

2019 Guidance (LA)	2023 Draft (LA)	Changes	Comments
<p>KEY ...<del>from</del> &gt; to    + added    <del>removed</del>    moved to&gt;&gt;/&gt;&gt;from another section, location, re-ordered</p>			
<p>How do local authorities know that a child is being educated at home?</p>	<p>How local authorities know that a child is being educated at home</p>		
<p>Children who have never attended school</p>	<p>Children who have never attended school</p>		
<p>5.1 Moved to 4.7&gt;&gt; &gt;&gt;Moved from 4.2</p> <p>4.2 Identification of children who have never attended school and may be home educated forms a significant element of fulfilling an authority’s statutory duty under s.436A of the <b>Education Act 1996</b> - to make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children in its area who are not receiving a suitable education. The duty</p>	<p>5.1 Identification of children who have never attended school, and <b>who</b> may be home educated, forms a significant element of fulfilling an authority’s statutory duty under s.436A of the <b>1996 Act</b> - to make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children in its area who are not receiving a</p>	<p><b>Education Act 1996 &gt; 1996 Act</b></p>	

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<p>applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than at school (for example, at home, <b>or in alternative provision</b>).</p> <p>Until a local authority <b>is satisfied</b> that a home-educated child is receiving a suitable <b>full-time</b> education, then a child being educated at home is potentially in scope of this duty.</p> <p><del>The department's children-missing-education-statutory-guidance-for-local-authorities-applies. However, this should not be taken as implying that it is the responsibility of-</del></p>	<p>suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than at school (for example, at home, <b>or in non-school based alternative provision</b>).</p> <p>Until a local authority <b>has established</b> that a home-educated child is receiving a suitable education, then a child being educated at home is potentially in scope of this duty.</p>	<p><b>or in alternative provision &gt; or in non-school based alternative provision</b></p> <p><b>is satisfied &gt; has established</b></p>	

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<p><del>parents under s.436A to 'prove' that education at home is suitable. A proportionate approach needs to be taken.</del></p>			
<p>5.2 Moved to 4.7          ▶▶ Moved from 4.1, 3.7</p> <p>4.1 <del>One of the most significant issues for local authorities in maintaining adequate oversight is the initial identification of children who are being educated at home.</del> There is no legal duty on parents to inform the local authority that a child is being home educated.</p>	<p>5.2 There is no legal duty on parents to inform the local authority that a child is being home educated, but if a local authority does not know how a child is being educated then it will have to take steps to assure itself the child is in receipt of suitable education, starting with informal enquiries.</p>	<p>+ but if a local authority does not know how a child is being educated then it will have to take steps to assure itself the child is in receipt of suitable education, starting with informal enquiries.</p> <p>+ Parents informing their</p>	

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<p>If a child never attends school, an authority may be unaware that he or she is being home educated.</p> <p>3.7 <del>Local authorities may often choose to go further than this - for example by operating voluntary registration schemes so that support can be given more readily to those who wish to receive it,</del> and by providing more information on home educated children in their locality.</p> <p>Such schemes can also help authorities discharge the responsibilities which they</p>	<p>Parents informing their local authority of their child's EHE would avoid children potentially being defined as CME unnecessarily.</p> <p>If a child never attends school, an authority may be unaware that the child is being home educated.</p> <p>The Department therefore recommends local authorities maintain voluntary registers of children who are not in school, including those electively home educated and missing education.</p> <p>This will enable local authorities to better undertake their statutory responsibilities and potentially offer support.</p>	<p>local authority of their child's EHE would avoid children potentially being defined as CME unnecessarily.</p> <p>by operating voluntary registration schemes / the department would encourage those authorities which do not operate voluntary registration to consider doing so.</p> <p>&gt; The Department therefore recommends local authorities maintain voluntary registers</p> <p>Such schemes can also help&gt; This will enable</p> <p>+ to better</p>	

