

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

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**2. Please select the category that best describes you as a respondent:  
(Please tick one box only)**

Parent/Guardian	X
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) _____	

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			<b>X</b>	
3.2 Outlines the procedure to be followed should parents decide to home educate their children			<b>X</b>	
3.3 Provides parents with a greater understanding of their role/responsibilities when deciding to home educate their children			<b>X</b>	
3.4 Provides parents with a greater understanding of the Board's statutory role/responsibilities for Elective Home Education			<b>X</b>	
3.5 Clarifies the role of the Education Welfare Service/Officer in relation to children who are home educated			<b>X</b>	
3.6 Clarifies the role of the School/School Principal in relation to children who are home educated			<b>X</b>	
3.7 Clarifies the role of other agencies in relation to children who are home educated			<b>X</b>	
3.8 Highlights the importance of establishing arrangements for safeguarding children/young people who are home educated			<b>X</b>	

<b>Cont. 3. Having read the Draft Policy for Elective Home Education, I consider that the draft policy:</b>	<b>Agree</b>	<b>Uncertain</b>	<b>Disagree</b>	<b>Not applicable</b>
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 further:**

Introduction

I am a home educating parent with two children. My eldest has 'graduated' from home education and is now at University.

In the submission that follows, I have responded to the Draft Policy item by item. Numbering corresponds with the numbering in the draft policy.

#### 1. Legislative Background

The draft policy goes well beyond the actual legal powers of the Northern Ireland Education and Library Board (the Board).

It is not the duty of the Board to 'ensure' parents fulfil their duties to their children. That is the responsibility of the parents. The Board has a *reactive* duty to step in **if it appears** that parents are failing to perform their duty (schedule 13). There is no duty to instate pro-active monitoring. The mere fact that parents are home educating does not constitute a concern, with regard to either education or welfare.

The UNCRC confers no powers that conflict with existing law. UK law requires authorities to investigate only when concerns are raised either with regard to education (the Board) or welfare (Social Services). In UK law, and in the UNCRC, the parent is considered to be the best advocate for the rights of their child. Article 45 of the Education (Northern Ireland) Order 1986 clearly gives the parent the duty to decide the place of education.

The Children (Northern Ireland) Order 1995 Part II items 3 and 4 pertains to the courts, not to the Board.

As noted in item 6 of the draft policy, the Board has no financial responsibilities with regard to home educating families, therefore Article 44 of the Education (Northern Ireland) Order 1986 is irrelevant.

Legislation that is relevant to home education: Education and Libraries (Northern Ireland) Order 1986 Article 45 and 46 and Schedule 13 (as amended in 2007). Also Regulation 6(2) of The Registration and Attendance of Pupils Regulations (NI) 1974 [No. 78]. Legislation regarding Special Educational Needs should also be included. [http://www.deni.gov.uk/index/support-and-development-2/special\\_educational\\_needs\\_pg/special\\_needs-legislation\\_pg.htm](http://www.deni.gov.uk/index/support-and-development-2/special_educational_needs_pg/special_needs-legislation_pg.htm).

## 2. Safeguarding

The Board is responsible for communicating with the parents about their provision **if it appears** that parents are not fulfilling their duty to educate. Schedule 13 refers to education only, not welfare.

If concerns arise with regard to the well being of the child, these should be referred to Social Services. Welfare checks by a Board official who is not legally entitled to make them, not qualified to make them, and where there are no prior concerns risks confusion between services, allows children to fall between the gaps, and has the potential to undermine any future prosecution.

Furthermore, it is insulting to treat a group of people taking a legal option to educate their children at home as if they are potential child abusers. There should be no presumption that a home educated child is 'in need' merely because he/she is home educated.

## 3. Procedures

(i) A discussion with the school Principal is not legally required nor is it advisable. Firstly, school Principals usually know nothing about elective home education and what constitutes a successful home education. Secondly, a school Principal is not a neutral party.

(ii) It is illegal to delay deregistration once the parent has requested it. See [DENI Circular 2010/07](#), Section 8, Code 3 and Section 14(6). There is no legal requirement to wait until a programme of home education is approved. Parents must have the freedom to educate in accordance with their Section 45 duty and delays with de-registration will prevent them from doing so.

(iii) Part II, Article 3 Children (NI) Order is not relevant here. This only applies to courts. It would be extremely rude of the school Principal to quiz a child about his or her wishes or feelings about a parental decision. I would not expect the Principal to ask every pupil about where they would prefer to be educated.

(iv) Education, not welfare, is the role of the Board. Multidisciplinary checks are therefore not necessary. If there are concerns as to the safety and well-being of the child, the school should already have made a referral to Social Services. The Board may however wish to notify other agencies that the child is now home educated and that educational concerns should be referred to the Board.

(v) As above, the Board has no such statutory duty to 'ensure' parents fulfil their duties. Boards do not have a duty to supervise parents. Boards have a *reactive* duty.

