



Elective Home Education

02/01/2025

The Children's Wellbeing and Schools Bill

About Us

[Educational Freedom](http://www.educationalfreedom.org.uk) has supported and provided information to UK home educators since 2013. Educational Freedom is a not for profit, information and support service for home educators.

- We ask that you scrutinise this bill carefully.
- We ask that you use professional curiosity and test that it is evidence not myth's or opinions driving the proposed significant changes to the states interference of private and family life.
- We ask that you check legislation does not already exist that could achieve the purported aims if applied correctly. (Training and consistency is substantially less burdensome than new legislation.) To assist I have included key relevant legislation on the next page.
- In the same way there are inadequate schools there are inadequate home educators. But there is already a

carefully balanced system in place for elective home education to protect children's rights to education, promote parents carrying out their responsibilities to facilitate their child's education and for local authorities to intervene if it appears a child might not be receiving an education.

- The Children not in school register
Clause 25 of the bill does not appear to be aimed at children missing education or many groups of children not in school it is targeted at home educating families. It is drafted in a way that would be impracticable to comply with for the majority of home educators.
- The repeatedly promised support does not appear "information and advice" when framed as "whatever the local authority sees fit" 436G(2) in clause 25 is not support. The support that has repeatedly been asked for for many years is improved access to exam centres.

Existing Framework around Elective Home Education (EHE)

- [The School Attendance \(Pupil Registration\) \(England\) Regulations 2024](#) children deregistered from school the local authority (currently) receives a return from the school. This includes at least the following: reason deregistered (so LA knows the child was withdrawn to EHE), Child's full name, and address, full name and address of the parent the child normally lives with, and at least one parental telephone number.
- [S7 Education Act 1996](#) so if a child is EHE they are receiving an efficient full time education suitable to their age, ability and aptitude and (if relevant) SEN
- [S436A Education Act 1996](#) so if a local authority is unclear on if a child is receiving a suitable education via EHE they can make enquiries of the parent.
- [s437\(1\) Education Act 1996](#) so if "it appears to a local authority" that a child is not EHE but may be a Child Missing Education (CME) the local authority can already require a parent to satisfy them regarding the child's education

- [s437\(3\) Education Act 1996](#) if the local authority is not satisfied the child is EHE (receiving a suitable education) and they believe the child is actually CME then they already should be serving a School Attendance Order (SAO)
- [S443 Education Act 1996](#) the local authority can prosecute the parent if they truly believe the child is CME, but equally the parent can if they are EHE demonstrate to the court that the LA was incorrect in its assessment of their child as CME as they are actually EHE. This is an important safeguard that must be maintained.
- [S447 Education Act 1996](#) a local authority can already decide if they have welfare concerns around the unsuitability of education to apply for an ESO instead of or as well as prosecuting for non compliance of an SAO
- [S36 Children Act 1989](#) a local authority if they feel a child is "not being properly educated" but appropriate local authority supervision and input could assist to ensure the child does receive a suitable education they can apply for an Education supervision order (ESO).

- [S47 Children Act 1989](#) so if local authorities need to make enquiries to safeguard a home educated child because they “suspect” they are “likely to suffer significant harm”, they already should be!
- [S17 Children Act 1989](#) enables a local authority to provide support if a child is in need. Source of education is irrelevant. It is important to remember just by being disabled a child is considered a child in need this is often overlooked in discussions. A child being disabled of itself is obviously not a safeguarding concern.
- [S31 Children Act 1989](#) If a local authority genuinely believes a child home educated or in school is not safe they can apply for the appropriate care and/or supervision order.
- [S43 Children Act 1989](#) the local authority can already apply for an order to assess a child's development when it is appropriate.
- [S42 Children and Families Act 2014](#) in the majority of cases where a child has an EHCP and the parent chooses EHE then the LA duty to support with Special Educational Provision (SEP) is disapplied by virtue of s42(5). This is

not the case if the parent has not made suitable alternative arrangements and has alerted the LA to maybe requiring support with SaLT (everything else the parent can provide so it would be disproportionate for the child's educational progress to move out of home education for a single element of SEP). If no suitable alternatives are in place the local authority is still under a duty to secure the SEP, but we find this support that should already exist from the high needs non-school funding block often not available and is very much a postcode lottery.

We included care orders around EHE as they are not just academic. The current framework works when used appropriately.

A few cases as examples

Re S (A Minor) (Care Order: Education) [1978] 1 QB 120

Re O (A Minor) (Care Proceedings: Education) [1992] 1 WLR 912

Re AA (A Child) [2022] EWFC 200

Clause 24, 25 and 26 of the Children's Wellbeing and Schools Bill, appear to be drafted either by someone with minimal understanding of how elective home education works, or to try and ban the majority of styles of home education that do produce good outcomes by the back door.