in certain cases to apply for a care order[40]. The effect of such an order is that the local authority is given parental responsibility for the child and his them in its care while the order remains in force. This means that the authority becomes responsible for decisions about the child's education even if the child continues to live with their actual parents.

To apply successfully for a care order, the local authority must satisfy the court that the lack of suitable education and/or education that is in the child's best interests (where relevant), alone or in combination with other factors, is causing, or is likely to cause, the child to suffer significant harm, this is attributable to the care given or likely to be given without the order not being what it would be reasonable to expect a parent to give or to the child's being beyond parental control. This would likely be educational neglect and would mean that the child's intellectual and social development was being, or was likely to be, substantially impaired.

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[38] Section 47 of the Children Act 1989

[39] Section 43 of the Children Act 1989

[40] See section 31 of the Children Act 1989, which sets out local authority or authorised person care and supervision of a child suffering, or likely to suffer, significant harm.

As an alternative to a care order, a local authority may apply for a supervision order under section 31 of the 1989 Act. This places the child under the supervision of a local authority and requires the authority to advise, assist and befriend the child but, unlike a care order, it does not confer parental responsibility to the authority.

It is best for both local authorities and parents to not let any disagreement about a child's education get to this stage. The use of such orders is of course a last resort, but the key point for local authorities and parents to bear in mind is that this could be the end result of continued failure to provide suitable education and/or education that is in the child's best interests (where relevant) as well as a continued obstruction of an authority's efforts to rectify this. By demonstrating a determination to use last resort powers when necessary, the likelihood of having to deploy them is generally greatly reduced. Parents should enter into informal discussions with local authorities by contacting their EHE officer or using existing engagements with them. This should enable most difficulties to be resolved and demonstrates willingness to cooperate to secure suitable education for the child.

Oversight of local authorities in relation to children not in school

The role of the Department for Education

The Department for Education has an overarching role in monitoring implementation of the Children Not in School measures across local authorities to support consistency of practice. The Department will also play a role in resolving issues with implementation of the measures and in identifying where further guidance or intervention may be required. It will monitor information received from local authority Children Not in School registers to identify anomalies in data and ensure these are followed up on.

The Department will receive and determine appeals relating to the revocation of school attendance orders and decisions requiring local authority consent to de-register a child from school. For more information on how to carry out these appeals, see sections on ‘Review and Revocation’ and ‘Consent appeals’.

In the case where the Department receives concerns about a local authority’s practice, it will usually seek to resolve them through informal enquiries with the authority or direct the parent to the authority’s complaints process, the Information Commissioner’s Office or Local Government and Social Care Ombudsman as appropriate. Contact details for the Department can be found here.

The Department may need to contact the local authority and share relevant details of the correspondence received. This will be done with the parent’s approval and in line with data protection legislation.

Local authorities should engage constructively with any enquiries from the Department for information where concerns have been raised, with a view to resolving issues promptly and collaboratively.

If the Department is made aware that a local authority is not doing enough to meet a duty that is set out in the Education Act 1996, or that a local authority is being unreasonable in discharging its duties, it will consider whether there is sufficient basis for making a direction under section 496 or 497 of the 1996 Act so that outcomes for children in that local authority’s area can be improved. This gives the Secretary of State powers to intervene in such cases.

A judicial review can also be brought by parents against a local authority when there is a belief that the authority has acted unlawfully or unreasonably. The Department does not provide legal advice, parents who are considering legal action should seek independent legal advice.

Ofsted

Ofsted conducts periodic inspections of local authorities, and this includes a review of the way in which they carry out their duties in relation to vulnerable children. Such reviews will include children missing education, and will therefore cover the work of the local authority in relation to those children who are being educated at home but where the authority is not satisfied they are receiving a suitable education. It is important to state that Ofsted has no role in the oversight of education received by children who are educated at home.

The Ofsted and Care Quality Commission SEND local area inspection framework also sets out how inspectors may gather evidence in relation to the oversight of children and young people with SEND who are not attending a school or alternative provision[41]. This includes children and young people with SEND who are home educated.

Complaints

Parents play an important role in helping local authorities understand what is working well and where improvements could be made. If parents are unhappy with how the local authority is discharging their duties, it may be helpful in the first instance for parents to engage with the local authority to try to resolve any issues.

Parents may wish to:

- Contact the local authority's Elective Home Education lead directly to discuss concerns or suggest improvements. This should be found in the Elective Home Education section on the local authority website[42] which provides key contact details for the Elective Home Education team.
- Provide feedback via bi-annual engagement forums provided by the local authority

Where these engagement routes have not provided a satisfactory outcome, or where a parent remains unhappy with the local authority's actions, parents should first complain to that local authority using the authority's own complaints process[43]. The local authority should signpost parents to their process and provide clear information about the stages involved and the expected timescales for responding to complaints.

[41] Area SEND inspections: framework and handbook

[42] Find your local council - GOV.UK

[43] https://www.gov.uk/complain-about-your-council

This table provides an overview of the different routes available to parents and others who wish to raise concerns. Further information about each route can be found below.

Table 1: Overview of the different routes available to those who wish to raise concerns

Complaint topic	Organisation that may consider your complaint
How the local authority made enquiries about the education being provided to your child	The local authority's complaints process first, then the Local Government and Social Care Ombudsman (LGSCO)
How the local authority determined whether your child's education is suitable	The local authority's complaints process first, then LGSCO
Delay, poor communication, failure to follow procedures, or other administrative faults by the local authority	The local authority's complaints process first, then LGSCO
A complaint that has not received a response from the local authority after 12 weeks	LGSCO
A concern that a local authority is not carrying out its statutory duties under education legislation	The Department for Education and or LGSCO
A matter that is currently subject to court proceedings or other active legal action	The relevant court or legal process
The handling of personal information or compliance with data protection legislation	The local authority's complaints process first, then the Information Commissioner's Office
A school attendance order that a parent wishes to be revoked	The Secretary of State
A consent decision that a parent wishes to appeal	The Secretary of State

Local Government and Social Care Ombudsman

If parents have completed the authority's complaints process and are not satisfied with its response, parents are then able to contact the Local Government and Social Care Ombudsman[44], who will make a decision on the complaint, if it chooses to investigate.

Parents can also complain to the Ombudsman if they have complained to the local authority but not received a response after 12 weeks. However, it cannot investigate complaints about matters that are subject to active legal proceedings.

The Ombudsman can investigate how local authorities make enquiries about what education is being provided to children who do not attend school and how they determine whether education is suitable.

The Ombudsman will investigate whether local authorities have followed the correct process when making a decision. If the Ombudsman finds fault in the process, then they will consider if this has caused an injustice. If so, they will make recommendations to remedy the injustice. The Ombudsman is not an appeals process, and cannot question local authority decision-making where the correct process has been followed.

The Ombudsman may refer the matter back to the local authority if the complaints process has not been exhausted or decide to consider it themselves. It cannot usually investigate if more than 12 months have passed since a parent first became aware of the issue. It may also not decide to investigate if the issue has not affected a parent significantly or it cannot achieve the outcome a parent is looking for.

