

Written evidence submitted by Sam Rickman to The Children's Wellbeing and Schools Bill Committee (CWSB03).

Written evidence on sections 24 – 29 (Children Not in School)

Submitted in a personal capacity

My wife and I are both Cambridge-educated professionals — my wife is an author, and I am an academic — and we home educate because we are committed to providing the best learning environment for our nine-year-old daughter. She follows her interests, currently studying algebra, poetry, Shakespeare, Latin, Greek, philosophy, and French. She also has a rich social life with friends of all ages in our local community.

While I am not opposed to some monitoring, I find it worrying that this Bill subjects us to vague rules and significant powers of intervention, while saying very little about how this will work in practice.

I am concerned that this legislation is being rushed through, with the detail to be laid out later in regulations or guidance. The broad thrust of the information that the Bill does include appears disproportionate, unclear, and poorly thought out:

1. Powers of entry

Section 26 gives local authorities the power to demand entry to the homes of home educating families, but only our homes. I would happily welcome anyone interested in home education to our rather unremarkable house. However, being legally compelled to allow entry – it is unclear whether notice will be required – feels like an intrusion, solely because we have chosen to home educate. The police cannot demand entry to homes without a warrant, nor can children's social workers without a court order. I am sympathetic that powers of entry might sometimes be needed, but singling out home educators is inconsistent and stigmatises us. If the government believes current powers of entry are insufficient, any changes should apply to all families, not just home educators.

2. Thresholds for intervention are unclear

Section 26 amends the Education Act 1996 to allow local authorities to issue a School Attendance Order (SAO) if they are unsatisfied that a child is receiving a suitable education, or that their home environment is appropriate. However, the Bill doesn't explain what either of these terms mean. Without clear definitions, parents won't know what's expected of us, and local authorities will be left to make their own judgements, which could vary wildly. This creates stress for families and risks unfair and inconsistent treatment by councils.

3. Criminal liability with a reversed burden of proof and risk of imprisonment

I expect that local authorities will approach their new duties in good faith, and many will get it right. However, even where parents demonstrate they are providing an excellent education, occasional errors of judgement are inevitable. Some LAs will issue SAOs inappropriately.

I find it extremely alarming that the s.26 of the Bill amends the Education Act 1996 to create s. 436P which states that where SAOs are issued, parents have 14 days to send their children to the school nominated by the LA. Such an order, whether for children removed from unsuitable

schools or those who have never attended school, will be highly disruptive and traumatic to a happy child receiving a good education.

If parents are concerned that the LA is wrong, and do not comply, we are *guilty of an offence* to which s.281 (5) of Criminal Justice Act 2003 penalties apply, i.e. up to 51 weeks of imprisonment.

Generally, guilt of a criminal offence must be proven beyond reasonable doubt. However, in this case, it is for parents to prove to the LA that we meet an (undefined) threshold. The European Convention on Human Rights (ECHR) Memorandum published by DfE concedes that a “**reversed burden of proof**” applies in this case (point 74).¹

The memo states that this is compatible with the ECHR as parents will be able to appeal to the First-Tier Tribunal (point 137). However, it is not guaranteed we would be able to arrange a hearing within 14 days. If not, we would need to either erroneously force our children to attend school or accept liability for the offence.

Courts are unpredictable. Even if I were of the view an SAO was incorrectly issued, I would be risking criminal conviction (and so probably my job) by not complying and taking the matter to Tribunal. This seems like a disproportionate escalation. Surely there must be an appeals process which does not involve facing a criminal record and imprisonment?

4. No plan for resources

I am part of a local WhatsApp group for home educators in our outer London borough, which has 450 members (mostly mums). Some families, like ours, have just one child, but most have more. As a former local authority manager, I can’t imagine how councils will suddenly take responsibility for monitoring thousands of children without major funding and extra staff. The Bill says nothing about how this will be resourced. Without proper funding, this legislation risks simply increasing the administrative burden on struggling local authorities without giving them the means to support children and families.

Alternatively, if significant funding were injected into local authorities, it risks creating a bureaucratic oversight system targeting home educating families. In the vast majority of cases, this will provide no benefit to children’s wellbeing. If large amounts of funding are to be directed to councils, is this really the best use of it?

5. Impact on women experiencing domestic abuse

I approve of the spirit of s.24 of the Bill, which requires parents of children on a child protection plan to seek local authority consent to home educate. However, extending this requirement to where LAs are conducting child protection enquiries goes too far. Abusive ex-partners often use malicious allegations to exert control, including false counterclaims of abuse. These allegations must be taken seriously.

Under this Bill, any allegations would immediately trigger the duty for the victim to seek local authority consent to continue home educating. This gives abusers a powerful tool to interfere with their ex-partner’s parenting and education decisions. Such cases are not hypothetical or uncommon – family and friends of mine have faced false allegations from abusive ex-partners.

¹ Children’s Wellbeing And Schools Bill, European Convention On Human Rights Memorandum
https://publications.parliament.uk/pa/bills/cbill/59-01/0151/echr_memo.pdf

Allowing these investigations to restrict home education would retraumatise victims, disrupt children's education unnecessarily, and enable abusers to perpetuate their control.

6. Perverse incentive for parents of SEND children

The proposed new Clause 434A of the Education Act 1996 (s. 24 of the Bill) states parents will need LA consent to withdraw their children from school if they attend a special school. While I understand the intention to ensure oversight for children with special educational needs and disabilities (SEND), it does not make sense to treat parents of children with SEND in the same way as parents of children on a child protection plan. Furthermore, as written it creates a perverse incentive for parents which may prevent children's needs being met.

