



BRIEFING

Children not in school: proposed legislation

Government Consultation

Deadline: June 24

There are some preliminary questions about yourself ([Questions 1-6](#)), following which the questions revolve around four proposals made by the Department for Education. These are:

1. A duty on local authorities to maintain a register;
2. A duty on parents to supply information for the register;
3. A duty on certain settings to supply information; and
4. A duty on local authorities to provide support for home education.

You are asked if you agree with each of these propositions. Answering 'yes' or 'no' will determine the specific questions that follow. You need to answer all questions, unless otherwise stated.

Overview of Consultation: [Read Here](#)

VfJUK Briefing, *Home Education: What does the Law Say?* [Read Here](#)

Government Consultation: [Read Here](#)

Link to Online Consultation Questions: [Read Here](#)

Suggested answers are provided below. We urge you to use your own words, as answers appearing to be part of an organisational response may be ignored by the government. When answering the questions, you should try to read the relevant parts of the Education Department consultation. Alternatively, as background reading, you can read VfJUK's own briefing on what the law is for parents who home educate their children. Our briefing provides an overview of the current system in place.

Depending on which answer options are chosen for the online consultation, the numbering of questions do not automatically follow in exact number sequence, and there may therefore be breaks between question numbers.

Respondents to the online form should bear in mind that it is not a problem to express points, already made in response to one question, the second time, in relation to another related question. This is because responses to specific questions are likely to be treated by the government as standalone answers. Therefore, if you fail to make a point in response to one question because you think it was stated elsewhere, your view in the comment box will not be

recorded in relation to that particular question. We do suggest however that any repetition is kept to a minimum.

LA duty to maintain a register of children not in school

7. Do you agree that local authorities (LA) should be obliged to maintain a register of children who are not registered at specified schools (those listed at paragraph 2.2) or being educated under s.19 arrangements? **We suggest you answer 'no'.**

Maintaining a register - implementation details if opposed

Questions 20-31: You are given the option to answer some or all of these questions.

20. Why do you not support the concept of a duty on each local authority to maintain a register? **In your own words, you may want to bring out some of the following points:**

- At a time when funding is already stretched, local authorities will need to be given additional funds from central government in order to establish, manage and maintain the registration system so that it functions to a satisfactory level;
- If registration were implemented, there appears to be little reason why a future government would not go further, and establish a system of state monitoring and oversight of the educational content provided to home educated children. The argument would run as: if Ofsted is already given oversight of education in schools in England, why should this system of oversight also not apply to home-based education?
- A free society can flourish where there is "small government", meaning there is minimal state intervention in the private lives of families. Establishing a register will unnecessarily increase the level of bureaucracy on local authorities and create an additional burden on families.

21. Should such a register specify whether children are attending an educational setting (other than their own home) during school hours? Add comments if you wish. Yes/No **We suggest you answer 'no'.**

22. Should the register be widened still further to also include children who are being educated under s.19 arrangements? Add comments if you wish. Yes/No **No suggestions are provided for this question.**

23. Should the register include flexi-schooled children (ie those who are educated at home or elsewhere for some of the week during school hours but are also on the admission register of a state-funded or registered independent school)? Add comments if you wish. Yes/No **We suggest you answer 'no'.**

24. What information do you think the register should contain about each child and its parents? **If you have chosen to answer 'no' to there being a register in the first place, then there is no need to choose from the list of items. Choosing from the list of items will imply your agreement to the establishment of a register.**

25. Do you believe that local authorities should share information from their register with other local authorities and other agencies? Add comments if you wish. Yes/No **We suggest you answer 'no'.**

26. Do you believe that local authorities should share information from their register with other local authorities and other agencies? Add comments if you wish. Yes/No **We suggest you answer 'no'**.

27. Do you think that a local authority should include any information about a child on its register which has been legally obtained from other agencies? Add comments if you wish. Yes/No **We suggest you answer 'no'**.

28. Do you agree that a register held by a local authority should be open to inspection by other bodies as prescribed by the Secretary of State, in order to check whether the local authority is carrying out its obligations to maintain the register? Add comments if you wish. Yes/No **We suggest you answer 'no'**.

29. Do you agree that local authorities should have to make annual returns of collated data from the register to DfE for statistical purposes? Add comments if you wish. Yes/No **We suggest you answer 'no'**.

30. **This question is for local authorities only.**

31. Do you have any other comments on either the principle of registration or practical issues related to registration on the basis proposed? **This is an opportunity to air your views where the previous questions may have limited the scope of what you could say. If you have not already done so, you may choose to bring out some of the suggested points listed above for no. 20 in your own words. If you made some of the points in response to no. 20, you could still summarise them here, so that your opinions are reinforced.**

Duty on Parents

32. Do you agree that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement? Yes/No **We suggest you answer 'no'**.

Duty on parents - implementation details if opposed

Questions 38-42: You are given the option to answer some or all of these questions.

38. If a duty on parents was created what data should parents have to provide about their child? You are invited to tick as many options as you wish. **Bear in mind that by ticking one or more items from the given list, this could be interpreted as giving implied approval to the creation of a register. In any event, choosing items on the list will be used as evidence of the support that exists for such items to be included on a register, should the government ultimately decide to create one. We suggest you do not tick any of the boxes. In the comment box provided, we suggest you could make some of your own points. This could include the idea that parents who have chosen to home educate their child should not be under any obligation to provide such information to the State.**

39. Do you agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration? **You may wish to either ignore this question or answer 'no'**.

