

Elective Home Education Policy (Draft)

Summary of Consultation

January 2015

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Executive Summary

The Northern Ireland Education and Library Boards' draft joint Elective Home Education Policy was launched for consultation on 28 April 2014 to enable those who have an interest in elective home education to register their views and opinions about its content.

Those invited to respond included families registered with the Boards for home education; all schools within the Boards' areas; the Boards' Section 75 Equality Consultees; the Children's Law Centre; the Northern Ireland Commissioner for Children and Young People; Home Education Northern Ireland and the Special Educational Needs Advice Centre. The draft policy and the consultation response pro forma were also made available on the Boards' websites at www.belb.org.uk; www.neelb.org.uk; www.seelb.org.uk; www.selb.org and www.welbni.org to enable anyone with an interest to participate in the consultation.

The purpose of the consultation was to obtain feedback on the draft policy for elective home education and associated procedures which included references to the legislative background; safeguarding; children with special educational needs; minimum standards; support for home educators and monitoring of elective home education programmes.

Two hundred and sixty four responses were received by the Boards by the conclusion of the consultation exercise on 27 June 2014. In addition, ten focus groups were held during the consultation period, which were attended by thirty seven parents and six young people. The written responses received were from home educating parents, home educated children and young people; school principals and teachers; members of the general public; political representatives; interest groups and others representing home educating families, organisations with responsibility for children and third sector organisations.

This consultation exercise highlighted a divide in opinion. Nearly all of home educating parents, home educated children and young people and organisations representing home educating families, locally, nationally and internationally were strongly opposed to the policy in its current format.

A number of other groups which responded were of the view that legislation should be introduced to ensure home educated children received a suitable education and that necessary safeguarding arrangements were in place.

In general, respondents were opposed to the application of the law in this area, specifically with regard to Human Rights (right to privacy), safeguarding and the definition of a 'suitable education'.

A number of broad themes have emerged from the views expressed as a result of this consultation. These include:

- No clear rationale or research base for the creation of such a policy;
- Concerns around the interpretation and application of legislation as quoted in the draft policy;
- Objection to perceived regulation and interference by the state into the rights of parents to educate their children;
- The opinion of some respondents, who represent the interests of young people, that the policy is not sufficiently forceful in respect of mandatory registration for all home educated children;
- The need for processes to be established which would enable the relationships between the Boards and home educating parents to be improved;
- A lack of understanding around the ethos of home education and of the reasons why parents decide to home educate;
- An absence of appropriate professional development for those Board officers who have responsibility for home education.

Section 1: Introduction

The Education and Library Boards have, since their inception in 1972, been committed to excellence in the delivery of education, in order that all pupils can realise their potential and contribute to a caring, inclusive and progressive society.

The Boards recognise the right of parents to make provision for the education of their children 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.

For the 2013-2014 academic year 335,446 pupils were registered in schools within the Education and Library Boards. 227 children from 142 families are registered with the Boards as being home educated. This figure of 227 children represents 0.068% of the school population.

The purpose of this paper is to provide a report on the responses to consultation, which was carried out from Monday 28 April to Friday 27 June 2014, regarding the Boards' Elective Home Education draft policy.

Sections 3 and 4 of this report provide an analysis of the responses received following consultation. Final decisions on the redrafting of the Policy on Elective Home Education will be the subject of future work streams.

Section 2: Methodology

2.1 The Consultation Strategy

The Education and Library Boards are committed to consulting with and engaging local people in the planning and delivery of all services. The strategy, which the Boards adopted for this consultation, endeavoured to enable those who have an interest in elective home education and other members of the public to comment on the draft policy and encourage user involvement to support the decision-making process. (A copy of the consultation strategy and the consultation pro forma are appended at Appendices 1 & 2).

Throughout the process, the Boards have attempted, using the use of a variety of mechanisms, to achieve a meaningful engagement with all stakeholders, having due regard for their Section 75 equality obligations.

As such, the Boards, mindful of the accessibility issues faced by some who wished to provide feedback about the draft elective home education policy, considered such requests to make all associated documentation available, in different languages and formats as appropriate and as reasonably practicable.

The methodology for consultation comprised:

1. Pre consultation Publicity

To ensure maximum awareness of the draft policy, the Boards corresponded with those parents within the Boards' areas who had informed the organisations that they are home educating. Such correspondence advised them of the existence of the draft elective home education policy and the consultation process that took place from Monday 28 April to Friday 27 June 2014.

2. On-line Consultation

With effect from 28 April 2014 information was made available on the Boards' websites and included the draft policy and a short questionnaire.

3. Consultation with Key Education Partners

Consultation with key education partners took place during the period April – June 2014.

4. Consultation with Young People

The Boards recognise the importance of the views of children and young people in policy development. Consultation methods which are age appropriate were used with the prior permission of parents.

5. Communication with Equality Consultees

To ensure compliance with the Section 75 equality legislation, representatives of the designated equality groups were invited to participate in this consultation exercise. All equality consultees were advised of this consultation via e-mail in April 2014 and directed to the consultation documentation available on the Boards' websites. (A list of all equality consultees is at Appendix 5.)

2.2 Consultation Responses

The consultation process used a consultation response pro forma, which included a short questionnaire with 15 questions (Appendix 2). This was made available via the Boards' websites. Printed copies were available on request.

As is common with exercises of this kind, some respondents answered in general terms rather than specifically addressing the questions posed in the response pro forma. 59 respondents used the pro forma provided and Appendix 3 provides a quantitative analysis of the completed questionnaires.

In total 264 individuals and groups responded to the consultation (table 1). However, it should be noted that 53 of these respondents made multiple responses to the five Education and Library Boards regarding the draft policy including completion of the response pro forma, representing both their personal view and the views of a representative group; by e-mail; and by e-mail or letter to the Department of Education of Northern Ireland (DE). Each of these multiple responses has been counted as one response (table 2). Seven of the responses received were from respondents located outside of the United Kingdom.

Table 1: The number and categories of respondents were as follows:

Respondent Category	Number	Percentage of Total
Parent/Guardian	51	19.3
Pupils	2	0.8
Schools	7	2.7
Key Stakeholders	4	1.5
Others: political representatives	13	4.9
Others: interest groups	17	6.4
Others: general public	166	62.9
Equality Consultees	4	1.5
Total	264	100.0

In addition 37 parents attended eight focus groups and six children and young people attended a further two focus groups. Almost all of the parents who attended focus groups also completed pro formas and forwarded other correspondence in response to this consultation. It should be noted that the same views were expressed through these different methods.

Table 2: Detail of how responses were received:

Method:	Number	Percentage of Total
Response Pro forma [≠]	59	22.3
E-mail correspondence other than pro forma	123	46.6
Letters	59	22.3
Forwarded e-mails or letters from DE	23	8.7
Total	264	100.0

[≠] Almost all of the response pro formas were forwarded by e-mail

On-Line Petition

One petition from mail@changemail.org with 3,300* signatures was forwarded from the Department of Education Northern Ireland (*as advised by DE). The subject of the petition, initiated by Home Education Northern Ireland (HEdNI) was: 'The Northern Ireland Education and Library Boards, and the Minister for Education: we ask you to ensure that the Education and Library Boards' policy on home education accurately reflects their legal duties and powers; and respects the parent's duty to provide an education'.

The 3,300 signatories to this petition were nearly all from respondents located internationally and from other parts of the United Kingdom, with approximately 4% from respondents within the jurisdiction of Northern Ireland.

Government guidance indicates that e-petition signatories must provide information such as name and contact address, for the petition to be considered as valid. By 27 June 2014 – the

closing date for consultation, signatories to this e-petition had not provided a contact address by e-mail; by postal address; or by post-code which would enable the Boards to validate a sample number.

The responses received during the period of consultation, about the draft policy, have provided a valuable insight into elective home education. The Boards would like to thank respondents for taking the time to share their views.

Responses have been collated and summarised for each category of respondent as per specific headings in the draft policy, and represent the outcome of the extensive consultation undertaken.

2.3 Response pro forma – analysis of quantitative data

The consultation response pro forma was designed to offer respondents the opportunity to submit views on the draft policy. In addition, the pro forma included specific questions in a short questionnaire which would allow officers to analyse respondents' views.

Not all respondents provided an answer to each question; however the majority of respondents completed the questionnaire and included a detailed substantial response.

The quantitative analysis is based on those who used the official consultation response pro forma. The results indicated that most of those who completed the questionnaire disagreed with each of the statements relating to this draft policy. Details of the results of the questionnaire, as completed by 59 respondents, are included in Appendix 3.

2.4 Analysis of qualitative responses

Qualitative findings reflect the views of all responses received via the response pro forma; by letter; or e-mail; or by submission and from focus group meetings.

Most respondents submitted comprehensive, detailed responses separate to the consultation response pro forma; all submissions have been taken into consideration as part of this summary report.

This document, where possible, sets out the findings under each heading within the draft policy, broken down by respondent type. The narrative which follows does not aim to capture every point raised by respondents, but rather highlight key issues and themes. Quotes have been taken from responses to emphasise certain points.

In this report, percentage response rates have been used in more general quantitative terms. Where general quantitative terms are used, they should be interpreted as follows:

Table 3: Percentage Response Terms

Almost/nearly all	more than 90%
Most	75%-90%
A majority	50%-74%
A significant minority	30%-49%
A minority	10%-29%
Very few/a small number	less than 10%

Section 3: Responses to Consultation

3.1 Responses from Parents/Guardians

Table 4: Number of Parent/Guardian Responses to Consultation received via:

Method	Number
Response Pro forma	30
E-mail	12
Letter	7
Forwarded e-mails /letters from DE	2
Total	51

Issues raised by Parents/Guardians

General

Almost all of the parents highlight their positive experiences of home educating and the benefits to their children. A key objection to the draft policy is the perceived interference by an 'unelected body' to interview or question parents or children in their own home (see also monitoring of home education programmes).

It is considered that the draft policy 'exceeds the scope' of relevant legislation by nearly all who express an opinion and is not legitimate without a change in existing law. Therefore the consultation is, they consider, 'nugatory'.

A significant minority of those who express a view, highlight that presently there is no register of parents whose children are privately educated. As such, this particular grouping is exempted from the attempted 'regulation' as per the draft policy.

The majority of respondents reference the discredited Badman (2009) recommendations into elective home education.

A minority of respondents consider there is no acknowledgement within the policy for special circumstances which may arise for individual parents who decide to home educate and a lack of an appreciation that 'one size does not fit all'.

Aims and Objectives

A significant minority believe the aims and objectives of the draft policy to be unclear. Additionally, a significant minority consider there is no research base which would facilitate the enforcement of this policy.

The purpose of the policy, as outlined within the draft, is deemed by a small number not to be within the remit of the Boards.

A small number perceive a 'lack of clarity' around the details of a supposed 'legal threat' as the rationale for this draft policy. A minority conclude it is unclear as to whether the document is guidance or policy, as these terms are used interchangeably and is confusing for the reader.

A small number state that there is a failure to take account of best practice as described in the 'Practical Guide to Policy Making' issued by OFMDFM. Furthermore, the policy document does not define success, has not assessed alternatives, does not contain an impact assessment and is incomplete.

Legislative Background

It is the opinion of almost all those parents who participated in the consultation exercise that the Boards have 'no legal power to introduce this scheme'. Their rationale is that parents have responsibility for their own children's education. These respondents also reiterate that the Boards are acting outside of the scope of their legislative powers.

A small number determine that the Boards are presently acting 'above the law' as they believe that the existing actions of the Boards are illegal. A significant minority are of the view that 'although the policy will not be legally binding, many parents will not realise this and will feel compelled to subject themselves to intrusive and unreasonable monitoring'.

These respondents also consider that the scope of the power given to the Boards, under the Education and Libraries (NI) Order 1986, concerns the Boards' responsibility to ensure that there sufficient schools for provision of primary and secondary education (Article 6 [1]). Home education, they believe, is not within this scope.

A small number of respondents consider that there is an effort on behalf of the Boards to present this draft policy as a minor local change when, in effect, it would result in a serious impact on home educators across Northern Ireland.

Most respondents consider the draft policy suggests that home educating parents are guilty of a particular crime and have to prove themselves innocent. They also believe this draft policy to be an infringement of the European Convention on Human Rights Protocol 1 Article 2 and Article 8 with regard to Right to Education and Right to Respect for Privacy and Family Life (see also Monitoring of Elective Home Education Programmes).

A significant minority contend that the law around elective home education has been misinterpreted, misused and misquoted in this draft policy.

A small number contend the draft policy does not explain the legal basis of the withdrawal and de-registration of children from school. Furthermore, it does not explain the legal basis of, or the procedure for, the withdrawal and de-registration from school of children with a statement of SEN (see also Procedures for EHE).

Safeguarding

In respect of safeguarding, the majority of respondents in this category believe that current provision is sufficient for local authorities to intervene where they suspect home education is failing. They consider it was not the role of the Boards to investigate cases of child abuse or neglect, but rather the responsibility of Social Services.

Concerns are articulated by a majority of parents about the link and confusion between home education and child welfare which prevails in the draft document. They believe the focus in the policy on safeguarding for children who are home educated is 'not proportionate'. Evidence provided by one Board to an individual respondent indicates that of all the families registered with that Board, there is no evidence to indicate that any of the children are at risk.

Procedures for EHE

In Section 3 para (v) the reference to statutory duty under schedule 13 is considered by a significant minority of respondents to be a distortion of the wording of the Education and Libraries (NI) Order 1986.

There is disagreement with the inference that, where a child is to be removed from school, the de-registration is conditional on the approval of the Boards. The same respondents also consider it to be illegal to delay de-registration once a parent has requested it (ref DE Circular 2010/07 Section 8, Code 3 and Section 14 (6) and Section 14 (6)).

A small number express the view that, in general, school principals are unaware of home education and what it entails.

A majority contend there is nothing in the legislation which gives Boards the power to ask for a programme to be provided when parents decide to home educate. Concerns around the establishment of a data base and its potential use are also highlighted.

Children with SEN

A small number of respondents observe that the extensive procedures outlined in the draft policy, referencing children with SEN, fail to acknowledge or recognise that when parents begin to home educate, they 'opt out' of the statementing system. The respondents also point out that parents have the choice to determine whether they would be well served to 'opt in' or stay out of the system.

These respondents also highlight that 'many SEN children may not feel comfortable having a stranger invade their homes and asking them questions' (see also Monitoring of Home Education Programmes).

It is also considered that this section of the policy does not adequately represent the legislation and regulations which pertain to children with SEN.

Minimum Standards

Almost all parents suggest that this section is 'ultra vires' as these minimum standards are parental responsibilities and reference that the Boards only have a responsibility to act if it appears that parents are not fulfilling their duty to educate in accordance with Schedule 13 (see also legislative background above) .

Support for Home Educators

It is the view of a minority of parents that:

- Liaison with home educators should be encouraged;
- Help and advice should be more readily available;
- Any regulation and monitoring should be 'light touch';
- No officials should ever be appointed to liaise with home educators who are either ex-teachers or social workers as they have a specific bias against home education;
- Vouchers for the purchase of educational material should be made available.

A small number of parents highlight the positive relationship they have established with the Boards. They indicate they have welcomed a 'named officer' into their home even though they not legally obliged to do so.

These respondents suggest that home visits should only continue on a voluntary basis as and when agreed by parents.

Monitoring of Home Education Programmes

The majority of parents express the view that Boards have no power to monitor, only to investigate if and only if it appears parents are failing in their duty (Article 45, schedule 13 Clause 1). They also indicate their strong opposition to any suggestion that children should be interviewed alone without the presence of their parents.

A small number of respondents highlight their experience of positive annual visits from Board officers and commend the approach by one particular officer 'the Officer is a positive person and willing to help if we need any advice'.

Others parents consider that Board officers are there to 'catch them out'.

A small number of respondents question the use of the word 'safe' with regard to the environment and consider that, in general, the content of this section is vague.

Children who are home educated are not at risk, therefore monitoring of home educating families is not required, is the opinion of a majority. They also believe that education is not an issue for social services and that home educated children are not hidden, but are a visible part of their community.

Other Issues

Parents believe it would have been beneficial if home educators had been involved at an early stage in the development of any policy concerning elective home education and indicate a willingness to participate with the development of any future policy.

Concerns are highlighted about the tone and manner of the draft policy and the timing of the consultation process, as well as a failure to identify those families which are not registered with the Boards. The Elective Home Education Policy established by Lancashire County Council is identified as a possible way forward for Boards. The recent perceived failure by the Welsh Assembly to regulate elective home education is also cited.

A majority of parents consider that, generally, the Boards have demonstrated a lack of understanding of home education, and associated policies are based on assumptions about home education as opposed to factual information. Also they consider there is no recognition that parents home educate because the school system has failed them and their children.

In addition, they suggest that parents have had cause to remove their children from state school due to bullying and because their gifted abilities were not being addressed. To be regulated by the same authority which they consider failed their children is not something they would support.

3.2 Responses from Pupils

Table 5: Number of Pupil Responses to Consultation received via:

Method	Number
Response Pro forma	1
E-mail	1
Total	2

Issues raised by Pupils

One of the respondents highlights the benefits experienced through home education and expresses concerns about the consequences should children lose the right to be home educated.

The other respondent also articulates support for home schooling and indicates that strangers should not visit their home.

3.3 Response from Schools/Teachers

Table 6: Number of School and Teacher responses to Consultation received via:

Method	Number
Response Pro forma	4
E-mail	3
Total	7

Issues raised by Schools/Teachers

Two responses were submitted by school principals from post-primary schools and indicate support for the draft policy as they consider it provides relevant appropriate information.

One of the principals suggests that ‘while the content is helpful, it does not answer questions for both parents and school principals’. In particular, the view is expressed that principals are often asked to provide advice by parents regarding elective home education as an option. As such, it would be considered helpful if DE were to ‘provide a guidance document for principals, parents and children about elective home education and the associated legal framework’. The principal considers it would also be helpful if such guidance could contain exemplar programmes to enable schools to advise parents accordingly.

Responses were also received from five teachers. One teacher has concerns about the ‘suitability frequency and standard of education being offered to some children who are home-schooled and worries about the monitoring of the same’. The teacher continues ‘home schooling is the right of parents, as long as the best interests of the children are being met and a good quality of academic education is being provided’. Furthermore ‘there need to be systems in place to track children who are no longer in full-time mainstream education, to ensure that all their needs are being met fully and that they are being equipped appropriately for the adult/working world’.

Another teacher is of the opinion that ‘the draft policy is very negative in tone’. This teacher also believes ‘home educated children regularly outperform their peers both socially and educationally’. In effect the teacher does not ‘support the proposed policy’ and considers ‘that it should be abolished as its negativity and intrusive proposals are not helpful, but detrimental to home educators’.

Some teachers question why, if there is no evidence that home education has failed, the Boards are seeking new powers. It is perceived that the draft policy undermines the right of

parents to teach their children in accordance with their wishes, and could create an atmosphere of suspicion around home educating families. This could, as one teacher commented, be tantamount to 'state sponsored child abuse'. One teacher also states 'many people will be concerned that Boards appear to be interfering in family life'. The teacher notes that parents know what is best for their own children and that, currently, local authorities can only intervene when they suspect that home education is not working. The teacher worries that Boards might consider interfering in family life when no concern exists. Another teacher comments that 'children flourish most in a strong family environment.....where their physical, social, emotional health and wellbeing can be best met'.

A teacher points out that the wishes of parents to elect for home education, places them in a strong position, as it is within the law and does not impose a burden on public expenditure. It is stressed that the law does not allow for DE or the Boards to delay a parent's choice to home educate.

Concerns are expressed about the repeated emphasis on safeguarding, welfare, and checks, which could be seen to be insulting to parents and implies that parents who elect for home education may be child abusers. It is proposed that, if home educators require registration, every parent should be registered for checks to ensure they are feeding and clothing their children properly.

One teacher contends that parents remove their children from state schools for a variety of valid reasons e.g. bullying or special education needs which are not being properly addressed. These parents do not want regulation by the same authorities which have failed their children in school. The Boards have no legal power to do this and any change should be made by the Northern Ireland Assembly. It is recommended that these proposals are dropped and that Boards work with parents to adopt a supportive and positive approach to home education.

3.4 Key Stakeholder Responses

Table 7: No. of Key Stakeholder Responses to Consultation received via:

Method	Number
Response Pro forma	1
Forwarded e-mails or letters from DE	1
E-mail	2
Total	4

Issues raised by Key Stakeholders

3.4.1 Children's Law Centre Response

The Children's Law Centre (CLC) is broadly in support of the draft policy for Elective Home Education as it believes this will provide greater clarity and a consistent framework for the operation of home education of children and young people. As a children's rights organisation, CLC's comments are specifically and solely focussed on children's rights, in particular the right of all children to enjoy excellent quality and effective education as enshrined under Articles 28 and 29 of the UNCRC. CLC also points to rights under Article 2 of the First Protocol to the European Convention on Human Rights as incorporated by the Human Rights Act 1998 which provides that no one shall be denied the right to education. This has been interpreted by the European Court of Human Rights to mean that every child is entitled to access effective education. Moreover, taken together with Article 14 ECHR, non-discrimination principle, the right to access available educational facilities must be secured to all children without discrimination.

