

1. Name/Name of Organisation/other body (optional)

Anne Rix, Chair (for Trustees) Education Otherwise Association Ltd.
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2. Please select the category that best describes you as a respondent:

(Please tick one box only)

Parent/Guardian	
Pupil	
Member of School Staff (Teaching)	
Member of School Staff (Non-Teaching)	
Governor (individual)	
Board of Governors (Please insert name of school) _____	
Education/Sectoral Support	
Political Representative	
Local Government Representative	
General Public	
Other (please specify) Home Education Support Charity	X

3. Having read the Draft Policy for Elective Home Education, I consider that the draft policy:	Agree	Uncertain	Disagree	Not applicable
3.1 Provides relevant information about the Board’s responsibility for Elective Home Education, clearly and concisely			X	
3.2 Outlines the procedure to be followed should parents decide to home educate their children			X	
3.3 Provides parents with a greater understanding of their role/responsibilities when deciding to home educate their children			X	
3.4 Provides parents with a greater understanding of the Board’s statutory role/responsibilities for Elective Home Education			X	
3.5 Clarifies the role of the Education Welfare Service/Officer in relation to children who are home educated			X	
3.6 Clarifies the role of the School/School Principal in relation to children who are home educated			X	
3.7 Clarifies the role of other agencies in relation to children who are home educated			X	
3.8 Highlights the importance of establishing arrangements for safeguarding children/young people who are home educated			X	

Cont. 3. Having read the Draft Policy for Elective Home Education, I consider that the draft policy:	Agree	Uncertain	Disagree	Not applicable
3.9 Provides information and clarifies the role of the ‘Named Officer’ as appointed by the Board			X	
3.10 Provides appropriate information about the arrangements for and frequency of monitoring			X	
3.11 Highlights the minimum standards that will be used for monitoring purposes			X	
3.12 Signposts resources/information that may be useful for parents who are home educating			X	
3.13 Provides information about the process to be followed to facilitate children with identified Special Educational Needs			X	
3.14 Provides parents with sufficient information to contact the named Board Officer			X	
3.15 Overall, I consider that this draft policy provides me with a clear understanding of provision for Elective Home Education for children within the Board’s area			X	

Please use the space below to comment:

Education Otherwise Trustees welcome the opportunity to respond to the consultations of Northern Ireland Boards on their proposed Elective Home Education Policies. As you may be aware, Education Otherwise (EO) is a charity that was created in 1977 as a membership organisation to support home educators across the United Kingdom. Over the years, EO has been consulted on educational initiatives and policies across Governments and remains a key representative of a growing population of home educators, both known and unknown to their Local Authorities or ELBs.

ELBs may be aware that our members in Northern Ireland, as well as the broader home education community, have expressed a great deal of concern about the content of these consultations. The strength of feeling is evidenced by the HEdNI petition, with over 3,250 signatories, which states that the consultation is out of line with legislation.

EO trustees seek to outline constructively our concerns with the consultation methodology and the contents of the consultation, in order to assist the Boards in recognising the natural consequences of their approach and emerging policy. The potential consequences of the proposed policy are very serious, both for the Boards and for home educating families. We are eager to help ELBs address these fundamental areas of concern urgently and effectively and to that end we hope that the Boards will be open to constructive engagement with EO, HEdNI and home educating families generally.

We ask ELBs to consider the nature of their relationships with families carefully throughout the policy. Engagement between Boards and home educating families is and should be based on trust and mutual respect. The development of policies which undermine these principles will set the Boards at odds with home educators from day one. As a consequence, the legality of the policies will inevitably be challenged in court, resulting in an instant breakdown of relationships at a practical level.

It is worthwhile highlighting at this juncture that there is a significant and growing body of legal opinion that contends that policies such as these comprehensively and demonstrably breach the existing legal framework throughout the UK. EO firmly agrees with this opinion and hereby requests visibility of the Boards' own legal advice so that we may address the issue directly

Please use the space below to comment further:

Consultation Methodology and Policy Approach

Having reviewed each ELB's draft policy and flowchart, EO has concerns with the following aspects:

1) Consultation Process. The ELBs appear to be seeking covertly to avoid pursuing primary legislation and a national consultation by running local consultations without the rigour and review of an established process. The similarity between ELBs' documentation is indisputable, and any independent review would declare that almost identical documents have been issued for consultation by each ELB. This leads us to question why the ELBs have launched separate yet seemingly identical consultations. Furthermore, in the light of freedom of movement and work within Northern Ireland and beyond, the adoption of sub-regional, individual policies as opposed to a single, national policy (or legislation) appears conflicting and impractical. For instance, why would the policies of one ELB vary from another when their objectives are presumably the same?

