



Parliamentary Briefing for Second Reading - May 2022

Schools Bill [HL] Part 3 – Impact on home educated children

Introduction

Taunton Home Education is a home education support group serving hundreds of home educating families from Taunton and surrounding areas across Somerset. We provide peer support, information and advocacy, organise meet ups, classes, activities and events for home educated children and parents, provide access to AQA Unit Awards and the Duke of Edinburgh Awards Scheme and liaise with our local authority, Somerset County Council, to ensure positive working relations.

We cherish our freedom under education law and human rights conventions to educate our children outside the formal school system. School does not suit all children. Our children are thriving by receiving a personalised education entirely tailored to their unique aptitudes, interests and needs, geared to supporting their wellbeing and future contribution as citizens.

Since this Bill appears to threaten this situation (and will doubtless be used as an opportunity to spread misinformation and prejudice by those who oppose home education) we have no choice but to seek to inform Parliamentarians of what is at risk, why it matters and to urge you all to oppose the provisions in Part 3 of the Bill and stand with us to safeguard our children's human rights.

Home education – what is it?

Education is compulsory. School is not. Under the 1996 Education Act parents have a responsibility to provide their children with a suitable education whether at school or otherwise.

We are Elective Home Educators - people from a huge range of backgrounds who have chosen to educate one or more of our children outside school, in our own homes and in the libraries/museums/theatres/forests/parks and countless other places where we spend our

time because it is in that child's best interests. School does not suit all children or lifestyles.

We help our kids learn to read and write, we take them to interesting places, we facilitate and encourage their interests and passions, we seek out opportunities for them to learn new things and develop their skills. We might teach them ourselves or pay for one-to-one tuition, arrange study groups or distance or online learning courses or support their self directed study. There are lots and lots of different approaches. Our children tend to socialise with a much wider variety of people than children in school and benefit from a wider range of educational experiences. Children who may have felt marginalised or stigmatised in a school setting often find greater acceptance and inclusion in the home ed community. Our children also actively participate in the wider community – whether that is playing for football teams or going to Rainbows. They go on to college, university, to jobs, to run their own businesses and enjoy careers.

The most in-depth study carried out into Home Education in 2002 by Dr Paula Rothermel found that:-

- home-educated children demonstrated high levels of attainment and good social skills.
- common to all families involved was their flexible approach to education and the high level of parental attention received by the children.
- children benefited from the freedom to develop their skills at their own speed.

Currently there are around 78,200 children known to be home educated in England.¹in October 2021. In Somerset the figure is 1,416 EHE children (Jan 22 figure). Reasons for home educating are as many as the number of home educators but many parents feel home education is a better way to secure a truly personalised, child-centred education. Many have tried school and found it failed or did not suit their child (lack of effective SEN support in schools, the sterility and pressures of standardisation and testing, failure to stop bullying, discrimination and lack of support for disabled children and those with medical needs are among common factors). In home education families often find a better way to live and learn.

What the Bill would do

Part 3 of the Bill seeks to amend education law to:

- Require local authorities to maintain a 'register' of 'Children not in school' that covers electively home educated children, children who are flexi-schooled and children who are absent from school with consent because, for example, they are too

ill to attend (*Clause 48 proposed new section 436B Duty to register children not in school*) with duties to include a potentially limitless amount of personal information about such children as directed by Government (*Clause 48 proposed new section 436C Content and maintenance of registers*)

- Compel parents who home educate or flexi-school their children or whose children are too ill to attend, to register with their local authority and supply their authority with whatever information ‘may be prescribed’ or risk fines and commencement of School Attendance Order Proceedings once discovered. Parents will further be required to inform the authority of a change in any of the information – potentially that will mean endless updates with a huge commitment in terms of time(*Clause 48 436D Provision of information to local authorities: parents*)
- Compel as yet undefined education providers to supply local authorities with whatever information ‘may be prescribed’ about home educated children without their permission or face fines or imprisonment. (*Clause 48 proposed new section 436E - Provision of information to local authorities: education providers*)
- Empower local authorities to share a vast amount of data and personal information about children to a wide variety of agencies as a matter of course in apparent contradiction of basic data protection principles. (*Clause 48 proposed new section 436F - Use of information in the register*)
- Require local authorities to share detailed, identifiable and possibly excessive data with DfE whose data sharing processes were found to be inadequate when audited in 2020. (*ibid*)
- Impose a rather meaningless duty on local authorities to provide ‘support’ to home educating parents on request – the local authority itself decides what it can be bothered to provide and this could be as limited as an information sheet or unwelcome ‘advice’. (*Clause 48 proposed new section 436G Support*)
- Empower local authorities to omit the current process of informal enquiries and skip straight to SAO procedures for any ‘eligible’ parent they discover who has not registered with them. The deadline for responding to a ‘notice to satisfy’ is being shortened from 15 days to 10 days which is alarming – parents are incredibly busy and may be simply unable to comply with this thoroughly unreasonable timeframe, especially if the family is away from home when the notice arrives.(*Clause 49 Proposed new section 436I Preliminary notice for school attendance order*)
- Further empower local authorities to keep fining parents or indeed imprison them for continuing to breach an SAO without going back to court, even apparently where a traumatised child simply refuses to attend with no duty on the local authority to engage properly, examine why or offer alternative provision that the child will accept (*Clause 50 proposed new section “436Q offence of failure to comply with school attendance order*).

Much of the detail is to be left to secondary legislation which neither home educators nor parliamentarians will be able to effectively input into, let alone scrutinise.

The vast majority of parents and young people who responded to the Children Not in School consultation which preceded the Bill were opposed to the measures proposed in it – with for example over 80 per cent opposed to compulsory registration. This is not a Bill with the interests of children and families at its heart.