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<p>have under ss. 436A and 437 of the 1996 Act (see below) and the department would encourage those authorities which do not operate voluntary registration to consider doing so.</p> <p><del>However, registration is currently not a legal obligation for either parents or authorities.</del></p>		<p>discharge &gt; undertake</p> <p>responsibilities which they have under ss. 436A and 437 of the 1996 Act &gt; their statutory responsibilities</p> <p>so that support can be given more readily to those who wish to receive it, &gt; potentially offer support.</p>	
<p><b>5.3 Moved to 4.8»</b>  <b>»Moved from 4.3</b>  It should be noted that the caveat in s.436A ‘so far as it is possible to do so’ should not be interpreted as meaning ‘so far as the authority finds it convenient or practical to do so’. <del>It means what it says,</del> <b>and</b> the authority should do whatever is actually possible.</p>	<p>5.3 It should be noted that the caveat in s.436A ‘so far as it is possible to do so’ should not be interpreted as meaning ‘so far as the authority finds it convenient or practical to do so’. The authority should do whatever is actually possible.</p> <p>The Department’s statutory</p>	<p>The Department’s statutory CME guidance outlines the</p>	

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<p>If the department receives a complaint that a local authority is not doing enough to meet its duty under s.436A, it will consider whether there is sufficient basis for making a direction under s.496 or s.497 of the Education Act 1996 so that outcomes for children in that local authority's area can be improved.</p>	<p>CME guidance outlines the policies and procedures local authorities should have in place to enable them to meet this duty.</p> <p>If the Department receives a complaint that a local authority is not doing enough to meet its duty under s.436A, <b>or that a local authority is being unreasonable in discharging its duties</b>, it will consider whether there is sufficient basis for making a direction under s.496 or s.497 of the 1996 Act so that outcomes for children in that local authority's area can be improved.</p>	<p>policies and procedures local authorities should have in place to enable them to meet this duty.</p> <p>+ or that a local authority is being unreasonable in discharging its duties,</p>	
<p><b>5.4 Moved to 4.9</b>»  <b>» Moved from 4.4 and</b>□  <del>In particular</del>, local authorities should <b>explore the scope for</b></p>	<p>5.4 To <b>increase the shared knowledge</b> of children who</p>	<p><b>increase their knowledge &gt; increase the shared knowledge</b>  <b>explore the scope for using</b></p>	

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<p>using agreements with health bodies, general practitioners and other agencies, to increase their knowledge of children who are not attending school.</p> <p><del>Subject to that caveat,</del> any local authority which does not have such arrangements in place already should consider doing so and seek advice on good practice from other authorities and relevant associations.</p> <p>The Data Protection Act 2018 allows for such sharing of data in principle, but local authorities and their partners will of course need to ensure that their particular</p>	<p>are not attending school, local authorities should collaborate with appropriate partners (for example GPs, health professionals, housing providers, police, Youth Justice Services, UK Visas and Immigration and other public sector bodies).</p> <p>Local authorities should aim to develop data and information sharing agreements to provide an appropriate framework for sharing appropriate, relevant information in accordance with the Information Commissioner’s Office data sharing code of practice.</p>	<p>agreements&gt; collaborate with</p> <p>health bodies, general practitioners and other agencies &gt; appropriate partners (for example GPs, health professionals,</p> <p>+ housing providers, police, Youth Justice Services, UK Visas and Immigration and other public sector bodies).</p> <p>any local authority which does not have such arrangements in place already should consider doing so... &gt; Local authorities should aim to develop data and information sharing agreements to provide an appropriate framework ...</p> <p>...and seek advice on good practice <del>from other authorities and</del> relevant associations. The Data</p>	

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<p>arrangements are fully compliant with data protection legislation under the Act, the GDPR and <del>Article 8 of the ECHR.</del></p>	<p>Relevant information could include instances where there is reason to believe that a vulnerable child or one at risk of harm may be home educated, or where unsuitable education could amount to educational neglect and therefore harm.</p> <p>For example, local authorities</p>	<p>Protection Act 2018 allows for such sharing of data in principle, but local authorities and their partners will of course need to ensure that their particular arrangements are fully compliant with data protection legislation under the Act, the GDPR &gt;</p> <p>... for sharing appropriate, relevant information in accordance with the Information Commissioner’s Office data sharing code of practice.</p> <p>+ Relevant information could include instances where there is reason to believe that a vulnerable child or one at risk of harm may be home educated, or where unsuitable education could amount to educational neglect and therefore harm.</p>	