If the complaint is upheld, it may result in recommendations to the local authority, including in relation to their processes and procedures. The local authority may also be asked to: apologise to the parent; provide support that the parent should have had; improve procedures; or provide their staff with training. The parent and the local authority will have an opportunity to provide information, evidence and comment on a draft decision before a final view is reached.

Information Commissioner's Office

Where a complaint relates to the handling of personal information or compliance with data protection legislation, parents should first use the local authority's internal complaints process to seek rectification or redress. If not satisfied with the local authority's response, the parent can consider making a complaint to the Information Commissioner's Office (ICO). Further information about this process can be found here: Data protection: Make a complaint - GOV.UK

[44] Local Government and Social Care Ombudsman

Annex A – Local authority policies and practices

Local authorities should:

- have a written Elective Home Education policy statement which is clear, transparent and easily accessible. This policy should include information about local authorities' duties and parents' responsibilities under the Education Act 1996. It should be regularly reviewed to maintain consistency with the current legal framework and guidance. Reviews should involve engagement with the local home education community so local authorities can consider whether policies reflect the circumstances and lived experiences of those families they impact.
- have an Elective Home Education section on the local authority website which provides key contact details for the Elective Home Education team. It should also set out how and when parents can expect to be contacted by the Elective Home Education team.
- consider whether their communications are effectively engaging all parents in their areas, including those that have accessibility needs or whose first language is not English.
- fulfill their legal duty to contact parents at least once a year so the local authority can update the CNIS register. More frequent engagement may be needed in some cases; local authorities may request updates to the required information concerning a child's educational provision on their registers no more than every three months. How often local authorities enquire about the suitability of the child's education will depend on the child's circumstances (see the section on Informal Enquiries).
- analyse the information provided by parents and providers to fully assess the suitability of a child's education and communicating clearly with parents where they believe this education is sufficient or where they think it requires further development.
- avoid duplicating engagement and increasing burdens on families unnecessarily. For example, in pilot areas, where a mandatory meeting has taken place prior to a child being withdrawn from school, the local authority may have already met the child and parent and discussed the intended education arrangements. Provided the information remains current, there are no education or welfare concerns, or no indications that circumstances have changed, it should not be necessary to make further enquiries immediately
- set out clearly in their policies how parents and children's data are processed in line with UK-GDPR and in what circumstances information may be shared with appropriate partners, such as those outlined in the section on 'Who local authorities may share Children Not in School register information with'
- set aside the resources necessary to implement its policies and legal duties effectively and consistently.

- provide parents with a named officer(s) responsible for home education. An officer should act as the main contact for parents and be knowledgeable about EHE policy, practice and different pedagogies. A senior officer should oversee EHE policy and procedures, understand related areas such as CME and unregistered schools, and ensure that frontline staff provide accurate information to parents
- ensure all staff with responsibility for EHE undertake relevant training
- offer to host engagement forums twice a year, as required by section 436G of the Education Act 1996, with their home education communities.
- responding promptly and reasonably to requests for advice and information under the support duty in the Children's Wellbeing and Schools Act 2026 (see section 'Support and Advice for Families Educating at Home')
- provide clear details of their complaints procedure and deal with all complaints fairly, in a sensitive and timely manner. This should include details of the internal complaint process as well as the external complaint options following this (such as the Local Government and Social Care Ombudsman, and the Department for Education through the processes in sections 496 and 497 of the Education Act 1996)

Annex B – Key considerations for parents before deciding to home educate

Before making the decision to home educate, parents should consider the following:

- Education
- The parents' legal duty to secure a suitable, full-time, efficient education for their child applies as soon as the child is removed from the school roll or reaches compulsory school age
- Which educational approach to take
- What learning outcomes are to be achieved
- Any extra support needed if the child has special educational needs or a disability
- That the child's school place will be lost upon deregistration, and may not be easy to get back if the home education does not go as planned or hoped
- That any support the child has been receiving at their school may also be lost upon deregistration, and access to facilities or services such as in- school vaccination programmes, sports provision, or other facilities such as school libraries, science laboratories or other specialist equipment.
- Finance and resources
- Cost of materials, such as books, computers, stationery etc
- Cost of educational visits, group, sporting activities etc
- Likely cost of any examinations or assessments (which would have to be entered via an external examinations centre, which may be some distance from their home)
- Cost of any tutors, tuition centres or other out-of-school education provision
- Home and other learning environments
- Whether the child will have a suitable learning space that supports them to engage and progress in their education – that suitable learning space could be at home or outside of the home
- Whether the child will receive education across multiple households and whether the environment is suitable across these different households.
- Who else will be present in the home when the child is being home educated, for example younger siblings who have not yet reached compulsory school age and how this may impact the child's ability to learn.
- If an external provider will be used to provide home education, and the steps parents can take to choose a safe, suitable provider.
- If the child is utilising online providers or resources, whether internet access is reliable in the home or other learning environments they plan to use, such as libraries.

Additional Considerations for Children with SEND

Parents should consider what additional support (such as specialist resources, therapies, equipment or adaptations) may be required, whether this can be provided outside a school setting, and what support may no longer be available once the child is removed from the school roll.

In particular, parents should be aware that, if a local authority offers to provide the special educational provision required by the child via an EHC plan, but the child's parents choose to make their own suitable alternative arrangements (for example, by home educating), the local authority has no duty to assist the parents with the costs which they incur. Some local authorities may choose to provide support in individual cases, but parents should not assume that financial assistance will be available.

If a child currently on a school roll has an EHC plan and parents are considering home education, it is recommended that they contact the local authority at an early stage to discuss amendment of the plan. A local authority should explore with parents and the child's current education setting the extent to which additional or different support can be put in place to keep the child in that setting, providing this is what the parents ultimately want. When a child has an EHC plan and attends a school, or where the local authority has arranged Education Otherwise than At School, the local authority is responsible for securing[45] the special educational provision specified in the plan. However, if parents make "suitable alternative arrangements" [in relation to the special educational provision set out in the EHC plan] – for example, by choosing to home educate their child and the home education is considered suitable – the local authority is no longer under a duty to secure that special educational provision[46]. The local authority should not assume that because the provision to be made by parents is different from that which was being made or would have been made in the setting named on the EHC plan that the provision is necessarily unsuitable. In particular, as long as the special educational needs of the child or young person would be met, there is no need for parents exactly to replicate the special educational provision in the plan (which may, for example, be configured in a way specific to the education setting named).

A child with an EHC plan who is deregistered from a mainstream school to be home educated should not be categorised as a child missing education unless and until the local authority has formally considered the provision and considers that it is not suitable.

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[45] "Secure" does not mean force the family to receive this provision – they have a choice as to whether to take it up

[46] If parents have made such arrangements through home education, the plan should simply set out the type of school that would be suitable (rather than name a specific school) and state (in a suitable place) that the parents have made their own arrangements under section 7 of the Education Act 1996.

A local authority cannot stop maintaining an EHC plan simply because a child is being home educated. An EHC plan can only cease to be maintained where the legal tests for doing so are met. In particular, the local authority must be satisfied that it is no longer necessary for special educational provision to be made through an EHC plan.

