



Elective Home Education Policy (Draft) Consultation Response



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North Eastern Education and Library Board

Elective Home Education Policy (Draft)

Consultation Response

April 2014

Introduction

The North Eastern Education and Library Board is seeking to engage in consultation with those people and groups who have an interest in the Elective Home Education for children and young people.

Before arriving at the final policy and related procedures for Elective Home Education, the Board is seeking the views of those most directly involved.

Vision

The North Eastern Education and Library Board has, since its inception in 1972, remained committed to excellence in the delivery of education so that every pupil can realise their potential and contribute to a caring, inclusive and progressive society.

In striving to realise this aspiration, the Board has aimed to ensure that every pupil has:

- access to a broad and balanced curriculum with opportunities to realise his or her potential;
- an education in which the learning outcomes are appropriate to their needs;
- access to quality teaching delivered in a caring and supportive environment;
- education delivered in modern, well-resourced facilities, suitable for the delivery of education in the twenty-first century.

Board Position

The Board recognises the right of parents to make provision for the education of their child through Elective Home Education. Current legislation places a duty on Boards to ensure that every child of compulsory school age has access to a suitable education, including children who are educated at home.

Methodology

1. Pre consultation publicity

To ensure maximum awareness of the draft policy, the Board will correspond with those parents within each Board area who have informed the Board that they are home educating. Such correspondence will advise them of the existence of the draft

Elective Home Education policy and the consultation process that will take place from Monday 28 April to 27 June 2014.

2. On-line Consultation

With effect from 28 April 2014 information will be made available on the Boards web-site and will include the draft policy and a short questionnaire.

3. Communicating with key Education Partners

Consultation with key education partners including those representing Health and Social Care will take place during the period April – June 2014.

4. Consultation with Young People

The Board recognises the importance of obtaining the views of children and young people. Consultation methods which are age appropriate will be used with the permission of parents.

5. Communication to Equality Consultees

To ensure compliance with the Section 75 Equality Legislation, the representatives of the designated equality groups will be invited to participate in this consultation exercise. All Equality Consultees will be advised of this consultation via e-mail and directed to the consultation documentation which is available on individual Board's web-sites.

Timescale for Consultation

This consultation process will commence on Monday 28th April 2014 and will close on Friday 27th June 2014.

Elective Home Education Policy – Draft

Questionnaire Response

Please return this completed questionnaire by 27 June 2014 to:

Corporate Development Officer

The North-Eastern Education and Library Board

Antrim Board Centre

17 Lough Road

BT41 4DH

Or by email to: electivehomeeducation@neelb.org.uk

Boards are mindful of the accessibility issues faced by some who may wish to provide feedback about this draft Elective Home Education Policy, and will upon request; make all associated documentation available, in different languages and formats as appropriate.

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

Sarah Dickinson

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			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 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 further:

Introduction

As a home educator I have significant concerns about this draft document. The questions on the proforma are almost impossible to answer given that I do not accept the validity of its premise. It is impossible to 'clarify' any of the procedures or roles listed, since the information is given is legally inaccurate and informed by a prejudicial view of home education and home educating families. I have therefore indicated that I disagree with all the statements.

As well as my personal submission to the NEELB, I am one of five authors of the official HEdNI response. There will, of course, be similarities in these two responses but I have endeavoured to write this from my personal perspective and this response should be considered as a separate submission.

The most crucial point to make is that the Education and Library Boards (ELBs) have no duty or power in law to make these requirements of home educating families.

For the ELBs or the body that replaces them to carry out their duties effectively it would be advantageous to foster good relations with home educating families and the home educating community. To even attempt to bring in a policy of this sort, which is beyond the Boards' legal powers, is damaging to this relationship. To apply it would create an adversarial relationship where there should be support and co-operation.

There is an assumption in the draft of conflict between the interests of parents and children, or a need to 'balance' parental choice against the child's best interest. However, it is acknowledged in law at every level from local to international that parents are, prima facie, the most appropriate judge of (and advocate for) their child's best interest. Only in exceptional circumstances should the state take over this essential parental role. Parental preference should be assumed to be in the interests of their child – whatever style or form of education they favour.

