

2019 Guidance (LA)	2023 Draft (LA)	Changes	Comments
<p>KEY ...from > to + added removed moved to>>/>> from another section, location, re-ordered</p>			
<p>9. What do the s.7 requirements mean?</p>	<p>Section 7 requirements</p>		
<p>3.1 Moved to 4.1>> 3.2 Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that:</p> <p><i>"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable -</i></p> <p><i>(a) to his age, ability and aptitude, and</i></p> <p><i>(b) to any special educational needs he may have, either by regular attendance at school or otherwise."</i></p>	<p>3.1 Section 7 of the Education Act 1996 (hereafter referred to as the 1996 Act) states that:</p> <p><i>"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable -</i></p> <p><i>(a) to his age, ability and aptitude, and</i></p> <p><i>(b) to any special educational needs he may have, either by regular attendance at school or otherwise."</i></p>		

'Efficient'	Efficient		
<p>» Moved from 9.7</p> <p>An efficient education, within the meaning of s.7, is one which achieves what it sets out to achieve. It is important this concept is not confused with suitability. A wholly unsuitable education can be efficiently delivered - but would still be unsuitable.</p>	<p>3.2 An efficient education is one which achieves what it sets out to achieve. It is important that this concept is not confused with suitability. A wholly unsuitable education can be efficiently delivered - but is still unsuitable.</p> <p>When a local authority is considering whether a child's education is efficient it may be relevant to compare the education being delivered with what the child's parent says they are trying to achieve.</p>	<p>+ When a local authority is considering whether a child's education is efficient it may be relevant to compare the education being delivered with what the child's parent says they are trying to achieve.</p>	

<p>'Full-time'</p>	<p>Full-time</p>		
<p>3.3 Moved to 4.2» »Moved from 9.8 The starting point is that there is currently no legal definition of what constitutes 'full-time' education, either at school or in the home. Although there is no need for home education to replicate school timetables, it may nonetheless be useful for it to be borne in mind that in state schools, children of compulsory school age normally receive around 4.5-5.0 hours of education a day, for about 190 days a year. The department's registration guidance for independent schools sets 18 hours of operation a week as the baseline for registration of the school. However, in home education there is often continual one-to-one contact; education</p>	<p>3.3 There is no legal definition of what constitutes 'full-time' education, either at school or in the home. Although there is no need for EHE to replicate school timetables, it may, nonetheless, be useful for it to be borne in mind that in state schools, children of compulsory school age normally receive around 4.5-5 hours of education a day, for about 190 days a year. The Department's registration guidance for independent schools sets 18 hours of operation a week as the baseline for registration of the school. However, in EHE there is often continual one-to-one contact; education may take</p>	<p>...home education > EHE</p>	

<p>may take place outside normal 'school hours' and term time, and the type of educational activity can be varied and flexible.</p>	<p>place outside normal 'school hours' and term time, and the type of educational activity can be varied and flexible.</p>	<p>...home education > EHE ...home education > EHE...</p>	
<p>3.4 Moved to 4.4</p> <p>» Moved from 9.9 Despite this greater flexibility inherent in home education, local authorities should be enabled by parents to assess the overall time devoted to home education of a child on the basis of the number of hours per week, and weeks per year so that this information can be set alongside that relating to suitability to ensure that the home education meets the requirements of section 7. As with suitability, the issue as to whether education is 'full-time' should be viewed on a spectrum but education which manifestly is</p>	<p>3.4 Despite this greater flexibility inherent in EHE, parents should enable local authorities to assess the overall time devoted to the education of a child (number of hours per week, and weeks per year), so that this information can be set alongside that relating to suitability, to ensure that the EHE meets s.7 requirements. As with suitability, the issue as to whether education is 'full-time' should be viewed on a spectrum, but education which manifestly is not occupying a significant proportion of a child's life</p>	<p>home education > EHE</p> <p>local authorities should be enabled by parents > parents should enable local authorities</p> <p>section >s.</p> <p>home education > EHE</p>	

<p>not occupying a significant proportion of a child's life (making due allowance for holiday periods) will probably not meet the s.7 requirement.</p>	<p>(making due allowance for holiday periods) will probably not meet the s.7 requirement.</p>		
<p>'Suitable'</p>	<p>Suitable</p>		
<p>3.5 moved to 4.5▶▶ ▶▶Moved from 9.3</p> <p>There is no definition of a 'suitable' education in English statute law.</p> <p>A court will reach a view of suitability based on the particular circumstances of each child and the education provided.</p>	<p>3.5 There is no definition of a 'suitable' education in English statute law. What is considered suitable will vary according to the age, ability and aptitude and needs of each individual child.</p> <p>When suitability is considered by a court, it will reach a view of what is suitable based on the circumstances of each child and the education provided.</p>	<p>+ What is considered suitable will vary according to the age, ability and aptitude and needs of each individual child.</p> <p>A court will reach a view of suitability > When suitability is considered by a court, it will reach a view of what is suitable...</p>	