Parents of children on EHC plans may decide to home educate without any discussions with the local authority. However, if the child attends a special school under arrangements made by a local authority, then consent from that local authority would be required to remove the child's name from the school roll.

Annex C – Key Definitions

What counts as education?

Children who are home educated can learn in many different ways, and so it is not possible to give an exhaustive list of what "counts" as education. However, when parents are deciding whether to record an activity as part of their estimates of time spent in education, they should consider whether the activity fits the following criteria:

- is the primary purpose of the activity to teach knowledge, skills, or understanding?
- is there a clear learning aim?
- is the activity intentionally arranged or facilitated as part of the child's education (even if inflexible or informal)?
- is the activity part of ongoing learning / contributing to the child's overall educational development?
- if an activity fits at least three of these criteria, parents should record it as part of their child's time spent in education.

Activities that should not be counted for the purposes of providing information for Children Not in School registers include activities where the primary purpose is:

- therapy or medical intervention (for example, CAMHS, speech therapy, counselling)
- general parenting or childcare (for example, supervision, routine play, daily tasks without learning intent behind them)
- support for existing education rather than provision (for example, helping with homework set by tutors)

What counts as receiving education from "persons other than their parents"

Children who are not in school often receive education from persons or organisations other than their parents. This may include, for example:

- other family members, such as grandparents, aunts/ uncles, cousins, etc
- out-of-school settings [47]which can include, but are not limited to, private tutors, supplementary schools, extra-curricular clubs and uniformed youth organisations. They are not regulated under education or childcare law and should not operate full-time.

[47] After-school clubs, community activities, and tuition - safeguarding guidance for providers (publishing.service.gov.uk)

- informal home education groups – Groups of home-educating families who come together to educate their children collectively. Such arrangements are generally lawful, but where they are sufficiently formal, long-term and extensive, and they provide education for five or more children of compulsory school age (or just one if that child has an EHC plan[48], or is 'looked after'), they may meet the legal definition of an independent school and require registration. Enquiries on registering as an independent school may be made to registration.enquiries@education.gov.uk.
- unregistered independent schools – settings operating unlawfully as unregistered independent schools providing full-time education. Running such a school is an offence under section 96 of the Education and Skills Act 2008. Ofsted may inspect suspected settings without notice under section 97 and seek to prosecute those responsible for running the setting. While parents do not commit an offence by sending their child to such a setting, local authorities should consider whether the child is receiving a suitable education and whether there are any safeguarding concerns.
- alternative provision providers – which can include unregistered settings arranged by local authorities or schools that are not required to register as independent schools. Providers range from tutoring companies and online learning services to vocational training and therapeutic support, such as mechanics and farms. These settings are not regulated, but responsibility for ensuring suitability rests with the commissioning body, which should carry out appropriate checks.

[48] Or an individual development plan ("IDP"), in the case of a child from Wales being educated in England.

Annex D – Template Forms

Local authority request for information form

If you are unable to provide any of the mandatory information, please state this clearly.

LA Request Form – Parent Duty Update

This form should be completed by parents whose child is already included on their local authority's Children Not In School register and have been asked by their local authority to provide updated information.

A separate form should be completed for each registered child.

If any mandatory information is not known, please state this clearly. Parents are not required to contact another parent to obtain information they do not hold.

Please fill in the following boxes with information that covers the period from when you last updated the local authority.

You must provide details on all changes including details of new providers you are using, changes to the hours of providers you are using and previous providers which may no longer be using but which you in the period since you last updated the local authority on your child's educatio.

Child's details - Please note you will need to complete a separate form for each individual child.
Name:
Date of birth:
Has the child's main home address changed since the last update?
No: ☐
Yes: ☐
If yes please provide the new address:

Parent Details

Please provide information about all parents or other persons with parental responsibility that are known to you, even if they are not involved in the child's education

Parent 1 (Your Details)

Name:

Address:

Estimated hours spent educating the child per week: 0☐ 1 – 5☐ 6 – 10☐ 11+☐

Parent 2

Name:

Address:

Estimated hours spent educating the child per week: 0☐ 1 – 5☐ 6 – 10☐ 11+☐

Is there another parent(s) or person(s) with parental responsibility?

No☐

Yes☐

Please provide name and address and estimated hours spent educating the child per week if known:

Estimate of the overall total amount of time that the child spends receiving education from their parents per week:

0☐ 1 – 5☐ 6 – 10☐ 11+☐

Estimate of the overall total amount of time that the child spends receiving education from persons other than their parents per week:

0☐ 1 – 5☐ 6 – 10☐ 11+☐

Current providers

Please provide details of any persons or organisations other than the child's parents which are providing education to the child for more than 6 hours per week

Provider 1

Name:

Address:

Type of provider:

Individual private tutor☐

Supplementary school or tuition company☐

DfE accredited online education provider☐

Non-accredited online education provider☐

FE college or sixth-form school☐

Non-school alternative provision provider☐

Employer providing work experience or vocational learning☐

Home-education co-operative or group☐

Museum, gallery or heritage organisation☐

Library service☐

Other – please provide a description below☐

Postal address of each place where education is provided (where different from the address above or the website or email address of the provider if education is provided virtually:

An estimate of the total amount of time per week the child spends receiving education from this provider;

6 – 10☐ 11+☐

An estimate of the amount of time the child spends receiving education per week from this provider without any parent of the child being actively involved in the tuition or supervision of the child:

6 – 10☐ 11+☐

If you need to add further providers, please include them in the additional providers section below.

Providers no longer used, but which were used for more than 6 hours per week within this reporting period

Provider 1
Name:
Address:
Type of provider:

Individual private tutor☐

Supplementary school or tuition company☐

DfE accredited online education provider☐

Non-accredited online education provider☐

FE college or sixth-form school☐

Non-school alternative provision provider☐

Employer providing work experience or vocational learning☐

Home-education co-operative or group☐

Museum, gallery or heritage organisation☐

Library service☐

Other – please provide a description below☐

Postal address of each place where education is provided (where different from the address above or the website or email address of the provider if education is provided virtually:

An estimate of the total amount of time per week the child spends receiving education from this provider;
6 – 10☐ 11+☐

An estimate of the amount of time the child spends receiving education per week from this provider without any parent of the child being actively involved in the tuition or supervision of the child:

6 – 10☐ 11+☐

If you need to add further providers, please include them in the additional providers section below.

Voluntary Information – The following information is not mandatory to provide but will aid the local authority in understanding your child's individual circumstances so they do not have to enquire further.

Additional Information about your child

The information in this section of the form is voluntary for you to provide but will help the local authority to better understand your child's circumstances and tailor its engagement and support

Does the child have an EHC plan or in receipt of any other forms of SEN support – if yes please specify;

Yes☐ No☐

Is your child a child in need:☐

Is your child a looked after child:☐

Is your child on a child protection plan or have they been in the last 5 years:☐

Is your child a young carer:☐

Previous school(s) attended:☐

Would the child be eligible for free school meals:☐

Reason why the child is being home educated/ flexi-schooled/ attending FE college part-time:

Mental Health:☐

Philosophical or preferential:☐

Lifestyle:☐

School dissatisfaction:☐

School dissatisfaction – SEND related:☐

Wanted to educate using online provider:☐

Other – please provide details below:☐

Exam qualifications

Will your child be sitting any formal qualifications in the current academic year?