In general, parents of children with SEND would want this to be recognised by the LA so children can receive the support they need. However, if this clause becomes law, parents might be reluctant to send their children to a special school. If things go badly — whether due to bullying, unmet needs, or other factors — parents will have to secure the LA's consent to withdraw a child from school.

The National Child Mortality Database found that for children who had died by suicide, unmet needs at school was a factor in around a third of cases and bullying in school in around a quarter.² Parents should not have to choose between seeking the best education for their child and retaining the ability to withdraw them.

7. Flawed assumption that school is always best for children

The underlying assumption of the Bill seems to be that the apparent increase in children not in school since the Covid-19 pandemic is concerning, because schools are safer and better for children than home education. While there will be children for whom this is true, this is not universally the case.

The school environment causes many children distress³ ⁴. A 2023 study in the BMJ of children's health records found mental health is significantly better among adolescents in the holidays, and that depression, anxiety and self-harm increase sharply in term-time.⁵ Bullying and abuse,

² Suicide in Children and Young People (2021), *National Child Mortality Database Programme Thematic Report* <https://www.ncmd.info/wp-content/uploads/2021/11/NCMD-Suicide-in-Children-and-Young-People-Report.pdf>

³ <https://www.theguardian.com/society/2024/feb/02/almost-three-in-10-secondary-pupils-in-uk-avoiding-school-because-of-anxiety>

⁴ Cahyadi, A., Sulistyaningtyas, N., & Hairunis, M., 2024. The Relationship between School Social Environment and Mental Health of Adolescents. *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*. <https://doi.org/10.58258/jisip.v8i3.7218>.

⁵ Jack, R.H., Joseph, R.M., Hollis, C., Hippisley-Cox, J., Butler, D., Waldram, D. and Coupland, C., 2023. Seasonal trends in antidepressant prescribing, depression, anxiety and self-harm in adolescents and young adults: an open cohort study using English primary care data. *BMJ Ment Health*, 26(1). <https://doi.org/10.1136/bmjment-2023-300855>

which are common in schools, cause self-harm and suicide, which is the leading cause of death for young people.^{6 7 8}

Furthermore, there are institutional features of schools that fail children. Government policy since 2014 has been that all pupils should leave school with a grade 4 in English and Maths GCSE. Children experience enormous academic pressure, which is strongly linked with mental ill-health and suicide.^{9 10} Yet academic targets have not led to all children achieving their potential. In 2023 nearly 200,000 pupils left school without grade 4 in English and Maths.¹¹

Families often choose home education because schools aren't meeting their children's needs. Ofsted rated 10% of schools as inadequate or requiring improvement last year, compared to just 1.4% of home educating families being issued with School Attendance Orders.¹² The idea that schools are always better is simply not backed up by the evidence.

As parents, unless there is evidence to the contrary, surely the assumption must be that we know our children and want the best for them? The state should not be seen to be in a better position to judge what is best for our children, who we love, simply because we choose to educate them at home.

8. General concerns

This Bill leaves families like mine feeling anxious and stigmatised while offering no clear plan for how it would work. I worry that it gives local authorities too much power without enough safeguards, while failing to address the practical and financial realities.

I would be grateful if you could raise these concerns during the committee stage and push for changes to make sure any measures introduced are fair, clear, and properly resourced.

My wife and I would welcome the chance to give oral evidence to the committee, or to meet privately with anyone responsible for this Bill's passage, implementation, or delivery.

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⁶ Pierson, K., Carvalho, N.P. and Shaker-Naeeni, H., 2021. 982 Impact of COVID-19 in the management of Under-16s presenting to the acute hospital with self-harm. <https://pubmed.ncbi.nlm.nih.gov/37272611/>

⁷ Evans, R. and Hurrell, C., 2016. The role of schools in children and young people's self-harm and suicide: systematic review and meta-ethnography of qualitative research. *BMC public health*, 16, pp.1-16. <https://bmcpublichealth.biomedcentral.com/articles/10.1186/s12889-016-3065-2>

⁸ Dorol, O. and Mishara, B.L., 2021. Systematic review of risk and protective factors for suicidal and self-harm behaviors among children and adolescents involved with cyberbullying. *Preventive medicine*, 152, p.106684. <https://doi.org/10.1016/j.ypmed.2021.106684>

⁹ Suicide in Children and Young People (2021), *National Child Mortality Database Programme Thematic Report* <https://www.ncmd.info/wp-content/uploads/2021/11/NCMD-Suicide-in-Children-and-Young-People-Report.pdf>

¹⁰ Steare, T., Muñoz, C.G., Sullivan, A. and Lewis, G., 2023. The association between academic pressure and adolescent mental health problems: A systematic review. *Journal of affective disorders*. <https://pubmed.ncbi.nlm.nih.gov/37437728/>

¹¹ Natsha Plaister (2024), *A closer look at pupils who did not achieve the basics at GCSE*, Education Data Lab <https://ffteducationdatalab.org.uk/2024/09/a-closer-look-at-pupils-who-did-not-achieve-the-basics-at-gcse/>

¹² Education Otherwise Blog (2024) <https://www.educationotherwise.org/childrens-wellbeing-and-schools-bill/>