<p>▶▶ Moved from 9.2 Article 2 of Protocol 1 of the European Convention on Human Rights states that:</p> <p>"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions."</p> <p>▶▶ Moved from 9.3 This means that the wishes of parents are relevant. However, it does not mean that parents are the sole arbiters of what constitutes a suitable education.</p>	<p>3.6 Article 2 of Protocol 1 of the European Convention on Human Rights states that:</p> <p>"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions."</p> <p>This means that the wishes of parents are relevant, but it does not mean that parents are the sole arbiters of what constitutes a suitable education.</p>	<p>However >...but</p>	
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<p>Moved to 4.9» »Moved from 9.5 The department does not believe that it is in the interests of home educated children, parents or local authorities for there to be detailed centralised guidance on what constitutes suitability. This issue should be viewed on a spectrum, and although there will be clear conclusions to be drawn at either end of that spectrum, each case must rest on a balance of relevant factors depending on the circumstances of each child</p>	<p>3.7 The Department does not believe that it is in the interests of home educated children, parents or local authorities for there to be a formal definition of suitable education.</p> <p>This issue should be viewed on a spectrum, and although there will be clear conclusions to be drawn at either end of that spectrum, each case must rest on a balance of relevant factors depending on the circumstances of each child.</p>	<p>...detailed centralised guidance on what constitutes...>a formal definition of</p> <p>Suitability > suitable education</p>	
<p>Moved to 4.10» »Moved from 9.6 Local authorities should nonetheless attempt to make clear in their home education policies what overall factors they will take into account</p>	<p>3.8 Local authorities should, nonetheless, attempt to make clear in their EHE policies what overall factors they will consider and how they will go</p>		

<p>and how they will go about assessing suitability.</p>	<p>about assessing suitability.</p> <p>In individual cases, authorities should set out, in writing, the reasons why EHE does not appear to be suitable at the point of serving a s.437(1) notice, hereafter referred to as a 'preliminary notice', so parents respond constructively to the notice. The case of R v Gwent County Council ex parte Perry (1985) says that when a preliminary notice has been served and a local authority are unsatisfied on some specific point that may not be apparent to the parent, there can be a duty on the local authority to give some indication of what that point is (please see Chapter 6 for information on the process for local authorities when education does not appear to be suitable).</p>	<p>take into account > consider</p> <p>+ In individual cases, authorities should set out, in writing, the reasons why EHE does not appear to be suitable at the point of serving a s.437(1) notice, hereafter referred to as a 'preliminary notice', so parents respond constructively to the notice. The case of R v Gwent County Council ex parte Perry (1985) says that when a preliminary notice has been served and a local authority are unsatisfied on some specific point that may not be apparent to the parent, there can be a duty on the local authority to give some indication of what that point is (please see Chapter 6 for information on the process for local authorities when education does not appear to be suitable).</p>	
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<p>Moved to 4.10 ▶▶ ▶▶Moved from 9.4</p> <p>However, clearly a local authority must have a basis on which to reach the decisions called for in s.437 of the Education Act 1996 as to whether or not the education being provided is suitable.</p> <p>The term 'suitable' should be seen in the following light:</p>	<p>3.9 S.436A of the 1996 Act sets out the duty on local authorities to make arrangements to identify children not receiving suitable education and s.437 of the same Act sets out the actions required should education appear not to be suitable.</p> <p>A local authority could consider the following in its assessment of suitability:</p>	<p>+ S.436A of the 1996 Act sets out the duty on local authorities to make arrangements to identify children not receiving suitable education</p> <p>However, clearly a local authority must have a basis on which to reach the decisions called for in s.437 of the Education Act 1996 as to whether or not the education being provided is suitable. > and s.437 of the same Act sets out the actions required should education appear not to be suitable.</p> <p>The term 'suitable' should be seen in the following light: > A local authority could consider the following in its assessment of suitability:</p>	