No☐

Yes☐

If yes please could you provide;

Qualification type;

Subjects;

Exam boards;

Exam centre/school where exam is being sat;

If you require additional room for additional exams please add these into the further information box below.

Please provide any further information which you think is relevant.

Declaration

I confirm that the information provided in this form is correct to the best of my knowledge.

I confirm that I have reviewed the Children Not in School statutory guidance and understand that I may be required to provide updates to this information and that certain changes must be notified to the local authority.

Name……

Signed……

Date……

Initial Parents Children Not in School Registration Form

If you are unable to provide any of the mandatory information, please state this clearly.

Children Not in School Registration Form

This form should be completed by parents whose child is eligible for inclusion on their local authority's Children Not in School register. Parents should consult the Children Not in School statutory guidance before completing the form to determine whether their child is eligible for registration and whether they are required to provide information to the local authority.

Parents should also note the definitions of terms such as out-of-school education providers, work experience and actively involved in the Children not in school guidance.

A separate form should be completed for each child.

If any mandatory information is not known, please state this clearly. Parents are not required to contact another parent to obtain information they do not hold.

Child's details - Please note you will need to complete a separate form for each individual child.
Name:
Date of birth:
Main home address:
Any additional addresses the child currently lives at:
Any previous addresses the child has lived at during the last 12 months:

Name of parent(s) completing this form:

Parent Details

Please provide information about all parents or other persons with parental responsibility that are known to you, even if they are not involved in the child's education

Parent 1 (Your Details)

Name:

Address:

Estimated hours spent educating the child per week: 0☐ 1 – 5☐ 6 – 10☐ 11+☐

Parent 2

Name:

Address:

Estimated hours spent educating the child per week: 0☐ 1 – 5☐ 6 – 10☐ 11+☐

Is there another parent(s) or person(s) with parental responsibility?

No

Yes

If yes, please provide name, address and estimated hours spent educating the child per week if known:

Education Provider Details

Estimate of the overall total amount of hours that the child spends receiving education from persons other than parents of the child per week:

0☐ 1 – 5☐ 6 – 10☐ 11+☐

Please provide details of any persons or organisations other than the child's parents which are providing education to the child for more than 6 hours per week

Provider 1

Name:

Address:

Type of provider:

Individual private tutor☐

Supplementary school or tuition company☐

DfE accredited online education provider☐

Non-accredited online education provider☐

FE college or sixth-form school☐

Non-school alternative provision provider☐

Employer providing work experience or vocational learning☐

Home-education co-operative or group☐

Museum, gallery or heritage organisation☐

Library service☐

Other – please provide a description below☐

Postal address of each place where education is provided (where different from the address above or the website or email address of the provider if education is provided virtually:

An estimate of the total amount of time per week the child spends receiving education from this provider;

6 – 10☐ 11+☐

An estimate of the amount of time the child spends receiving education per week from this provider without any parent of the child being actively involved in the tuition or supervision of the child:

6 – 10☐ 11+☐

If you need to add further providers, please include them in the additional providers section below.

Please provide details of any persons or organisations other than the child's parents which are providing education to the child for more than X hous

Provider 1

Name:

Address:

Type of provider:

Individual private tutor☐

Supplementary school or tuition company☐

DfE accredited online education provider☐

Non-accredited online education provider☐

FE college or sixth-form school☐

Non-school alternative provision provider☐

Employer providing work experience or vocational learning☐

Home-education co-operative or group☐

Museum, gallery or heritage organisation☐

Library service☐

Other – please provide a description below☐

Postal address of each place where education is provided (where different from the address above or the website or email address of the provider if education is provided virtually:

An estimate of the total amount of time per week the child spends receiving education from this provider;

6 – 10☐ 11+☐

An estimate of the amount of time the child spends receiving education per week from this provider without any parent of the child being actively involved in the tuition or supervision of the child:

6 – 10☐ 11+☐

Please provide details of any persons or organisations other than the child's parents which are providing education to the child for more than X hous

Provider 2

Name:

Address:

Type of provider:

Individual private tutor☐

Supplementary school or tuition company☐

DfE accredited online education provider☐

Non-accredited online education provider☐

FE college or sixth-form school☐

Non-school alternative provision provider☐

Employer providing work experience or vocational learning☐

Home-education co-operative or group☐

Museum, gallery or heritage organisation☐

Library service☐

Other – please provide a description below☐

Postal address of each place where education is provided (where different from the address above or the website or email address of the provider if education is provided virtually:

An estimate of the total amount of time per week the child spends receiving education from this provider;

6 – 10☐ 11+☐

An estimate of the amount of time the child spends receiving education per week from this provider without any parent of the child being actively involved in the tuition or supervision of the child:

6 – 10☐ 11+☐

If you need to add further providers, please include them in the additional providers section below.

Voluntary Information – The following information is not mandatory to provide but will aid the local authority in understanding your child's individual circumstances so they do not have to enquire further.

Additional Information about your child

The information in this section of the form is voluntary for you to provide but will help the local authority to better understand your child's circumstances and tailor its engagement and support

Does the child have an EHC plan or in receipt of any other forms of SEN support – if yes please specify;

Yes☐ No☐

Is your child a child in need:☐

Is your child a looked after child:☐

Is your child on a child protection plan or have they been in the last 5 years:☐

Is your child a young carer:☐

Previous school(s) attended:☐

Would the child be eligible for free school meals:☐

Reason why the child is being home educated/ flexi-schooled/ attending FE college part-time:

Mental Health☐

Philosophical or preferential☐

Lifestyle☐

School dissatisfaction☐

School dissatisfaction – SEND related☐

Wanted to educate using online provider☐

Other – please provide details below☐

Exam qualifications

Will your child be sitting any formal qualifications in the current academic year?

No☐

Yes☐

If yes please could you provide;

Qualification type;

Subjects;

Exam boards;

Exam centre/school where exam is being sat;

If you require additional room for additional exams please add these into the further information box below.

Additional providers

Please use this box to provide details of additional providers, including those who you use for less than 6 hours per week.

Details of recent or upcoming lengthy periods of time out of England

Additional exam details

Reasons why you may not want us to contact the child's other parent(s).

Declaration

I confirm that the information provided in this form is correct to the best of my knowledge.

I confirm that I have reviewed the Children Not in School statutory guidance and understand that I may be required to provide updates to this information and that certain changes must be notified to the local authority.

Name……

Signed……

Date……

Parent Duty Update Form

Parent Duty Update Form

This form should be used by parents to notify the local authority of changes to the following information held in relation to their child on the Children Not in School register:

a) The child's name, date of birth or home address
b) Any additional addresses the child lives at
c) The name and home address of each parent of the child
d) The name of each parent who is providing education to the child

A separate form should be completed for each registered child,

If you have moved into a different local authority area, you should complete a new Initial Parent Duty Form instead.