On a personal level this is not a scheme I would ever consent to. Were this policy implemented I would refuse to participate, and insist that any officer I had contact with stayed within their legal powers.

The formulation of the Policy

The formulation of this policy does not appear to have taken account of best practice as described in the Practical Guide to Policy Making and the five Policy Making Workbooks issued by the Office of the First Minister and Deputy First Minister. The Policy

- does not take into account how other jurisdictions address the issue (in particular England and Wales whose legislation shares the wording of the Northern Irish Order)
- does not review existing research or commission new research
- does not define success
- does not show a problem to be addressed
- does not assess a range of costed alternatives
- does not contain an impact assessment
- does not refer to examples of good practice inside or outside Northern Ireland
- is incomplete (forms EHE1 and 2 are essential to understand the scheme)

The draft itself fails to fully acknowledge crucial issues:

- Primary responsibility for education resides with the parent – not the state
- Assumption of compliance with law is a basic legal tenet - the change would do irrevocable harm to the parent's relationship with the state
- Giving the state primary responsibility leaves the state open to litigation for education negligence where currently they are not liable
- Powers are currently sufficient to intervene in cases of educational negligence
- Home education is a private issue, not a public one
- The UNCRC is not incorporated into law, and in any case emphasises the role of parents and family

Lack of transparency

There has been a notable lack of engagement from the Boards during this consultation. A very limited list of stakeholders was contacted, not including for example any effort at all to contact non-registered home educators (who are in many ways the most affected group), Education Otherwise (the largest Home Education group in the UK) or groups such as the National Autistic Society. Focus groups were run by facilitators with no information or expertise on the draft or home education in general and answers to questions and FOIs have often been evasive or unhelpful. Home educators have been granted no access to the authors of the policy, or with those who commissioned it.

I personally have engaged in very lengthy correspondence with various employees of the NEELB until I was finally formally asked to cease communications. I would not have needed to correspond at such length had answers been forthcoming to the questions I asked – given that I was engaging with the consultation in my own time and unpaid I think it would be reasonable to expect those who are paid and supported to run the consultation to respond fully and openly.

After the first NEELB focus group I forwarded questions, as suggested by the facilitator, to inform our responses to this consultation – since the facilitator herself was entirely unable to answer any questions.

“Some questions as promised. You mentioned that you would get them answered in time for the information to inform our responses to the consultation:

1. Can you specify the aims of this policy and the criteria by which success will be judged?
2. Can you confirm that a second draft version of the policy and a further consultation process will definitely follow this draft as you suggested at our meeting?
3. Is there ongoing communication and/or co-ordination between the boards with regard to these consultations and/or the draft policy?
4. Do the Boards consider it desirable that one policy should apply across Northern Ireland as a result of this consultation?
5. How is separation between the five consultations being maintained to preserve their individual integrity?
6. Can you specify the procedure or criteria by which any proposed program of education would be judged as appropriate to the child's age, ability and aptitude?
7. What home education specific training will be provided to front line staff, and what qualifications if any would be required of them?
8. Could you provide an estimate of the man-hours necessary to administer the scheme described in this policy, covering only currently known home educators?
9. Has the Department of Education or the Education Minister seen the draft, and if so have they approved it?
10. Has the Department of Education been involved in the commissioning or development of the policy? (If so then please detail who within the Department and in what way)
11. Were the authors aware of the case law and ministerial guidance in England relating to Home Education, or of the conduct and outcomes of the Badman Review 2009/10 in England and the recent Welsh consultation?
12. What expertise or experience in elective home education does each of the authors of this draft possess?
13. Who took the decision that each of the focus groups across all five Boards would be facilitated by a single individual with no knowledge of the policy (or home education), and what was the rationale for that decision?

Can you also please provide the following supporting documents:

1. up-to-date drafts of forms EHE1 and EHE2 mentioned in the draft
2. any evidence considered by the authors of this policy: statistics, internal reports, testimony, experts consulted
3. any impact assessments or costings of this policy
4. any written legal advice received during the drafting of this draft policy”

Correspondence with Carol Johnston, NEELB, 11/05/14

These pertinent and important questions were first treated as a Freedom of Information Request, which was inappropriate, and then accepted by Jayne Millar to “be considered as part of the consultation process”, which is worse. I would like my questions answered and my response, based upon the information I have gained, duly considered.