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<p>Some local authorities already actively encourage referrals from doctors and hospitals of children whom there is reason to think may be home educated.</p> <p>Under s.10 of the Children Act 2004, local authorities should have arrangements in place to promote co-operation</p>	<p>should encourage doctors and hospitals to notify a local authority where there is reason to think that a vulnerable child or one at risk of harm may be home educated; although, this does not mean such professionals should share information on every home-educated child they come across, as EHE is not itself a risk.</p> <p>Local authorities should also use this engagement with health professionals as an opportunity to inform these professionals about the right to home education and how it is not an inherent risk of harm.</p> <p>Under s.10 of the Children Act 2004, local authorities should have arrangements in place to promote cooperation</p>	<p>Some &gt; For example, already actively &gt; should referrals from &gt; to notify a local authority of children whom &gt; a vulnerable child or one at risk of harm</p> <p>+although, this does not mean such professionals should share information on every home-educated child they come across, as EHE is not itself a risk.</p> <p>+ Local authorities should also use this engagement with health professionals as an opportunity to inform these professionals about the right to home education and how it is not an inherent risk of harm.</p>	

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<p>between the authority and its partners who deal with children, <del>and under section 11, arrangements should be in place to ensure that functions are discharged with regard to the need to safeguard and promote the welfare of children.</del></p> <p>These arrangements should include information sharing protocols and it is possible for these to allow sharing of data on children who appear to be home educated and about whom there is a concern as to the suitability of that education which amounts to possible neglect causing significant harm.</p>	<p>between the authority and its partners who deal with children.</p> <p>These arrangements should include information sharing protocols, and it is possible for these to allow sharing of data, on children who appear to be home educated, and about whom there is a concern as to the suitability of that education, which amounts to possible neglect causing significant harm.</p>		

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<p><b>Children who have attended school</b></p>	<p><b>Children who have attended school</b></p>		
<p>▶▶Moved from 4.6, 4.5  <del>Although most</del> local authorities encourage parents who withdraw a child from school for home education to notify the school and/or the authority,</p> <p><del>In some respects, fulfilling the s.436A duty in relation to children who may be home educated is easier for local authorities when a child has previously attended a school, but it is not necessarily the case that such children will automatically become known to the local authority. (and DfE guidance to parents also encourages this)</del></p>	<p>5.5 Local authorities should encourage parents, who withdraw a child from school for EHE, to notify the school and/or the authority to help the authority fulfil their s.436A duty.</p> <p>Departmental guidance to parents also encourages this.</p>	<p>+ should</p> <p>home education &gt;EHE</p> <p>+ to help the authority</p> <p>DfE &gt; Departmental</p>	
<p>▶▶Moved from part of 4.6  ...there is no legal obligation on parents to provide such notification, either in writing</p>	<p>5.6 At present, there is no legal obligation on parents to provide such notification of</p>	<p>+ At present,</p>	

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<p>or otherwise, or indeed to provide any reason for withdrawal.</p> <p>The only exceptions to this are <del>(a) that</del> a child may not be removed from the roll of a special school without the consent of the local authority if enrolled there under arrangements made by the local authority,</p> <p><del>and (b)</del> in cases where a child is enrolled at a school in accordance with a school attendance order, <del>when</del> the authority must revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll.</p> <p>However, <del>it should be noted that</del> until a child is removed from the school roll (which</p>	<p>withdrawal, either in writing or otherwise, or indeed to provide any reason for withdrawal.</p> <p>However, a child may not be removed from the roll of a special school without the consent of the local authority if enrolled there under arrangements made by the local authority.</p> <p>In cases where a child is enrolled at any type of school in accordance with a SAO, the authority must revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll.</p> <p>However, until a child is removed from the school roll (which can only be when one of the trigger points specified</p>	<p>The only exceptions to this are &gt; However</p> <p>+ any type school attendance order &gt; SAO</p>	

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<p>can only be when one of the trigger points specified in the Education (Pupil Registration) (England) Regulations 2006 as amended is reached), the parent is at risk of prosecution for not securing attendance at the school even if suitable home education is being provided. This means that it is in a parent's interests to notify the school in writing of withdrawal for home education.</p>	<p>in the Education (Pupil Registration) (England) Regulations 2006, as amended, is reached), the parent is at risk of prosecution for not securing attendance at the school. This means that it is in a parent's interests to notify the school in writing of withdrawal for home education.</p>		
<p>»Moved from 4.7</p> <p><del>It was formerly the case that schools were obliged by the 2006 Pupil Registration Regulations to notify the local authority that a child had been withdrawn for home education only when the school had been notified of this in writing by the parents.</del></p>			