Child's details – as stated on previous form
Child's name:
Child's date of birth:
Child's home address:

Details that have changed
Please tick and provide details for all that apply

☐**Child's name**
Previous name:
New name:

☐**Child's date of birth**
Has the child's date of birth been recorded incorrectly?
☐No
☐Yes
Previous information:
Correct information:

☐**Child's home address:**
Previous address:
New address:
Date of change (if known):

Details that have changed

Please tick and provide details for all that apply

☐**New additional addresses the child lives at**

New address:

Details of why the child lives here some of time and how much time they spend here and at their home address:

☐**New home address of one of both parents**

New address:

Which parent(s) live here:

☐**The name of additional parent(s) who are now providing education to child**

Parent's names:

Additional Information about your child

The information in this section of the form is voluntary for you to provide but will help the local authority to better understand your child's circumstances and tailor its engagement and support

Sex

Ethnicity

Does the child have English as their first language Yes☐ No☐

Does the child have an EHC plan or in receipt of any other forms of SEN support – if yes please specify;

Yes☐ No☐

Is your child a child in need:☐

Is your child a looked after child:☐

Is your child on a child protection plan or have they been in the last 5 years:☐

Is your child a young carer:☐

Previous school(s) attended:☐

Would the child be eligible for free school meals:☐

Declaration

I confirm that the information provided in this form is correct to the best of my knowledge.

I confirm that I have reviewed the Children Not in School statutory guidance and understand that I may be required to provide updates to this information and that certain changes must be notified to the local authority.

Name……

Signed……

Date……

Template school attendance order form

[Local Authority Name]

Education Welfare Service

[Address Line 1]

[Address Line 2]

[Postcode]

Telephone: [Insert] Email: [Insert]

Reference: [Unique Case Reference Number]

Annex E – Data Handling, Privacy and Information Sharing

Local authority responsibilities

To ensure that personal data held for the purposes of the Children Not in School duties is processed lawfully, local authorities, as data controllers, must:

- have clear arrangements in place for the collection, use, storage, retention and sharing of personal data. These arrangements should set out the purposes for processing and how information will be handled both within the authority and, where appropriate, with other agencies
- undertake a Data Protection Impact Assessment when the processing of personal data is likely to result in a high risk to individuals' data rights and freedoms. Local authorities should use a data protection impact assessment (DPIA) when establishing their Children Not in School registers to identify the risks of the proposed data processing and build in appropriate measures and safeguards
- ensure that all personal data is processed under a valid lawful basis under Article 6 of UK-GDPR. Articles 6(1)(c) – Legal Obligation and 6(1)(e) – Public Task may be relevant lawful bases in most cases given that maintaining Children Not in School registers is a statutory duty on local authorities and the Education Act 1996 requires specific information to be collected, held and shared in certain circumstances and in compliance with section 436F of the Education Act 1996. However, it is the responsibility of each local authority to identify and document the appropriate lawful basis for processing Children Not in School data.
- ensure that the sharing of special category data[49] also meets one of the specific conditions for processing under Article 9 – for example, condition (g) Reasons of substantial public interest. It is a requirement that Children Not in School registers include some special category data where local authorities already hold this or can reasonably obtain it, for example information about a child's special educational needs or disabilities and their ethnicity.
- be transparent by telling families what information they are sharing and with whom, provided that it is safe to do so. Local authorities should have an appropriate data protection policy document and privacy notice regarding processing of personal data and its secure storage and destruction, that is provided to individuals in an easily accessible form. That may take the form of, for example, publication on the local authority's website or in a Data Privacy Notice. This information should be made available to anyone whose data is being collected and held at the time at

[49] Special category data is personal data that needs more protection because it is sensitive.

which their data is collected for example, for example, when first providing required information for a Children Not in School register, or as part of a request for updated information. The policy should include elements such as the uses for which the data is intended to be used, how parents may exercise their data rights (set out below), and information concerning data that may be held on registers that local authorities already hold or can reasonably obtain.

Local authorities should take particular care where there is a risk that sharing information could place a child or parent at risk of harm, including in cases of domestic abuse, stalking or harassment. Local authorities should have clear procedures in place to identify and protect families in these situations.

Where information needs to be shared between different parts of the local authority to enable the authority to maintain its Children Not in School register or carry out related statutory functions, the local authority should ensure that any sharing is necessary, proportionate and undertaken in accordance with data protection legislation and local information governance arrangements.

Where a local authority needs to obtain information from another organisation in order to fulfil its duties relating to the Children Not in School register, it should conduct any information sharing in accordance with data protection legislation and applicable information governance requirements. The onus to establish there is a lawful basis information lies with the sharing organisation.

The Data Protection in Schools guidance provides contextualised guidance to the education sector on protecting personal data and complying with data protection obligations.

Who local authorities may share information from registers with

Secretary of State for Education and Welsh Ministers

If the Secretary of State (for England) or the Welsh Ministers (for Wales) ask for it, a local authority must give them specific information from their register. This can include details about individual children or overall statistics.

In accordance with the Children Not in School Registers (Sharing of Information) 2027 Regulations, local authorities in England are required to provide the following information to the Department for Education on a termly basis for each child on their registers:

- child's name, date of birth, and home address
- the information local authorities are required to collect for each child on their registers if they have it or can reasonably obtain it.

All data received by the Department from local authorities will be processed in accordance with UK-GDPR principles. The Department has conducted a Data Protection Impact Assessment and we have consulted with the information Commissioner's Office to ensure all data protection risks have been considered and appropriate mitigations have been put in place. The Data Protection Impact Assessment is reviewed on a regular basis and will be updated as required.

No individual personal data from Children Not in School registers will be published by the Department. Aggregate information is published at: [Link to new CNIS data collection page].

The information the Department receives from local authorities is used to:

- gain a better understanding of Children Not in School and how policies are impacting these children and their families
- evaluate how local authorities are discharging their statutory duties, such as the support duty
- gain a better understanding of outcomes for home educating children (for example, by publishing exam performance data for those children that choose to take exams)

Where it's appropriate to do so for the purposes of promoting or safeguarding the education or welfare of a specific child or children in general, the Department may provide information received from Children Not in School registers to:

- local authorities
- schools
- Ofsted
- bodies listed in section 11 of the Children Act 2004 [50]
- the Welsh Ministers

The Department may also provide anonymised information to researchers for the purposes of building a better understanding of the evidence base for policies that would promote or safeguard the education or welfare of children.

The Department will only share data with a third party where we have a lawful basis to do so. More information on how the Department collects and shares data is available here: How DfE shares personal data - GOV.UK

As part of the Department's commitment to transparency, details of all organisations with which it has shared personal data alongside a short description of the project are published quarterly on GOV.UK.