It should be noted that home educators have committed considerable personal time and resources to fully understanding and participating in this consultation. I am disappointed that the Boards, who created this policy and consultation and who have public resources at their disposal, cannot provide open and constructive engagement with stakeholders. Lacking answers to crucial questions, I do not feel that I am able to fully respond to this consultation.

This appears to be a policy with no particular impact or evaluation in mind, not does it provide any assessment of cost.

Without meaningful engagement from the Boards, answers to crucial questions and essential elements of the consultation document, this consultation and therefore my response to it is necessarily incomplete.

The Policy Itself

Ultra Vires, beyond the legal powers of the Boards

The assertion that

[p6]“(v) Boards have a statutory duty under Schedule 13 of the Education and Libraries (Northern Ireland) Order 1986 to ensure that children in their area are receiving efficient full time education appropriate to his or her age, ability and aptitude, and to any special educational needs that he or she may have, and that parents fulfil their duty in this regard”

... is simply wrong. Schedule 13 says no such thing and if it did then the Boards would be liable for every child failing within the school system. The Boards have no duty to ‘ensure’ that children receive an education. I notice that the draft does not quote the wording of Schedule 13 in the text, but in the appendices which quote an outdated version, with at least one copying error.

The legal duties of ELBs are outlined in Schedule 13 of the Education and Libraries Northern Ireland Order 1986 SI 1986/594.

“Part 1

1(1) If it appears to a board that a parent of a child of compulsory school age in its area is failing to perform the duty imposed on him by article 45(1)”...

“If it appears” is the crucial phrase (not ‘where it appears’ as quoted in the draft – that was the unamended version of the Order). All the duties and powers of the ELB in this regard stem from an appearance of failure to perform parental duties. If there is no such appearance then there is no duty of any sort imposed on the ELB; certainly no duty to go fishing for problems.

The ELBs have no legislative ability and cannot simply give themselves powers, particularly when those powers impact on human rights: the rights of children to an education and of parents to teach in conformity with their own convictions, as well as the right to private and family life for the whole family.

An example of a **good** policy on Elective Home Education can be found in Lancashire. The wording of the English legislation is the same as the Northern Irish Order. I am aware that Mike Snelson of the Lancashire Local Authority has offered to speak with the Boards about the Local Authority’s experience; I hope the Boards will avail themselves of his offer.

The Lancashire Policy can be found at <https://tinyurl.com/lancsHE> and represents, taken as a whole with the structures and procedures, an example of good practice. It is not perfect but would be a far better model than the controversial, and outdated, Birmingham County Council or any currently active policy in Northern Ireland.

Legal Principle

It is a fundamental principle of local, National and International law that parents are the best judge of their child’s best interest, the best advocate for their children and that by virtue of their connection with their children they are the guardian of first choice. This policy uses references to ‘safeguarding’ to remove education from the sphere of parental control. The overall tone is one of threat, constant unsupported references to welfare and safety create the impression that parents who do not comply educationally are liable to be evaluated as a danger to their children – and ultimately risk having their children removed.

The Minister and Department have repeatedly referred to the ‘balance’ to be struck between children’s rights and parental choice. I wish to state unequivocally that **there is no conflict in law between children’s interests and parental choice in the vast majority of circumstances**, and where there is a conflict this is most likely a far more serious problem than a lack of suitable education. Parents are advocates for their children. The state is the parent of last resort, and parental choice is at odds with children’s rights only in extreme situations.

Under this threat, parents are permitted to make only those judgements which are authorised, monitored and regulated by the authorities. The universal imposition of a state philosophy of education would have a profound effect; one that would reach beyond the scope of this policy and beyond Northern Ireland. The removal of a fundamental legal duty from parental control is not a precedent that should be set.

