

Five Ways to Respond to the DfE's Consultation on Draft Guidance

Closing date: 11:59pm Thursday 18 January 2024

For more details on this consultation, please see our [English Consultations Page](#) which links to all the Department for Education's documents and online portal, plus resources from ourselves and other home education organisations which believe it is important to protect parental responsibility for education of their children from registration, monitoring and assessment.

Introduction

The three documents published by the DfE on 26 October are problematic on many levels: conflicting advice; lack of clarity; bad English; and above all else demonstrating an approach to existing legislation that seems so full of elastic it can be stretched to mean almost anything officials want it to mean. Further, the questions posed about both of the Draft Guidance documents are not about the legality or advisability of the proposals, nor if they are practical and workable. They are mostly about whether they have **clearly** communicated the Government's understanding and intentions - the simple answer being essentially, "No, they have not!" This does not make it easy for home educating families to provide a meaningful response to the Consultation.

Another difficulty is that most of the questions are multiple choice - in other words, they are there to create data sets which can be number-crunched rather than properly considered. Whilst there are some free text boxes without word limits, it should be noted that the majority of these will not be read by human beings but by machines looking for key words from which more data sets will be compiled. This [Online Consultation New Guidance](#) post on the Ed Yourself website explains the process which has been used in previous consultations. It uses "automated textual analysis which will search for key words and phrases in the written responses." Fiona Nicholson explains further:

"The wording of the consultation questions suggests that key words might include **helpful, clear, proportionate, supportive, encouraging positive relations between parents and LAs, unhelpful, counter-productive, unsupportive, intrusive, annual monitoring, burden of proof, unclear, ambiguous, confusing, disproportionate, discouraging positive relations, making relationships worse.**"

To this list of words to consider including we would add **unreasonable, obscure** and **unlawful** - though it could be wise to qualify that last one with a word like *potentially* or *probably*.

It is difficult to know how to make best use of the free text boxes because there are so many problems with both these draft documents. It's impossible to list everything without providing fully annotated copies of the originals - you may have seen some attempts to do this which run to many pages. It is practically impossible for any one person to cover all the bases which need covering. We've therefore suggested below some different levels at which individuals could helpfully respond according to the time and energy they have available, and of course how familiar they are with relevant legislation and the like.

In one way the most important reason for as many people as possible to respond is so that **the resulting data sets are as fully populated with critical comments as possible**. Of course we want to encourage those who can manage more than a basic response to do so, but in saying this we don't want anyone to waste their time or to incur undue stress by trying to write impactful prose that may only be read by machines.

We are very grateful to the parent who has written their own [Quick Response Guide](#) and is happy for us to share it. We hope it inspires those who are struggling to know where to start. The numbering in their guide follows the online response portal, not the printed consultation document published in October. We have created a [PDF printout of each of the online response pages](#) for those who would like to look at the format before starting the process. There is also a simplified list of all the questions at the end of this document.

The Department are encouraging as many people as possible to use the [online portal](#), but other options are available. Those unable to use the online system are able to request and complete a Word document version of the form.

Responses can also be submitted by email to electivehomeeducation.consultation@education.gov.uk - we suggest that those using this option *attach their response to an email* as a document (.pdf, .doc[x] or .odt). Responses can also be submitted by post, but of course these will have to be sent in well before the deadline.

Ways to respond

We suggest respondents employ one of the following approaches:

1. **Quick and simple** | just answer all the multiple choice questions - as suggested in the [quick guide](#) mentioned above, “Strongly Disagree to all multiple choice questions”;
2. **A little more time, but still simple** | all multiple choice questions plus one or two sentences in each of the free text boxes - using as many critical key words as possible;
3. **More effort required** | as 2, but taking more time and using as many words as you like in the free text boxes. Remember, however, it will not be possible for any single respondent to cover everything that is wrong with the approach laid out in these documents. Cover what you can, remembering that it may not be read by a human being.
4. **Full force** | This is for those who want to make sure the effort they put into responding has to be engaged with by humans as well as algorithms. Write your own response in a document and email it to the DfE as an attachment. If you do this, we suggest that you follow the order of the online portal, though after Q3, you could provide a free text introduction saying why you have elected to use email rather than the online portal. Take each section in order, referencing the multiple choice questions by number and your level of disagreement with each. Follow that with any comments you want to make on their free text questions, but feel free to step outside of these and cover other aspects of the guidance.
5. **Complain!** | [Note: This is not really an additional option, but one for everyone to consider, no matter what approach you have taken] Evidence from previous consultations is that comments from EHE parents and children are not weighted by the DfE in the same way as the smaller number of responses they receive from LAs and other groups or individuals who are counted as children’s professionals. **Home educators therefore need to make their views about this consultation heard outside of the Department.**

Suggestions for complaining about the content and style of consultation

At present we are investigating the most appropriate means of making formal complaints about the consultation. One option is via the Cabinet Office, but there may be a better one. We will provide an update and guide when we have investigated further, but at this stage we suggest the following steps:

- If you have used options 3 or 4 above, save the text in a format that you can send to your MP - they need to be aware that there is widespread concern about the behaviour of the DfE in this consultation;
- Draft an initial letter to your MP asking for their advice about how to complain about the conduct of a consultation. Points to include:
 - Ask if the Cabinet Office would be a means of complaining about the consultation;
 - Attaching a copy (or outline) of your submission for their attention;
 - Ask them to pass on your concerns to the Secretary of State for Education - she (or another minister) will have to reply to them, and normally MPs would forward a copy to you; this may then provide an opportunity for ongoing dialogue.
 - It’s also important to inform local Councillors about EHE. They usually only get information about our choices from those who want to take away our freedoms, so we encourage you to consider copying them into your message to your MP.
 - Be ready to make a ‘formal’ complaint about the consultation - we will keep you informed as to whether this would best be done individually or collectively.