40. Whether or not your response to 39 was 'yes', do you think that the most effective consequence for non-compliance with the registration process is that it authorises the local authority to begin the school attendance order process by serving a s.437(1) notice on the parents, which begins the formal process of considering suitability of education and whether a child should attend school? **We suggest you answer 'no'**.

41. Whether or not you favour any consequences of non-compliance, what alternatives to initiation of the school attendance order process would you prefer as an effective way of securing compliance? **No suggestions are provided for this question.**

42. Do you have any other comments about the concept of a legal duty on parents to supply information for the purposes of the proposed register? **In addition to your own reasons, you may want to bring out some of the following points:**

- Parents are the primary educators of their children, and families have the right to privacy. A registration system is the beginning of a process that automatically treats all parents with an implied suspicion that they may not be fulfilling their legal role that ensures their children are receiving a suitable education. While a minority of parents may not do their job of home education satisfactorily, there are likewise schools that clearly fail children for reasons including, failing to tackle bullying; being unable to cater to the religious or cultural ethos of the child's family and home life; and, being unable to cater to the child's special educational or unique health needs.
- The government recognises that most parents who home educate their children, achieve what they set out to do. Local authorities are told by the Education Department: "Most parents who take up the weighty responsibility of home education do a great job, and many children benefit from being educated at home."¹ This state of affairs does not merit the urgency to institute a registration scheme.
- If registration were implemented, there appears to be little reason why a future government would not go further, and establish a system of state monitoring and oversight of the educational content provided to home educated children. The argument would run as: if Ofsted is already given oversight of education in schools in England, why should this system of oversight also not apply to home-based education?
- A free society can flourish where there is "small government", meaning there is minimal state intervention in the private lives of families. Establishing a register will unnecessarily increase the level of bureaucracy on local authorities and create an additional burden on families.

Duty on Settings

43. Do you agree with the general approach that the proprietors of settings providing education in school hours – other than specified types of school – should be under a duty to supply information to local authorities about any child in scope of the proposed register? You must answer yes or no. **We suggest you answer 'no'.**

Duty on Settings – implementation details if opposed

Questions 49-53: You are given the option to answer some or all of these questions.

49. Which settings do you think should be included in the scope of the duty? **We suggest you leave the options blank.**

50. Which information should proprietors of the settings in scope be required to supply on request to the local authority about a child in scope of the registration requirement? Check as many as required. **We suggest you leave the options blank.**

¹ *Elective home education: Departmental guidance for local authorities*, Department for Education, April 2019, Introduction.

51. Do you agree that there should be a sanction on the proprietor for non-compliance with a duty to supply information about a child in scope of the registration requirement? Yes or No **We suggest you answer 'no'**.

52. Regardless of your answer to the previous question, which type of sanction do you think would be most effective? **We suggest you ignore this question because choosing one of the options will be treated as acceptance of sanctions. In the box provided, we suggest you make one or more of your own points. In your own words, this could include the point that while since you strongly oppose the principle of blanket registration - the proposed parameters of which are not spelt out - you do not support any sanction.**

53. Do you have any other comments about the concept or details of a duty on the proprietors of settings to provide information about children who attend their setting and fall within scope of the registration requirement? **We suggest you leave this blank, unless you choose to elaborate on the reasons why proprietors of settings should not be under a duty to provide information.**

Duty on local authorities to provide support for home education

54. Do you agree that there should be a statutory duty on local authorities to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations? Yes or No **We suggest you answer 'yes'**.

Support for parents – implementation details

55. If such a duty was to be created which of the following should it encompass? Check as many as required. **We suggest you tick all the options. In the box provided, you have the opportunity to qualify your points. We suggest you may, in your own words, want to make a statement along the following lines: I would support a statutory duty on authorities to provide support, provided it was strictly at the request of parents, and with no requirement or obligation on them to seek such support. And provided too that such support did not entail intrusive monitoring.**

56. What are the potential difficulties, apart from availability of resources, in ensuring that such a duty is properly discharged by a local authority? **We suggest you could highlight in your own words a legitimate concern felt by parents that underpins this proposed duty. A potential difficulty is that this might be seen as a potential back door to exercising control over parents who choose to home school, which must be avoided at all costs. There would need to be strict safeguarding measures to ensure this did not happen.**

57. Should the duty to provide support on request be limited to children whose details are included on the proposed register? Yes or No **We suggest you answer 'no' but in the box, you may reinforce the point here that there should not be a register, so this question should not arise.**

58. Should other mechanisms be explored for enhancing access to public examinations for children educated at home, and if so, what? **No suggested comments are provided.**

59. **This question is for local authorities only.**

60. Do you have any further comments on the issue of local authority support for home-educating families? **You may want to reinforce the point that while you don't object to the creation of a duty on local authorities to provide support to home educating parents, this support should only be**

provided conditionally upon request. You may wish to add that parents not availing themselves of the available support should not, for this reason, be treated suspiciously or become the object of any local authority inquiry.

61. Do you consider that support for home-educating parents should be provided by the Department for Education? Yes or No **No suggested comments are provided.**

62. Regardless of your answer to the preceding question, which forms of support do you think particularly suited to delivery on a national rather than local basis? Check as many as required. **We suggest you leave this blank.**

Concluding Questions

71. Do you have any comments on the conclusions set out in the published equalities log, UNCRC analysis and family test? **No suggested points are provided.**

72. Do you have any other comments on the government's proposals for legislation relating to registration, and support for home education? **You may want to make some points here that you have not had the opportunity to express in the preceding questions. If you don't support the government's proposals to create a new duty on parents and local authorities, you may choose to briefly summarise your most important arguments against these government plans.**