Home education represents the most flexible and personalised form of learning. As home education is co-constructed within families it cannot be planned, measured or evaluated according to the systems operating within schools. For the state to intrude into the private sphere to take control of education would impact children's agency, their privacy and their development. It would also fundamentally alter the relationship between parents, children and the state.

The United Nations Convention on the Rights of the Child is not incorporated into UK law, and in any case it is clear that the Convention does not require or permit the State take the place of the parent in taking decisions about the best interests (educational or otherwise) of their child, but rather emphasises the role of parents and family. The moral duty to take children's wishes into account is acknowledged by parents, what they struggle with is the idea that this is the idea that this could be well served by compulsory interviews by strangers and routine overruling of parental judgement.

The fact the UK is a signatory of the UNCRC does not place a positive duty to create laws in compliance with the UNCRC, rather it confers a duty to NOT to make law and policy that is in violation of the convention. Yet the requirement for home visits and assessment falsely presumes that the child would desire to have a stranger enter their home and ask intrusive questions about their learning, social, and emotional life.

The UNCRC is cited as a justification for a scheme that does not support the rights of the child. The rights of the child would be better served by one that gave due deference to the role of parents as advocate and protector.

Lacks evidential basis

In response to a Freedom of Information Request the NEELB states:

“With regard to research, the Board has not engaged any formal research programmes in this area. Policy development is however informed by the experience of the Board to date in the management of the area of elective home education.”

FOI response 07/08/14

Anecdotal evidence is no proper basis for policy.

No report has been published and no evidence has been provided to show either that there is a problem to be addressed, or that this policy will be effective in addressing it. No stakeholders were contacted prior to the draft of the policy, despite the fact that many home educators were attempting to make contact in late 2013 to offer their input. The sole justification offered is an undisclosed piece of legal advice in response to an unspecified and untried case.

Such solutions as are offered here should not be lightly adopted – there are serious human rights issues at stake with demanding access to private homes, and disrupting the ability of parents to meet their legal duties.

Opens the ELBs up to liability

The ELBs have taken upon themselves the responsibility for ensuring that *all* children meet very high welfare requirements, and for ensuring that *all* children receive a certain level of education. They assume responsibility for ensuring that parents meet “The child’s physical, social, emotional health and wellbeing needs” (p7, 5.) and that all children are “receiving efficient full time education appropriate to his or her age, ability and aptitude, and to any special educational needs that he or she may have” (p6, v). None of these requirements are written into the Education Order article 45 parental duty.

These responsibilities are not specific to home educated children, since they do not appear in the Education Act. These are heavy responsibilities indeed and, if they are successful in adopting them, if any child, at home or at school, should fail to receive the very highest standard of care they would be liable.

Conflation of welfare and education

The issue of safeguarding is referred to in order to justify the monitoring or investigation of EHE however, this is not a function which pertains to home education other than where there is existing evidence for concern, in which circumstances referrals should be made to the relevant agency. Throughout the document parents and family homes are treated primarily as potential risks, as fundamentally dangerous to children, while the ELB is assumed to be essentially reliable and trustworthy.

No system of checks or balances is introduced to protect families from unnecessary intrusion and interference. No acknowledgment is made of the dangers of such interference, or of the dangers (such as bullying, or academic failure) that home educated children may have already faced in schools.

The presumption should be that children are safest with their primary caregiver, and that the Boards should concentrate their efforts on improving the safety and education of children in schools.

Education and Welfare are separate areas. If an officer enters a home on educational grounds they should assess the education and the education only. An existing duty requires any welfare concerns which arise to be passed on to Social Services but without welfare concerns there is no justification for a welfare assessment. Interfering in a potential criminal case is inappropriate, unprofessional and places children at risk of harm.

The duty to educate under Section 45 of the makes no reference to the child’s best interest, only to their educational needs. The child’s best interest is a matter of judgement to be left to the parent except in exceptional circumstances. If the Education Officer believes that parents do not have their children’s best interests at heart then they have a duty to make what referrals they consider necessary.

The 'Minimum Standards' are ill-defined and susceptible to personal judgement. The parent of a child holds the legal duty to make these judgements precisely because they are best placed to do so. To disrupt this with the crude judgements of a government authority is both neither permitted nor required by law.