(vi) It is unclear what will be entered on the EMS database. In this policy, the Board is proposing to evaluate the child's physical, social and emotional health plus do an assessment of the family home. This will inevitably involve subjective judgements about lifestyle and belief. The minimum qualifications of the official collecting the information are not specified in the document. Would all this be entered on the database? Would families have an opportunity to correct factual errors? Would they be able to appeal errors of judgement? Families may not wish for all their personal details to be entered into a database. Asking for and recording such information about families simply because they have made a particular choice about the education of their children is discriminatory.

The Board has no duty to monitor education. They certainly have no duty to require a programme of education, see the child or to see the child's work. Parents have no duty to have a formal program of study, keep regular 'school' hours, give the child assignments, date or mark work. Parents may do this, but none of this is necessary for successful home education.

(vii) As above. See (ii) See also Regulation 6(2) of The Registration and Attendance of Pupils Regulations (NI) 1974 [No. 78].

(viii) There is no legal requirement for a Board to approve a programme of education or for the parent to have one. It is also difficult to see how the Board would know if a programme suited the aptitude and ability of an individual child.

(ix) There is no duty to monitor elective home education. There legal requirement for parents to allow Board representatives into their homes to assess the learning environment. The policy needs to clearly state what is legal duty and what is not.

The draft policy makes a lot of inaccurate assumptions about what a successful home education looks like and equates it with school at home. Home educated children go to University and on to other successful careers without formalised programs of schooling. The style of education given is the parent's choice. Article 44 of the Education (Northern Ireland) Order 1986 (Appendix 3) does not apply because the child is being privately educated. He/she is not a pupil. Neither the Education Department nor the Board is funding the education.

#### 4. Children with SEN

The policy shows no sensitivity to the feelings and needs of children with SEN, nor does it adequately represent the legislation and regulations that pertain to children with SEN. These should be included for reference in the legislative portion of the policy.

Additional training is needed for EHE officers who are communicating with families who have children with SEN or suspected SEN, as their aptitudes and abilities will vary more widely from the norm for children of their age, and they often have less ability to cope with stress and strangers. Children with autism often need to know that their home is a safe place. Having their home invaded by a EHE official may be detrimental to these children. Children who have been bullied at school may need rest and healing more than they need a programme of education. They also may find an EHE inspection a terrible and terrifying event.

(i) The Board has no duty to 'ensure' that reasonable and adequate progress is being made.

(ii) Mis-states the law. Parents do not need to have their child's statement altered before de-registering and home educating. The relevant legislation is Article 10 of the 1996 Education Order and Parts IV and VI of the SEN Code of Practice.

## 5. Minimum Standards

This section is *ultra vires*. These are all parental responsibilities. The Board has a responsibility to act only **if it appears** that parents are not fulfilling their duty to educate (schedule 13). An SAO cannot be issued on the basis that the child's environment is not safe or that the child's physical, social, emotional health and wellbeing needs are not being met. These are the province of other agencies – Social Services, mental health, etc. and must be referred to them. Where there is confusion about which agency is responsible, then children do not get the services or the protection they need.

## 6. Support for Home Educators

This is correct.

## 7. Monitoring of Elective Home Education Programmes

(i) There is no legal requirement to submit a programme of education for approval.

(ii) There is no legal requirement for the Board to "ensure child is receiving efficient full time education . . . ." This is a parental duty.

In the policy, there is no recognition that the Board has no legal right to see the child. Nor does it have a right to test the child, talk to the child, or to solicit the child's opinion.

It is not clear what question or questions the Board representative would be asking the child's opinion on. However, since the Board is not making any decisions in relation to the child, the child's opinion is irrelevant to the Board. If the question is, "Do you

prefer home or school education?” the Board representative may as well ask, “Do you prefer carrots or spinach?” Both questions are a private matter between parent and child.

When the Board is ready to issue an SAO, then it has the power to make a decision regarding the child, and at that point it would be courteous to give the child an option to express an opinion (Part II, Article 3 Children (NI) Order).

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## CONCLUSION

I recommend this policy be scrapped as not fit for purpose. Policies should both adhere to the law and be evidence based. This one does neither. There is also no evidence that the writers of this policy had any knowledge whatsoever about home education and how it works. This policy would actively undermine parents in fulfilling their duty to cause their child “to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have”.

Future policies should be written in collaboration with home educating parents. I recommend the Lancashire Elective Home Education Policy as a starting point. [http://www3.lancashire.gov.uk/corporate/atoz/a\\_to\\_z/service.asp?u\\_id=388&tab=20](http://www3.lancashire.gov.uk/corporate/atoz/a_to_z/service.asp?u_id=388&tab=20)

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#### **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		X	
Political Opinion		X	
Racial Group		X	
Age		X	
Marital Status		X	
Sexual Orientation		X	
Gender		X	
Disability		X	
Dependants		X	

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

**The policy requires the Board official to judge the learning environment and the physical, mental, social and emotional health of the child. This will mean judgements on the family's lifestyle and beliefs, ranging from parenting right through religion. It is hard to imagine that the Board official's own acknowledged or unacknowledged prejudices won't colour their judgements.**

*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.*