CLC points out that the United Nations Convention on the Rights of persons with Disabilities (UNCRPD) impacts on all aspects of the human rights of persons with disabilities, including children, who are provided for specifically in Article 7. This provides that children with disabilities have the right to have their voices heard when decisions are being made about them; that their best interests shall be a primary consideration in all actions concerning them and that they shall access all of their human rights (including education) on an equal basis with children who are not disabled. Article 24 provides that people with disabilities have a right to education without discrimination along with the right to access an inclusive education system. They should not be excluded from the general education system on the basis of disability.

CLC makes a number of specific comments with regard to the draft policy on Elective Home Education, including:

- CLC welcomes the emphasis in the draft policy on the UNCRC and would be supportive of the removal of the text, 'Although not legally binding' as it believes that this undermines the commitment of the Board's to the obligations under the UNCRC. The UNCRC is a set of non-negotiable and legally binding minimum standards and obligations in respect of all aspects of children's lives which the Government has ratified. The UK Government as a signatory to the UNCRC and all of the agencies of Government are therefore obliged to deliver all of the rights contained within the Convention for children and young people;
- Paragraph 6 of the proposed policy should be reviewed and amended to indicate that the Boards will support parents and work toward sharing best practice as well as being available for advice and support when problems arise. CLC believes the new policy offers an opportunity to develop a true spirit of partnership and co-operation between the Boards and home-educating parents. The establishment of a clear framework would benefit children, parents/carers and Boards by removing uncertainty about how the system operates and providing a fair and reasonable structure for the provision of home-education;
- CLC welcomes the intention to involve the child in the monitoring of the Home Education Programmes in line with Article 12 of the UNCRC and would be keen to find out what methods will be used to obtain the child's views about all aspects of the child's education, including those children with a disability who may require tailored assistance in order to share their views;
- CLC is not convinced that Paragraph 4 (ii) accurately reflects the legal position. The reference in the last sentence to Circular 2010/07 seems to be misplaced in the context of this paragraph. The approval/consent of the Department of Education is only required where a Board proposes to make special educational provision in an 'institution' in Northern Ireland other than a grant aided school, as per Article 12 of the 1996 Order; and
- CLC notes that the draft policy is clearly a policy proposal for the purposes of section 75 of the Northern Ireland Act 1998 and must be subject to screening and consideration. Boards should ensure that any screening decision is informed by relevant data which provides detailed information about the children who will be impacted upon by the policy proposals, giving consideration to the need for a full EQIA if necessary. Without reliable and comprehensive baseline data on the multiple identities of children under the age of

18, any assessment of the enjoyment of equality of opportunity on young people cannot and will not be sufficiently robust and accurate.

3.4.2 Home Education Northern Ireland

Aims and Objectives

The draft policy states 'the aim of this guidance is to provide information about the arrangements to be made by the Board for ensuring that the parents of children and young people who are electively home educated provide an efficient full-time education for their children appropriate to their age, ability, aptitude and any special educational needs they may have'.

Home Education Northern Ireland (HEdNI) challenges the use of the word 'ensuring' as it states 'the Boards have no duty to 'ensure' that children receive an education, the word appears nowhere in the relevant legislation, and yet that word continually comes up in relation to the Board's duties'.

HEdNI contends that the aim of the policy is 'self-protection' rather than the 'rights of children' in light of a recent tribunal involving the NEELB. However, no case could be brought against a Board for failing to ensure an education to a home educated child as the 'duty to educate is given to parents under Section 45 of the [1986] Education Order'. Legal advice, obtained by HEdNI, states that 'the duty being described as the Board's duty in this section of the draft policy (i.e. section 3v), is in fact a parental duty and nothing whatsoever to do with the Board'.

HEdNI also wonders 'why, given the opinion of the child is of such value, the Boards did not make significant efforts to ascertain the views of children on this draft. One focus group does not make up for a lack of the simple English version of the policy and response pro-forma to enable them to understand and respond'.

Legislative Background

Page 4 of the draft policy refers to the provisions of Article 44 of the Education and Libraries (Northern Ireland) Order 1986. HEdNI maintains this Article 'is concerned with a general principle, rather than a duty. It is something the Boards should pay attention to, but they are not obliged to carry it out in the same way as a rule or command. Quite the opposite; Article 44 is about protecting the state from parents' demands (for example for certain types of school) while enshrining a certain amount of parental influence, rather than imposing a duty

on the state to act'. HEdNI also contends that Article 44 does not apply to home educated children, as it 'mentions pupil rather than child and home educated children are not pupils'. Reference is made to a Judicial Review in support of this argument.

On page 6, the draft policy states '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'. HEdNI asserts that Schedule 13 'says no such thing' and, in fact, the Boards are acting beyond their legal powers.

HEdNI insists that 'to interpret the Boards' duties as properly expressed by this policy would be to disregard primary legislation as well as the case law, related jurisprudence, experience and ministerial guidance of England where the wording of the relevant legislation is the same'. A specific response from the BELB acknowledges the relevance of both English case law and guidance.

Reference is made to the UN Convention on the Rights of the Child on page 4 of the draft policy. According to HEdNI, this Convention was also quoted to the children's focus group in Antrim on 28 May 2014. HEdNI further states 'the convention is, as noted in the draft, not legally binding, containing no controlling language or mandates'. Also 'it is clear that the Convention does not require or permit the State to 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'.

HEdNI quotes the Minister for Education on 2 June 2014 'the process came about as a result of legal advice given to the North Eastern Education and Library Board, which then proposed consultation on guidance'. HEdNI questions why this legal advice has not been produced and expresses concern 'that no legal advice was taken on the interpretation of legislation'.

HEdNI believes the Boards' approach usurps the parental role. It argues 'the presumption should be that parents are adequately meeting their legal duties and that there is no conflict between children's rights or best interests and their parents' wishes'. The proposed approach points 'towards a presumption that parents are untrustworthy and requires that they prove otherwise'. It goes on to state 'in fact the duty of the authority is reactive. While the Boards certainly must act if they are presented with evidence that no education is being

provided, there is absolutely no justification in law to seek out problems or to require that a family proactively demonstrates the worth of their chosen educational approach ...’.

Safeguarding

HEdNI is concerned with reference to the Children (Northern Ireland) Order 1995, Part II. Correspondence with Boards failed to identify the particular sections of this Order relating to the draft policy. HEdNI asserts ‘that the power must be cited when demanding entry to the home and access to children, rather than a general reference to an Order comprising 185 Articles, none of which are directly applicable to the subject of this draft policy according to our own legal advice’. References are made to paragraphs 17 and 18 of the Order and HEdNI speculates on how this legislation might be considered to give extraordinary rights of access to the home and home educated children. It is considered offensive and unsupported by law or evidence ‘to assert that children who are home educated are prima facie ‘in need’ according to this definition (paragraph 17)’.

HEdNI emphasises that the draft policy is littered with references to ‘welfare’ and ‘safeguarding’, where it should address the specific duties under Section 13, which refers only to education. The tone of the document is considered ‘adversarial and threatening. No reason is offered why these children should be considered at risk, no evidence or justification is given’. The approach is viewed as problematic on many levels:

- The Education and Libraries Order 1986 contains no duties or powers relating to welfare, on parents or on the Boards;
- The welfare rationale for the draft is entirely unstated, and no evidence is referred to in the document. It is very poor policy making to work on unstated and unsupported assumptions;
- It is unacceptable to claim that a particular group is more likely to pose a danger to their children rather than investigating concerns on a case-by-case basis;
- A conflict is assumed between parental choice and children’s rights; and
- Most importantly the conflation of education and welfare is liable to cause confusion, unnecessary referrals and increased overheads, putting children who are genuinely in need at greater risk of being overlooked.

Procedures for EHE

The draft policy relates to Article 3 of the Children (Northern Ireland) Order 1995. HEdNI contends that the Order ‘applies only to the courts and surely has no bearing on deregistration’. Also ‘if the link between deregistration and Article 3 is more than a drafting

error then it appears to be an attempt to restrict deregistration and impose the judgement of the Board at that time, which is unacceptable. Home education is a legally sanctioned option and not a valid concern’.

HEdNI considers the correct order of action by Boards seeking to make enquiries or to take action is:

1. Assumption of compliance with the law
2. Concerns raised (external force)
3. Informal procedures
4. Statutory procedures
5. Court proceedings

According to HEdNI, ‘to apply statutory procedure, before proceedings occur, is to ask for evidence of innocence from those about whom there are no concerns. This makes a mockery of the presumption of innocence’.

Section 3(ii), with regard to registering a child for home education, states ‘where a child has never been registered in a school it is the Board’s expectation that parents would notify the Board that they are home educating their children and follow the arrangements in this guidance’. However, HEdNI quotes DE in stating that ‘there is no legal duty for parents to register as home educators’. Also there is concern that having to do so ‘effectively requires a parent to apply for a license to carry out their legal duty and there is a clear implication that not all registrations will be accepted. 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’.

Section 3(vii) relates to the use of Code 3, a temporary code ‘to record the period of absence between when the parent informs the school that they intend to educate at home until the issuing of the certificate of attendance (SA1). When SA1 has been issued the pupil may be removed from the General Register’. In response to this HEdNI concludes ‘there is no ability to delay deregistration in law, there is no discretion on the issue of SA1 and it should not be turned into a de facto notification (or indeed application) to home educate’. HEdNI continues ‘the parents’ ability to meet their legal duty would be significantly

undermined by any institutional delay. The child's well-being and education would be harmed and the Boards would be responsible in law'.

HEdNI is concerned that 'no allowance is made for what is commonly known as *'de-schooling'*, a period of time where the child and family recover from the stresses of school. In this period little that would be demonstratively educational takes place, but it is crucial for the success of home education. The programme cannot be in place ready for the child to leave school and begin as the draft requires'. Legal advice sought by HEdNI declares 'at Section 3(ii) of the draft policy it is stated that it is the Board's expectation that a school should advise the parent that the child or young person should continue to attend school until such times as the programme is in place'. However, this is to impose a burden additional to law. The law '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'.

3(vi) of the draft policy states 'the Board's named officer for EHE has responsibility for maintaining the database, making decisions with regard to the appropriateness or otherwise of the programmes and ensuring that families with children who are home educated are visited at least once a year'. HEdNI argues that '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 effects should result from the refusal of a home visit'.

HEdNI has concerns in respect of schools notifying the Boards' Education Welfare Officers. Legal advice suggests this action may encourage school principals to breach the Data Protection Act 1998 and also may contravene Article 8 of the European Convention on Human Rights and Section 6 of the Human Rights Act 1998 as 'the principal would be disclosing information to a third party without proper or lawful justification for doing so'.

The use of a database also concerns HEdNI as '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. We are not convinced such a database would be acceptable within the terms of the Data Protection Act'.

Children with SEN

HEdNI reports that parents home educate their children with SEN for a number of reasons and many 'have come to a decision that a home education provides a superior alternative (to school)'. There is concern that parents' expertise regarding their own children is not acknowledged in the draft policy and particularly with a comment in minutes of a meeting between the Boards and DE in October 2013 which read 'the ELBs queried whether the statementing procedure took precedence over the parent's choice to EHE'. HEdNI contends 'we would firmly assert that the statement is binding on the Boards, not parents, and cannot take precedence over the legal exercise of a parent's choice in pursuit of their legal duty to educate'.

The draft policy indicates that children with SEN must demonstrate progress. HEdNI states that 'nowhere in the text is a similar demand placed on all home educated children. This is clearly discriminatory, as it places demands on children with SEN that are uniquely tied to their disability. There is also no legal requirement for 'progress' in the Education Order. The draft further suggests that their de-registration is conditional on Department of Education approval'. There is concern about a lack of clarity whether the assessments mentioned would be at the request of, or with the consent of the parents and the possibility of assessments being ordered against the wishes of the parents. Conversely, 'if parents wish to voluntarily initiate access to this service, then the policy provides no mechanism for them to do so'.

HEdNI believes that restricting an educational psychology assessment to children with SEN applies a different standard with regard to other children and is potentially discriminatory. In Section 4(ii), the draft policy states that DE 'is required to name anything other than grant aided school provision in a child's Statement of Special Educational Needs. In accordance with the statutory rules for Northern Ireland 1974, Number 78 and Department of Education Circular 2010/07'. However, legal advice obtained by HEdNI contends that this is 'a complete misstatement of the law. In particular, Article 10 of the Education (Northern Ireland) Order 1996, which itself is entitled '*special educational provision otherwise than in a grant aided school*' states that a Board may arrange for the special educational provision (or any part of it) to be made in Northern Ireland otherwise than in a grant aided school'. The legal advice continues 'Article 12(1A) clearly states that these provisions do not apply to a Board deciding for the purposes of Article 15(5) whether a parent has made suitable arrangements'.

HEdNI is concerned that the draft policy implies that it will require an annual review and special permission from DE before a child with a statement can be home educated. The draft policy signposts the 1974 Regulations and 2010 circular but neither of these documents make any reference to SEN statements: the relevant legislation is Article 10 of the 1996 Education Order and parts IV and VI of the SEN Code of Practice.

HEdNI refers to BELB Minutes of 24 October 2013, in which 'Boards asked if DE could provide clarification on the position in relation to children who have a statement of special needs which has been agreed by the Board, but where a parent then elects to home educate and has, therefore, technically opted out of the statement process'. HEdNI wishes to make the point that 'very few families receive any of the provisions that is in a statement of SEN once the parents have elected to home educate their child. While some parents do want the statement to remain in place with a view perhaps to returning to the school system in the future or having access to specialist teachers, others would prefer to have the statement ceased'.

HEdNI has deep concerns about the impact that home visits will have on the emotional well-being of children with SEN. A quote is supplied from Autism in Mind (AIM), a national campaign and support group for parents and carers living with autism 'children with autism find change very difficult and often hold fixed and rigid views about people and the places where they are used to coming into contact with that person. If a child is used to seeing a teacher in school then bringing that person into their home places that person out of context in their minds and they can find it very difficult to interact with that person ...'.

Minimum Standards

HEdNI argues that 'no system of checks and balances is introduced to protect families from unnecessary intrusion and interference. Education Officials have no legal duty or power to assess the safety of the environment, or the child's physical, social or emotional health. They have the same duty as all of us ... to report any concerns to the appropriate agency'.

HEdNI believes that the minimum standards are ill-defined and would be judged subjectively. It questions how the Boards' Officers might judge the ability and aptitude of the child. Will they be applying tests of some sort? If so on the basis of what scale of achievement, educational philosophy and evidence? Will they be judging them inappropriately against the National Curriculum? Furthermore, 'the parents of a child holds the legal duty to make these judgements, precisely because they are best placed to do so.

To routinely disrupt this with the crude judgements of a governing authority is both illegal, contrary to the intention of the UNCRC and inappropriate’.

HEdNI states that the draft repeatedly ‘refers to assessing the suitability of the *‘programme’*, and suggests strongly that it must be judged acceptable before home education commences. The comparative merits of different educational methods and philosophies are a matter of opinion and considerable debate, there is no *‘gold standard’* of education against which *‘programmes’* can be compared’. Legal advice, obtained by HEdNI, states ‘Section 3(viii) of the draft policy appears to be requiring parents to forward a copy of their home education programme to the Board. But there is no legal requirement for a parent to do that, still less legal power for the Board to seek it. The Board only has the power to ask for information (or means of satisfying it) that suitable education is being provided’.

HEdNI questions why the draft policy refers to forms EHE1 and EHE2 yet fails to append these to the document. There is concern that there is a ‘very clear expectation that home education will resemble school-at-home, for example a timetable is requested and a space is provided to detail the parent’s teaching qualifications. This assumption is misplaced and this was acknowledged by the Boards in meetings with the Department of Education’. It is argued that the delivery of school-based education and home education cannot be compared.

Support for Home Educators

The draft policy states ‘the Board has no statutory responsibility to make a financial contribution to parents who chose to make educational provision for their child through elective home education. A list of useful resources is made available on the Board’s website’. However HEdNI is concerned with the cost to the Boards of drawing up the draft policy and carrying out the consultation exercise. Furthermore, it is anticipated that ‘yearly visits (at a minimum), safeguarding assessments, monitoring and intensive involvement in home education will take money and time’ and quotes the projected costs of a comparable scheme in England. HEdNI contends that ‘while it would not be possible to make a direct comparison, we are convinced that the Northern Irish Education and Library Boards should invest proportionally significant funds in providing an unmeasurable solution to an undemonstrated problem’.

HEdNI believes that in order to implement this policy, with its significant administrative burden, the Boards would either have to:

- divert funds from areas in which they actually have legal duties, such as schools, or
- place the burden on families and children, leading to long waits for crucial decisions.

According to HEdNI, ‘the money would be better spent on improving schools and the educational welfare of registered children, and administrative delays cannot be allowed to prevent parents from meeting their legal obligations to their children’.

HEdNI states ‘the experience of home educating families throughout Northern Ireland is very mixed. Stories of Board contact range from them being supportive, through misrepresenting the law, to outright harassment. Some parents are so concerned about their families at risk that they have been unwilling to attend focus groups or submit responses to the consultation for fear of becoming ‘*known*’. We have asked parents who home educate in Northern Ireland for their experiences, which inform the reading of the Boards’ proposals and our interpretation of the data above.’ It continues ‘hopefully this consultation will lead not only to the scrapping of the draft policy but also to an improvement in practice and in the relationship between home educators and the Boards’.

Monitoring of Home Education Programmes

HEdNI insists there is ‘no legal duty to monitor home educating families as a matter of course. Ongoing monitoring is intrusive, expensive, unreasonable and disproportionate’. Furthermore, ‘it is unlikely to provide a full and accurate picture of the education provided. The report and/or visit will most likely reflect the parents’ articulacy and their skill at record-keeping and presentation more accurately than the education being provided. Under the pressures of attempting to administer such a complex and labour intensive scheme with limited budget and personnel, it is highly unlikely that officers would be able to form a fair and complete picture of the education provided’.

With regard to direct access to the child, HEdNI comments ‘there is no specific information given in the draft about in what circumstances the child will be interviewed, how a refusal to permit an interview will be interpreted and what consequences there would be for a family that did not allow the officer to meet their child’. A quote from BELB Minutes of 24 October 2013 relating to a meeting between the Boards and DE states ‘Boards cannot access home educated children without the parent’s consent’. HEdNI refers to the UNCRC, which has no legal force, and the weight given to the child’s view in comparison to that of the parent who has a legal responsibility to provide suitable education.

3.4.3 Northern Ireland Commissioner for Children and Young People

Aims and Objectives

The Northern Ireland Commissioner for Children and Young People (NICCY) believes the provision of draft guidance and proposed standardisation of the policy across the five Education and Library Boards are positive steps.

Legislative Background

NICCY recognises the right of parents to home educate. It is understood 'that parents may wish to educate their children at home for a wide variety of reasons ...'. NICCY is pleased to see the inclusion of articles from the UN Convention on the Rights of the Child (UNCRC) in the draft policy. However, it would prefer the documents to be referenced in the main body of the document, rather than as an appendix, to 'clarify how these important principles may be effectively integrated into the guidance for elective home education'.

A key concern for NICCY is the child's best interests, as detailed in Article 3 of the UNCRC and referenced in the draft policy. NICCY states 'the ELB must take account of parents' views but also consider their responsibility to deliver on children's right to be safe: Article 19 of the UNCRC and their right to an effective education; Articles 28 and 29. The Office strongly agrees with the policy's statement that the welfare of the child is paramount and recommends that a guiding principle underpinning the policy should be what is best for the child'.

NICCY contends that one of the general principles of the UNCRC, i.e. Article 12 and the 'right of the child to express their views in decisions affecting them, and to have these views given weight in accordance with their age and maturity', is not addressed in the policy. NICCY recommends that 'ELBs emphasise the importance of taking into account the views of children in both making decisions about education as well as within the education process itself when providing guidance to parents who are home educating their children, or planning to do so'.

Safeguarding

NICCY regards the safety and wellbeing of the child as paramount and believes 'it is vital that effective safeguarding is in place to provide protection for every child'. There is no presumption that children who are home educated are any more likely to be subject to abuse than those attending school 'but these children have a right to a similar level of protection as other children'.

NICCY expresses concern in respect of safeguarding those children who have never been registered in school and thereby de-registered prior to being home educated. They contend 'it is difficult to discern how the ELB can take any steps towards the safeguarding of such children'. As such 'NICCY considers the proposed arrangements regarding safeguarding are inadequate. As a minimal requirement, ELBs should be aware of the location of all home educated children and the arrangements that have been made for them. Registration of all home educated children should therefore be mandatory'.

Minimum Standards

NICCY believes 'it is important not to undermine the principle of home education including arrangements that do not follow a 'school-type' curriculum'.

NICCY also considers 'the introduction of a home education policy should be regarded as providing additional assurance to these parents as the ELBs and education professionals seek to support their important role as educators'.