[50] Children Act 2004

Sharing with other local authorities and organisations

A local authority may share information from their register with certain organisations if it considers it appropriate to do so for the purposes of promoting or safeguarding the education or welfare of an individual child or that of another person under 18:

- bodies listed in section 11 of the Children Act 2004
- Ofsted
- His Majesty's Chief Inspector of Education and Training in Wales.
- Welsh Ministers

If a local authority becomes aware that a child on their register will move or has moved to a different local authority area, the original authority:

- **must share** with the new authority any information they hold on the child as listed in the sections 'Information local authorities must record on their registers' and 'Information local authorities must record on their registers if they hold it or can reasonably obtain it'
- **may share** with the new authority any additional information the original authority holds on the child contained in its register
- **must delete** the child's information from their register unless they have a lawful basis to retain that information

Requests from Scotland or Northern Ireland

If a local authority in Scotland or Northern Ireland makes a request for information from an English local authority's Children Not in School register, the local authority responsible for the register may provide it if it considers it appropriate to do so for the purposes of promoting or safeguarding the education or welfare of the child to whom the information relates or any other person under the age of 18.

Parental rights

Local authorities should aim to be transparent and inform parents about what information they are sharing and for what purposes, provided that it is safe to do so. It is not necessary to seek consent to share information for the purposes of safeguarding and promoting the welfare of a child provided that there is a lawful basis to process any personal information required. In some circumstances, it may be appropriate to obtain consent to share data, but it is important to note that UK-GDPR sets a high standard for consent which is specific, time limited, and can be withdrawn (in which case the information would have to be deleted).

Additional considerations for parents and children who have experienced or are experiencing domestic abuse

Victims of stalking and harassment can ask for their personal data to be deleted when it relates to an unfounded allegation made by a malicious person (someone convicted of stalking or harassment against the victim, or is subject to a stalking protection order to protect the victim) under Article 17(1)(g) of the UK-GDPR. Victims must provide evidence, such as sentencing information from Witness Care Units or a copy of the protection order. Data controllers must investigate the allegation and decide that no further action is needed before deleting personal data under Article 17(1)(g). A data controller can refuse a request where exemptions apply, such as when data must be kept for legal obligations, for the performance of a task carried out in the public interest, or for safeguarding purposes. Data controllers include bodies such as local authorities, which may hold information about allegations relating to someone's parenting or child safety. If such allegations are malicious and meet the criteria, victims may request erasure, subject to the relevant legal tests. Further guidance on this is available from the ICO in 'Your right to get your data deleted' and 'Right to erasure'.

More information on individual's rights under UK-GDPR in relation to the data that their local authority holds about them is available here: A guide to individual rights - ICO

Subject Access Requests

An individual whose information, or whose child's information, is held on a Children Not in School register, may seek to obtain the information held about them by submitting a Subject Access Request (SAR).

Where a SAR is made by a parent in respect of information relating to a child[51], local authorities must first consider whether the parent has parental responsibility and whether they are entitled to receive the information requested. However, having parental responsibility does not automatically entitle an individual to receive all the information held about a child.

Local authorities must carefully consider each request on a case-by-case basis, taking into account:

- the rights and best interests of the child
- any known safeguarding concerns, including risks of harm to the child or another parent
- whether disclosure would reveal information about another individual who has not consented to that disclosure

[51] How do we recognise a subject access request (SAR)? - ICO

- whether any exemptions under the Data Protection Act 2018 apply

Where parents are estranged, there may be circumstances in which disclosing information – particularly information such as a child's address, education arrangements or location – could place a child or another parent at risk. This may include situations involving domestic abuse, coercive control, stalking or harassment. In such cases, local authorities should take particular care and may need to withhold or redact information where disclosure would be likely to cause harm.

Local authorities should also consider whether it is appropriate to:

- seek the views of the child, where this is age-appropriate
- seek the views of the other parent or relevant safeguarding professionals
- limit disclosure to only the information that is strictly necessary, applying redactions where required

In some cases, it may be appropriate to refuse to disclose information, in whole or in part, where an exemption applies – for example where disclosure would be likely to prejudice the prevention or detection of crime or would adversely affect the rights and freedoms of others.

Local authorities should ensure that staff responsible for handling SARs are aware of these risks and have access to appropriate safeguarding advice where needed. Decisions should be clearly documented, including the reasoning for any refusal or redaction.

Full guidance for individuals on the making of SARs can be found at Getting copies of your information (SAR)

Full guidance for local authorities concerning SARs can be found at A guide to subject access

Annex F – Worked Examples and Special Cases

This annex provides illustrative examples of how the legislation and guidance may apply in particular circumstances. It should be read alongside the relevant chapters of the guidance and does not provide an exhaustive list of scenarios.

School Deregistration and Applications for Consent to Home Educate (see Chapter 2 for more information)

Scenario: A child's parents disagree on whether their child should be home educated

A child's parents are separated and both have parental responsibility. One parent wishes the child to be home educated, while the other believes the child should attend school.

What should happen?

The local authority should take reasonable steps to establish who has parental responsibility for the child and whether there are any relevant court orders affecting decisions about the child's education.

Where a child lives with both parents, the parent with whom the child lives for most of the time will normally be in effective control of the educational arrangements. However, this may be affected by a Family Court order.

If the local authority has concerns that the child is not receiving a suitable education, it must carry out its statutory duties in the usual way. The existence of a disagreement between parents must not prevent the local authority from taking any action required under the legislation.

The local authority should normally keep both parents informed of actions it is taking in relation to the child's education where both have parental responsibility. However, this may not be appropriate where there are safeguarding concerns, including domestic abuse, or where there are legal reasons to restrict information sharing.

In some cases, a parent who disagrees with home education may seek to secure a school place for the child. Local authorities should be aware that disputes of this nature may ultimately require resolution by the Family Court. Where appropriate, local authorities should encourage parents to reach agreement on what is in the child's best interests, although it may not always be possible to resolve the disagreement without recourse to the courts.

Scenario: Consent application following a previous child protection plan involving domestic abuse

A child was placed on a child protection plan three years ago because the local authority believed the child was likely to suffer significant harm arising from one parent being abusive. The non-abusive parent has since separated from the abusive parent, cooperated with support services, resulting in the child protection plan ending. The non-abusive parent now wants to home educate the child.

What should happen?

The parent must apply for the local authority's consent to withdraw their child from school for home education.

The local authority must consider the suitability of the home education plan and also if it would be in the child's best interests to attend school. As part of this, they should consider if the circumstances that led to the child being placed on a child protection plan still apply, such as the level of contact that the abusive parent has with the child. If the local authority considers that the proposed home education is suitable for the child and in their best interests, they must grant consent. If exceptional circumstances apply, such as if the local authority considers that identifying where the child and non-abusive parent currently live could put them at risk of harm, the local authority may choose not to notify the abusive parent of the outcome of this decision.

Scenario: Consent application for a child attending a special school outside their home local authority area

A child attends a special school by arrangement of its local authority. The special school is located in a different local authority area. The child's parents wish to withdraw the child from the special school for home education.

What should happen?

The parents should give notice to the child's school that they wish to withdraw the child for home education.

The school must notify its local authority and the child's local authority of the parents' intention. The school should confirm whether the parents wish to make an application for consent themselves, whether the parents wish to request that the school to makes an application for consent on the parent's behalf. This application should be submitted to the local authority that made the arrangements for the child to attend the school.