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<p><del>From September 2016 the regulations were amended so that</del> the local authority must now be informed of all deletions from the admission register when <b>this</b> takes place at a non standard transition time.</p> <p>Local authorities should <b>also</b> consider <b>using their power to require schools (including independent schools) to provide information, under arrangements set out by the authority concerned, about children</b> who leave at the school's standard transition times, to help ensure that</p>	<p>5.7 Schools must inform local authorities of all deletions from their admission registers when <b>these</b> take place at non-standard transition times.</p> <p>A school must also inform the local authority of deletions relating to pupils who leave at the school's standard transition times, <b>if the authority has requested this.</b></p> <p>Local authorities should consider <b>making that request</b>, to help ensure that there is knowledge at local authority level of a child's schooling status.</p>	<p>the local authority must now be informed &gt; Schools must inform local authorities</p> <p><b>this &gt; these</b></p> <p>+ A school must also inform the local authority...if the authority has requested this.</p> <p><b>about &gt; of deletions relating to</b></p> <p><b>children &gt; pupils</b></p> <p><b>using their power to require schools (including independent schools) to provide information, under arrangements set out by the authority concerned, &gt; making that request,</b></p>	

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<p>there is knowledge at local authority level of a child’s schooling status.</p> <p>Ofsted is likely to ask local authorities about withdrawal rates at schools and whether action has been taken to identify patterns and a suitable strategic response. Local authorities are entitled to ask schools whether there is any further information available which would suggest that a child may be now home educated, but a school may genuinely not know the reason for withdrawal. A state funded school must respond reasonably to any request from the local authority for any information it has about the reasons for withdrawal.</p>	<p>Ofsted is likely to ask local authorities about withdrawal rates at schools and whether action has been taken to identify patterns, and to provide a suitable strategic response.</p> <p>Local authorities are entitled to ask schools whether there is any further information available which would suggest that a child may now be home educated, but a school may genuinely not know the reason for withdrawal. A state funded school must respond reasonably to any request from the local authority for any information it has about the reasons for withdrawal.</p>	<p>+ to provide</p>	
<p>►►Moved from 4.8</p>	<p>5.8 As set out in the statutory</p>	<p>Children Missing Education &gt;</p>	

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<p>As set out in the statutory guidance on <b>Children Missing Education</b> <del>referenced above</del>, local authorities should also be working with each other to identify children, and share data about those who have left a school in one local authority area but have moved to another.</p>	<p>guidance on <b>CME</b>, local authorities should be working with each other to identify children <b>who are not registered pupils at school and are not receiving suitable education otherwise than in a school</b>, and share data about those who have left a school in one local authority area but have moved to another.</p> <p>Where a child has been deregistered from school to be home educated, the local authority should refrain from classifying that child as CME at that stage.</p> <p>The classification of a home-educated child as a CME should only occur when the local authority has exhausted both informal enquiries, and the s.437 process in the 1996 Act, and is not satisfied that that child is receiving a</p>	<p><b>CME</b></p> <p>+ who are not registered pupils at school and are not receiving suitable education otherwise than in a school,</p> <p>+ Where a child has been deregistered from school to be home educated, the local authority should refrain from classifying that child as CME at that stage.</p> <p>+ The classification of a home-educated child as a CME should only occur when the local authority has exhausted both informal enquiries, and the s.437 process in the 1996 Act, and is not satisfied that that child is receiving a suitable</p>	



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	suitable education.	education.	
<p>»Moved from 4.9  <del>These changes mean that a local authority should be more readily able to identify and record children in its area who are being home educated or may be home educated and for whom the suitability of education being provided has not yet been firmly established or is due for review. LAs should use all sources of information available to them, such as that supplied by NHS sources and their own social services departments, to compile and maintain records of all children of compulsory school age who are not registered at schools. They can then find out, and keep under review, whether each of those children is being suitably educated or not.</del></p>	<p>5.9 Data protection legislation allows sharing of personal information and data by local authorities and partner agencies for safeguarding purposes, to protect children from harm.</p>	<p>+ Data protection legislation allows sharing of personal information and data by local authorities and partner agencies for safeguarding purposes, to protect children from harm.</p>	

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<p><del>Such a record need not be based wholly or even partly on parental registration of such children, although it must of course be compliant with the GDPR and the Data Protection Act 2018 (see footnote above).</del></p>	<p>Any data sharing for the purposes of safeguarding needs to comply with the Information Commissioner's Office data sharing code of practice.</p>	<p>it &gt; Any data sharing for the purposes of safeguarding must of course be compliant with the GDPR and the Data Protection Act 2018 &gt; needs to comply with the Information Commissioner's Office data sharing code of practice.</p>	

<p>Overview</p>
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