Monitoring of Home Education Programmes

NICCY contends 'it would appear reasonable for educational authorities to inspect arrangements for home educated children, as those in schools are inspected'. Furthermore, 'it is not acceptable to assume that children who are home educated are receiving a quality education if an effective monitoring system is not in place and such a system would simply be replicating the same basic monitoring experienced by educators and children in other educational settings'.

3.4.4 Special Educational Needs Advice Centre

The Special Educational Needs Advice Centre (SENAC) cannot support the implementation of the draft policy for a number of reasons and as a consequence disagrees with each point in the pro forma response.

SENAC's main concerns are:

- The absence of any comprehensive reason for the need to draft the policy and to propose change;
- The legal duty of the Boards has not been demonstrated satisfactorily;

- Concerns expressed that this policy will compromise and undermine many aspects of the UN and European Conventions relating to family life, freedom of choice and right to privacy;
- The policy outlines what could be perceived as intrusive powers and seems in contrast to those within other UK jurisdictions. No reason is presented to warrant the level of monitoring proposed comparable to other parts of the UK and no sound basis in law has been outlined for such a practice;
- The policy does not adequately recognise the right of parents to choose to home educate their child. It presents a perception that education is best when accessed within the state school system and makes no attempt to recognise or value parental or family choices or the individuality and wishes of a child and that for some children the state school system is not the environment that they need or want;
- The policy fails to demonstrate that the relationship between the education authorities and parents who choose home education should be founded in respect, support and positive communication;
- The absence of statistics and data relating to home education for example educational outcomes/attainment etc. and breakdown of characteristics of this group of children, gender, disability etc.; and
- Educational reform and practice should take account of the diversity of children's needs and provide systematic equality of opportunity for children with disabilities within their educational communities while recognising the right to have options on how and where a child can receive their education including home education if that is the choice.

3.5.1 Others: Political Representatives

Table 8: Political Representatives to Consultation received via:

Method	Number
E-mails	2
Letters	5
Forwarded e-mails or letters from DE	6
Total	13

Correspondence was received from 13 political representatives. Two e-mails and five letters were sent directly to the Boards and six e-mails or letters were forwarded to the Boards by DE.

Aims and Objectives

The view is expressed by a majority of respondents that there is no clear rationale contained in the policy as to the requirement for a policy of this kind. Also there is no evidence of a research or experience-based approach to justify the invasive policy of home inspection and private interviews with children.

Legislative Background

The point is made by a significant minority of respondents that similar proposals contained in the draft policy 'had to be dropped by the Westminster Government in 2010' and they express surprise that the same issues are 'being resurrected in Northern Ireland'. Concerns are also raised that the proposals contained in the draft policy are similar to the discredited proposals contained in the Badman Review.

It is emphasised that parents and not the Boards have legal responsibility for the education of their children and, as such, the draft policy has no provision in law and the Boards would be acting 'ultra vires'. Concerns are raised about the focus in the policy of an assumption of abuse rather than education, and the lack of information from the Boards for the legal basis for the policy.

It is suggested by many of the political representatives that there are already sufficient legal powers for Boards to intervene where they believe that home education is failing. This, coupled with an absence of evidence that the current legal arrangements have failed, means that 'the changes being consulted on are not necessary'.

A small number consider that the draft policy supports only the interests of the Boards and not the interests of the child needing 'elective home education', and suggest that the opinion of the Law Society be sought, specifically to act as advocates for children and young people. It is suggested that the introduction of a policy of this kind will make the Boards more susceptible to legal challenge which will incur significant financial costs.

A small number of respondents articulate that any changes to the present arrangements within Boards with respect to EHE should come via the Northern Ireland Assembly and elected representatives.

One elected representative is concerned 'that the policy will be largely unregulated and the methods of home education used will be restricted' and asks to be advised of what measures are in place to ensure any home inspections etc. are regulated.

Safeguarding

The point is raised that safeguarding responsibilities referred to in the draft policy derive from the Children (Northern Ireland) Order 1995. It is highlighted that the legal position is such that, whilst parents who choose to educate their children at home must inform the school of their decision to withdraw their child from school, there is no obligation to allow the Boards access to their homes [ref; R v Surrey Quarter Sessions Appeals committee, ex parte Tweedie (1963)].

Safeguarding is considered to be the role of Social Services and not the Boards and the draft policy is predicated on the presumption of risk to the child.

Procedures for EHE

With specific reference to Section 3(v) of the policy referencing schedule 13 of the Education and Libraries Order (NI) 1986, the majority of respondents contend that the Boards have no such duty; only if it appears that the parent of a child is failing to perform the duty imposed on him by Article 45.

Sections 3(viii) and 3(ix) highlight that the law neither permits nor requires families to submit their home education programmes for Boards to rule on their 'appropriateness or otherwise'.

Monitoring of Home Education Programmes

It is highlighted by the majority of respondents that annual monitoring prescribed by section 7(iii) would be inappropriate. It is deemed worrying that 'children questioned on their parents' personal faith, worldview, cultural beliefs and opinions' could potentially encroach on civil liberties.

The view is expressed that the proposed additional regulations would institute an overly intrusive licensing system and allow the Boards to register, monitor, inspect and interview home educators. Consequently this would mean a breach of Article 8 of the ECHR, and would result in 'stifling of the freedom of the family' and urged the Boards to 'walk away from it'.

Concerns are raised around the notion of intervention as suggested by the draft policy which may result in conflict between family and state, and the unwelcome influence of the secular state.

Issues with the maintenance of databases and compliance with Data Protection legislation are also highlighted by a small number of respondents from this category.

Other Issues

Concerns are raised by a small number about the approach taken to consultation by the Boards. Specifically that those families not presently registered with the Boards were unable to attend focus groups or participate fully in this consultation exercise. Similarly they highlight the absence of what they consider to be the adoption of appropriate media to publicise the consultation exercise more widely.

The tone and language used throughout the draft policy is considered to be inappropriate and somewhat cumbersome.

It is suggested by a small number of respondents that the Boards should seek to be explicit about what the problems are with elective home education so that possible interventions could be introduced without the need for the structures and processes outlined in the draft policy.

3.5.2 Others: Interest Groups

Table 9: Interest Groups to Consultation received via:

Method	Number
Response Pro forma	11
E-mails	3
Letters	1
Forwarded e-mails or letters from DE	2
Total	17

3.5.2.1 Centre for Personalised Education

Aims and Objectives

The Centre for Personalised Education (CPE) comments that this consultation is, 'de facto a Province-wide one'. It suggests that by splitting it between the 5 Boards, the Boards are avoiding both due process and proper scrutiny of the document which CPE deems unacceptable. CPE states that the policy seems to be 'fudged to fit the desired flowchart (appendix 1) which effectively is a permission and monitoring system. Although such a system might be desired by the Boards it does not fit with law'. It adds that education is not mentioned until the third paragraph which, it suggests, is clearly therefore not the thrust of the document despite its purported purpose.

CPE finds it interesting that, although legislation in NI is almost identical to the rest of the UK, and indeed has the same roots, the policy is interpreting the words and spirit of the legislation in a very different way to the other three territories. It states 'it could be said that the policy is an attempt to introduce rules and regulations without going through (due) parliamentary process'. CPE believes that within the proposed policy, legislation is carefully selected to support this aim and ignored where it disagrees. In particular it comments that the SEN section totally ignores the SEN code of practice 1996 and the 2005 Supplement.

Legislative Background

CPE believes that the policy is 'at pains' to point out that the UNCRC is not legally binding, however the policy proceeds to 'cherry pick' the bits it likes to use without context. CPE comments that the Education and Libraries (Northern Ireland) Order 1986, Article 44 refers to schooled children (pupils) and as such does not refer to home educated children therefore this reference is irrelevant. CPE further adds that Article 45 indicates the primary duty to educate the child lies with the parent.

Safeguarding

CPE has concerns that there is an emphasis on safeguarding which it deems as inappropriate, not least because it conflates the two issues of EHE and safeguarding. It believes 'there is also an implication that home educating puts children at risk when in fact statistically there is evidence that the opposite is true'. It argues that this leads the document from the outset to conflate education and welfare and adds that this 'is a dangerous thing to do, which has in England for example been instrumental in the death of Khyra Ishaq'. It suggests that the Boards' duties are confused and believes that 'a further panic is induced' regarding safeguarding, purely because a child is de-registered. It adds that the policy assumes the school somehow acts as a protector of a child's welfare and that without that protection the child may be at risk; an assumption which CPE believes is proven to be the very opposite of reality. It quotes 'children are statistically safer when home educated than when school educated'.

Procedures for EHE

CPE makes the following detailed comments in relation to procedures section:

- With regard to de-registration the policy states that those with parental responsibility will be advised to discuss the matter with the principal whereas the Statutory Rules for Northern Ireland 1974, Number 78 merely requires the parent to notify the principal;
- Unlike guidelines elsewhere in the UK, the policy does not recognise a settling in period or de-schooling or indeed anything that does not resemble a prescribed school at home model. As most examples of home education do not adhere strictly to such a model, this section is unsuitable;
- The policy states that the wishes of the child are to be sought 'where appropriate'. CPE assumes that the poor legal reference in the document is to the Children (NI) Order 1995 Article 3. It suggests, if this is the case, it should be noted that this article only refers to Family Court proceedings, not duties of the Boards;
- CPE points out that in Paragraph 3 (iv) there is a serious typographical error 'determine other services known to the child' should read 'determine which other services know of the child'. It considers this to be a very basic typing error which is indicative of the poor writing standard of the document;
- CPE believes there is an assumption that the procedure described in the Education and Libraries (Northern Ireland) Order 1986, Schedule 13 is an automatic one in every case and suggests that in fact this statutory duty only comes into operation where there are tangible concerns;

- CPE has concerns over the reference to ‘appropriateness of programmes’. It believes that if enquiries are needed then the Boards should be looking at suitability of provision and not programmes of work as these are not required in legislation. It states that a programme indicates a planned and preconceived learning schedule which does not allow for any other model such as autonomous, learner-managed, reactive, un-schooling etc. CPE further adds that many home educators do not follow programmes;
- CPE believes there are no grounds for compulsory visits under any circumstances and that this duty would give the local authorities powers beyond those the police currently enjoy with regard to the right of access to the home;
- CPE states that paragraph 3(vii) is a pointless process and is in conflict with the Statutory Rules for Northern Ireland 1974, Number 78. It comments that regulation allows for no delay whatsoever between point of de-registration, issuing Form SA1 and removing the child from the register. It adds that the circular referred to in the policy is also in conflict with this legislation as it provides a code to cover the unlawful delay. CPE suggests that the policy attempts to introduce systemic delays which are not acceptable; and
- CPE believes that the introduction of a compulsory visit, unsupported by legislation, therefore implies rights of entry not granted to anyone else including the police.

Children with SEN

CPE feels that ‘developmental issues’ is not a term in legislation and therefore should not be in this document. CPE makes reference to paragraph 4(i) which states ‘should any officer or parent have concern in relation to any developmental issues, these should be discussed on an individual basis with the parent, for example, special educational needs’. CPE comments that this sentence actually advises the parent to have a ‘word with themselves’ (on an individual basis). It adds that this is yet another indication of the poor writing quality.

CPE believes that the whole section on Children with SEN is inadequate as it does not reference real procedures regarding SEN and home education, for example, on asking for an assessment or which part of a statement applies to home education. CPE states that this section puts in place barriers to home education and includes procedures which are not present in either legislation or guidance. It suggests that the policy cannot legally ‘instate’ rules which are not supported by the legislation as new rules require due scrutiny through the NI Assembly. It further notes that ‘the Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs 2005 para 5.37 states that

parents [including those with children with SEN of course] have a right to educate their children at home’.

CPE contests that there is no requirement to wait for an annual review to change the SEN provision for a child. It states that ‘this is nonsense, as provision changes all the time in schooled children, for example, as the result of exclusion or a more suitable place becoming available or even the end of primary school; all of which usually do not coincide with an annual review date’.

Minimum Standards

CPE comments that the bulleted list of minimum standards has no foundation, precedent or support in case law. It adds that it is an arbitrary list. CPE states that in England there is eloquent case law, used in both Scotland and Wales, which defines a suitable education: ‘a *‘suitable’* education is one that ‘primarily equips a child for life within the community of which he is a member,’ rather than the way of life in the country as a whole, as long as it does not foreclose the child’s options in later years to adopt some other form of life if he wishes to do so. (R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust, 12th April 1985)’.

CPE deems the minimum standard that ‘the child is educated in an environment’ as, ‘ridiculous, not only because the home is presumed safe unless there are concerns to the contrary but also home education does not only take place in the home as in general terms it happens during all waking hours wherever the child happens to be.’.

Monitoring of Home Education Programmes

CPE comments that monitoring is not required as compliance is assumed in law and that there is no requirement to liaise with the Boards unless the Boards have tangible concerns about the education. CPE states ‘to introduce routine inspection and monitoring is at odds with the general tenet in law that there is an assumption of adherence to the rule of law (presumption of innocence)’. It believes that suggesting monitoring on ‘at least’ an annual basis, ‘invites Boards to become troublesome and intrusive’. CPE further adds that taking into account the child’s opinion is the duty of the parent, not the state. It quotes, ‘in published correspondence one of the Boards has claimed this duty arises from the Children (Northern Ireland) Order 1995 Article 3, however this article only refers to Family Court proceedings’.

Summary

CPE believes that the policy has been hastily put together, intimates without foundation that children become more at risk of harm when home educated, does not recognise current home educating practice or the success of those practices, invents procedures not supported in law, misinterprets legislation and has no recognition whatsoever that a large portion of home educated children do not de-register as they have never attended school. It adds that the policy is badly conceived, badly written, badly formatted, convoluted and not fit for purpose.

CPE recommends that the consultation is abandoned and a true and proper, province-wide consultation on guidelines brought in following robust research into elective home education as it is actually practiced today in Northern Ireland. It suggests that attention should be paid to existing and functional guidelines in the other three territories of the UK and, most importantly, the home educating community should be involved from the very start of the consultation.

3.5.2.2 Chartered Educational Psychologist

Aims and Objectives

The respondent, a Chartered Educational Psychologist, is concerned that there has been no identification of a ‘carefully catalogued and researched problem that needs to be addressed. In the absence of an established issue that demands a response, the recommendations that establish a mandatory monitoring system appear arbitrary and overly intrusive’. In the absence of research in the draft policy, the respondent speculates that the Boards have made assumptions about the overall wellbeing of home educated children, which runs contrary to the findings of research carried out by this respondent.

Procedures for EHE

The respondent is troubled by the wording in Section 3(v) of the draft policy, which states that it is the duty of the Boards ‘to ensure that children in their area are receiving full-time education’. The respondent contends that Section 13 of the 1986 Order does not entrust such a duty.

Support for Home Educators

The respondent recommends that the Boards ‘concentrate their funding and resources in supporting home educators through voluntary and non-intrusive schemes’.

Monitoring of Home Education Programmes

According to the respondent, Section 13 mirrors the legal situation in England, Scotland and Wales, where local education authorities have no statutory duty to routinely inspect and evaluate the quality of home education as a matter of course. Instead the local authorities follow the legal requirements in only intervening when they are alerted by a reasonable reason to do so. 'In this light, the compulsory *'monitoring of elective home education programmes'* that is suggested in Section 7(iii) of the draft policy would be entirely unwarranted and inappropriate.'

3.5.2.3 The Convener Committee on Public Morals Reformed Presbyterian Church

The Public Morals Committee of the Reformed Presbyterian Church of Ireland expresses opposition to the proposed changes by the Boards.

As a Christian organisation, which accepts the teachings of the Bible as God's authoritative word, the Committee points out its belief that parents are ultimately responsible for the education of their children. Teachers in a school are educating in loco parentis. The Boards, unelected bodies, would risk interfering in family life in an unnecessary and disproportionate way. The Committee is unaware of any research or legal analysis to support such interference by the Boards and asks them to desist from this proposal to interfere with the right of parents.

3.5.2.4 Education Freedom – Trustee

Aims and Objectives

Education Freedom (EF) comments that the draft policy appears to have been created without suitable research of good practice within modern home education.

Legislative background

EF believes that the draft policy does not fit with existing law and that it is ultra vires. It states that the interpretation of the almost identical law that exists in England and Wales has been altered to suit what the draft policy seeks to achieve. It quotes 'It appears that the policy is attempting to set down rules and regulations without going through (due) parliamentary process. It selects parts of law that supports its aim and ignores other parts that disagree'.

EF refers to the amended version of Schedule 13 of the Education and Libraries (NI) Order 1986 SI 986/594 commenting that the draft policy misinterprets by stating 'where it appears' that children receive an education instead of adhering to the correct phrase 'if it appears' which indicates the need to see clear evidence of a failure on the parents part before the duty to act applies. EF adds that the draft policy appears to use an older version of the legislation before the amendment in 2007. EF comments that the draft policy also mentions Article 44 from the same legislation which, it states, refers to schooled children (pupils) and has no relevance to home educated children. EF believes that Article 45 of the same legislation is used within the draft policy 'to bolster the Boards' duty to ensure that home educated children receive an education'. EF states that this refers to the duty of a parent and has nothing to do with the Boards.

Safeguarding

EF comments that, not only does the draft policy seek to create (or continue to seek) a permission and monitoring system, it also places an emphasis upon safeguarding which is inappropriate. EF states that to assert a child who is home educated is immediately a child 'in need' is unsupported by law. It further adds that the draft policy makes the assumption that schools are the protectors of children's welfare and without that protection those children may be at risk. EF quotes, 'this goes against statistics which prove the opposite (FOI gathered by NI home educating parents). Home education is a legally sanctioned option and not a valid concern'.

Procedures for EHE

EF believes that the draft policy sets down unnecessary procedures to be followed for elective home education.

EF questions why a parent would ask for a discussion with the principal when the Statutory Rules for Northern Ireland 74, Number 78 clearly state that the parent should simply notify the principal before de-registering, and allow for no delay between the point of de-registration and the removal of the child from the register. EF contests that taking the child's opinion is the duty of the parents and not the state. EF quotes the Children (NI) Order 1995, Article 3 which refers to Family Court proceedings. 'If this legislation is the basis for the draft policy stating the wishes of the child to be sought *'where appropriate'* has been used inaccurately.'

EF suggests that the draft policy gives no understanding of a period of de-schooling which it states is good practice; allowing the child time to move from the culture of formal school to that of home education which is a guideline followed by the rest of the UK.

EF comments that the procedure described in the Education and Libraries (NI) Order 1986 Schedule 13 assumes that it is an automatic one, applied to every case. It adds that this procedure should only come into force when there are real concerns and not when a parent decides to home educate. EF believes there are no grounds for compulsory visits and quoted, 'if there were, the ELB would have more power than the PSNI'.

EF believes that assessing the home is a pointless exercise and states that the policy writers appear to misunderstand that a home education does not take place only within the home, but at anytime and anywhere the child happens to be.

EF is concerned about the phrase 'appropriateness of programme' as the word 'programme' indicates rigidity and quotes that it is 'the antithesis of home education'. EF believes it is clear that home education is perceived as 'school at home' whereas home education is flexible with approaches including autonomy, un-schooling and reactive. It further comments that none of these valid forms of learning, nor the ability of the learning style to change with the needs of the child, are reflected in the design of this policy. It adds that current legislation does not require a programme to be formulated.

Children with SEN

EF comments that the Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs 2005 para 5.3 states that parents, including

those with children with SEN, have a right to educate their children at home. It contends 'that a child with SEN is required to show *'progress'* yet nowhere else in the policy does it state that a child without SEN needs to show such'. EF feels that this is clearly discriminatory.

Monitoring of Home Education Programmes

EF comments that introducing routine inspection and monitoring of home education is at odds with the general presumption of innocence. It further adds that compliance is assumed by law. EF believes that an annual review is not required before changing the educational provision for a child either in formal school or in home education.

Summary

EF states that the policy is a misinterpretation of current legislation and the invention of procedures is not supported by law. It adds that there is misinformation within the policy which will only serve to confuse parents deciding to home educate and suggests that 'its compulsive tone will only fuel distrust towards ELBs. It is not fit for purpose'. EF recommends that the policy be 'scrapped' and that true and accurate research be undertaken on home education within Northern Ireland as it is practised today.

3.5.2.5 Education Otherwise

Aims and objectives

Education Otherwise (EO) comments that the Boards 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. EO expresses concern regarding the issuing of seemingly identical consultations at a sub-regional level rather than a single, national policy questioning 'why would the policies of one ELB vary from another when their objectives are presumably the same?' EO further comments that DE appears to be disengaged from the detailed consultation strategy and approach, which it finds surprising; given the potential ramifications were the policy to be implemented as proposed. EO suggests that a positioning statement should be sought from the Minister of Education, outlining why a national policy is not being considered and clarifying DE's involvement (or lack thereof) in the development and process of this consultation. It contends that there is no clear indication of the background or intention underlying the consultation process, which gives its members the unnerving sense that the Boards are attempting to consult and to legislate by the back door.

