

## Isle of Man: Home Education and the New Education Bill Consultation

1. This paper refers to the '*New Education Bill*' public consultation closing 20 March 2019 in which the Department for Education, Sport and Culture (DESC) proposes to completely re-write the primary legislation for home educated children.

<b>Question 9 - Should the Department seek evidence from home educators on the education they are giving to their children?</b>			The new Bill will contain enabling clauses to allow us to determine what will be required from parents who choose to home educate. It is envisaged that we will work with these parents to form the guidelines we and the Home Educators will work within.
Yes	359	67.1%	
No	129	24.1%	
Unsure	45	8.4%	
Not answered	2	0.4%	
535			

2. In the DESC's response to that consultation they published this statement on the response to home education:
3. The Isle of Man Government Code of Practice on Consultation specifically states:

The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed legislation or policy.

The DESC have ignored this requirement and generated proposed legislation on home education using qualitative not quantitative information. There were a number of informed consultation submissions from home educators including a legal opinion on the Human Rights considerations of their proposals and these were comprehensively ignored.

4. Furthermore the consultation question on home education was deliberately leading, implying, falsely, that there was an obligation on Government to obtain information from home educating parents.
5. Prior to the launching of the New Education Bill the DESC had intended to distribute a draft home education policy for home educators to comment on. They did not do so, proceeding instead to muscular authority by proposing to completely supersede the Education Act 2001 with entirely new legislation on home education.
6. The following paragraphs outline what the DESC intends to do in the New Education Bill.
7. Clause 6(3)(e) of the Bill states that:

that children, young persons and their parents should have a reasonable degree of influence over the kind of education which is provided to them;

8. This is a significant change from the Section 24 (1) of the 2001 Act which states that:

**24. Duty of parents of children of compulsory school age**

(1) It is the duty of the parent of every child of compulsory school age to cause him to receive suitable education, either by regular attendance at school or otherwise.

The effect of this change is to place the DESC in a position of control over parents by removing their freedom to choose how their child is educated.

9. Clause 62(1) of the new Bill further states that:

**62 Duty to arrange for education**

(1) Each parent of a child of compulsory school age must ensure that the child receives suitable education, whether or not by regular attendance at a school.

This clause effectively removes the 2001 Act definition of '*otherwise*' which is how home education has been defined since the 1944 UK Education Act.

10. This would be a radical change to home education law which is entirely unsupported either by evidence of a problem or necessity for change. Significantly, it was stated in Tynwald February 2019 Written Answer No. 28 that the DESC has never had to use its enforcement powers and that '*less than five written notices had been served in the last two academic years*' and which were clearly answered satisfactorily.
11. The comprehensive clauses in the Bill effectively criminalise home education without actually banning it outright.
12. Clause 78 requires (1) the DESC to assess home educated children and (6)(b) & (c) require the parent and child to be interviewed. Clause 78 (8) requires the parent to supply unlimited personal information to the DESC. Clause

78 (9) requires the DESC to create a statutory methodology for the assessment.

13. Clause 65 (2) enables the DESC to write statutory guidance for the assessment which would include provision for:

(a)	educational outcomes (including but not limited to examinations and qualifications);
(b)	educational methods and processes;
(c)	opportunities for social interaction and integration.
14. This could hardly be more controlling, not least the requirement to monitor the family's social life.
15. The effect of Clauses 65 and 78 is to enable the DESC to require home educating families, in contravention of their long established freedoms, to educate and parent in accordance with a prescribed format created by the DESC. This would completely defeat the purpose of education 'otherwise' which is to allow home educated children to be taught in the way which suits them individually and at their own pace. This is a vital freedom which allows children who would fail in a school system to thrive 'otherwise' under the sole guidance of their parents who currently hold the duty to ensure the education is suitable. It is also a vital freedom that allows parents to disagree from the outset with the DESC's provision and educate their children in the privacy of their own home.
16. Following on from this, Clause 65 allows the DESC to 'enforce' the assessment and Clause 70 allows the DESC to issue a School Attendance Order if the demands for information are not complied with.
17. Importantly, since the DESC would require parents to meet statutory outcomes, the law would capture parents who up until the day the law would come into force, have been educating their children in ways which would not satisfy the statutory outcomes.
18. This means that the DESC's proposed home educating laws are intended to be retrospective. I.e. they would criminalise parents who are currently teaching their children entirely legally.
19. In the event that the Court upholds the School Attendance Order the maximum penalty for not sending the child to the school prescribed on the order is 74 (1) a maximum of '6 months custody or a Level 5 fine' which is currently £10,000.
20. The legislation does not capture what would happen to the child in the event that the parents are sent to prison but, presumably, that would trigger a care order from Children and Families Social Services.
21. The effect of the combined clauses is quite clear. Home education will, technically, still be legal. However, parents will have to submit to having the child's education and their parenting effectively controlled by the DESC.
22. The choice is intended to be quite clear. Either agree to teach and parent according to the requirements of the assessment (and in so doing allow the DESC to completely breach family privacy) or send the child to school. This could result in parents being forced to send their child to the very school which had caused the problem in the first place.
23. The sanction of 6 months in prison is exceptional compared to laws in England, Wales, Scotland and Ireland.
24. It is important to note that the DESC does not have an informed case for a change in the law. It has never had to use its existing powers and in any case it already has more law than UK jurisdictions as it holds a register of home educated children. The DESC's political case for a change in the law derives entirely from a crude tick box survey which used a leading question to elicit the answer it sought. It wants powers to look for a problem it imagines exists but has not, in fact, found.
25. A legal opinion on the Bill's home education proposals is being written by an Isle of Man advocate and will be available before the consultation closes. It is intended that the DESC formally responds to this.

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*N.B. Text in boxes above are images taken from IoM Government publications.*

This paper was prepared by a home educating parent for The HE Byte;  
more information is available on our dedicated  
[Isle of Man Education Bill 2019 page](#)