Two key issues arise from the confusion of roles and responsibilities between the Education Authority and the Social Services. First, one individual is being asked to carry out two distinct roles at once. Second, two agencies have responsibility for one task.

Confusion between different agencies as to who holds responsibility for safeguarding has had serious and sometimes tragic outcomes in the past. Social services should have control and all relevant data on welfare cases, other unrelated agencies should not carry out random parts of a delicate process. Particularly not where the other agency is attempting to institute a policy with considerable administrative overhead, little relevant training or expertise, and a limited budget.

Sufficient legal framework exists to protect children who need it. An EWO who makes appropriate referrals is fully meeting their legal duties with regard to safeguarding.

[Mandatory home visits](#)

No person, group or authority, not even the police except in very tightly controlled circumstances, has the right of entry into your home. This should be made very clear in the policy and no adverse conclusions should result from the refusal of a home visit.

The cost of such a scheme must also be considered. These visits, and the attendant administration will take considerable man-hours. Given that there is no specific budget for home education resources will have to be taken from other areas – areas of legal responsibility.

From my personal perspective I see no benefit in allowing somebody in to inspect my home. The stress and intrusion experienced by children alone would be considerable and the best possible outcome is that nothing happens as a result. To say that the risks outweigh the benefits would be an understatement. There are no possible benefits that I can see, and I would risk my children's wellbeing and education if I allowed it to happen.

[Requirement to register](#)

In response to a written question (AQW 30468/11-15 Tabled Date: 03/02/2014 Answered On Date: 11/02/2014) the Minister for Education states:

“Parents are not required to notify their Education and Library board that they intend to educate their child at home”

In response to a written question (AQW 9311/11-15 Tabled Date: 06/03/2012

Answered On Date: 26/03/2012)

“If parents choose to home educate there is no legal requirement for them to advise their Education and Library Board or the Department of their decision. “

And yet as well as gathering information from children who are deregistered, the document states an 'expectation' that parents will notify the board even where they have never been registered.

It is not clear what effect a failure to register would have on any future assessment but there is no legal duty on the parent to notify the Board, and therefore the Board has no right to this 'expectation'. A parent's ignorance of the expectation, or their decision not to comply, gives no indication of the education being provided and must not be considered as reason to flag a 'concern'. Since it is clear that not all applications will be successful the policy should also lay out an appropriate system of appeals.

The parent of a child holds the legal duty to provide an education precisely because they are best placed to make the necessary judgements and arrangements. It is illegal, and contrary to the stated desire to put the child's interests first, to disrupt this important relationship other than in exceptional circumstances.

It is also possible, with this policy, that the Principal of the school from which a child is deregistered would be committing an offense under the Data Protection Act and also (or alternatively) under Article 8 of the European Convention on Human Rights 1998 and therefore Section 6 of the Human Rights Act 1998, because the Principal would be disclosing information to a third party without proper lawful justification for doing so.

I would not voluntarily submit my family to registration with the attendant loss of privacy and risk of intrusion.

[Assuming powers to dictate the content of the education provided](#)

The document repeatedly refers to assessing the suitability of the 'programme', and suggests strongly that it must be judged acceptable before home education commences. There is no legal requirement for a parent to forward a copy of such a 'programme'. According to legal advice received by HEdNI

“On the contrary, if it is known to the board that the parent is home educating, then the board should presume that the parent is complying with its article 45 duty, just as much as if that parent were sending their child to school and that child were in regular school attendance; “

Home education represents the most flexible and personalised form of learning. As home education is co-constructed within families it cannot be planned, measured or evaluated according to the systems operating within schools. A suitable education need not involve a planned programme of study, but may instead develop organically to meet the child's needs. The concept of submitting a 'programme' (which you are then presumably required to stick to) is wildly inappropriate when applied to home education.

The idea that parents who have the legal duty to educate, must gain the approval of a body with no such duty before carrying it out, makes no legal sense.

Without explicit reassurance on this matter it has to be assumed that officers will not have extensive experience and training in home education methods and experience. Officers, qualified or not, have no legal power or duty to approve or judge the quality of home education.