The Department of Education appears to be disengaged from the detailed consultation strategy and approach, which we find surprising, given the potential ramifications were the policy to be implemented as proposed. There is no clear indication of the background or intention underlying the consultation process, which gives our members the unnerving sense that the ELBs are attempting to consult and to legislate by the back door. Openness and transparency as well as a demonstrably logical approach would help assure home educators of the ELBs' good faith.

2) Engagement with UK and European Law. We note with interest that the ELBs seek to reference out to the UN Charter. At this point, we would encourage ELBs to research the application of UK and European law, which is directly relevant in these matters. For the avoidance of doubt, EO would refer ELBs to Article 8 of the European Convention on Human Rights, relating to the right to privacy and a family life. The proposed policies seek to give officials access to private homes in a way that is not permitted by current law.

3) Deregistration Process. The proposed deregistration process fundamentally overturns parental rights to choose unilaterally to home educate their children, and directly contravenes and inhibits their rights under Articles 44 and 45.

Home educators would legally challenge the proposed policy where families would be:

- a) required to apply for consent or permission to home educate (as implied by the SA1 registration process),
- b) subjected to multi-agency checks and assessments in situations where there were no existing safeguarding issues,
- c) assessed against a "future" or "potential" safeguarding risk directly as a result of a decision to home educate,
- d) required to allow multiple visits to their home for safety checks, and
- e) have their home education plans and/or programme approved by a third party against unknown criteria that have been set by an ELB.

The fact that the ELBs feel this new flowchart and approach is required, implies that ELBs believe that existing safeguarding measures are ineffective, that home educating parents are not delivering efficient educations for their children, and that there is an increasing or high risk of home educated children being harmed in their own homes. If the ELBs' views are underpinned with facts and research supporting these beliefs, EO Trustees would urgently request a copy of this research. If not, we would be glad to provide ELBs with research that demonstrates that home educated children are at no greater (and indeed probably less) risk than school educated children.

4) Consequences of Monitoring. It is vitally important for EO to underline at this stage that there will be serious unintended consequences from the adoption of bureaucratic, inconsistent and oppressive monitoring regimes. Home educators will be discouraged from registering their children at school at all, and from engaging with Government agencies, if they feel that becoming known puts them at risk of being persecuted. This is not a desired outcome for either the home educating community or Government agencies.

We would urge ELBs to focus on fostering a positive relationship with the home educating community, and recommend that an impact assessment of these proposed policies should be undertaken to ensure that the practical application of policies does not set the state and home educating families artificially in opposition to one another, when in fact both are concerned with the best interests of children.

5) The Assessment of Special Educational Needs. Society is experiencing general shifts and changes in the development of children. Developmental delays exist in various forms and severity. The assessment of development delays of each home educated child is a mammoth task, requiring a high level of professional resources for some conditions that may not be generally recognised or accepted within the overall SEN category. This new assessment could result in virtually all children receiving a more in depth assessment than any child would experience within a school environment.

EO would ask for further details of the proposed assessments including the types of professionals involved, procedures for obtaining parental consent for assessment, the assessment process itself, the costs involved and whether these have already been budgeted for and allocated.

A statutory assessment framework already exists, and the creation of a supplementary development and SEN framework for home educated children, which critically would not require parental consent, should be swiftly investigated.

Summary

Whilst seeking to provide a positive, constructive response to the ELB consultations and process, EO must reflect reality, the views of its membership and the wider home education community, as well as its own expertise in this area, gained over several decades.

EO Trustees call for the proposed policies to be set aside and for a number of important actions to take place in order to instigate a new process to develop policies in conjunction and partnership with home educating families. Failing that, we would request the instigation of discussions towards the establishment of a multi-party group to discuss a national policy to be inclusive of all stakeholders.