EO adds that openness and transparency, as well as a demonstrably logical approach, would help assure home educators of the Boards' good faith. EO is eager to help Boards address these fundamental areas of concern urgently and effectively in the hope that they will be open to constructive engagement with EO, HEdNI and home educating families generally. EO believes that engagement between Boards and home educating families is and should be based on trust and mutual respect. It further comments that the development of policies which undermine these principles will set the Boards at odds with home educators from day one. EO states that, as a consequence, the legality of the policy will inevitably be challenged in court, resulting in an instant breakdown of relationships at a practical level.

Legislative Background

EO states that there is a significant and growing body of legal opinion which contends that policies such as this, comprehensively and demonstrably breach the existing legal framework throughout the UK. EO firmly agrees with this opinion and requests visibility of the Boards' own legal advice so that it may address the issue directly and increase transparency. EO notes with interest that the Boards seek to reference the UN Charter. It would encourage Boards to research the application of UK and European law, which is directly relevant in these matters. It adds, for the avoidance of doubt, that it would refer Boards to Article 8 of the European Convention on Human Rights, relating to the right to privacy and a family life. EO comments that this proposed policy seeks to give officials access to private homes in a way that is not permitted by current law.

Procedures for EHE

With regard to the de-registration process, EO states that the policy fundamentally overturns parental rights to choose unilaterally to home educate their children, and directly contravenes and inhibits their rights under Articles 44 and 45. It adds that the creation of an enhanced role within or connected with the school to support de-registration 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. EO asks the Boards to investigate whether enhanced involvement of schools in de-registration is appropriate.

EO states that home educators would legally challenge the proposed policy where families are:

- Required to apply for consent or permission to home educate (as implied by the SA1 registration process);

- Subjected to multi-agency checks and assessments in situations where there were no existing safeguarding issues;
- Assessed against a 'future' or 'potential' safeguarding risk directly as a result of a decision to home educate;
- Required to allow multiple visits to their home for safety checks; and
- Have their home education plans and/or programme approved by a third party against unknown criteria that have been set by a Board.

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

Children with SEN

EO comments that society is experiencing general shifts and changes in the progress of children with developmental delays, which exist in various forms and severity. EO further adds that 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. It states that the new SEN assessment in the policy could result in virtually all children receiving a more in-depth assessment than any child would experience within a school environment. EO requests 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. It comments that 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.

Monitoring of Home Education Programmes

EO believes it is vitally important to underline at this stage that serious unintended consequences will result from the adoption of bureaucratic, inconsistent and oppressive monitoring regimes. It comments that 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. EO adds that this is not a desired outcome for either the home educating community or Government agencies.

EO urges Boards to focus on fostering a positive relationship with the home educating community, and recommends that an impact assessment of the proposed policy should be undertaken to ensure that the practical application of policy 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.

EO comments that, given that home educating parents are not required to follow the National Curriculum, Boards 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 as the consultation fails to communicate how the policy would work in practice.

EO Trustees would be happy to discuss and/or provide further information on relevant issues.

3.5.2.6 Family Education Trust

General

The Family Education Trust participated in the process leading up to the publication of the home education guidelines in England towards the end of 2007, and played an active role in relation to Graham Badman's home education review in 2009.

The Trust identifies a number of concerns about the draft elective home education policy, including:

- It does not accurately represent the statutory duty of the Education and Library Boards;
- It effectively turns home education into a special privilege that may be granted or withheld by the Boards, rather than respecting it as a legal right and an option that may be freely chosen by parents;
- It is intrusive and undermines the fundamental right to a private and family life; and
- It reverses the principle of innocent until proven guilty.

Legislative Background

The Trust points out that the Boards have no statutory duty. Rather, the duty to ensure that children are receiving efficient full-time education suitable to their age, ability and aptitude, and to any special educational needs they may have, rests with their parents, and not with any government agency (Education and Libraries (NI) Order 1986, Article 45). The point at which the local authority has a duty to satisfy itself that a child is receiving a suitable education is reached 'where 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)...' (Education and Libraries (NI) Order 1986, Schedule 13). Parents can be trusted to fulfil their responsibilities in relation to the education of their children unless there is evidence to suggest otherwise, and at that point, the Boards have a duty to intervene in accordance with Schedule 13. The Trust points to other principles:

- Respect for parental wishes and parental religious and philosophical convictions (The Education and Libraries (NI) Order 1986, Article 44; European Convention on Human Rights, Article 2, Protocol 1); and
- The right to a private and family life (European Convention on Human Rights, Article 8).

To charge Boards with the task of approving and routinely assessing the suitability of the educational provision in all home educating families would undermine the responsibility that parents bear for making decisions about their children's education. It would also involve an unnecessary drain on public resources.

Monitoring of Home Education Programmes

The Trust notes that the requirement for parents to submit a proposed education programme to the Boards for approval, before the child is permitted to be removed from the school register, has the effect of turning the legal right to home educate into a special privilege that may be granted or withheld by the authorities. This effectively introduces a licensing scheme and gives the Boards powers either to grant or withhold a licence to home educate. Also, the Trust expresses the view that monitoring 'on an annual basis' is tantamount to saying that the licence will be valid for no more than a year and must be renewed at intervals to be determined by the Boards. As with full-time parents of a pre-school-aged child, home education should be viewed as the default position, requiring no form of registration. Parents should not be required to register in order to perform any of the responsibilities they bear towards their children whether it be feeding, clothing or educating them.

The Trust points out that home educating families would feel that their family life was being monitored and their children 'surveyed' to a degree not experienced by children attending school. In respect of 'the wishes and feelings of the child being taken into account', the fact that children in school are not asked about their wishes and feelings, suggests that home educated children are being treated as a special case and the decision of home educating parents is being treated differently from that of other parents. If the thinking of the draft policy is to be pursued to its logical conclusion, it would require granting the Boards access to all children registered at school to ascertain their views about the education they were receiving 'and why stop at education?' The logic of such an extreme reading and misapplication of Article 12 of the UN Convention on the Rights of the Child would lead to agencies of the state assuming an advocacy role for children in every area of their lives, completely undermining the authority of their parents.

The proposals contained in the draft policy represent a serious breach of family privacy. Officers from the Boards should not have any statutory right of entry to the home unless they have grounds for believing that some form of abuse or neglect is occurring. The privacy of the family home has been at the foundation of British law for generations and is very important principle to preserve in a free society.

Other Issues

The Trust believes that the proposal to grant to the Boards a statutory right of access to the homes of home educated children is in effect reversing the presumption of innocence in British law and treating parents with suspicion until they have proven themselves innocent.

The Trust notes that the present framework possesses the following strengths and benefits:

- It permits flexibility: where support is needed and requested it can be given;
- Where parents are fulfilling their responsibilities and do not require support or intervention, the Boards have no obligation towards them;
- Scarce resources are not wasted on monitoring families who neither need nor desire the involvement of the Boards; and
- the Boards' resources are freed-up to address situations 'where it appears' that parents are failing to perform their statutory duty.

3.5.2.7 Free Democracy

Free Democracy expresses concern about the draft policy and considers that the intentions outlined in it are illegal as Boards are not empowered to check on parents and 'sign-off' on their teaching programmes.

Free Democracy refers to the statement in the draft policy (Appendix 3: The Education and Libraries (NI) Order 1986): 'where it appears to a Board that a parent of a child of compulsory school age in its area is failing to perform the duty.....'. The view is expressed that the Boards have no power to act until then.

The point is also made that parents alone have the right to determine the education of their children and that the policy is undemocratic and considers that an attempt has been made to 'twist the words of the law to abridge the legal rights of parents'. Concerns are also raised that the content of this draft policy seeks to attack a minority of people.

Free Democracy contends there is insufficient evidence to suggest that home educating families are failing their children and rather that such children perform better than those children who are educated at school.

Free Democracy also acknowledges that there are problems in society as a result of abuse. However, It considers that these problems were not wholly within the families of those who choose to be home schooled. It questions whether all families are to be monitored in this way.

3.5.2.8 Free Presbyterian Church of Ulster (Education Board of Presbytery)

The Free Presbyterian Church of Ulster highlights serious concerns about the tone and scope of the proposals outlined in the draft policy. These concerns include:

- The proposals are virtually a repeat of those rejected in England following the publication of recommendations in the Badman review commissioned by the Department of Education for England in 2009, which were defeated when presented to the House of Commons;
- The proposals are an intrusion into the privacy of both family and home, referencing minimum standards; monitoring arrangements as outlined in the draft policy. The draft policy, is considered by the respondent to require parents to prove they are complying

with the law, to prove innocence 'even where there is no existing evidence or suspicion of educational neglect';

- The proposals are sinister in nature as they seek to remove from parents and assume for state authorities the statutory duty to ensure that children receive an 'efficient full-time education'. The Free Presbyterian Church of Ulster reiterates that Boards can intervene only 'where it appears' as per the Education and Libraries (NI) Order 1986 that a parent is failing in their duty; and
- The proposals in the draft policy are seeking to turn a statutory right into a special privilege that may be granted or withheld by a Board.

The Free Presbyterian Church of Ulster requests in its response that the proposals, as outlined in this draft policy, are retracted and that data relating to the failures of home educating parents to fulfil their statutory duty should be published, as they consider that evidence to support such failure would be miniscule.

3.5.2.9 Freedom Church NI

The Freedom Church NI believes that people home school because 'God fearing people do not want to be controlled by the government on what to teach their children'. It considers that the government bodies want more control in order that they can push their own agenda.

The Freedom Church NI acknowledges that home schooling is challenging for parents, who must invest their lives in the process, which takes considerable time, money and effort. These parents choose this option rather than have their children subjected to the 'gross brainwashing' seen in 'more and more state schools'.

The Freedom Church NI considers there is sufficient legislation in place to assure a decent quality of education for those children who are home schooled.

3.5.2.10 Heatherside Education Consultants Limited

A detailed response was received from Heatherside Education Consultants Limited (HEC) which focuses on concerns with the content of the draft policy. These concerns include:

- General observations regarding the consultation being carried out by five separate provinces;
- The draft policy is based 'in a permission and monitoring system', which is non-compliant with education law;
- The use of safeguarding as a term which implies that home educated children are at particular risk; and
- The draft policy seeks to undermine clear legislative basis by introducing a monitoring system without following due process and the absence of reference in the draft policy to the 1996 Special Educational Needs Code of practice and the 2005 supplement.

Legislative Background

HEC expresses the view that parents and not the Boards have the duty in law to educate and that any attempt to introduce monitoring places the onus upon the home educator to prove themselves innocent of falling in their duty as per the Education and Libraries (NI) Order 1986, Article 45. HEC notes that home educating families must not be treated differently from other families concerning the general assumption of innocence until proven guilty as per the legal system in which the Boards must operate.

HEC considers that draft policy conflates home education and child welfare, and that such an approach alienates home educating families. HEC also emphasises that home educated children are less likely to be at risk of harm than are schooled children, that education does not appear to be the main focus of the draft policy and the Education and Libraries (NI) Order 1986, Article 44, refers to schooled children only and is not relevant to home schooled children.

Safeguarding

The view is articulated that 'this section relies upon assumptions of risk that are not based in evidence or statistical research' and that the content of the draft policy indicates a 'lack of respect' for home educating parents.

Procedures for EHE

Considerable detail is provided about individual paragraphs contained in this section of the draft policy. Specifically HEC advises that the title is misleading in that paragraph (i),

referring to Statutory Rules for NI 1974, number 78 requires parents only to notify the school principal of their decision and not to 'discuss'.

HEC considers that information in paragraph (ii) forces the parent to adopt 'a school at home regime' and fails to recognise that children often require a 'settling in' period.

HEC also believes that paragraph (iii) of the Children (NI) Order 1995 Article 3 has been taken out of context in that it refers to a requirement to ascertain the wishes of the child where it is appropriate to do so, which relates to Family Court proceedings and not the duties of the Boards.

Concerns are expressed about the wording used in paragraph (iv) 'determine other services known to the child' should read 'services to whom the child is known'.

HEC also disputes in paragraph (v) the assumption that the procedure described in the Education and Libraries (NI) Order 1986 schedule 13 is automatic, as it contends the statutory duty only comes into operation where there are tangible concerns.

HEC highlights issues with the content of paragraph (vi) and the notion of 'programmes'. It suggests that Boards should be looking at overall suitability of provision and not programmes, given the various approaches adopted by parents which can be child-led and without a set programme. In addition HEC considers that by compelling visits, this would give Boards powers beyond those held by law enforcement officers and also contravenes the right to protection of private life enshrined within the Human Rights Act, Article 8.

Within paragraph (vii) HEC considers there is, once again, a provision which contravenes the Statutory Rules for NI 1974, number 78 concerning a delay between de-registration, issuing of a form and removing the child from the register. It suggests that to further force a delay on home educating parents would be abusive of the child and that many parents choose to home educate in crisis such as a child being abused in school.

Children with SEN

HEC makes the point that parents have a right to educate their children at home regardless of whether that child has a special educational need and that right is stated in a Supplement to the Code of Practice on the Identification and Assessment of Special Educational Needs 2005 paragraph 5.37. An issue with the wording used in para (i) of this section is highlighted. It is also considered that the use of the expression 'developmental issues' was inappropriate in a document of this type.

With regard to the annual review mentioned in paragraph (ii) HEC considers there is no requirement to wait for an annual review to change provision for a child.

Minimum Standards

HEC expresses the view that the listed minimum standards are without legal foundation and cite case law to define suitable education (*R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust* 12th April 1985). HEC also comments that regarding point 1 'the child is educated in an environment which is safe', education can take place anywhere and that the home is a place of safety for the child unless there is clear reason to believe otherwise.

Monitoring of Home Education Programmes

The respondent considers that monitoring is 'unacceptable, inappropriate and not required' and concludes that parents have no requirement to liaise with the Boards unless there are demonstrable concerns with education provision. The point previously made, regarding paragraph (iii) Procedures for EHE, is reiterated.

Other Issues

HEC considers the draft policy to be 'shambolic in nature and takes no account of the facts of the issue, is badly written, ill founded, semi-literate in places and not fit for purpose'. In addition it expresses the view that within the draft policy there is a tone of presumption of criminality on the part of innocent parents, and overlooks the wide variety of successful home educating styles.

HEC recommends that the policy be abandoned in its current form and recommends that:

- Suitable research in this matter is carried out;
- Lessons from working guidance in use in Wales, England and Scotland are used; and
- Only after full and proper research is carried out, should a new policy be drafted.

HEC also recommends that home educating families should be involved in the drafting of any new policy and the Boards recognise that safeguarding should not be conflated with home education in the interests of future working relations between Boards and home educating families.

3.5.2.11 Home Education Advisory Service

A detailed response was received from the Home Education Advisory Service which indicates concerns with the content of the draft policy, with particular emphasis on the interpretation of legislation; procedures for elective home education; children with special educational needs; minimum standards and monitoring arrangements.

Legislative Background

The Home Education Advisory Service is of the opinion that the draft policy misrepresents the Boards' responsibility for home education. It suggests that the Education and Libraries (NI) Order 1986, indicates the primary responsibility for ensuring that a child receives proper education belongs to the parents and not the state.

The Home Education Advisory Service considers there should be the presumption that parents are providing proper education unless there is evidence to suggest that they are failing to do so and articulates that the only duty the Boards have is to make enquiries if it appears that 'a child is not receiving an efficient, full-time education that is suitable to his age, ability, aptitude and to any special educational needs'.

Procedures for EHE

Concerns are raised that this section of the draft policy is full of errors and incorrect assumptions including:

- Issues around the requirement for parents to discuss EHE intentions with the school principal and the lack of knowledge which principals have regarding this matter;
- The lack of education legislation, which would give schools the right to insist that children stay enrolled in school 'until such time as the home education programme is in place'. The law does not require parents to conform to any particular style of education or to make plans in advance;
- The Boards have no duty towards children who are home educated and about whom they know nothing;
- The Home Education Advisory Service articulates the often quoted principle of common law 'the presumption of innocence to be accorded to the parent'. Boards are not empowered or required to investigate proactively whether or not parents are fulfilling their duty to educate their child;
- Paragraph 3(iii) is a misnomer and should refer instead to the parents' 'decision' and not parents' 'intention'. Part 11 of Article 3 of the Children (NI) Order has been

misapplied, as the Home Education Advisory Service believes 'neither the principal nor the Board has any authority to elicit the wishes and feelings of the child'. This legislation refers to the duties of a Court to ascertain the views of children involved in court proceedings;

- Paragraph 3(iv) introduces bureaucratic procedures which are offensive to parents who are acting entirely within the law and would only be appropriate if any welfare concerns have already been raised by the school;
- Paragraph 3(v) indicates a total misunderstanding of the school attendance order process as laid out in Schedule 13 of the Education and Libraries (NI) Order 1986. The statutory duty to ensure that a child receives an efficient, full-time education belongs entirely to the parent;
- With regard to paragraph 3(vi), there is nothing in primary legislation which empowers a representative of the Boards to make judgements about the 'appropriateness or otherwise' of home education programmes. Also the Boards have no power to insist on visiting families in their homes, require information to be given in any particular form or insist on seeing and interviewing children or test them in any way (Article 12 of the UNCRC by implication 'the child's right to remain silent and refrain from giving his or her views');
- In paragraph 3(vii) the process for advising how schools record a child's 'absence' prior to the issue of a certificate of attendance is deemed to be highly questionable by the Home Education Advisory Service;
- In paragraph 3(viii), similar concerns are expressed as per Paragraph 3(vi) and a reiteration that: 'this policy runs counter to education law which has always ensured the primacy of parents over the education of their children';
- Paragraph 3(ix) concerns a named officer to 'assess the learning environment and suitability of the programme'. The Home Education Advisory Service is of the view that this constitutes an unacceptable intrusion into the privacy of family life, reveals 'complete ignorance' of the realities of home education and is insulting to experienced home educators; and
- Paragraph 3(x) taken with paragraphs (vii), (viii) and (ix), 'perpetuates the wrong assumption that the burden of proof lies upon every parent routinely when children are educated at home'.

Children with SEN

The Home Education Advisory Service expresses concerns that the section of the policy, dealing with arrangements for children with special educational needs, contains 'significant and fundamental errors'.

In particular the Home Education Advisory Service considers the purpose of an annual review of the statement of SEN is to ascertain whether or not the provision in the statement is still meeting the child's needs. It highlights that: 'the statement is binding on the Board and not on the parent; as long as the child's needs are met, parents may make their own arrangements at home at any time, and these arrangements need not replicate exactly the provisions recorded in the Statement'.

Reference is also made to Article 45, duty of the parent, and the Home Education Advisory Service argues that the draft policy implies children with SEN may be discriminated against regarding the opportunity to be educated at home.

The Home Education Advisory Service suggests that any statement to record home education is only necessary if the Boards are funding special provision for the child at home. HEAS indicates that this situation occurs rarely. Similarly, this comment also applies to Para 4 (ii) in the event that funding was sought by parents.

It also indicates that no reference to statements of SEN was found in either of the two documents cited in Paragraph 4(ii) (Statutory Rules for NI 1974, Number 78; DE Circular 2010/07).

Minimum Standards

The Home Education Advisory Service articulates that the minimum standards as laid down in paragraph 5 of the draft policy, are 'not helpful as part of an EHE policy'. Specifically, it contends that many home educating parents have withdrawn their children from school because they considered that their children were not receiving these 'minimum standards'. Also it is the view of the Home Education Advisory Service that such standards are 'singularly insulting and offensive' to home educating families. Furthermore the organisation fears that educational and welfare issues have become confused and this does not make for clarity of purpose among the Boards' officers in their dealings with home educators.

The Home Education Advisory Service reiterates that such an approach could potentially create a climate of suspicion wherein Board officers are trained to view all home educators as potentially neglectful and abusive and could damage the development of respectful and trusting relationships between both parties. It also highlights that parents of children who attend school are not routinely inspected to ensure that their children's environments meet these criteria.

Monitoring of Home Education Programmes

Regarding the policy aspect focusing on monitoring arrangements, the Home Education Advisory Service indicates in their response that parents are 'gravely concerned' at the prospect that unqualified officers who are inexperienced in home education would be placed 'in judgement' over them. Once again, the point was reinforced that the Boards have no responsibility in law to create such a system and that the concept is 'totally inappropriate'.

Other Issues

Concerns are raised that Articles 5, 16 and 18 from UNCRC are not quoted in the draft legislation as they are particularly relevant to home education.

The Home Education Advisory Service highlights the reference in the policy to 'the welfare of the child is paramount' with an implication that all home educated children need representatives of the state to make sure they are safe. It observes that in all but a handful of tragic cases, those who are charged with protecting vulnerable children have known about the situation but have failed to act in time to save them. In addition, it concludes that greater regulation will do nothing to protect children who are truly vulnerable.