My family takes an autonomous approach to education. We do not have a set programme or curriculum; rather we are guided by an educational philosophy which emphasises one-to-one support of our children's learning and development through their interests. I am concerned that this approach would be poorly understood and quite possibly disapproved of, lacking the accoutrements of school-style learning.

The approach we take has considerable support in terms of research and educational theory but has been wrongly seen as 'hands off', 'child led' or 'unstructured'. An inspector with a background and training in school teaching is poorly equipped to see, understand or value the learning that is taking place in my home.

Usurps the parental role

If the Education and Library Boards were to take over this fundamental parental duty to ensure that a suitable education is provided it would usurp the parental role, not only with regard to education, but also the parent's responsibility to judge and defend the child's best interest.

The presumption should be that parents are adequately meeting their legal duties. However, this policy leans towards a presumption that parents are untrustworthy and requires that they prove otherwise.

In fact the duty of the authority is primarily reactive; they must act if evidence comes to light that education is not being received. In the absence of concern there is no legal duty for a family to proactively demonstrate the worth of their chosen educational approach, in the same way that we are not required to proactively demonstrate that we are innocent of theft or child-neglect in the absence of reasonable concerns.

Budgetary and time constraints in the administration of this labour intensive process are liable to exacerbate the institutional prejudice evident in this document and promote snap-judgements.

Yearly monitoring

There is no legal duty to have *any* contact with a family in the absence of concerns. Ongoing monitoring is intrusive, expensive, unreasonable and disproportionate. It is also unlikely to provide a full and accurate picture of the education provided. Any report and/or visit will most likely reflect the parent's articulacy, and their skill at record-keeping and presentation more accurately than the education being provided.

Again, those skills which are essential for the administration of a school are being looked for and valued in home education, when they are entirely irrelevant.

Children who have been unhappy in school are likely to be fearful that they will be forced to return and should not be subjected to interview or assessment.

Direct access to home-educated children

There is no specific information given about in what circumstances the child will be interviewed, how a refusal to accept an interview will be interpreted, and what consequences there would be for a family that did not allow the officer to meet their child.

The UNCRC, on which the policy relies, has no legal force in Northern Ireland. Even if it did Article 12 requires five steps to be taken for the effective realisation of this right where the child is invited to give views in formal proceedings. These steps fall under the following headings: preparation; the hearing; assessment of the capacity of the child; information about the weight given to the views of the child; and, complaints, remedies and redress. None of these appear to be in place.

In the absence of welfare concerns (which should be referred to Social Services under existing legal duties) there is no need to speak to the child.

The draft is also not clear on what the effect of the child's view will be. The parent has a legal responsibility to provide a suitable education; the child's opinion is legally irrelevant. Many children in school are vocal in their desire to be elsewhere but their opinion is not sought or given legal weight.

I ensure that my children have a wide community of both adults and children to interact with, share their achievements with and if necessary confide in. We do not require the services of a stranger sitting in judgement to fill any of these roles, my children do not need to be submitted to interview and assessment.

Suitable materials were not made available to children to enable them to respond to the consultation in an age appropriate way. Focus groups should not be the only method offered, particularly given that no recording or photography was allowed.

Data protection issues

As well as the issues with Principals sharing information previously referred to, repeated reference is made to a database for Electively Home Educated children. It is not clear how the information would be acquired and what it would be used for.

The database would contain the most sensitive of personal information, many families would not be willing to consent to the process, it is unnecessary and no legal obligation requires it.

I am not convinced that such a database would be acceptable within the terms of the Data Protection Act and furthermore may contravene section 6 of the Human Rights Act.

The Welsh Government recently dropped plans to make home educating families join an official register, following an official consultation. Graham Stuart (Chair of the All Party Committee on Elective Home Education in Westminster) suggests in his letter to the Northern Irish Minister for Education that rather than pursuing such a register

“it would better for Education and Library Boards to concentrate on improving the support and resources available for home educating families, in accordance with their individual wishes”

8th May 2014

Loss of deregistration on demand

“[p5] 3. (ii) In cases where a parent may be considering EHE, it is the Board/ESA’s expectation that the school should advise the parent that the child or young person should continue to attend his or her registered school until such times as the programme is in place.”