Final thought - don’t give up. If parents don’t keep protecting their children’s freedoms, the State will take them away!

Guide to questions

Key: MC = Multiple Choice | FT = Free Text | None = Q3 did not appear in the original consultation document

Remember we are suggesting that you answer the multiple choice questions as negatively as you feel happy to do.

Note: The introductory paragraphs to each section have been omitted from this guide.

Online No	Con Doc No	Type	Question
			<i>About You</i>
1	1	MC	In what capacity are you responding? (Required)
2	2	List	Please specify your local authority - can choose "Prefer not to say"
3	None	Yes/No	Confidentiality / Privacy Notice (Required)
			<i>Questions on the tone and overarching content of the EHE guidance for local authorities and parents, including consideration of people's protected characteristics</i>
4	1.1	MC	Does the guidance convey positively the Government's position of supporting the parent's right to elect to home educate?
5	1.2	MC	Does the guidance convey the flexible nature of EHE and respect for different education methods and pedagogies?
6	1.3	MC	Does the guidance consider relevant protected characteristics and ensure none are disadvantaged by the revised guidance?
7	1.4	FT	Do you have any comments regarding the tone or general content of the guidance, including consideration of protected characteristics or further information that illustrates your answers above?
			<i>Questions on the EHE guidance for parents</i>
8	2.1	MC	Is the EHE guidance for parents clear and easy to understand?
9	2.2	MC	Would there be value if there was an additional short (one- or two-sided) document for parents summarising the key points for parents to be aware of should they wish to home educate?
10	2.3	MC	Is the complaints process, as outlined in the guidance, clear?
11	2.4	FT	Please provide further details of any sections within the guidance for parents that need to be simplified further or further information that illustrates your answers above?
12	2.5	FT	It is vital that the parent guidance is consistent with the local authority guidance. If you believe there to be any inconsistencies between the two documents, then please detail these below.
13	2.6	FT	If you know of local authority EHE guidance which you believe to be good practice, please provide details so it can be considered for inclusion as an example of good practice in the guidance.
			<i>Questions on 'suitable education'</i>
14	3.1	MC	Does the guidance clearly set out the factors that should be considered when assessing whether education appears suitable? (Required)
15	3.2	MC	Is it helpful to provide separate sections on (i) how local authorities decide whether a child appears to be receiving suitable education and (ii) what to do when it appears that suitable education is not being received? (Required)
16	3.3	MC	Is the guidance clear on what is considered a proportionate level of engagement between local authorities and parents when establishing whether home education appears to be suitable as part of the informal process? (Required)
17	3.4	FT	Do you have any comments regarding how suitable education is outlined in the guidance or further information that illustrates your answers above?
			<i>Questions on Preliminary Notices and School Attendance Orders (SAOs)</i>
18	4.1	MC	Does the guidance make clear when and for what reason a preliminary notice must be issued? (Required)
19	4.2	MC	Is the guidance clear why and at what stage a SAO must be issued? (Required)

Online No	Con Doc No	Type	Question
20	4.3	MC	Does the guidance clearly set out the process for SAO revocation? (Required)
21	4.4	FT	Do you have any comments regarding what the guidance says about preliminary notices and SAOs or further information that illustrates your answers above?
			Questions on Special Educational Needs and Disabilities
22	5.1	MC	Is the guidance clear on the difference between EHE and EOTAS that is arranged by a local authority in accordance with an EHC plan? (Required)
23	5.2	MC	Are you clear on how the law and guidance applies when a child with an EHC plan is or will be electively home-educated? (Required)
24	5.3	FT	Do you have any comments regarding SEND in relation to EHE or further information that illustrates your answers above?
			Questions on support for EHE parents
25	6.1	MC	Does the guidance provide sufficient information on potential support that could be offered to home educators? (Required)
26	6.2	MC	Do the recommendations for support encourage positive relations between parents and local authorities? (Required)
27	6.3	FT	Do you have any comments regarding support for parents in the EHE guidance or further information that illustrates your answers above?
			Questions on case studies
28	7.1	MC	Have you found the inclusion of case studies in the EHE guidance for local authorities helpful? (Required)
29	7.2	FT	Are there other issues you would like to see us address through case studies or further information that illustrates your answer above?
			Questions on safeguarding
30	8.1	MC	Do the changes made to the guidance give you an improved understanding of out-of-school settings, informal groups of home educators, and unregistered independent schools? (Required)
31	8.2	MC	Does the guidance clearly set out the rules and expectations in regard to EHE children and work experience and child employment? (Required)
32	8.3	FT	Do you have any further comments related to safeguarding in the EHE guidance or further information that illustrates your answers above?
			Almost done...
			You are about to submit your response. By clicking 'Submit Response' you give us permission to analyse and include your response in our results. After you click Submit, you will no longer be able to go back and change any of your answers.
			If you provide an email address you will be sent a receipt and a link to a PDF copy of your response.



This guide has been prepared by the HE Byte Team.

Further copies can be downloaded from the following link:

https://he-byte.uk/resources/2023/EHE_Consultation_FiveWaysToRespond.pdf

Other resources in connection with the 2023/24 consultation on Draft Elective Home Education Guidance are available from our English Consultations page:

<https://he-byte.uk/eng-cons>