3.5.2.12 Home Education Consultant

Legislative Background

This Home Education Consultant, affirms that 'the duty to ensure the child receives education is clearly placed on the parent, not on the Board. Should the Board seek to go beyond its remit by taking over responsibility for the child's education, a corresponding legal liability would come into play, which I can only imagine is not what the Board intends'. The respondent argues that the UNCRC 'offers no justification whatsoever for the Boards monitoring home education or interviewing home educated children. At all stages the convention affirms the primacy of parents in children's lives'.

Safeguarding

This respondent believes that families 'are justifiably concerned that they will be pursued through legal channels to get the children back into school on grounds other than education' and also considers 'there is a substantial risk that the lines between *'education'*, *'welfare'* and *'potential safeguarding issues'* will become hopelessly blurred since the draft policy goes on to talk about *'minimum standards'* which include reference to nebulous areas such as the child's *'social needs'*'.

Procedures for EHE

The respondent believes 'the draft policy gives extremely bad legal advice to schools, implying that it is in some way up to the school to decide when a child's name can be deleted from the school register'.

It is commented that 'the word *'appear'* in Schedule 13 means that the Board is only required to take action after a problem has come to light. It is only after this stage that the parent is required to *'satisfy'* the Board that a suitable education is being provided'. It is further remarked that 'the policy seeks to create the impression that Boards will be very busy helping home educated children but on closer scrutiny the activity seems restricted to holding on to the parents' programme for a couple of weeks before revealing whether or not it has been accepted and sending someone out from *'welfare'* once a year with a list of hoops the family has to jump through in order to be allowed to continue home educating'.

The opinion that 'it would be easier to start from scratch than attempt to salvage this particular policy and as a starting point the Board could consider the guidelines in England and possibly talk to local authorities which are regarded as a model of good practice such as Lancashire' is expressed.

Support for Home Educators

The respondent believes 'any future consultation must enable home educated children and young people to participate at whatever level they feel comfortable ... and also respecting children and young people's wishes as to whether they prefer their own separate consultation meetings or would rather join in a group discussion at a family level'.

3.5.2.13 Home School Legal Defense Association

Aims and Objectives

The Home School Legal Defense Association (HSLDA) is an international organisation located in the United States. With more than 80,000 member families in all 55 United States and its territories and in 36 countries around the world, including Northern Ireland, its mission is to protect the rights of parents to teach their children at home.

HSLDA believes the proposed policy presumes that children are, 'mere creatures of the state'. It contends, with absent evidence to the contrary, that no government should intervene in the private affairs of the family in any area, whether educational or otherwise. However, it does not dispute that in cases of abuse and neglect the government may act. HSLDA comments that the proposed policy presumes parents are guilty until proven innocent, a notion it believes is fundamentally at odds with the traditions of the United Kingdom's (and many other free nations') judicial systems.

It suggests that the draft policy is not only a tremendous step away from freedom but it is a step toward excessive state control of education which is a necessary pre-condition for totalitarian governance.

Legislative Background

HSLDA expresses grave concern that the draft policy violates international law and the fundamental human rights of both parents and children. It states that international human rights standards explicitly affirm the right to education and a parent's right to direct the education of their child as fundamental human rights, including:

- The Universal Declaration of Human Rights (1948): 'parents have a prior right to choose the kind of education that shall be given to their children (Article 26.3)';
- The European Convention on Human Rights (1952): 'no person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions (Protocol 1, Article 2)';
- The International Covenant on Economic, Social and Cultural Rights (1976) and International Covenant on Civil and Political Rights (1976): 'the States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational

standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions (Article 10.1 and 13.3)'. And: 'the States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions (Article 18.4)'; and

- Charter of Fundamental Rights of the European Union (2000): 'the freedom to found educational establishments with due respect for democratic principles and the right of parents to ensure the education and teaching of their children in conformity with their religious, philosophical and pedagogical convictions shall be respected, in accordance with the national laws governing the exercise of such freedom and right (Article 14.3)'.

HSLDA believes that the proposed policy reflects a dramatic departure from the policy in the rest of the UK where parents enjoy the appropriate freedom to decide whether or not their children will be home schooled. It comments that 'Northern Ireland law, as is true in the rest of the United Kingdom, currently requires parents to provide an education for their children either through a local school or otherwise. Furthermore, Article 44 of the Education (Northern Ireland) Order 1986 specifically provides that the education of children of compulsory attendance age are to be educated in accordance with the wishes of their parents. This law appropriately presumes that parents have the responsibility and the right to educate their children'.

HSLDA states that Article 26(3) of the UN Universal Declaration on Human Rights explicitly recognises that parents have the 'prior right to decide the kind of education that shall be given to their children'. It adds that this declaration is considered to be the foundation of international human rights, and, as noted, other UN human rights treaties recognise that parents have a right to ensure that their children's education is in conformance with their 'religious and philosophical' convictions. It suggests that the proposed draft policy does not take into account these important qualifications.

Procedures for EHE

HSLDA makes the following comments about the procedures detailed in the draft policy:

- The proposed policy grants unreasonable access into the home, violating the right of privacy guaranteed in the UN Convention on the Rights of the Child and other European treaties;
- The policy interferes with families by permitting unnecessary and invasive questioning

of children by government agents;

- The policy would implement a lengthy and bureaucratic process of approval and curriculum review;
- The policy would implement a tracking system database program that would also violate the fundamental right to privacy of families and children;
- Annual monitoring is unnecessarily invasive;
- The policy interferes with the privacy of the family by requiring that government assessors seek the 'opinion of the child' to determine whether or not parents are providing a suitable education and
- The policy prevents children being withdrawn from school until a lengthy evaluation process is undertaken which is an extreme burden on families as well as presenting a significant risk to children who are in danger in school.

Summary

HSLDA highlights that most nations around the world have already experienced the success and benefits of home schooling. It quotes that the United States alone has more than two million students who are currently home schooled. Countries such as Australia, Canada, France, South Africa, Russia and the UK also boast significant numbers of home schooled students, ranging from tens to hundreds of thousands. It suggests that these numbers indicate not only that home schooling is well-supported, but that it has become a large movement, ready to be defended by its supporters.

HSLDA comments that, as home schooling has increased in popularity, it has been the subject of increasing social research. It adds that numerous studies demonstrate that home schooled students become responsible citizens who are productive members of society. In its experience, home schooled children are more involved in their community, civics, and higher education than students from public or private school settings, more mature and better socialised than their public school counterparts.

HSLDA states that empirical research demonstrates home-schooling is not merely a viable educational option for students but promises the potential for success beyond what is offered in a traditional school setting. It believes that as well-adjusted, academically successful students who become responsible and engaged citizens, home schooled children are an asset to any community. It adds that research shows that there is little to no correlation between government oversight of home schooling and results.

3.5.2.14 Institute of Education London

The focus of the two responses made by this organisation is based on research carried out into home education practices, policy and philosophy and relates to the emphasis on the provision by parents of a pre-planned educational programme contained in the draft policy.

The respondents consider that this approach is contrary to the nature of home education provision which can take 'a child led, organic and evolving path'. Any suggestion that education of this kind could be planned in advance is disputed by the respondents.

Based on their research, the positives of home education for young people are highlighted, particularly for those children who have been taken out of school as a result of bad experiences. The advantage of home education they consider, are the flexibility around the absence of pre-set plans or standard achievement targets.

Concerns are also raised with regard to monitoring and assessment of children by a third party, which is incompatible they believe, with the findings of research into what makes home education effective.

The respondents request that the Boards consider parallel legislation and guidelines in England, Scotland and Wales which are reflective of the research they have carried out.

3.5.2.15 Northern Ireland Conservative Party Spokesperson for Education

The Northern Ireland Conservative Party spokesperson (NICP) indicates that it has reviewed relevant legislation and Elective Home Education Guidelines for Local Authorities which was issued by the *Department for Children, Schools and Families (DCSF)*.

Concerns are highlighted, such as:

- The failure of the draft policy to provide support for home educating families or encourage good practice by setting out the legislative position, and the roles and responsibilities of the Boards and home educating parents;
- The draft policy pre-supposes that parents are failing in their duty under Article 45; and also fails to address the fact that there is evidence that the children of home educators achieve higher results at GCSE and 'A' level than those children who attend school;

- Acknowledging that the government must within its powers ensure that the welfare and education of the child is paramount, any policy or guidelines must be open, transparent and helpful. No policy should presume without evidence that any particular group is more likely to be a danger to their children;
- The tone of the draft policy is intimidating, off-putting and disapproving, and potential home educating parents may be discouraged by this set of procedures;
- This draft is presently not balanced or objective in its approach;
- The draft policy should state that while the law does not give the Boards the powers to enter homes for the purposes of monitoring, there are good reasons why parents would welcome it, if carried out in the spirit of support and co-operation and is not intrusive. Possible alternative means to meet with parents should also be considered and outlined in the guidance. Such an approach would provide for the development of a solid, trusting relationship between parents and the Boards;
- The draft policy presupposes abuse of the system and confuses the roles of education and social services;
- The Boards' named officers should lead in communicating with parents and the actual qualifications and role of the EHE should be made clear to parents, (reference to safeguarding checks, and ability to make constructive comments on any programme of education which the parents submit); and
- The Boards should take cognizance of the DCSF Guidelines and consider an example of a competent local authority policy based on this guidance and issued by Lancashire County Council.

3.5.2.16 Schoolhouse Home Education Association Response

As Scotland's national home education charity, the Schoolhouse Home Education Association (SHEA) claims to have had considerable input to research which subsequently informed the current Scottish statutory guidance on home education, which protects the rights of home educating families while acknowledging the responsibilities of local authorities.

SHEA points to the law in Scotland which is comparable to that of other parts of the UK in that parents are responsible for educating their children, not the state, and education 'otherwise' or 'by other means' is an equally valid and lawful alternative to schooling. Human rights legislation provides that there should be respect for, and no undue

interference in, family life unless there is ‘risk of significant harm’ to a particular child or children. In Scotland, as in the rest of the UK, there is no duty upon local authorities to ‘monitor’ home education on a routine basis, and informal enquiries and annual updates represent an acceptable form of contact for most families.

In particular, SHEA raises concerns which would adversely affect relationships with home educating families and attract international censure on human rights grounds, including:

- The draft policy misrepresents the role of the Boards by stating they have a statutory duty to ensure that children of compulsory education age are receiving an appropriate full time education for their needs when no such duty exists. In fact the law, which is comparable to that of the rest of the UK, mandates a ‘negative’ as opposed to pre-emptive duty on the Boards;
- The draft policy requires families to submit their home education programmes for Boards to assess as ‘suitable or otherwise’, but no such requirement is mandated by primary legislation and would therefore be ultra vires. Parents need not notify or otherwise register their home educating status since they are wholly responsible, as in the rest of the UK, for the provision of their children’s education during the compulsory years, whether or not they use schools; and
- The draft policy proposes the establishment of an “Education Management Database” which has striking similarities to the ill-conceived home education registration schemes proposed (and later dropped) in England and, more recently, Wales following consultation. Creating such a database would amount to a parent licensing scheme in Northern Ireland alone and would breach both UK-wide data protection principles (such a database being neither ‘necessary’ nor secure) and the EU-wide protection afforded by Article 8. Children, like adults, have the right to privacy and the UNCRC provides only for children who elect to do so to express their views about their education or other issues that affect them.

SHEA urges the Boards to abandon this draconian draft policy and to work constructively with home educating families in Northern Ireland to ensure a suitable balance is struck, as has been achieved in Scotland and the rest of the UK.

3.5.2.17 Young People's Partnership, Barnardos and the Southern Trust Response

Aims and Objectives

The draft policy states as its purpose 'to provide information about the arrangements to be made for ensuring that parents of children and young people who are electively home educated provide an efficient full-time education suitable to age, ability and aptitude and to any special education needs they may have'.

The document takes cognisance of the Children's Order in stating the 'welfare of the child is paramount and that consideration be given to any existing and/or potential safeguarding issues,' It provides no information on the Access NI implications of parents arranging private tuition nor do the wishes and feelings of the child have to be consulted.

Legislative Background

Education is a fundamental right for every child (UN Rights of the Child) and parents are responsible for ensuring children receive efficient full-time education either by regular attendance at school or otherwise. The 'otherwise' covers a further statement that 'pupils shall be educated in accordance with the wishes of their parents'. Thus parental choice can appear to be in conflict with the rights of the child.

Safeguarding

A key area becomes the suitability of the parents' education provision. A definition of 'suitable' is not clearly defined. The only case law available describes it as 'equipping a child for life within his community and that it should not foreclose the child's options in later years'.

Procedures for EHE

With regard to the procedures the policy is sometimes advisory and lacking in clarity, for example 'parents are advised to discuss the matter with the school principal', 'it is an expectation that the school should advise the parent that the child shall continue to attend until the parental programme is in place' and 'the wishes and feelings of the child should be included where appropriate'. Furthermore, whilst the document states that the family shall be visited at least once a year, there is no legal right of access and is once a year sufficient monitoring?

There is no comment on the definition of full-time, no need to provide the national curriculum, have a timetable, observe school days, hours or terms, give formal lessons, assess or mark

work. Reproduce peer group socialisation, match age-specific standards or obtain accredited qualifications to prepare for further education, training or employment.

Minimum Standards

Item 6 outlines the minimum standards only in the very broadest term.

Support for Home Educators

Item 7 refers to support for home education. There is no financial contribution and the list of useful resources referred to as available on the Boards' websites does not appear to exist.

3.5.3 Others: General Public

Table 10: General Public to Consultation received via:

Method	Number
Response Pro forma	12
E-mails	96
Letters	46
Forwarded e-mails or letters from DE	12
Total	166

General

Nearly all respondents highlight the positives of home education and the advantages for children and young people of all abilities and strongly oppose the development of a policy of this kind.

Almost all those who responded indicate an objection to interference by an unelected body to interview or question parents or children in their own home regarding how they are being educated at home and considered that any changes to existing law should be made by the NI Assembly.

A small number hold the view that the Boards are looking for a problem with elective home education and also consider that there had been little or no prior research, review of current literature or examination of international best practice carried out before the draft policy was compiled.

A small number contends that the draft policy is ‘flawed on multiple axes’ in that it fails to celebrate the successes of home education and that the overall tone is negative.

A majority emphasise that there is currently no register or regulation of parents whose children are educated at private schools. A significant minority reference the discredited Badman (2009) recommendations into elective home education.

A view is expressed by a significant minority that the current situation is ‘working well’ and that there is ‘no need to change’.

Aims and Objectives

A small number identify a lack of clarity regarding the aims and objectives of the policy. The majority consider that the purpose of the policy, as outlined, is not within the remit of the Boards.

Legislative Background

Concerns are highlighted regarding the legal authority of the Boards to enforce such a scheme as outlined in the draft policy and that it should be up to DE and elective representatives to progress any such policy in this area.

Almost all are strongly opposed to the draft policy as they consider that it outlines 'state interference' in the home and removes the rights of parents. A focus on misinterpretation of the UNCRC (article 23 and 29) is highlighted by a small number of respondents. They also consider that the UNCRC has been selectively quoted. A minority believe that the draft policy is reminiscent of the discredited Badman proposals and they oppose any attempt to regulate home education.

A small number express a view that the scope of the power given to the Boards under the Education and Libraries (NI) Order 1986 concerns provision of sufficient number of schools for provision of primary and secondary education (Article 6 (1)). They contend home education is not within the scope of this power.

A majority articulate general opposition to the introduction of what they consider to be regulation or 'a parental licencing regime' and state control. There is also concern stated by a minority that there is an implication in the draft policy that home educating parents are guilty until proven innocent.

A majority of respondents highlight that, while the draft policy focuses on the best interests of the child, it fails to acknowledge that the primary responsibility for a child is the parent and not the state.

A small number contend that this draft policy is an infringement of the European Convention on Human Rights Protocol 1 Article 2 and Article 8 with regard to Right to Education and Right to Respect for Privacy and Family Life.

Safeguarding

While recognising the importance of ensuring that appropriate safeguarding arrangements are in place, it is the view of a majority of respondents that the current legal provisions and practices for safeguarding are appropriate. In addition, they also consider that, where there are grounds for intervention, these powers sit with Social Services and not with the Boards.

The view is also expressed that the measures proposed for safeguarding are bureaucratic and could be counterproductive should, for example, a parent decide to remove a child from school as a matter of urgency for safeguarding reasons.

Procedures for EHE

In Section 3(v), the reference to statutory duty under schedule 13 is considered by a small number to be a distortion of the wording of the Education and Libraries (NI) Order 1986.

With reference to paragraph (iii) a minority are concerned that school principals have little knowledge about elective home education and their responsibilities.

With reference to paragraph (vi), it is considered by a small number that there is nothing in the legislation which gives the Boards the power to ask for a programme to be provided when parents decide to home educate.

Support for Home Educators

It was the view of a minority of respondents that:

- Liaison with home educators should be encouraged;
- Help and advice should be more readily available;
- Regulation and monitoring should be 'light touch';
- No officials should ever be appointed to liaise with home educators who are either ex-teachers or social workers as they have a specific bias against home education; and
- Vouchers for the purchase of educational material should be made available.

Monitoring of Home Education Programmes

The references contained in the policy are considered by a significant minority to be 'draconian' in nature and make a generalisation that education only takes place from '9 to 5' as opposed to being a 'whole of life experience'.

A majority believe Boards have no power to monitor, only to investigate if and only if it appears parents are failing in their duty (Article 45, schedule 13 Clause 1). A majority of respondents also object to any proposal that children should be interviewed alone without the presence of their parents.

It is considered ironic by a small number of respondents that, while the draft policy quotes the Children's Order indicating that the wishes of the child will also be taken into consideration, the draft policy would in fact prohibit this.

Other Issues

A minority of the general public considers that the overall approach to consultation does not follow best practice for government consultations; that the space provided on the pro forma is inadequate and that there is no provision for scrutiny from elective representatives.

A significant minority believe it would be beneficial for home educators to be involved at the early stage of the development of any policy of this kind and should be recruited by the Boards to provide advice to those considering home education as an option.

According to a significant minority, the proposals contained in the policy are ill informed, contradictory and scare mongering as well as philosophically dangerous.

A significant minority also consider the proposals to be of particular concern from a Christian and Biblical perspective. The increasing diminution and abandonment of biblical principles, particularly in respect of the social, moral and spiritual aspects of the curriculum.

Concerns were raised by a minority about the tone and manner of the consultation process.

The elective home education policy from Lancashire was identified by a minority as a possible way forward.

3.6 Focus Groups

3.6.1 Focus Groups with Parents

Table 9: Number of Parents attending focus groups

Focus Group Attendees	Number
Attendees registered with a Board	28
Attendees not registered with a Board	9
Total number of attendees	37
Number of families represented	28

Aim and Objectives

Parents expressed the view that the purpose for developing the policy had not been made clear or suitably referenced in the draft document. This related specifically to the need for this policy. Attendees questioned whether this was driven by Government or other influences such as, for example the discredited Badman Report (2009) and the experiences in England and Wales in attempting to introduce policies of a similar nature. In effect some parents considered the draft policy to be offensive, dictatorial and adversarial. Furthermore they found it difficult to engage with the Boards as there is nothing positive in the document for parents. The policy should start from the perspective of the child and the child's needs.

Participants considered there was no need or benefit to be gained from the policy, and no basis in research. A list of documents was provided for information. These were:

- Lancashire County Council: Elective Home Education Procedures (September 2013);
- A critique of the data presented to the Enquiry into the 2009 Review of the Elective Home Education in England (2010);
- The Education and Libraries Order, the United Nations Convention on the Rights of the Child and the Children (NI) Order 1995;
- Copies of AQW 9311/11-15 and AQW 30468/11-15;
- Statistical Information: Abuse in Elective Home Education (EHE) relating to Local Authorities;
- 'Invisible Children' (Meggan Goodpasute, V. Denise Everett, Martha Gagliano, Aditee P. Narayan, Sara Sinal) [NCMJ Vol. 74, No 1]
- A Practical Guide to Policy Making – OFMDFM (2003) [reference]
<http://www.ofmdfmi.gov.uk/practical-guide-policy-making.pdf>;
- Consultation Principles: Guidance (Cabinet Office, November 2013) [reference]
<https://www.gov.uk/government/publications/consultation-principles-guidance>;
- The United Nations Convention on the Rights of the Child;

- DE Circular 2012/19 Guidance for Schools and Employing Authorities on Changes to Pre-Employment Checking and Safer Recruitment Practices (issued 10 September 2012);
- DE Circular (2003/13) Welfare and Protection of Pupils Education and Libraries (NI) Order 2003 (issued 18 June 2003);
- NI Direct: 'Protecting your child from abuse at school: your school's role; and
- Copy of the submission from the Northern Ireland Human Rights Commission to the Minister for Education in respect of redress within the special educational needs system and the requirements of international human rights law.

In addition, participants referenced that high standards of education continue to be attained by children who are home educated and there is no evidence of serious abuse among children who are educated in this way. Furthermore, the commitment and dedication of parents are not acknowledged in the policy or by the Boards.