<p>a. it should enable a child to participate fully in life in the UK by including sufficient secular education. This means that even if the home education is primarily designed to equip a child for life within a smaller community within this country it should not foreclose the child's options in later life to adopt some other mode of living, and to be capable of living on an autonomous basis so far as he or she chooses to do so.</p> <p>This view is compatible with the small amount of potentially relevant case law;</p> <p>b. notwithstanding (a), the home education provision</p>	<p>a. a suitable education enables a child to participate fully in life in the UK by including sufficient secular education. This means that even if the EHE is primarily designed to equip a child for life within a smaller community it should not foreclose the child's options in later life to adopt some other mode of living, and to be capable of living on an autonomous basis so far as the individual chooses to do so.</p> <p>For instance, a suitably educated child should be literate in English and numerate appropriate to the child's age, ability and aptitude and any SEN they may have;</p> <p>b. notwithstanding (a), the EHE provision does not need</p>	<p>it should > a suitable education</p> <p>home education >EHE</p> <p>This view is compatible with the small amount of potentially relevant case law> For instance, a suitably educated child should be literate in English and numerate appropriate to the child's age, ability and aptitude and any SEN they may have;</p> <p>home education >EHE</p>	
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<p>does not need to follow specific examples such as the National Curriculum, or the requirement in academy funding agreements for a 'broad and balanced' curriculum, nor the independent school standards prescribed by the Secretary of State. Conversely, however, if the home education does consist of one or more of those, then that would constitute strong evidence that it was 'suitable' in terms of s.7;</p> <p>d&e d. the first sentence of ECHR Article 2 of Protocol 1 quoted above confers the fundamental right to an effective education, and relevant case law also confers very broad discretion on the state in how this is to be implemented. For example, a local authority may specify requirements as to effectiveness in such</p>	<p>to follow specific content such as the National Curriculum, or the requirement in academy funding agreements for a 'broad and balanced' curriculum, nor the independent school standards prescribed by the Secretary of State. Conversely, however, if the EHE does consist of one or more of those, then that would likely constitute strong indication that it was 'suitable' in terms of s.7;</p> <p>c. parents should be able to</p>	<p>examples > content</p> <p>home education > EHE</p> <p>+ likely</p> <p>evidence > indication</p> <p>For example, a local authority may specify requirements as to effectiveness in such matters</p>	
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<p>matters as literacy and numeracy, in deciding whether education is suitable, whilst accepting that these must be applied in relation to the individual child's ability and aptitudes;</p> <p>e. although it may well be a good starting point in- assessing suitability to assess whether the curriculum and teaching have produced attainment in line with the national norms for children'</p>	<p>provide information to the local authority so they can establish the child's levels of literacy and numeracy and whether they are appropriate to the child's age, ability, aptitude and SEN.</p> <p>This information may include detail on how the parents plan to support the child's acquisition of literacy and numeracy skills.</p> <p>Although it may be a good starting point to assess whether the EHE has produced attainment in line with the national expected norms for children of the same age, it must be borne in</p>	<p>as literacy and numeracy, > parents should be able to provide information to the local authority so they can establish the child's levels of literacy and numeracy</p> <p>...in deciding whether education is suitable, whilst accepting that these must be applied in relation to the individual child's ability and aptitudes; > ...and whether they are appropriate to the child's age, ability, aptitude and SEN.</p> <p>+ This information may include detail on how the parents plan to support the child's acquisition of literacy and numeracy skills.</p> <p>the curriculum and teaching > the EHE</p>	
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<p>of the same age, it must be borne in mind that the s.7 requirement is that the education is suitable to the child's ability and aptitude.</p> <p>If a child's ability is significantly above or below what might be regarded as 'average' then allowances must be made for that; and similarly the home education may legitimately cater specifically for particular aptitudes which a child has, even if that means reducing other content;</p> <p>cd. local authorities should interpret 'suitable' in the light of their general duties, especially that in s.13 of the Education Act 1996 relating to the development of their community, and that in s.175</p>	<p>mind that the s.7 requirement is that the education is suitable to the child's ability and aptitude as well as their age.</p> <p>If a child's aptitude is significantly above or below what might be regarded as 'average' then allowances must be made for that; and similarly, the EHE may legitimately cater specifically for particular aptitudes which a child has, even if that means reducing other content;</p> <p>d. local authorities should interpret 'suitable' in the light of their general duties, especially that in s.13 of the 1996 Act, relating to the development of their community, and that in s.175</p>	<p>+ as well as their age.</p> <p>home education >EHE</p> <p>Education Act 1996 > 1996 Act</p>	
