

Current	Proposed additions	Notes
<p>436A Duty to make arrangements to identify children not receiving education</p> <p>(1) A local authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but—</p> <p>(a) are not registered pupils at a school, and</p> <p>(b) are not receiving suitable education otherwise than at a school.</p> <p>(2) In exercising their functions under this section a local authority must have regard to any guidance given from time to time by the Secretary of State.</p> <p>(3) In this Chapter, “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have (in the case of a local authority in England) or suitable to the child's age, ability and aptitude and to any additional learning needs the child may have (in the case of a local authority in Wales).</p>	<p>436R Guidance</p> <p>In exercising its functions under sections 436B to 436O, a local authority must have regard to any guidance given by the Secretary of State.</p>	<p>Read relevant sections in Publications- Explanatory Notes, Delegated Powers Memorandum, Human Rights Memorandum</p> <p>Look at HUMAN RIGHT MEMORANDUM memo 125 and 130 and more</p> <p>“125. The measures will also require the local authority to consider all settings where home educated children are being educated as well as the child’s home(s), as part of its decision on suitability and (for children subject to child protection processes) best interests. Local authorities will also have a power to request access to inside of the child’s home(s) to see the child and if this is refused, must consider this to be a relevant factor when considering whether the child must be registered at a school.</p> <p>130, The clauses give the local authority a power to request to visit the home(s) of all children being home educated and to see the child.</p> <p>131. Where a parent refuses this request the local authority must consider that to be a relevant factor in deciding whether to issue a school attendance order.</p> <p>144. The clauses extend the School</p>

		<p>Attendance Order process so that the local authority will be under a duty to consider the home and any other learning environment when assessing whether home education is suitable (and for children subject to child protection processes, whether it is in their best interests).</p> <p>145. Separately to this, in order to determine whether to serve a school attendance order, the local authority may request access to the child's home(s) and to see the child in their home. Where a parent refuses physical access to a domestic setting, the local authority must consider that to be a relevant factor when determining whether the education is suitable or whether (in the case of children subject to child protection processes) it is in the best interests of the child to receive education otherwise than by regular attendance at school.</p> <p>148. The Department notes that the proposals do not increase the state's control over or interference with the content of education provided by electively home-educating parents to their children, and the system of registration of children not in school is not mandatory. A parent's refusal to provide information can trigger the school attendance order process but the parent can still prevent an order being made (or, if prosecuted, secure acquittal) by demonstrating that their child is receiving</p>
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suitable education. A parent's refusal to allow access to the child's home may contribute to a local authority making an adverse determination when deciding whether to issue a school attendance order, but this can be mitigated by allowing such access.

150. Consideration of the home and any other learning environments as part of the assessment of suitability of education and the best interests test and in particular requiring local authorities to consider the refusal of physical access to the home as a relevant factor when making these assessments, can also be justified under Article 8(2) as being necessary in a democratic society in view of the public interest in ensuring children's education.

[Look at Explanatory Notes Memorandum at 40](#)

"40. This system of registration for children not in school, the requirement for parents of some vulnerable children to receive local authority consent for home education, and the requirement for local authorities to consider the home environment and other learning environments when assessing whether home education is suitable will ensure that fewer children slip under the radar and more are afforded the best start

		in life.”
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