Parents were concerned that many of the people involved in writing the draft policy have never met home educators. Issues were raised in respect of the amount of research that has been carried out by the policy authors prior to drafting this policy, the extent of legal opinion that has been obtained, budgetary considerations and any related costs including costs associated with consultation. There was concern that 'anecdotal' evidence only had been used to inform the creation of this policy. In addition, information concerning the policy development process, specifically details around prior consultation with previous stakeholders was requested.

Concerns were noted about an attempt to introduce a state regulatory system for home education. Respondents considered that there was an implication in the policy that home educators are abusing their children.

The draft policy was seen to be very complicated and difficult for a child to understand. The document could be much shorter with less emphasis on legal obligations and duties and with more focus on standards, support and details of the proposed visits and conversations with the child.

There was a suspicion that this policy has been developed because of perceived state interference, as children, who are home educated, are considered to be free thinkers and the state is keen to discourage this.

Legislative Background

Concerning the legislation referenced in the draft policy, one respondent highlighted that the date of 1986 (page 4, paragraph 3) was incorrect and should be 2005. Another respondent noted this but indicated that in their view the detail in the legislation would be the same regardless of the date.

Respondents considered that the development of this policy was an attempt to regulate home education and expressed concern as to the rationale behind such an attempt and the driver for such an approach. Was it Central Government or some other body? Examples of failed attempts to regulate home education in England and more recently in Wales were cited (see aims and objectives above).

Concerns were articulated that the rights of parents to home educate are being diminished. Those attending considered that the draft policy could result in home educators being treated differently from those parents who elect to send their children to school. Specifically, an invasion of privacy and a dilution of their right to home educate their children.

Parents commented on the irrelevance of quoting the Children's (NI) Order 1995, as this applies to the Courts and not to the Boards. They further commented that the incorrect law had been quoted, as the Education and Libraries (NI) Order 1986 is out of date law and has been superseded by the Education and Libraries (NI) Order 2005.

It was the view of all that parents have the primary responsibility. It was emphasised that the Boards have no duty to look for trouble. It was believed that Articles 44 & 45 of the Education Order are highly limited and do not say what the Boards says they do. The policy has no aims, is unenforceable and there is no requirement for monitoring unless parents specifically request it via a voluntary arrangement. The attendees concurred that the word 'monitoring' is a poor choice of word, and believed that no monitoring should be carried out.

Concerns were raised that Article 2:1 of the UN Convention is quoted as part of the draft policy. This Convention was considered to be too complex and that its use would cause anxiety and reduce parents' rights.

Attention was drawn to the AQW of 3rd February 2014 which stated that:

'Parents are not required to notify their Education and Library Board that they intend to educate their child at home unless the child has previously attended school or has a statement of special educational needs. The total figures therefore may be higher'.

Safeguarding

Participants indicated that they understood the responsibility for safeguarding. They considered it to be necessary to ensure that a balance was achieved to acknowledge competing rights in this regard (rights of the child/the parent and the Boards).

They suggested that it may be useful to include a sentence in a preamble to the policy stating an acknowledgment or recognition of the fact that parents who home educate are deeply committed to their children and their education, and that there is no automatic assumption that these parents are doing anything wrong or inappropriate.

Respondents considered that it was inappropriate to reference child safety within the draft policy. It was the view of the respondents that it should be the role of the police or Social Services or a health visitor to check for abuse and not the role of the Boards.

The parents considered safeguarding to be their responsibility. They remarked that there had been recognition that arrangements which had been in place with regard to 'vetting' had been 'over the top' and that there had recently been attempts to step back from established arrangements. It was indicated that the State should help in an emergency, by providing basic care, but only if children are being failed and, furthermore, this was a role for Social Services to carry out.

Attendees considered that the draft policy is insulting and not appropriate and will leave parents who are electively home schooling with a fear of being investigated and the notion of a home check is 'scurrilous'. They highlighted that there is an inference that every child who is home educated is at risk. Such a process is placing a strain on families and children. They indicated that the role of safeguarding should not be the responsibility of the Boards, but rather Social Services. The impact of resources being diverted to education from social services may mean that some children may 'fall between gaps'.

Procedures for EHE

Concerning the procedures outlined in the draft policy, participants considered that in section:

- (ii)** The use of the word 'expected' in this section is vague and is contrary to law. It is not clear to whom the policy applies;
- (iii)** The wording 'where appropriate' needs to be more appropriately defined and that it is essential that there is balance concerning child versus parent issues; the forms

referenced in the draft policy are not appended, are a clear part of the draft policy and should have been included for consideration. No information is provided as to how the wishes and feelings of the child will be taken into account. It was also highlighted that that children have no legal voice and it was unclear what weight the views of young people, who responded to consultation, would have in the consultation process in its entirety;

- (iv)** The words should change from 'determine other services known to the child' to 'other services to whom the child is known'. The term 'multi-disciplinary check' should be explained and put in the context of education. This phrase is currently open to subjective interpretation;
- (v)** It was considered that there is a lack of a clear definition in the policy of what is 'appropriate to the age, ability and aptitude of the child' and that, while it is permissible for children who attend school to be performing below the average requirement, it appears that this is not applicable to home educated children. Also the definition of 'full-time education' must be made clearer;
- (vi)** More clarity is required around the use of the word 'appropriate'. What does this mean? Why is it referenced that the visits are at least once a year and is this compatible with school inspection timetables. It was acknowledged that parents may wish to request more than one visit during the year and that this should be added as an additional clause;
- (viii), (ix) & (x)** There is a need to determine the specific training requirements of the 'Named Officer'. It was suggested that this person may not necessarily to be a teacher but, more importantly, someone with a clear understanding about home education and who has had specific learning and development in this area. A suggestion that parents with experience of home education should be used as a resource to assist with in-house training to share experiences. Only parents should determine the suitability of the programme; further clarification is required around item (ix). Within sections (ix) & (x) there was concern around the lack of clarification regarding the wording: is it the programme that is being assessed or the child's intelligence?

The tone of the language used in this section was deemed to be threatening and illegal. Parents commented that a child should not be kept in school where their needs are not being met, where they are being bullied or where the child is unhappy. The view was put

forward that parents would be breaking the law with regard to their responsibilities if they kept the child in school any longer than the parents thought necessary.

Almost all parents questioned how school principals and the Board officers could assess whether or not a child is receiving an 'efficient full-time education appropriate to his or her age, ability and aptitude', particularly where they do not know the child, its ability or level of development. It was agreed that the same measures should not be applied to home education as is applied in schools.

Almost all parents questioned whether it is appropriate to ask a child for his or her opinion. The policy was perceived to interfere with the privacy of the family by requiring the assessors to seek the 'opinion of the child' to determine whether or not parents are providing a suitable education.

It was observed that there is a major gap in the policy, as the procedures appear to target those families who are registered with Boards and not those families whose children have never attended school.

Parents commented there is nothing in law to support a named officer of the Boards being responsible for maintaining the Education Management System, deciding on the appropriateness or otherwise of the home education programme or visiting parents annually.

It was noted that there are no formal processes for informing the Boards of changes, for example change of address.

It was suggested that guidance in the procedure should parents wish to cease home educating and place their children in a school ought to be included in this section of the policy.

Children with SEN

Many parents have decided to home educate because their children have particular special needs and as such do not wish to have them labelled. This part of the policy was considered useful for those parents who may require assistance. However, some parents found this section to be threatening. They perceived it is about the Boards forcing an assessment on the child. They emphasised it is up to the parents to decide if the child has SEN and not for the Boards to decide to carry out an educational psychology assessment.

Some parents contented that SEN support can take years to address in school and the education of other children can be affected in a classroom situation. Home education provides the opportunity for one-to-one interaction, which is more beneficial to a child with special educational needs. It was noted that parents will have overall responsibility for their children with identified special educational needs.

Some parents suggested that home educators should be able to agree to a SEN assessment on a voluntary basis and through an enforced regime.

It was noted that the statement of Special Educational Needs is not binding on the parent but on the Boards only. The Boards' interpretation regarding if a child already has a statement of SEN and the parents decide to home educate, indicates a fundamental misunderstanding of the law.

One parent reported that she had placed her child in a school because he was diagnosed with a special need and it has been working well for the parent and child. She would have preferred to home educate but was unable due to the child's specific requirements and the lack of access to resources for home educators.

Another parent stated that she had met with the Board's officer annually for the previous five years, in order to maintain her child's statement of special needs. To date, she has appreciated this help and support and thought of her relationship with the Board as a positive one. However, she now considers that the draft policy implies that Boards are suspicious of home educators.

Minimum Standards

Almost all parents agreed that it is impossible to draw up objective criteria for standards of home education. Whilst schools teach children according to age, home education provides for differentiation according to individual children's needs and ability and these are different for every child. The parents believed that Boards judge home educators by their own systems, which is a flawed approach. Home education is not the same as school and they cannot be compared. The importance of flexibility must be acknowledged.

A clearer definition of what is meant by a 'conducive learning environment' would be helpful and the process/procedure outlining how the Boards intend to investigate whether the physical, social and emotional health and well-being needs of the child are being met should be articulated.

Concerns were raised that the terms used in this section of the policy were ambiguous. The statement 'the Board will make decisions as to the suitability or otherwise of EHE based on these standards' was deemed to be ludicrous. Parents added that this statement assumed the Boards will check on these standards for all children, including pre-school children and children doing their homework; which would be impossible, illegal and not cost-effective.

The respondents considered that this part of the policy indicated a lack of understanding of what it means to be home educated. They considered, it to be much more than what is contained in this section.

Concerns were raised about the reference to minimum standards within the draft policy, as these standards are not specified. The draft policy was considered to be ridiculous. It was highlighted that those staff charged with monitoring and supporting home educating parents and children should not only be qualified teachers but rather should have had specific training regarding Elective Home Education.

Support for Home Educators

Various participants drew attention to the positive experiences that they had with officers of the Boards. The excellent quality of support they had experienced and, in particular, the access to support when required.

It was noted that, presently, there is little or no information concerning available resources on the Boards' websites. Parents indicated it would be helpful if a list of resources, including links to home educating bodies, was made available. Participants considered that information, for example made available on websites regarding home education groups in the area; vaccinations; music lessons; exam preparation and enrolling as an external candidate for examinations would be particularly beneficial. Comments were made that home educators would welcome a partnership and a less confrontational approach. This could be achieved through a supportive role (signposting) rather than being heavy handed.

The concept of 'flexi-schooling' was highlighted by participants and proposed as a helpful way forward, particularly for parents who are teaching GCSE subjects and enabling parents to use facilities in local schools for physical education; music and science as required. The suggestion was made for school premises to be made available, especially during school holidays, for home educating parents to organise events. In addition, many parents pointed

out that they are willing to participate in after school activities and would appreciate more information on this.

Boards should provide a grant to parents, who are choosing to home educate, to assist them in funding their provision. There was a recognition that the full funding allocated to schools would not be paid, but that a gesture of approximately £100 would be welcomed to assist with the purchase of books and other materials. It was observed that in the USA an allowance is made to parents. Participants considered that as rate payers, funding should be made to parents in Northern Ireland that they were saving the Boards money by home educating.

The policy does not make it clear that the Boards want to support parents who are home educating. Support to break down barriers, such as through the organisation of open days etc., would be appreciated.

Monitoring of Home Education Programmes

The view was expressed that home educating parents should not have to subject themselves to inspections and that the Boards were acting beyond their legal capacity (*ultra vires*) by stating that they had the right to do so. Furthermore, home educating parents should not have to subject themselves to inspections from, in some cases, unqualified and untrained individuals who know little about home educating and the benefits for children. It was also remarked that education is not solely about academic success.

One parent, considering home education, pointed out that the draft policy would discourage her from de-registering with her child's school and trying home education for fear of the monitoring and assessment programmes, especially when there would likely be a period of adjustment and settling into home education. This might lead to a fear of the Boards and dealing with them rather than seeing them as supportive and a contact point for clarifying matters.

With regard to the child's opinion being taken into consideration, the parents asked if every child attending school would be asked if they liked school. They added that some children simply do not want to talk to anyone associated with school or education and that they, as parents, are only trying to protect their children.

A question was asked if parents did not engage with the Boards would that be taken as 'prima-facie' evidence that a suitable education was not being provided? Furthermore,

might this result in a referral to Social Services? It was proposed the policy should make clear that non-engagement will not be perceived as negative.

Parents, registered with the Boards, had experienced monitoring through home visits, and reported varying degrees of satisfaction with their experiences. The visits ranged from good experiences, with the officer really understanding home education and being very supportive, to bad experiences, with the officer agreeing a time to visit with parents and then arriving two and a half hours early, making it appear as if the officer was trying to catch the parents out.

The issue of competing rights was raised, specifically in relation to the views of the child versus the views of the parents. With regard to programmes, there were concerns expressed around the rights of parents to teach specific religious philosophies and how that would be monitored.

Assurance was sought that the policy does not seek to close down the right of any parent to teach varying religious philosophies; reference was made to the S75 documentation included with the policy response pro forma.

Comments were made that less emphasis should be placed on the suitability of the programme, with a shift to outcomes and the quality of same.

Clarity was required (linked to training for those who will monitor home educating) around an understanding that home education is a way of life and an acknowledgement by the Boards that education is more than just text books, or just a programme. They considered it is not up to the Boards to determine the appropriateness or otherwise of home education programmes.

Concerns were raised about the appropriateness of the word 'monitoring' and it was highlighted that any attempt to oversee the process by the Boards should be via a voluntary arrangement, but should not be mandatory. It was considered that, should there be a compelling need for a policy to be developed, then it must be done so in tandem with home educators to work towards a better policy. Reference was made to the UN Convention on the Rights of the Child with consideration to persons entering the home and the duty of parents and children.

One parent asked if the Boards would be willing to explore the legal concept of verification as opposed to assessment i.e. a letter from parents once a year verifying that they are home educating their children in accordance with their age, ability and aptitude.

Other Issues

There was an acknowledgement that there needs to be accountability and governance in the process. However, it is necessary for the Boards to take cognisance of differing views and opinions. Some participants believed that the policy contained all that you would expect within such a policy, in respect of language and references. They also believed it may be useful to develop a more user friendly version for parents who currently home educate or who may decide to home educate.

It was suggested that the Boards need to carefully evaluate how they would fund all of the activities described in the policy; implementing the ten step process, outlined in the flowchart, complete with database, will have cost implications.

The participants expressed the view that it would be the preferred option for one policy to be developed by the Boards and applied across Northern Ireland rather the implementation of five different policies.

Some participants considered the consultation approach adopted by the Boards to be flawed. Concerns were raised, firstly, around consultation taking place during an election period and during a time of examinations and, secondly, a failure to contact all those in Northern Ireland who are presently home educating thus enabling them to make a response. In particular, the Boards had failed to contact Education Otherwise directly. One respondent also considered that the questionnaire and space provided for responses were inadequate.

It was stressed that the policy writers should have consulted home educators to incorporate their views into the document. Concerns were also raised about the strategy used to consult with stakeholders and it was queried why an advertisement had not been placed in newspapers to inform all stakeholders of the consultation. In addition, it was noted that the draft policy and the consultation pro forma were difficult to access via the Boards' websites.

Reference was made to the Elective Home Education policy and associated procedures currently in use by Lancashire County Council. Participants highlighted that this was an acceptable policy and approach to home educators. One respondent reported an attempt to

contact the administrator, with responsibility for the Lancashire County Council policy, to make contact with the Boards to discuss the Council's experience of policy development.

One respondent expressed the opinion that it would be very useful if all interested parties could collaborate in a meaningful way in the development of a policy acceptable to all. In support of this, attendees requested a face-to-face meeting with the authors of this draft policy in order to get answers to their questions.

It was commented that there is no appeal procedure as referenced in the draft policy. It was further remarked that one of the attendees had, in July 2013, received a copy of a draft policy which was different from the draft policy currently being considered. This earlier draft referred to a timetable and a statement from the child being home educated.

One attendee referenced the poor experience experienced with Board officers who had visited the home. This included making inappropriate comments and failing to consider the work of the children and to take an opportunity to talk with them. The attendee considered that false information had been provided and it was necessary for trust to be regained.

A parent noted that some home educating families wish to belong to religious groups. Would Boards find it acceptable for such religious groups to act in a liaison capacity between home educators and the Boards?

This attendee was of the view that the procedure outlined in the policy is a big deal for parents and it is a massive intrusion about which their children are nervous as it means their safety zone may be invaded.

Once again, the need for the Boards to act within their powers and not to misinterpret the law was emphasised. It was stated by attendees that the Boards do not make the law.

The respondents commented that society in general has stereotyped parents who home educate to be in some way counter cultural. They explained that home educators are a tightly knit group who are highly suspicious of anything they believe seeks to change how they educate their children. It was reported that it is against the law to home educate in Germany and this was something that they did not want to see in Northern Ireland. They observed that home educating is perceived to be a middle class phenomenon, and provided examples of families representative of varying occupations in the Republic of Ireland who are home educating to a large degree.

As Home Educators can travel extensively, comments were made regarding the applicability of the policy in these circumstances and the notion that this policy is based on 'a sledgehammer to crack a nut' type approach.

3.6.2 Focus Groups – Children and Young People

Table 10: Number of children and young people attending focus groups

Focus Group attendees	Number
Registered with ELB	3
Not Registered	3
No. Attended	6
Number families represented	3

At the focus groups the young people were asked to consider a range of questions about their experience of home education. The answers they gave to the questions are as follows:

Question 1: What do you like best about home education/what are the benefits?

The young people provided a range of answers including choosing their own hours as a family to educate, being away from bad teachers and school bullies, having more time with their families, greater choice of subjects, parents make better teachers as they know their children, not having to wear uniform and being able to adjust the amount of studying.

Question 2: What are the challenges (if any)?

Challenges for parents were identified as it being important for them to keep up to date with developments, balancing being a parent and a teacher and coping with the cost of home education.

Challenges for children included motivating themselves, sometimes having to remind themselves it is not a holiday, starting off in the morning and avoiding distractions, knowing fewer people, knowing when to leave a subject or to skip areas and finding exams less daunting.

One young person stated that she was not of the Catholic or Protestant religions but, nevertheless, had been taught about the Christian faith at school.

Question 3: How do you feel about ‘the authorities’ wanting to visit your family to monitor home education?

The young people offered mixed views to this question. Some felt it would be okay as long as they did not interfere in their education and also that once per year would not be enough. Others responded that it would offer no benefits, except to the inspector and, once accepted, it could become more regulated and where would you draw the line.

Question 4: Should the authorities be permitted to speak with children too?

The young people believed this depends on how individual children feel about this themselves. It should also depend on the age of the child. They believed that young people often say the same as their parents but they also agreed that ‘pushiness’ can come from schools. Some children asked why this situation has come about?*

** In response to the question ‘Why has this come about?’ the Board officer explained, by drawing a triangular diagram that children have rights (based on Article 29 of the UNCRC) and parents also have rights to home educate and a duty (1986 Ed Order NI) and the Boards have a duty to assure themselves that all children have a suitable education.*

3.7 Equality Consultees

Table 11: No. of Equality Responses to Consultation received via:

Method	Number
E-mail	4
Total	4

3.7.1 Disability Action

Regarding the offer of accessible formats, to enable greater participation in the consultation process, Disability Action recommends that a named contact be included within the statement.

Disability Action notes the absence of a specific timescale in relation to deregistration of the child or young person although It is aware that there are time delays in this area. It added that whilst awaiting deregistration, the right support and appropriate school placement must remain in place for the child or young person (Item 3 (ii), page 5).

Regarding the early learning environment and suitability of programmes, Disability Action believes that the assessment turnaround must be completed within a realistic timeframe (Item 3 (ix), page 6).

Regarding a Psychology Assessment to ensure reasonable and adequate progress, Disability Action would like further information as to whether such an assessment of progress is included within schools in relation to SEN pupils (Item 4 (i), page 6).

Disability Action comments that there is a lack of disaggregated data regarding the nature and reason for children being home educated e.g. lack of SEN support, suitability of placement and bullying. They recommend that this anomaly is addressed.

Disability Action recognises the time and effort that has gone into producing this document for consultation and thanked the Boards for the opportunity to respond and looks forward to continued dialogue.

3.7.2 National Society for the Prevention of Cruelty to Children

Aims and Objectives

The National Society for the Prevention of Cruelty to Children (NSPCC) is 'fully supportive that the welfare of the child must be the paramount consideration in relation to elective home education'.

NSPCC confines its response to the area of safeguarding children who are home educated.

Safeguarding

NSPCC feels it is 'vital that this guidance strikes the right balance between parental rights and sufficiently safeguarding children and the child's right to protection'.

It continues 'while it would be incongruent and unjust to disproportionately distort the commitment and exemplary practice by most home educators who try to ensure their children are safe, healthy and happy; there are significant safeguarding challenges that may exist around educating exclusively in a domestic or home environment. NSPCC therefore welcomes the new guidance which places responsibilities on the five Education and Library Boards and parents to safeguard and promote the welfare of children and young people'.

NSPCC endorses the duties outlined in Section 2(a) whereby a Board's officer is contacted on the same day that any concern is noted to ensure any safeguarding needs of the child are assessed in the first instance.