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<p>of the Education Act 2002 requiring that education functions are exercised with a view to safeguarding and promoting the welfare of children. Whilst these duties are very broadly drawn, it will be evident that if home education provided by a family taught children values or behaviour which was in conflict with ‘Fundamental British Values’ as defined in government guidance (for example by seeking to promote terrorism, or advocating violence towards people on the basis of their race, religion or sex), then it would not be in accordance with the authority’s general duties to regard that education as being ‘suitable’. However, there is no requirement on parents to actively promote the Fundamental British Values in the same way as there is for schools;</p>	<p>of the Education Act 2002, requiring that education functions are exercised with a view to safeguarding and promoting the welfare of children. Whilst these duties are very broadly drawn, it will be evident that if EHE provided by a family taught children values or behaviour which were in conflict with ‘Fundamental British Values’ as defined in government guidance (for example by seeking to promote extremism, or advocating violence towards people on the basis of their protected characteristics under equality law), then it would not be in accordance with the authority’s general duties to regard that education as being ‘suitable’. However, there is no requirement on parents to actively promote the Fundamental British Values in the same way as there is for schools;</p>	<p>home education > EHE</p> <p>was > were</p> <p>terrorism > extremism</p> <p>race, religion or sex > protected characteristics under equality law</p>	
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<p>f.e factors such as very-marked isolation from a child's peers can indicate possible unsuitability. Suitable education is not simply a matter of academic learning but should also involve socialisation;</p> <p>gf. any assessment of suitability should take into account the environment in which home education is being provided.</p> <p>Most obviously, home accommodation which is noisy and/or cramped is likely to make it very difficult for a child to learn and make satisfactory progress.</p> <p>Environmental factors such as these may therefore prevent</p>	<p>e. factors such as isolation from a child's peers can indicate possible unsuitability. Suitable education is not simply a matter of academic learning but should also involve social opportunities;</p> <p>f. any assessment of suitability should consider the environment in which EHE is being provided.</p> <p>Most obviously, home accommodation and/or learning environments which are unsafe, excessively noisy and/or cramped are likely to make it very difficult for a child to learn and make satisfactory progress.</p> <p>Environmental factors such as these may therefore prevent</p>	<p>socialisation > social opportunities</p> <p>take into account > consider</p> <p>home education > EHE</p> <p>+ and/or learning environments which are unsafe,</p> <p>+ excessively</p> <p>+ are likely</p>	
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<p>a child receiving suitable education and should be taken into account in assessing suitability in a specific case if present on a significant scale. They may also affect consideration as to whether the education is 'efficient' and indeed whether it is being 'received' at all in s.7 terms.</p> <p>Local authorities should also be alert to any evidence that the home in which education is being provided has defects which, whilst not affecting the education directly, suggest that the child is at risk of harm - for instance because of fire hazards in the home.</p>	<p>a child receiving suitable education and should be considered in assessing suitability in a specific case if present on a significant scale. Environmental factors may also affect consideration of whether the education is 'efficient' and indeed whether it is being 'received' at all in s.7 terms.</p> <p>Local authorities should also be alert to any information that the home or setting in which education is being provided has defects which, whilst not affecting the education directly, suggest that the child is at risk of harm.</p> <p>For instance, if an unregistered independent education inspection (as set out in s.97 of the Education and Skills Act 2008) uncovers potentially unsafe premises (such as due to health and safety concerns) then this will</p>	<p>taken into account > considered</p> <p>They > Environmental factors</p> <p>evidence > information</p> <p>+ or setting</p> <p>because of fire hazards in the home >For instance, if an unregistered independent education inspection (as set out in s.97 of the Education and Skills Act 2008) uncovers potentially unsafe premises (such as due to health and safety concerns) then this will be considered when assessing the suitability of a child's</p>	
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<p>Any such evidence may be relevant in considering the use of safeguarding powers;</p> <p>hg. local authorities should not set rigid criteria for suitability which have the effect of forcing parents to undertake education in particular ways, for example in terms of the pattern of a typical day, subjects to be followed and so on.</p> <p>Some parents may decide that a very formal approach is</p>	<p>be considered when assessing the suitability of a child's education if that child attends the setting as part of their EHE provision.</p> <p>Any such information may be relevant in considering the use of safeguarding powers;</p> <p>g. local authorities should not set rigid criteria for suitability which have the effect of forcing parents to undertake education in particular ways, for example in terms of the pattern of a typical day, subjects to be followed and so on.</p> <p>It would not be appropriate for local authorities to only view suitable EHE as essentially 'school at home'.</p> <p>Some parents may decide that a formal approach is</p>	<p>education if that child attends the setting as part of their EHE provision.</p> <p>+ It would not be appropriate for local authorities to only view suitable EHE as essentially 'school at home'.</p>	
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<p>necessary; others may decide to make a more informal provision that is more appropriate to the particular child. Whatever the views of the parents, the key focus for the authority should be on suitability for the child in question.</p>	<p>necessary; others may decide to make a more informal provision that is more appropriate to the child. Whatever the views of the parents, the key focus for the authority should be of suitability for the child in question and progress that is being made.</p>	<p>on > of + and progress that is being made.</p>	
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Overview