The local authority will consider the parents' application and determine if the home education to be provided would be suitable and if it would be in the child's best interests to remain in school.

Scenario: Consent application for a child living in England attending school in Wales while subject to a child protection plan

A child lives in England and attends a school in Wales. The child's local authority in England holds a child protection plan for the child. The child's parents wish to withdraw them from the school in Wales to home educate them.

What should happen?

The parents should inform their child's school in Wales that they wish to home educate them.

The school must notify both its local authority (that is the Welsh local authority) and the local authority that holds the child protection plan (that is the English local authority) of this intention. The school should direct the parent to make an application for consent (or offer to submit an application on the parent's behalf). This application must be directed to the local authority that holds the child protection plan.

The local authority will consider the application and grant or refuse consent. It will notify the parents and the child's school. If consent has been granted, the child's school must delete the child's name from the roll and make a return to its local authority (that is the Welsh local authority) within 10 school days of the child being removed from the admission register.

Children Not in School Registers (see Chapter 5 for more information)

Registration duties when a child moves between local authorities

Scenario: Registration of a child living equally between two parents in different local authority areas.

A home educated child's parents are separated and live in different local authorities. The child spends 50% of their time with each parent. The parents are unsure which local authority to submit information to for their Children Not in School register and contact their respective local authorities for advice.

What should happen?

The child should normally be included on the register maintained by the local authority in which they are ordinarily resident. Where a child divides their time equally between two homes and their ordinary residence is unclear, local authorities may wish to consider the following factors to come to a conclusion:

- which address is used for child benefit
- which address is used with their GP/dentist
- where the child physically spends more of their time
- which address the parents perceive to be the child's main residence
- any other evidence that indicates one address as the child's main place of residence

No single factor is determinative so local authorities should consider the available evidence as a whole and work together to reach a consistent view as to the child's ordinary residence. They should come to a conclusion as soon as possible so as not to delay adding the child to the relevant local authority's register and informing the parents of this.

Scenario: Home educated child moves frequently between local authority areas in England

A home educated child is a member of the Traveller community and moves frequently between local authority areas in England.

What should happen?

Frequent movement between areas does not alter the Children Not in School registration duties of local authorities or parents. When the child moves to a new local authority area, the child's parent(s) must provide the required information for that local authority's Children Not in School register and inform their previous local authority that they have moved.

The local authorities should work together to ensure that, where lawful, any relevant information is transferred promptly and added to the current local authority's Children Not in School register. The previous local authority must remove the child from its Children Not in School register.

The current local authority should determine whether the child was receiving support from their previous local authority and, if so, consider whether they can continue to facilitate this.

Scenario: Home educated child is temporarily living away from their home local authority

A home educated child is living away from their home local authority area temporarily. This may be, for example, because the child has secured a performance role that will require them to spend several months away from home – local authorities should make their decisions based on each individual case's circumstances.

What should happen?

In the example given above, the child's home local authority should keep the child on their Children Not in School register and maintain and update the child's record as required. The local authority may continue to request information from parents as part of their registration duties as normal.

The child's parent(s) should inform the local authority of:

- the dates during which the child will be away from their usual address
- any significant changes to the child's educational arrangements (for example, if they will be registered at a school whilst they are away) which would impact the child's Children Not in School register record
- if necessary, alternative contact details for the parent(s)

Scenario: A child receiving EOTAS or who is in non-school Alternative Provision moves from a Welsh local authority to an English local authority.

If the child is receiving EOTAS or non-school Alternative Provision and is not registered on a school roll then they are eligible to be registered on their local authority's Children Not in School register. Parents of these children do not need to provide local authorities with information for their Children Not in School registers. This means that in a scenario where a child in one of these arrangements is moving between local authorities, it is important that local authorities work together to ensure that the child's Children Not in School register record remains consistent and up-to-date – this is particularly true if the child is moving between Wales and England given that terminology for such arrangements differs.

What should happen?

Local authorities must share the relevant information between each other The Welsh local authority must share the relevant information with the English authority if the child moves as per the information sharing duties in the legislation. The parents may choose to contact their new local authority to discuss options for EOTAS/AP which could be offered to their child.

Parents should note, however, that the provision which local authorities can provide and/or help facilitate varies greatly and while they can ask for similar provision to what they had previously the new local authority may be unable to provide this.

Scenario: A child who was in custody but has now been released is not sent back to live in the local authority in which they were resident before being placed in custody.

The institution where the child was in custody should inform both the previous and new local authorities of this child's release. They must also provide the new local authority with all relevant information relating to the child's education whilst they were in custody.

If appropriate the parents may want to work with the new local authority in relation to either enrolling the child in a school or setting out appropriate out-of-school educational provision.

Information for Children Not in School Registers and use of out-of-school education providers

Scenario: A parent asks the local authority not to contact their child's other parent for information for the Children Not in School register because it may place them or their child at risk of harm

A home educated child is included on a local authority's Children Not in School register. The child lives with one parent, who provides information for the register. The parent informs the local authority that they have experienced domestic abuse from the child's other parent and are concerned that contacting them for information, or sharing information with them, could place the parent or child at risk of harm.

What should happen?

A parent with parental responsibility would normally be informed about matters relating to their child's inclusion on a Children Not in School register, including:

- the inclusion of their child on a Children Not in School register
- how their personal data and their child's personal data will be used and shared
- how to request access to personal data held about them or (where relevant) their child through a Subject Access Request (SAR)
- how to request the correction of inaccurate personal data

However, local authorities should not take a blanket approach where there are domestic abuse concerns.

The local authority should consider:

- whether contacting the other parent could place the child or another parent at risk of harm
- whether there are any relevant court orders restricting contact or information sharing
- the views of safeguarding professionals that are engaging with or have previously engaged with the family
- what information is necessary to share in order to carry out its statutory duties

- whether the same objective can be achieved through a safer means of communication.

Where there are concerns about the safety of a child or parent, the local authority should act in accordance with relevant safeguarding procedures and seek legal advice where appropriate.

Any decision to contact, or not contact, the other parent should be based on the individual circumstances of the case and clearly recorded, together with the reasons for that decision.

Scenario: A local authority receives conflicting information for their Children Not in School registers from a child's parents

A home educated child is registered on a local authority's Children Not in School register. The child's parents are separated. The child lives with their mother but still has contact with their father. The local authority has requested information from both parents for the Children Not in School register and the parents have responded with the required information.

When the local authority reviews both parents' responses, it realises that there are discrepancies in the information provided. For example, the child's mother has informed the local authority that the child is educated by her for 2 hours per week, the father for approximately 6 hours per week, and an out-of-school education provider for 6 hours per week. On the other hand, the child's father has informed the local authority that he is providing 1 hour per week of education, the child's mother is providing 2 hours per week and the out-of-school education provider is educating the child for 12 hours per week.

What should happen?

In this situation, the local authority should make a request to the out-of-school education provider named by both parents to verify the information on the child's hours of attendance. The local authority should also make informal enquiries to both parents to reassure itself that the child's education appears suitable.