NSPCC considers that the policy 'recognises the voice of the child and in particular that the child's opinion will also be taken into consideration when monitoring the programme'. However the Society would like to see reference to 'clear interpretation or circumstance of this provision'. It recommends that 'the view of the child is independently sought, if deemed appropriate or if a child is particularly vulnerable or has particular communication needs'.

The Society refers to its Childline School's Service, which delivers a prevention programme to all key stage 2 pupils in schools across Northern Ireland. It believes there may be potential to engage with children in home education and their families.

There is some concern that families and children in home education may only be visited by a Board's officer once a year. It feels the 'monitoring requirements contained in the guidance should be strengthened to reduce the barriers to identifying and detecting abuse and harm'.

Parents, who home educate, should be afforded sufficient support. The Boards' officers 'should facilitate and provide resources available to ensure parents receive appropriate support to deliver the full integrated approach with wellbeing, protection and education duties to the fore'.

3.7.3 Social Democratic and Labour Party

Aims and Objectives

The Social and Democratic Labour Party (SDLP) comments that whilst the draft policy mirrors in many ways the legislation that currently exists in England and Wales some of the provisions in the policy are arbitrary and go much further than legislation in England and Wales. It believes that those who educate at home must be afforded suitable protection and be empowered to deliver the best form of education possible. They must not face unnecessary restrictions in attempting to deliver education to young people.

Legislative Background

The SDLP draws particular attention to Section 3(v) of the Policy which states:

'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'.

It comments that this section appears to skew the role of the Boards in respect of parents who elect to home educate their children; many of whom do so because their children would struggle to cope with mainstream schooling. It adds that Schedule 13 of the Education and Libraries (Northern Ireland) Order 1986 does not mandate any such duty by quoting that it states: '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, it shall serve a notice in writing on the parent requiring him to satisfy the board, within such period (not being less than fourteen days beginning with the day on which the notice is served) as is

specified in the notice, that the child is, by regular attendance at school or otherwise, receiving suitable education’.

Procedures for EHE

The SDLP has similar concerns regarding Sections 3 (viii) and (ix) of the draft Policy, which would require families to submit their home education programmes for Boards to rule on their ‘appropriateness or otherwise’. It states that the law as it currently stands does not mandate such a system. It adds that the law makes no stipulation that parents must register or seek approval in order to educate their children at home. It further remarks that no such requirement exists for local authorities in either England or Wales.

The SDLP believes that the proposal to have mandatory inspection of homes and pre-approval of the curriculum is something which is overly onerous. It further adds that it is not a requirement in other jurisdictions and should not be applied here. The SDLP states that, in England and Wales, local authorities have no statutory duty in relation to monitoring the quality of home education on a routine basis. It adds that there is no obligation for local authorities to act unless they are alerted to a reason for doing so.

The SDLP believes that the proposal for the ‘Education Management System’ database, as set out in Section 3(iv) of the policy, is in its view overly onerous. It adds that the requirement to make home educating families join an official register was recently rejected by the Welsh Government following a period of consultation.

It suggests that Boards would be better focusing their efforts on enhancing the support both financial and otherwise for home educating families rather than imposing a licensing scheme.

Monitoring Arrangements

The SDLP believes it would be unreasonable and disproportionate for the annual monitoring by Boards as prescribed by section 7(iii) of the draft policy.

Summary

The SDLP accepts that the department has to balance competing rights of the parent and the right of the child to receive a good education. It adds that in striking the balance it is important that undue restrictions are not placed on parents who educate their children at home.

3.7.4 Women’s Aid Federation Northern Ireland

Aims and Objectives

The Women’s Aid Federation Northern Ireland (WAFNI) welcomes the consultation proposals to better regulate elective home education and states ‘we believe that doing so will result in better education and welfare outcomes for children who receive home schooling’.

Safeguarding

WAFNI contends that ‘the home school environment provides much less opportunity than a school environment for identifying and intervening where there is abuse of a child within the home’. It continues ‘we would urge that the system put in place is as effective as possible in protecting children in a home schooled environment’. Also “we would urge that the interface between home educating parents and education welfare officers is defined in more detail and the capacity of the education welfare officer to act if there is suspicion of abuse is codified within a robust regulatory framework’.

WAFNI also wishes to ‘point out that there are a number of other disadvantages to a home school environment, one of which is a potential lack of access to preventative education programmes such as our Helping Hands programme’.

Procedures for EHE

WAFNI ‘would be supportive of mandatory registration of all home schooled children in Northern Ireland with at least annual monitoring of the educational environment provided, in order to ensure that the best interests of their child and their pastoral care and welfare needs are being met. This would also effectively fulfil the ELB’s statutory responsibility to ensure that all children are educated’.

3.8 Section 75 Questionnaire Responses

3.8.1 Quantitative Analysis

47 respondents completed the Section 75 Equality Questionnaire.

A majority of respondents consider that a review of provision in this area would impact negatively on equality of opportunity or promotion of good relations with regard to religious belief, with a significant minority considering that it may also impact negatively on political opinion.

However, the majority of respondents do not reply or indicate 'don't know', specifically to the statements in respect of racial group, age, marital status, sexual orientation, gender, disability and dependants.

The full analysis of these results is provided in Appendix 4, Equality Responses.

3.8.2 Qualitative Analysis (based on comments received)

Section 75 Category:

Religious Background

A small number express the view that the option of home education may better equip those who have certain religious beliefs and that implementation of this policy may result on a judgement on a family's lifestyle and religious beliefs. It is also suggested that the draft policy is particularly injurious in terms of religious beliefs as home schooling is a major issue for many religious groups.

Political Opinion

A small number of respondents consider that any change to the education system could have a bias towards whichever political party holds the education portfolio.

Racial Group

A small number express the view that the option of home education may better equip those of a particular racial group.

Age

A significant minority comment that the draft policy makes no effort to canvas or survey children's opinions, especially the voices of those children educated at home who would be most affected by its proposals. They argue that children who attend school do not have their homes inspected on an annual basis, which makes the policy discriminatory.

Marital Status

No specific comments have been made in respect of marital status.

Sexual Orientation

No specific comments have been made in respect of sexual orientation.

Gender

No specific comments have been made in respect of gender.

Disability

A minority highlight that many home schooled children have a level of disability and believe that children with special educational needs should be afforded equality of opportunity by ensuring their right to be treated equally with their peers.

A minority comment that the draft policy is in danger of discriminating against young people with disabilities and SEN if they are not given an equal opportunity of receiving education at home. They state that the law gives children with special needs and disabilities the right to be treated equally with their peers yet the draft policy does not appear to follow the law in this regard.

Dependants

A minority hold the view that the draft policy has a disproportionate impact on dependants.

Other

A significant minority remark that common reasons for parents choosing to home educate are religious belief, ethnicity and culture and disability. It is believed that these groups would be negatively impacted by the bureaucracy, excessive intrusion and unnecessary restrictiveness of the proposals.

A significant minority feel that the adversarial tone of the policy seeks to undermine parents and appears to look for problems at every opportunity whether there is cause for concern or

not. They state that the draft policy does not seek to promote good relations in any way and is based on a premise of mistrust. One parent comments 'the aim of this policy is to declare open season on home educating families. The Board officers are being used to find fault in any way possible. This cannot fail to be discriminatory on all grounds'.

A minority believe that singling out home educated families for home inspections and interviews with children already demonstrates discrimination, which reinforces the validity of discrimination against any and all of the Section 75 categories.

Section 4: Emerging Themes

The key themes emerging from consultation are summarised as follows:

4.1 Aims and Objectives

- A concern is highlighted as to whom specifically the draft applies, as this is not explicit within the document;
- No clear aims and objectives are stated in the draft policy;
- There is no clear rational or research base for a policy of this kind.

4.2 Legislative Background

- Major concerns about the interpretation and application of legislation as quoted in the draft policy are highlighted;
- Current legislation is considered sufficient to provide the Board with powers to intervene if evidence indicates that this is the case;
- It is the role of the Northern Ireland Assembly to make changes in the law and not an unelected body such as the Board;
- Some respondents who represent the interests of young people, suggest that the policy is not sufficiently robust in respect of the need for mandatory registration for all home educated children;
- Legislation is misquoted, and misinterpreted throughout the draft policy.

4.3 Safeguarding

- Concerns are raised that education and welfare are conflated in the draft policy;
- The draft policy infers that home education puts the child at risk;
- Those with an interest in home education believe that welfare is the role of Social Services and not the Boards;
- Some respondents feel that the draft policy does not go far enough in respect of safeguarding. It is suggested that the Board should, as a minimum, know where all home educated children can be contacted and make registration mandatory.

4.4 Procedures for EHE

- The legislation quoted in this section is misinterpreted, misapplied and potentially provides incorrect legal advice to schools;

- Some respondents perceive this section to be poorly written and to make assumptions that they consider to be incorrect;
- The legality of the process regarding de-registration or any intention to delay de-registration is questioned;
- Issues around the requirement for parents to provide a *programme* for inspection is questioned;
- The possible contravention of data protection laws and principles when planning to develop a data base of personal information is highlighted;
- The implication that the burden of proof lies with home educating parents prevails;

4.5 Children with SEN

- Concerns are highlighted about the application of legislation as quoted in the draft policy;
- The approval mechanisms to home educate and the need to demonstrate progress are felt to be discriminatory towards children with SEN;
- It is contested that there is no requirement to wait until the annual review to change the provision in a statement;
- Concerns are expressed over the wellbeing of SEN children with autistic spectrum disorders in relation to home visits by Board Officers.

4.6 Minimum Standards

- The list of minimum standards is considered by respondents to be ill-defined, arbitrary and without foundation, precedent or support in case law;
- It is be impossible to apply minimum standards as the school environment is not comparable to home education and could not be assessed in the same way.

4.7 Support for Home Educators

- Parents who home educate would welcome access to resources such as: the use of school facilities; provision of information via websites and funding for materials and examination fees.

4.8 Monitoring of Home Education Programmes

- Parents dispute they are obliged to comply with home visits and interviews with their children;

- Home visits are perceived by most consultees as intrusive, unreasonable and disproportionate and are unlikely to provide an accurate picture;
- A minority of respondents welcome the proposed home visits and interviews with children;
- Intervention should only be carried out when there is a reason to do so;
- The emphasis should be on developing positive relationships between home educators and the Boards.

4.9 Other

Other emerging themes include:

- Home education is a positive experience for many children and for the wider society;
- The tone and language used throughout the draft policy are found to be intimidating and threatening;
- It is important that education reform takes account of the diversity of children's needs;
- The approach to consultation adopted by the Boards is flawed;
- Home educating families and interest groups indicate a willingness to engage/participate with the Boards to develop a policy which is acceptable to all;
- The policy developed by Lancashire County Council is cited as a model of good practice;
- The draft policy demonstrates a lack of understanding around the ethos of and the reasons why parents decide to home educate;
- There is a perceived absence of appropriate professional development for those officers who have responsibility for home education.

Appendices

Appendix 1 - Consultation Strategy

Appendix 2 - Response Pro forma

Appendix 3 – Results of Questionnaire

Appendix 4 – Results of Equality Questionnaire

Appendix 5 – Equality Consultees Mailing List

Appendix 6 – Draft policy

Appendix 1 – Consultation Strategy

CONSULTATION STRATEGY

Draft Elective Home Education Policy - 2014

The Boards are committed to consulting with and engaging local people in the planning and delivery of all services. This Consultation Strategy outlines the methodology that will be adopted by Boards to enable those who have an interest in Elective Home Education to comment about the draft policy and encourage user involvement to support the decision-making process.

Throughout the process, the Boards will endeavour, through the use of a variety of mechanisms, to achieve a meaningful engagement with all stakeholders, having due regard for their Section 75 Equality obligations.

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

The mechanisms which will be used include:

1. Letter to the parents of all children who have notified the Board that they are presently electing to home educate their children and other key stakeholders, to advise of the forthcoming consultation exercise;
2. Website information and associated Questionnaire;
3. Consultation with Education Partners/other bodies via the existing Forum for Health, Social Care and Education Colleagues/e-mail/letter/meeting agenda as appropriate;
4. Consultation with Children and Young People using age appropriate consultation approaches;
5. Consultation with Parents who have notified the Board that they are presently electing to home educate their children via a series of focus groups;
6. Communication with Equality Consultees ([letter/e-mail], via the Regional Equality Unit and
7. Schools through existing Principals' Consultative Forums and/or e-mail/letter as appropriate.

Consultation Methodology

1. Pre consultation publicity

To ensure maximum awareness of the draft policy, the Boards will correspond with all parents within each Board Area who have notified the Board that they are presently Home Educating and key stakeholder groups, advising of the draft policy and the consultation process that will take place from Monday 28 April to Friday 27 June 2014.

2. On-line Consultation

With effect from Monday 28 April 2014 information will be available on each Board's website to include a copy of the draft policy and a short questionnaire.

3. Communication with key Education Partners

Consultation with key Education Partners including those representing Health and Social Care will take place at existing Forums during the period April – June 2014.

4. Consultation with Young People

The Boards recognise 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 websites.

Elective Home Education Policy– ACTION PLAN

GROUP	METHOD	LEAD OFFICER	BY WHEN
1. General	Letter to parents who have notified the Board that they are presently Home Educating.	Officer with responsibility for Elective Home Education (EHE)	W/C 14 th April 2014
2. General	Information and Questionnaire available on ELB's websites	<i>Individual Boards to identify who in each Board Area questionnaire responses should be sent to.</i>	Go live Monday 28 th April 2014
3. Parents	Focus Groups	Corporate Development Officer/CMSU in partnership with relevant ASEO in individual Board area	From 28 th April – 27 th June 2014 <i>NEELB – 8th May, 16th May, 28th May</i>
4. Young People	Via (Children's or young people's right to be consulted and to have their views taken into account (Article 12.1 of the UN Convention))	<i>Arrangements to be confirmed by individual Boards</i>	From Monday 28 th April – Friday 27 th June 2014
5. Education Partners	Awareness raising through existing Forums, highlighting consultation via ELB's website	Officer with responsibility for EHE/ASEO as appropriate	From Monday 28 th April – Friday 27 th June 2014
6. Key Stakeholders– NICCY, CLC, HEdNI SENAC	Via letter, e-mail correspondence	NEELB on behalf of all Boards	24 th April 2014
7. Equality Consultees	Letter/e-mail/highlighting link to ELB's website	Regional Equality Unit/ CMSU	24 April 2014
8. Schools	Via e-mail communication	Officer with responsibility for EHE	28 th April 2014

Appendix 2 – Response Pro Forma

Education and Library Boards

Elective Home Education Policy (Draft)

Consultation Response

April 2014

Introduction

The Education and Library Boards are 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 Boards are seeking the views of those most directly involved.

Vision

The Boards have, since their inception in 1972, been 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 Boards have 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.

Boards' Position

The Boards recognise 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

6. Pre consultation publicity

To ensure maximum awareness of the draft policy, the Boards will correspond with those parents within each Board area who have informed the Boards 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.

7. On-line Consultation

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

8. 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.

9. Consultation with Young People

The Boards recognise 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.

10. 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 websites.

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:

Details of individual Board

Or by email to: *address of individual Board*

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*)

--

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) _____	

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

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				
3.10 Provides appropriate information about the arrangements for and frequency of monitoring				
3.11 Highlights the minimum standards that will be used for monitoring purposes				
3.12 Signposts resources/information that may be useful for parents who are home educating				
3.13 Provides information about the process to be followed to facilitate children with identified Special Educational Needs				
3.14 Provides parents with sufficient information to contact the named Board Officer				
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				

Please use the space below to comment further:

A large, empty rectangular box with a thin black border, intended for providing further comments or feedback.

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			
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.

Appendix 3 – Results of Questionnaire

Results of Questionnaire (%) – 35 Completed Questionnaires Received		Agree	Uncertain	Disagree	Not applicable	No Reply
3.1	Provides relevant information about the Board’s responsibility for Elective Home Education, clearly and concisely	8.6	2.9	82.0	5.7	0
3.2	Outlines the procedure to be followed should parents decide to home educate their children	8.6	5.7	80.0	2.9	2.9
3.3	Provides parents with a greater understanding of their role/responsibilities when deciding to home educate their children	5.7	2.9	82.9	5.7	2.9
3.4	Provides parents with a greater understanding of the Board’s statutory role/responsibilities for Elective Home Education	2.9	2.9	85.7	5.7	2.9
3.5	Clarifies the role of the Education Welfare Service/Officer in relation to children who are home educated	8.6	2.9	80.0	5.7	2.9
3.6	Clarifies the role of the School/School Principal in relation to children who are home educated	5.7	5.7	80.0	5.7	2.9
3.7	Clarifies the role of other agencies in relation to children who are home educated	5.7	5.7	82.9	2.9	2.9
3.8	Highlights the importance of establishing arrangements for safeguarding children who are home educated	14.3	0	77.1	5.7	2.9
3.9	Provides information and clarifies the role of the ‘Named Officer’ as appointed by the Board	11.4	2.9	80.0	2.9	2.9
3.10	Provides appropriate information about the arrangements for and frequency of monitoring	5.7	5.7	80.0	5.7	2.9
3.11	Highlights the minimum standards that will be used for monitoring purposes	8.6	8.6	71.4	8.6	2.9
3.12	Signposts resources/information that may be useful for parents who are home educating	5.7	11.4	77.1	2.9	2.9
3.13	Provides information about the process to be followed to facilitate children with identified Special Educational Needs	5.7	11.4	71.4	8.6	2.9
3.14	Provides parents with sufficient information to contact the named Board Officer	8.6	8.6	71.4	8.6	2.9
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	5.7	5.7	82.9	2.9	2.9

Appendix 4 – Results of Equality Questionnaire

Equality Responses Percentage Breakdown (47 Questionnaires Completed)

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 %	No Reply %
Religious Belief	4.3	53.2	8.5	34.0
Political Opinion	4.3	53.2	10.6	31.9
Racial Group	4.3	48.9	10.6	36.2
Age	4.3	48.9	10.6	36.2
Marital Status	4.3	46.8	12.8	36.2
Sexual Orientation	4.3	46.8	10.6	38.3
Gender	4.3	46.8	10.6	38.3
Disability	4.3	55.3	10.6	29.8
Dependants	4.3	48.9	8.5	38.3

Appendix 5 – Equality Consultees Mailing List

Age (older and younger people)

1. Age NI
2. Barnardos
3. Boy's Brigade
4. Children's Law Centre
5. Early Years
6. First Key NI
7. Girl Guiding Ulster
8. Include Youth
9. NICCY
10. NI Youth Forum
11. NSPCC
12. Save the Children
13. Sports Council for NI
14. The Senior Citizens Consortium
15. Youth Action
16. Youth Council
17. Youth Link NI
18. Youth Net

Carers

1. Carers NI
2. Children in NI
3. Down Lisburn Carers
4. Gingerbread NI
5. NI Carers Association

Community Relations

1. CAJ
2. Confederation of Community Groups
3. East Belfast Community Development Agency
4. Falls Community Council
5. Mairead McCafferty
6. Newstart Education Centre
7. NI Community Relations Council
8. NIACRO
9. NICVA
10. North West Community Network
11. Reconnect
12. Rural Community Network
13. South West Belfast Community Forum

Dependents

1. Arthritis Care
2. Arts and Disability Forum
3. Care for NI

Disability

1. Action Mental Health
2. Action on Hearing Loss
3. AFASIC
4. Alzheimer's Society
5. Association of Spina Bifida & Hydrocephalus
6. Autism NI
7. British Deaf Association
8. British Epilepsy Association
9. Disability Action
10. Disability Sports NI
11. Down's Syndrome Association
12. Employers Forum on Disability
13. Guide Dogs for the Blind
14. IPSEA
15. Mencap
16. Mindwise New Vision
17. Muscular Dystrophy Campaign
18. National Deaf Children's Society
19. NI ADD Support Centre
20. NI Association for Mental Health
21. NI Chest, Heart and Stroke Association
22. NI Institute for the Disabled
23. North West Forum of People with Disabilities
24. Parents & Professionals and Autism
25. Reconnect
26. RNIB
27. RNID
28. Sense NI
29. The Cedar Foundation
30. The MS Society
31. The Orchardville Society
32. Ulster Support Employment Ltd

Education

1. BELB
2. CCEA
3. CCMS
4. Comhairle na Gaelscolaiochta
5. Conradh na Gaelge
6. ELBs' Solicitors
7. ESAIT
8. Libraries NI
9. NEELB
10. NICIE
11. Queen's University Belfast
12. SEELB
13. SELB
14. WELB

Equality

1. Equality Coalition
2. Equality Commission for Northern Ireland
3. Northern Ireland Human Rights Commission

Gender

1. Belfast Women's Aid
2. Derry Well Women
3. Federation of Women's Institutes
4. Magherafelt Women's Group
5. Newry & Mourne Women
6. NI Women's Aid Federation
7. NI Women's European Platform
8. Oysters
9. Rosemary Rainey
10. SAIL
11. The Women's Centre
12. Transforum
13. Translate
14. Women's Forum NI
15. Women's Resource & Development Agency
16. Women's Support Network