Is this legislation needed?

No.

The vast majority of home educated children are already known to local authorities since schools are required by law to notify their LA when a child is deregistered. A simple change in approach by LAs (positive respect and concrete benefits) would readily see the remainder make themselves known without the need for compulsion.

The current Government claims the Bill addresses ‘concerns about rising numbers of children in home education’ and further ‘concerns’ that some may not be receiving suitable education. Yet numbers are not rising, indeed between April and October last year they declined slightly. No data or evidence is supplied by Government to back up ‘concerns’ about EHE children – on the other hand, research has consistently demonstrated that children who are home educated benefit from it, demonstrating high levels of attainment and good social skills.

It is a pity the Bill does nothing to help the children who are being denied their educational entitlement namely: those children, known to the local authority, who the authority has failed to provide with a school place; children who are indeed on the register of a school but whose special educational needs have not been met, preventing them from accessing lessons and school life; or those children who cannot attend for medical reasons for whom the local authority has failed to make alternative educational provision.

The current Government further claims that the Bill will help safeguard home educated children. Yet home educated children are at a lower safeguarding risk than children in schoolⁱⁱ. If passed, these provisions would however represent a major safeguarding concern – putting untold numbers of home educated children at real risk of harm.

The existing legislative framework strikes a careful balance between upholding the human rights of children, parents and families and the interests of the state. On the one hand, parents are free (notionally at least, many LAs strive to thwart this) to enable and support their children to learn in the way that best suits them and on the other, local authorities

who have legitimate concerns about the education of a child out of school have more than adequate powers to make further enquiries and take action if concerns are validated. This Bill would tear up these arrangements and replace them with something illiberal, damaging and frankly unworkable.

The two big weaknesses of the current framework are

- that there is no effective redress for unlawful or abusive treatment of home educating families by local authority teams dealing with elective home education.
- that there are no effective provisions to educate those making policy on elective home education or those in local authorities who work with home educating families about home education (neither group have a clue).

Sadly the Bill does nothing to address these weaknesses.

Could this legislation do harm to home educated children?

Yes. While a decent local authority with a really child-centred approach and a commitment to human rights could conceivably endeavour to implement the provisions in a way that minimises such harm, the many bad ones who have no real respect for parents, children or educational freedom will use it as an excuse to further torment their local home education community.

What harm could occur?

- The Bill risks wrecking positive relationships between local education authorities and home education communities in areas such as Somerset where there is mutual respect and effective ways of working have been established to the benefit of children.
- It will discourage the formation of formal groups such as ours, with equality and safeguarding policies and the ability to seek funding to subsidise key activities like forest school for low-income families (and indeed may cause many to close) since none of us will ever agree to pass on information about our members without their consent, should we be made subject to such 'duties'.
- Part 3 Provisions would most likely lead to disengagement by families from public services and sources of potential support for fear of being caught by these proposals. There could well be large-scale non-cooperation with such an illiberal measure.
- In relation to individual families, unreasonable stress and distress will be caused by having to provide vast quantities of information to officials on ridiculously short timescales under the threat of fines or children being forced back to school if we do not comply.

- Children and young people who are aware of the proposals in the Bill are already experiencing a high level of anxiety and distress because of them.
- Families without access to adequate peer support and advice may be pressured into putting their children into unsuitable school placements where children may not be safe.
- Traumatized children who are ordered back to school could find their parents criminalised simply because a local authority does not understand nor is prepared to meet their needs.
- Children are more likely to find themselves trapped in unsuitable school placements that damage their mental health and wellbeing irrevocably as a result of this Bill with parents facing a huge uphill struggle to re-commence home education.
- Scarce resources will be diverted away from positive measures to better support the most needy children and families.

It is a not very well-kept secret that these provisions are but step 1 on the path to greater Government control over home education, forcing it into the same rigid, standardised shell that blights the school system and fails our children so badly. Indeed, many local authorities inevitably would use the wide power to demand any information they like to dictate the content and form of children's learning.

Any substantive change in law or practice affecting the wellbeing of our children and our families ought to be informed by the views of those likely to be directly affected. Part 3 of this Bill does not represent our views or interests and should be roundly opposed by anyone who cares about basic human rights and the wellbeing of children.

What could Parliamentarians usefully do to uphold the human rights of home educated children and their families?

Oppose Clauses 48 to 50 in Part 3 this Bill as currently drafted. These Clauses should, quite simply, be omitted or substantially amended so that the proposed register is voluntary, complies with data minimisation principles and is linked to a concrete support offer (e.g. support with access to exams) with robust safeguards for children's freedom to learn in the way that best suits them, a safeguard against routine monitoring, real choices and provision for children who will never be 'fine in school' and proper redress against LA wrongdoing.

Please tell the Government that there must be a fundamental change in approach to developing policy towards Elective Home Education. It is high time policy on elective home

education was properly co-produced, drawing on the lived experiences and expertise of those families who practice it, the young people who have benefitted from it, the researchers who engage with us and study it and with the involvement of national and local support groups and bodies such as Education Otherwise and the Centre for Personalised Education with a long history of supporting successful home education. It is high time respect for diversity and collaboration replaced hostility and coercion.

Finally, seek out home educators and home education support groups in your area. Listen to them. Learn more about the reality of home education. Become our allies in securing the best possible learning experience for our children.

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ⁱ Home Education Trends Post Lockdown, Education Otherwise December 2021
<https://www.educationotherwise.org/home-education-trends-post-lockdown/>

ⁱⁱ Home Education and the Safeguarding Myth: Analysing the Facts Behind the Rhetoric.
Wendy Charles-Warner, February 2015