The parent has the legal duty to provide an education. Where the education being provided by a school is inadequate, or the environment is unsuitable or dangerous, the parent has a duty to respond immediately, if necessary by removing the child. By preventing deregistration the Board would cause the parents to fail, and as such would be liable for their failure.

According to legal advice received by HEdNI,

“Regulation 4 of the Registration and Attendance of Pupils Regulations (Northern Ireland) 1974 (“the 1974 Regulations”) provides that a parent shall not withdraw their child from a school at which the child is a registered pupil, before “*acquainting the principal with [their] intention to do so.*” This does not require a parent to discuss the matter with the school principal, nor does it require the parent to ensure that a suitable home

education programme is in place first. In fact, in the case of *R v Gwent County Council, ex parte Perry* [1985] 129 Sol. J 737, a case where a local education authority in Wales (Gwent County Council) insisted that a child stay on in school until a home education programme was satisfactorily established, the court considered that the parents should be given time by the local authority to set up arrangements for home education”

The administrative burden of this scheme is considerable and without heavy investment in this unnecessary scheme families will be forced to endure considerable waits. During this waiting period the parents will be in dereliction of their legal duty to educate.

If the ‘expectation’ is no more than a hope then it should be explicitly emphasised that no adverse effects or conclusions would be drawn from a decision to remove the child immediately.

Many home educators use schools at some point as part of their ongoing provision of the best and most suitable education for their children. Preventing de-registration on demand would not only impact children in school, but also those who might otherwise be interested in trying it out.

Administrative Burden

This scheme requires many man-hours of administration, as well as the preparation and necessary travel.

The Boards, or the body that replaces them, will either have to allocate considerable resources to this project, which does not fall within their legal duties, at the expense of areas within their responsibility, or they can administer it slowly and ineffectually.

Families will also be burdened by the preparation necessary to provide information in the form required. Given that there is no duty for parents to report to the Boards, they should be allowed to concentrate their efforts on the education of their children.

I am personally confident that I am providing my children with an excellent education, I am also sure that I can present myself and my provision well. But why should I spend my time and effort on doing so? There is no advantage and considerable effort and risk in opening my family up to such scrutiny.

Conclusion

An effective home education policy should foster co-operation between the education authorities and home educating families, without demanding it. Supporting families to provide an excellent education for their children should start from the assumption that parents’ wishes are primarily informed and shaped by their unique insight into their children’s needs. A co-operative and trusting relationship between home educating parents and the Boards can only start from the basis of a policy drafted within the legal powers of the boards.

The policy as drafted cannot legally be implemented, and to attempt to do so would encourage the intimidation and bullying of new or vulnerable home educating families. I am personally regularly in contact with new home educators or those considering it; this policy scares them at a time when they are already concerned about their children and trying to find the best way forward for them. I see no benefit in this, unless the aim is to frighten them into remaining within the system, whatever impact it has on their children.

Already some families who have previously allowed visits are considering withdrawing from contact, the Boards have very limited trust and goodwill within the home educating community.

As a home educator I devise my children's education in accordance with their educational needs and interests and have no intention of meeting the expectations of the Board in this regard.

I believe that it is possible to create a supportive and effective working relationship between parents and the Boards. Home educating parents are ready and willing to engage and work with the Boards, but the Boards need to first move away from this adversarial approach towards consensus and support.

I suggest that the ELBs take this opportunity to show that they can act within the law, that they seek positive engagement with home educating families and that they can be trusted. The Lancashire system detailed in the tabs on this page <https://tinyurl.com/lancsHE>, provides a good starting point, when taken as a whole.

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 provision in this 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:

Other minority characteristics home educators may possess tend to be highlighted as problems and used to justify further intervention. For example home educating families have been flagged as an educational or welfare problem due to their religion, or lack of it, their age if they are unusually young or old for parenthood or their disability. The adversarial tone of this policy positively encourages the officers to find fault, which will exacerbate this problem.

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.