Good Relations

1. British Council
2. CAJ
3. Community Development and Health Network
4. Confederation of Community Groups
5. East Belfast Community Development Agency
6. Falls Community Council
7. Mairead McCafferty, Talk21
8. Newstart Education Centre
9. NIACRO
10. NI Community Relations Council
11. NICVA
12. North West Community Network
13. Reconnect
14. Rural Community Network
15. South West Belfast Community Forum

Government Departments

1. Department of Agriculture
2. Department of Education
3. Department of Enterprise, Trade and Investments
4. Department of the Environment
5. Northern Ireland Office

Health

1. BHSCT
2. Health Promotion Agency
3. NI Central Services Agency for Health and Social Services
4. NHSCT
5. SEHSCT
6. SHSCT
7. WHSCT

Miscellaneous

1. ANIC
2. CSA (Leanne Mulholland)
3. Council for the Homeless NI
4. Brenda Liddy (fsnet)
5. Gavin Boyd (jocelyn.wallace@deni.gov.uk)
6. Housing Executive
7. HR Research & Evaluation Branch
8. INCORE Conflict Resolutions Ltd
9. Information Commissioner ico.gsi.gov.uk
10. Irene Orr (Virgin Media)
11. Livestock and Meat Commission for NI
12. NI Anti-Poverty Network
13. NILGOSC
14. NI Mediation Service
15. NI Tourist Board
16. POBAL
17. Probation Board for NI
18. Relate NI
19. The Ulster-Scots Language Society
20. Ulster Historical Foundation
21. Yvonne McAlister (Virgin.net)

Political

1. Alliance Party
2. Basil McCrea NI Assembly
3. Democratic Unionist Party
4. Education Committee - NI Assembly
5. Green Party
6. Mervyn Storey
7. NI Conservative Party
8. SDLP
9. Sinn Fein
10. The Green Party
11. Ulster Unionist Party
12. Workers Party

Public Authorities

1. Antrim Borough Council
2. Ards Borough Council
3. Armagh City and District Council
4. Ballymena District Council
5. Ballymoney Borough Council
6. Banbridge District Council
7. Belfast City Council
8. Carrickfergus Borough Council
9. Castlereagh Borough Council
10. Coleraine Borough Council
11. Cookstown District Council
12. Craigavon Borough Council
13. Derry City Council
14. Down District Council
15. Dungannon and South Tyrone Borough Council
16. Fermanagh District Council
17. Larne Borough Council
18. Limavady Borough Council
19. Lisburn City Council
20. Local Government Staff Commission
21. Magherafelt District Council
22. Moyle District Council
23. Newry and Mourne District Council
24. Newtownabbey Borough Council
25. North Down Borough Council
26. Omagh Borough Council
27. Strabane District Council

Race

1. African & Caribbean Support Org
2. Al-Nisa Association
3. Altram
4. An Munia Tober
5. Armagh Traveller Support Group
6. Belfast Islamic Centre
7. Belong NI
8. Chinese Welfare Association
9. Craigavon Travellers' Support Committee
10. Derry Travellers Support Group
11. Embrace NI
12. Indian Community Centre
13. Italian Society
14. Multi-Cultural Resource Centre
15. NICEM
16. NI Community of Refugees & Asylum Seekers
17. Northern Ireland Muslim Family Association
18. Oliver Morgan (Dungannon gov.uk)
19. Omagh Ethnic Community Support Group
20. Traveller Movement
21. Wah Hep (Chinese Community Association)

Religion

1. Association of Baptist Churches in Ireland
2. Belfast Islamic Centre
3. Church of Ireland
4. Methodist Church in Ireland
5. Presbyterian Church in Ireland
6. Roman Catholic Church
7. The Belfast Baha'i Community
8. NI Inter-Faith Forum

Sexual Orientation

1. Foyle Friend
2. GLYNI
3. Lesbian Line
4. Mairead McCafferty (talk 21.com)
5. NI Gay Rights Association
6. QueerSpace
7. Rainbow Project

Trades Unions

1. AEP
2. ASPECT
3. ATL
4. Causeway Trades Union Council
5. GMB
6. GTCNI
7. ICTU
8. INTO
9. Mary Cahillane (mcahillane@hotmail.com)
10. NASUWT
11. NIPSA
12. NUS USI
13. UCATT
14. UTU
15. UNISON
16. Unite the Union

Northern Ireland
Elective Home Education Policy
DRAFT
Version
(March 2014)

Purpose

The aim of this guidance is to provide information about the arrangements to be made by the Northern Ireland Education and Library Board (the Board)/Education and Skills Authority (ESA) for ensuring that the parents of children and young people who are electively home educated provide an efficient full time education for their children appropriate to their age, ability, aptitude and any special educational needs they may have.

Note: Reference in this document to *parent* should be taken as all those with Parental Responsibility as defined by the Children (NI) Order 1995.

This document also considers the term “parent” as including those individuals who meet the definition of the term as stated in Article 2D of the Education and Libraries (Northern Ireland) Order 1986 and includes any person who is not a parent of the child but who has parental responsibility for him or her, or who has care of the child.

A flow chart illustrating an overview of the stages in the process can be seen in Appendix 1.

Contents

1. Legislative Background
2. Safeguarding
3. Procedures for Elective Home Education
4. Children with SEN
5. Minimum Standards
6. Support for Home Educators
7. Monitoring of Home Education Programmes

Appendix 1: Flowchart of stages in the process

Appendix 2 : Extracts from United Nations Convention On The Rights Of The Child

Appendix 3: Extracts from The Education and Libraries (NI) Order 1986

1. Legislative Background

Although not legally binding, the Board/ESA recognises the United Nations Convention on the Rights of the Child. A number of these rights are summarised in Appendix 2, including an outline of the duties of parents and authorities in respect of children's education and welfare.

The Board/ESA considers that the welfare of the child is paramount as determined by the Children (Northern Ireland) Order 1995 Part II.

In relation to the Elective Home Education (EHE) of children and young people, the Board/ESA recognises the right of parents to make provision for the education of their child in accordance with the provisions of Article 44 of the Education (Northern Ireland) Order 1986 (Appendix 3).

This states that:

"In the exercise and performance of all powers and duties conferred or imposed on them by the Education Orders, the Department and boards shall have regard to the general principle that, so far as it is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure, pupils shall be educated in accordance with the wishes of their parents."

However, parents are placed under a duty to ensure their child is educated in accordance with the provisions of Article 45 of the said Order:-

"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at a school or otherwise."

This guidance relates to children and young people of compulsory school age. This is defined in the Education and Libraries (Northern Ireland) Order 1986 (1986 No 594-(N13) Article 46 (1) as follows:

Compulsory school age

46.—(1) *Subject to the following provisions of this Article, in the Education Orders the expression "compulsory school age" means any age between four years and sixteen years and accordingly a person shall be of compulsory school age if he has attained the age of four years and has not attained the age of sixteen years.*

(2) *Where a person attains the age of four years—*

(a) *on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in that following year;*

(b) *on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the lower limit of compulsory school age until 1st August in the following year.*

(3) *Where a person attains the age of sixteen years—*

(a) on any date occurring in the period beginning on (and including) 1st September in any year and ending on (and including) 1st July in the following year, he shall be deemed not to have attained the upper limit of compulsory school age until, or as the case may be, deemed to have attained that upper limit on 30th June in that following year or such other date as the Department may, by order subject to affirmative resolution, prescribe;

(b) on any date occurring in the period beginning on (and including) 2nd July in any year and ending on (and including) 31st August in the same year, he shall be deemed not to have attained the upper limit of compulsory school age until 30th June in the following year or such other date as the Department may, by order subject to affirmative resolution, prescribe.]

2. Safeguarding

a. The welfare of the child is paramount. Throughout all stages of the procedures outlined below, consideration will be given to any existing and/or potential safeguarding issues. The EWO for the school, if the child is on the register of a school, or, if deregistered, the designated officers for child protection in the CPSSS will be contacted **on the same day** that any concerns are noted. Whatever steps are deemed necessary to ensure that the safeguarding needs of the child are met at the earliest opportunity, will be taken, including onward referral to social services Gateway team. Further information may be found on the Safeguarding Board for Northern Ireland (SBNI) website at www.safeguardingni.org/resources Relevant information will be recorded on the EMS database.

3. Procedures for Elective Home Education

(i) For children who are registered in a school, and where consideration is being given to EHE by those with parental responsibility, they will be advised to discuss the matter with the child or young person's school Principal.

(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. (Where a child has never been registered in a school it is the Board/ESA's expectation that parents would notify the Board/ESA that they are home educating their children and follow the arrangements in this guidance)

(iii) The Principal will notify the school education welfare officer (EWO) of the parents intention, on form EHE including, where appropriate, the wishes and feelings of the child as per Part II, Article 3 Children (NI) Order.

(iv) Should the parents proceed, the EWO will log the details on the Education Management System (EMS) database and complete a multi-disciplinary check to determine other services known to the child. Form EHE1 will then be completed and forwarded to named officer for EHE who will assume responsibility for the case.

(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.

(vi) The Board/ESA's named officer for EHE, has responsibility for maintaining the database, making decisions with regard to the appropriateness or otherwise of programmes and ensuring that families with children who are home educated are visited at least once a year. It is also the responsibility of the named officer(s) to liaise with the other Board/ESA services as appropriate.

(vii) When parents take the decision that their child or young person is to be removed from the school register for the purpose of EHE, the school will be advised to use Code 3 (temporary code) to record the period of absence between when the parent informs the school that they intend to educate at home until the issuing of the certificate of attendance (S.A.1). When S.A.1 has been issued the pupil may then be removed from the General Register. Ref: DE Circular 2013/13.

(viii) Following receipt of S.A.1 parents should forward a copy of their EHE Programme to the Board/ESA named officer for EHE to enable the Board/ESA to reach a decision that the proposed programme for the child is efficient and appropriate to the age, ability and aptitude of the child, and to any special educational needs he or she may have.

(ix) The Board/ESA named officer will assess the learning environment and the suitability of the programme to meet the educational needs of the child. The Board/ESA's decision as to the appropriateness or otherwise of the programme, having due regard to the best interests of the child and relevant legislation, will be communicated in writing by the named officer for EHE to those with parental responsibility.

(x) In cases where a parent fails to demonstrate that the child is receiving efficient full time education, appropriate to his or her age, ability and aptitude, and to any special educational needs he or she may have, the Board/ESA may take legal action in accordance with the Education and Libraries (Northern Ireland) Order 1986, Schedule 13 or Article 55 of the Children (Northern Ireland) Order 1995.

4. Children with SEN

(i) Should any officer or parent have cause for concern in relation to any developmental issues, these will be discussed on an individual basis with the parent, for example, special educational needs. A parent can contact the Board/ESA Special Educational Needs Advice and Information Service. On occasion it may also be necessary for an Educational Psychology assessment to be arranged by the Board/ESA in order to ensure that reasonable and adequate progress is being made, or to determine the nature and extent of any special educational needs the child may have.

(ii) For children with a Statement of Special Educational Needs, the mechanism for bringing about a change in the provision detailed in the statement is the annual review. Parents and

schools must liaise with the Board/ESA's Special Education section in this regard. Department of Education approval is required to name anything other than grant aided school provision in a child's Statement of Special Educational Needs. In accordance with the statutory rules for Northern Ireland 1974, Number 78 and Department of Education Circular 2010/07.

5. Minimum Standards

The following minimum standards should apply for children who are home educated:

- The child is educated in an environment which is safe;
- The child has access to a conducive learning environment, appropriate to their age, ability and aptitude and to any special educational needs they may have;
- The programme is suitable and meets the learning needs of the child;
- The child's physical, social, emotional health and wellbeing needs are being met.

Board/ESA decisions will be made as to the suitability or otherwise of Elective Home Education based on these standards.

6. Support for Home Educators

The Board/ESA has no statutory responsibility to make a financial contribution to parents who chose to make educational provision for their child through Elective Home Education. A list of useful resources is made available on the Board/ESA website.

7. Monitoring of Elective Home Education Programmes

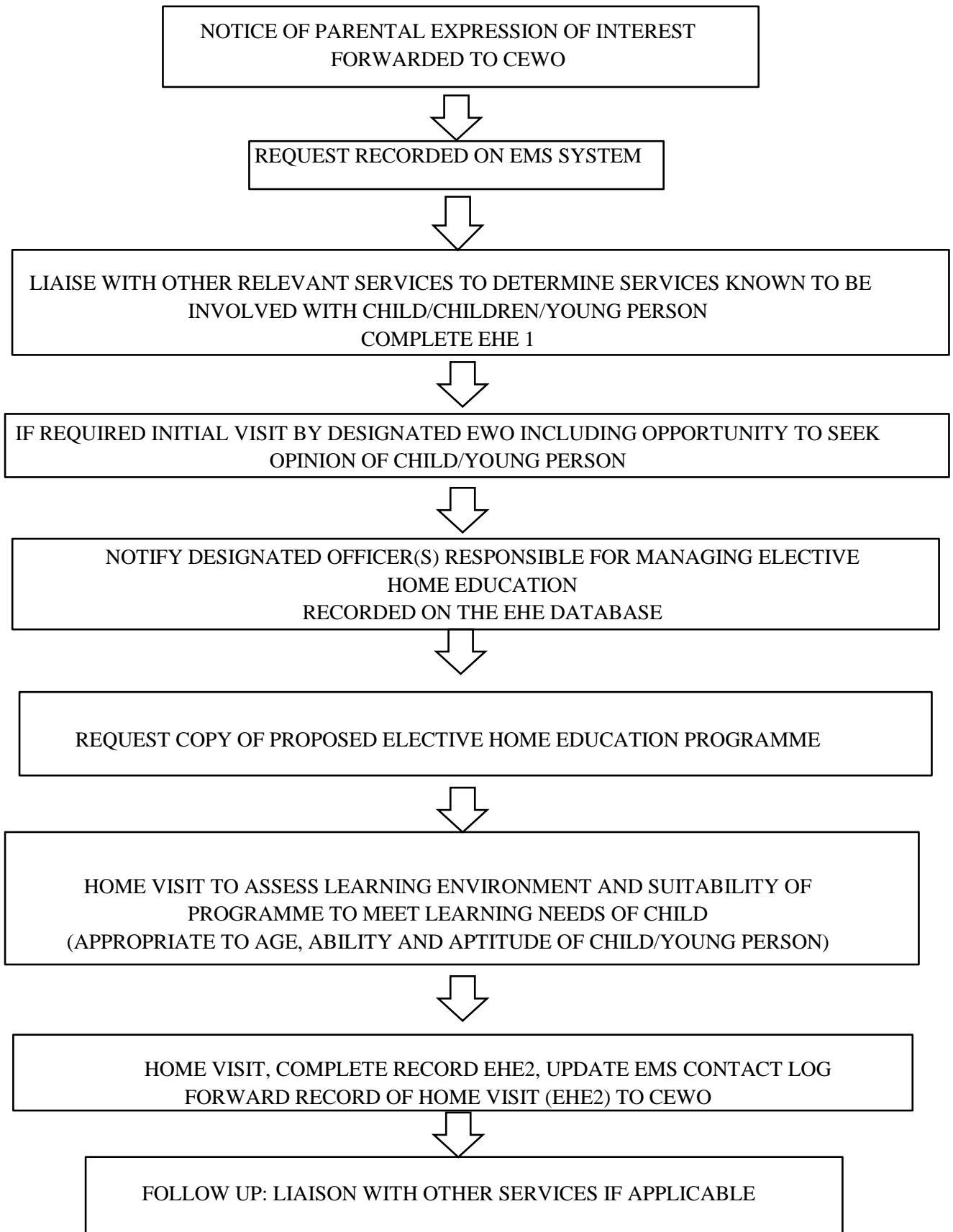
(i) Once an EHE programme has been considered suitable by the Board/ESA, parents will be provided with the name of the officer with responsibility for managing EHE with whom they should liaise.

(ii) In accordance with the Data Protection Act (1998) and the Freedom of Information Act (2000) the Board/ESA will maintain a confidential electronic database of pupils receiving EHE.

(iii) The Board/ESA will monitor EHE programmes on at least an annual basis to ensure the child is receiving efficient full time education suitable to his or her age, ability and aptitude and to any special educational needs he or she may have. The child's opinion will also be taken into consideration.

Appendix 1

FLOW CHART - ELECTIVE HOME EDUCATION



Appendix 2

UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD

The following extracts relate to home education of pupils.

Article 3

In all actions concerning children, whether undertaken by public, or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration.

States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take appropriate legislative and administrative measures.

States Parties shall ensure that the institutions, services and facilities responsible for the care and protection of children conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff as well as competent supervision.

Article 12

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child given due weight in accordance with the age and maturity of the child.

For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative of an appropriate body, in a manner consistent with the procedural rules of national law.

Article 28

States Parties recognise the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall in particular:

Make primary education compulsory and available free to all;

Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance on the case of need;

Make higher education and vocational information and guidance available and accessible to all children;

Take measures to encourage regular attendance at schools and the reduction of drop out rates.

States parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present convention.

States Parties shall promote and encourage international cooperation on matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

States Parties agree that the education of the child shall be directed to:

the development of the child's personality, talents and mental and physical abilities to their fullest potential;

the development of respect for human rights and fundamental freedoms, and for the principle enshrined in the Charter of the United Nations;

the development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

the preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

the development of respect for the natural environment.

No part of the present article or Article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the state.

Passed unanimously by the United Nations General Assembly on 20 November 1990 and entered into force on 2 September 1991.

Appendix 3

The Education and Libraries (NI) Order 1986

Duties of parents to secure full-time education for their children.

- 45** (1) The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, either by regular attendance at a school or otherwise.
- (2) The provisions of Schedule 13 shall apply to the enforcement of the provisions of paragraph (1) and a parent who contravenes the provisions of that Schedule shall be guilty of an offence and liable to the penalties provided by paragraph 4 of that Schedule.

Schedule 13

Enforcement of duty imposed by Article 45 as to education of children of compulsory school age.

PART 1

School Attendance Orders

- 1** (1) Where 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), the Board shall serve on the parent a notice requiring him, within such period not less than 14 days from the service of the notice as is specified in the notice, to satisfy the Board that the child is, by regular attendance at school or otherwise, receiving efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.
- (2) Where a parent on whom a notice is served under sub-paragraph (1) fails within the period specified in the notice to satisfy the Board that the child to whom the notice relates is receiving efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, the Board shall, if it is of the opinion that it is expedient that the child should attend school, serve in the prescribed manner on the parent an order in the prescribed form (in this Schedule referred to as a 'school attendance order' requiring him to cause the child to become a registered pupil at the school named in the order.
- (3) Before servicing an order on a parent under sub-paragraph (2) the Board shall, where practicable, give him an opportunity to select the school to be named in the order and, if the parent then selects a school, that school shall be named unless the Department otherwise directs, be the school named in the order.

(4) Where the Board is of the opinion that:

the school selected by a parent as the school to be named in a school attendance order is unsuitable to the age, ability, aptitude or the special educational needs of the child with respect to whom the order is to be made; or the attendance of the child at the school selected by the parent would prejudice the provision of efficient use of resources; the Board may, after giving the parent notice of its intention to do so apply to the Department for a direction determining the school to be named in the order.

Where the Board maintains a Statement of Special Educational Needs for the child under Article 31 the Board or, in the case of a voluntary school, the managers shall admit the child to the school named in the order in pursuance of a direction of the Department under sub-paragraph (4).

Where the school named in a school attendance order serviced under sub-paragraph (2) provides education for pupils to the upper limit of compulsory school age or beyond, the order shall, subject to paragraph 2 continue in force so long as the pupil is of compulsory school age and where the school does not provide education up to or beyond that age the order shall expire when the pupil has reached the age at which he would normally leave that school.

- 2**
- (1)** Where, at any time whilst a school attendance order is in force with respect to a child, the parent of the child makes an application to the Board by whom the order was made requesting that the order be revoked on the grounds that arrangements have been made for the child to receive otherwise than at school efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have, the Board shall amend or revoke the order in compliance with the request unless it is of the opinion that:
- (a) The proposed school is unsuitable age, ability and aptitude and to any special educational needs of the child; or
 - (b) The attendance of the child at the school would prejudice the provision of efficient education or the efficient use of resources; or
 - (c) Where the Board maintains a Statement of Special Educational Needs for the child under Article 31, the proposed change of school is against the interests of the child; or
 - (d) No satisfactory arrangements have been made for the education of the child otherwise than at school.
- (2)** A parent who is aggrieved by a refusal of a Board to comply with a request made under sub paragraph (1) may refer the matter to the Department and the Department shall give such direction thereof as it thinks fit.
- (3)** Where in the case of a child for whom the Board maintains a Statement of Special Educational Needs under Article 31 the department gives a direction

under subparagraph (2) directing the Board to substitute another school for that named in the order the Board or, in the case of a voluntary school, the managers shall admit the child to the school so substituted.