Where the conflicting information appears to arise from a dispute between parents, the local authority should focus on establishing the facts necessary to carry out its statutory duties. The existence of a parental dispute should not, by itself, be treated as evidence that education is unsuitable. Where a dispute cannot be readily resolved, local authorities should make decisions based on the best information available to them, while keeping the accuracy of register information under review.

Scenario: Education arranged for a home educated child via a child performance licence

A home educated child is receiving education from out-of-school education providers as a condition of a child performance licence. The education is being organised by the production company – which is the licence applicant. The parents do not know the details of the individual tutors or education providers educating their child. Therefore, they cannot provide the information for the local authority's Children Not in School register.

What should happen?

The local authority should cross-reference any information received from the parents (for example, the child's name) with the child performance licence. The local authority should obtain the required details on education providers for its register from the licence application or by engaging with the licence applicant.

Scenario: A home educated child attends an out-of-school education provider outside their home local authority area but within England or Wales

A home educated child is receiving more than 6 hours per week of education at an out-of-school education provider. The child's parent has provided the details of the provider for the local authority's Children Not in School register. The provider is located in a different local authority area from the one in which the child lives and is registered in. The child's local authority wishes to request information from the provider for the purposes of its Children Not in School register.

What should happen?

If the provider is located in England or Wales and falls within the scope of the provider duty, the child's local authority may request information from the provider, even though the provider is located in another local authority area. The provider must respond to the request in accordance with its statutory duties.

Before making a request, the child's local authority may wish to contact the local authority in which the provider is based to determine whether information has recently been obtained from the provider. This may help reduce unnecessary duplication and minimise burdens on providers. However, any onward disclosure of information obtained from the provider would need to comply with relevant information-sharing powers and data protection requirements. This may mean that the child's local authority needs to make its own individual request to the provider to obtain information.

Where information received from the provider indicates that other children living in different local authority areas may be eligible for inclusion on a Children Not in School register, the

child's local authority may wish to notify those relevant authorities. This may assist those authorities in carrying out their own duties under the legislation.

Scenario: A home educated child attends an out-of-school education provider that is located outside of England/Wales

A home educated child registered and living in an English local authority is receiving more than 6 hours per week of education at an out-of-school education provider that is based in Scotland. The child's parent has provided the details of the provider for the local authority's Children Not in School register.

What should happen?

Providers that are not located in England or Wales do not fall under the remit of the provider duty and so are not legally obliged to provide information if the local authority requests it.

The local authority should seek to reassure itself that the child's education appears suitable by making informal enquiries to the parent.

An example of good practice is that the parent provides the local authority with information on the education the child is receiving from out-of-school providers and how this relates to the overall suitability of the child's education.

Scenario: A child is receiving all of their education from an accredited full-time online provider

A child living in England is not registered at a school and is receiving all of their education from a full-time online provider that is accredited under the Department for Education's accreditation scheme.

What should happen?

The child's parent must provide information for their home local authority's Children Not in School register. This includes information on the full-time online provider – for example, the name of the organisation and the hours the child attends.

The online provider may have already informed the local authority when the child was enrolled in the provision – as per the online education accreditation scheme guidance, accredited providers should inform the local authority when a child's name is added or deleted from their admission register.

If the local authority has not already received information from the provider that the child has been added to their admissions register, the local authority should ask the parent to provide information to verify their child's registration and attendance at the provider as part

of their informal enquiries to reassure themselves that the child appears to be receiving a suitable education. This could be, for example, a confirmation email or letter from the provider confirming the child's enrolment.

Scenario: A local authority believes that children are attending a suspected unregistered independent school in its area

A local authority becomes aware that an out-of-school education provider in its area is operating for long hours during the school day and several children are attending for the duration of the hours of operation. They analyse their Children Not in School registers to identify whether any children currently registered with them are reported as attending the provision, but they do not identify any. The local authority suspects that many of the children attending this provider may be eligible for Children Not in School registration but their parents have not come forward proactively to provide information.

What should happen?

The local authority should contact Ofsted's Unregistered Schools team to determine whether the setting is currently being investigated as a suspected unregistered independent school or institution – these settings are operating unlawfully and Ofsted have powers that can assist in ensuring the setting ceases operation. However, it is still important that the local authority utilises its power to try to identify the children in attendance so they do not simply move to another unsafe or unsuitable setting.

The local authority should make a request to the provider under the provider duty. The provider must provide the information requested in the notice, which in this case is information on all children that it is educating for more than 6 hours per week. If the local authority receives no response from the provider or is satisfied that the provider has given incorrect information, then it may issue the provider with a penalty notice.

If the local authority receives information from the provider, it should cross-reference the names and addresses of the children to identify which are already on its Children Not in School register and which are not but should be. If the local authority identifies children who are eligible for Children Not in School registration but not yet registered, they must add any of the required information they hold on the children to their register and then write to the child's parent(s) to request the missing information. The local authority should also make informal enquiries to the parents as to the suitability of the child's education.

If it appears to the local authority that the child is not receiving a suitable education, they must issue a preliminary notice.

Preliminary Notices and School Attendance Orders (See Chapter 8 for more information)

Scenario: A local authority decides that it must issue a preliminary notice but is unsure whether to send it to one or both of the child's parents.

The local authority considers that a home educated child on their register is not receiving a suitable education and is required to issue a preliminary notice. The child's parents are separated, and both have parental responsibility. The local authority is uncertain whether the notice should be sent to one parent or both.

What should happen?

The local authority should take reasonable steps to establish who has parental responsibility for the child and whether there are any relevant court orders affecting decision-making about the child's education. Where both parents have parental responsibility, the local authority should normally send the preliminary notice to both parents.

Before making the decision, the local authority should consider the information it holds on the child on its Children Not in School register, including:

- whether one or both parents are recorded as providing education to the child
- whether any safeguarding concerns are recorded, including concerns relating to domestic abuse – if this is the case the local authority should carefully consider what information is shared with each parent and in what manner.

Scenario: As part of deciding whether to issue a preliminary notice, a local authority wishes to request to visit the child in their home. The child's parents are separated and have a joint custody arrangement.

The local authority has concerns that a child on their register is not receiving a suitable education because they have not yet received sufficient information from the child's parents to reassure them that education appears suitable. As part of deciding whether to issue a preliminary notice, the local authority believes it would be helpful to request a home visit. However, the local authority is unsure whether to request to visit the child in one or both of their homes, given the parents' joint custody arrangement.

What should happen?

The purpose of requesting to visit a child in their home(s) is to consider where the child lives and to gain information as to the suitability of the child's education. Therefore, the local authority should consider any information it holds on:

- whether the child receives significantly more education from one parent than the other

- whether they have concerns about or lack information about the education being provided by a particular parent
- whether a previous home visit was requested to either of the child's homes and whether this was accepted or refused

If one of the homes is based in another local authority area, the child's local authority may still request to visit it.

If the local authority requests visits to both homes but one parent refuses and one parent accepts, then the local authority may choose to issue a preliminary notice on the parent that refused the visit.

Department for Education

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