EO Trustees recommend that ELBs undertake the following parallel actions:

1. Engagement with the Department of Education. A positioning statement should be sought from the Minister of Education, outlining why a national policy is not being considered and clarifying the Department's involvement (or lack thereof) in the development and process of this consultation.
2. Legal Advice. ELBs' legal advice and reasoning to support the proposed policy should be released, in order to increase transparency and allow the home educating community to assess the legality of the ELBs' proposals.
3. European Law. ELBs should consider and explain the fit of their policies with UK and European legislation.
4. Research and Assumptions. The ELBs' policies are assumed to be based on their understanding of safeguarding and of home educating families. The ELBs' research and analysis should be released publicly so that the home educating community can understand their rationale for an overhaul and setting aside of the current process as well as the rights of parents and children.

5. Resources & Costs. Implementation of the proposed policy would require significant resources (systems, IT, staff, etc). The ELBs should confirm whether budget has been allocated for delivery of this proposed policy, and the sums involved. Additionally, the ELBs are asked to confirm whether spending approval processes to support the adoption of these new procedures have begun.

6. Impact Assessment. The ELBs are asked to confirm whether they have undertaken an impact assessment of their proposed policies on home educating families, justifying their belief that the changes will foster better co-operation between the state and home educating families. Further, the ELBs are asked to consider whether or not these proposals would result in parents becoming more or less likely to register their children for a school place and/or to encourage contact with government agencies.

7. Developmental Assessments. The ELBs are asked to provide details of the proposed new developmental assessment, including which professionals have been consulted and/or have recommended the creation of a new developmental assessment, the implications for parental consent, the tests that will be utilised, the type of professionals involved in testing, and the overall costs.

8. Monitoring of Education. Given that home educating parents are not required to follow the National Curriculum, ELBs are asked to consider the objective criteria against which an officer could assess whether an education provided is suitable. The distinct lack of detail in this area could give rise to serious disagreements, and the consultation fails to communicate how the policy would work in practice.

9. The Role of the School. The creation of an enhanced role within or connected with the school to support deregistration constitutes a conflict of interest, as many schools construe a decision to home educate as criticism of the school rather than an expression of parental choice. Alternatively, parents may choose to home educate as a result of a local issue with the school. The ELBs are asked to investigate whether enhanced involvement of schools in deregistration is appropriate.

Finally, EO Trustees would be happy to discuss and/or provide further information on relevant issues if this would be helpful.

We look forward to hearing from you.

Anne Rix, Chair, for Trustees of Education Otherwise Association Ltd. trustees@educationotherwise.org

4. Equality Consideration

Under Section 75 of the Northern Ireland Act 1998 all public bodies are obliged to consider the implications of any decisions on nine different groupings before decisions are implemented.

The two duties within this Equality legislation include promoting equality of opportunity and promoting good relations between all communities.

The equality of opportunity duty requires that the Boards shall, in carrying out all their functions, powers and duties, have due regard to the need to promote equality of opportunity:

- 1. Between persons of different religious belief.**
- 2. Between persons of different political opinion.**
- 3. Between persons of different racial groups.**
- 4. Between persons of different age.**
- 5. Between persons of different marital status.**
- 6. Between persons of different sexual orientation.**
- 7. Between men and women generally.**
- 8. Between persons with a disability and persons without.**
- 9. Between persons with dependants and persons without.**

The Good Relations Duty requires that the Boards shall, without prejudice to their equality obligations, have regard to the desirability of promoting good relations:

- 1. Between persons of different religious belief.**
- 2. Between persons of different political opinions.**
- 3. Between persons of different racial groups.**

In light of these obligations do you consider that review of primary provision in the area will impact positively or negatively on either Equality of Opportunity or the Promotion of Good Relations in any way?

Section 75 Category	Positive	Negative	Don't Know
Religious Belief			
Political Opinion			
Racial Group			
Age			
Marital Status			
Sexual Orientation			
Gender			
Disability			
Dependants			

If you ticked any of the above boxes please clarify your reason:

Thank you for completing this survey. Your privacy is very important to us and we have taken every step to ensure your confidentiality and the security of your data. We will not at any time, release your personal data to third parties.