

## **Consultation on children not in school**

### **Purpose of report**

For discussion to inform the Local Government Association's response to the Government's consultation on children not in school.

### **Summary**

In 2018, the Government consulted on issues around elective home education, in particular the registration of home educated children, monitoring of this education and the support given to home educating families.

Following this, the Government is consulting on the establishment of a local authority registration system for children who do not attend state-funded or registered independent schools. The consultation contains four proposals which members are asked to provide feedback on:

- Duty on local authorities to maintain a register
- Duty on parents to provide information
- Duty on education settings to provide information
- Duty on local authorities to provide support.

The LGA will respond to the consultation on behalf of its members.

### **Recommendation**

Members of the CYP board are asked to provide feedback to officers to inform the LGA's response to the Government's consultation.

### **Action**

Officers to prepare a response to the Government's consultation for approval by Lead Members.

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## **Consultation on children not in school**

### **Background**

1. In 2018, the Department for Education launched a consultation and call for evidence to better understand issues around elective home education, including oversight and support. This was in recognition of the increasing numbers of children being electively home educated, and the need for local authorities to be able to carry out their duty to ensure all children in their area are receiving a suitable education.
2. The Local Government Association (LGA) submitted a response to this consultation, emphasising that while local authorities are confident that the vast majority of home educating parents do a good job, not all home educated children are registered with their local council. This makes it difficult for councils to fulfil their statutory duties to ensure children are safe and receiving a suitable education.
3. The LGA's response therefore called for a duty on parents to register their children as home educated, and for powers to enter the homes of, or otherwise see, children where they had concerns.
4. The response also raised concerns around the use of informal exclusions ('off-rolling') by schools which can result in children being home-educated even where this is not the choice of the parent, and called for a clearer definition of a 'school' to make it easier for Ofsted or the Department for Education to classify and close down illegal schools when they are uncovered.
5. In its response to that consultation and call for evidence, the Government concluded that there was a strong case for consulting on proposals for the registration of children who are not attending mainstream schools, and despite differing views, for consulting on legislation around support for home-educating families. It also confirmed that the Government will not be proceeding with any proposals around increased powers for councils to monitor and assess the suitability of education provided to children at home.
6. The new consultation was launched on 2 April 2019 and is attached at Appendix A. It puts forward four proposals, which are outlined in the rest of this report.

### **Proposal: creation of a duty on local authorities to maintain a register of children not registered at specified types of school**

7. This proposal would require all local authorities with responsibility for education to maintain a register of children of a compulsory school age who are not registered as pupils of maintained schools, non-maintained special schools, alternative provision academies or registered independent schools (including academies and free schools).
8. The operational details of the register, including the information it contains and data sharing information, would be included in secondary legislation through the making of regulations, to allow for amendment in light of experience.

9. This duty would not change council's powers around assuring themselves of the suitability of education or its safeguarding duties. The Department for Education has published updated guidance for local authorities on home education which provides more detail on councils' powers in this regard.
10. The duty would be subject to the New Burdens process, however councils are being asked to submit detail of the likely costs of establishing and maintain a register. These costs will be considered as part of the process of deciding whether to go ahead with the legislation.

**Proposal: creation of a duty on parents to register their child with local authority if not registered at specified types of school**

11. This duty would require parents to inform their home local authority of their intention to home educate their child, or if their child was for any other reason not registered with a mainstream school as outlined at paragraph 7.
12. The consultation proposes that the penalty for refusing to provide information would be an automatic trigger of the school attendance process. This gives parents a specified period to prove that they are providing a suitable education, and to register. If they fail to do so, the authority can require the child to be registered at a named school.

**Proposal: creation of a duty on proprietors of certain education settings to respond to enquiries from local authorities**

13. This duty would compel the proprietors of settings that are not registered as schools, but who provide education to children during normal school hours, to respond to enquiries from councils about children who may be in the scope of the register. This could include companies providing subject-specific tuition, but may also help to identify illegal settings.
14. This duty would not regulate these settings, and would not extend to settings providing education outside normal hours.
15. The duty would also not place responsibility on proprietors to prove that the education provided was suitable; this responsibility would remain with the parent.
16. The consultation notes that sanctions for non-compliance would be necessary to enforce the duty and asks for suggestions on appropriate sanctions, noting that the goal is to get the required information rather than punishment.

**Proposal: creation of a duty on local authorities to provide support to parents who educate children at home**

17. This duty would require local authorities to provide support to home educating families only upon request. The types of support that councils might be expected to support would be outlined in regulations.

18. The consultation emphasises that funding that would otherwise be spent on a school place for a child will not be made available to parents to meet the costs incurred in providing home education. However, the consultation considers how parents might be best supported in other ways, which might include financial assistance for specific costs.
19. The consultation also recognises that such a duty would incur additional costs, and recognises that “at a time of constrained public resources and continuing pressure on local authority budgets there can be no expectation of substantially increased expenditure in this area”. The LGA would call for any new burden to be fully funded.
20. It is suggested that some support could be better provided at a national level, for example online guidance, curriculum resources and financial support for examination fees. The consultation asks for views on whether this is desirable.

#### **Questions for members**

21. The Board is asked to consider the consultation and provide feedback to inform the LGA’s response, including:
  - 21.1 Do members support each of the proposals, subject to their being fully funded?
  - 21.2 Do we want to continue to argue for increased powers for councils to monitor and assess the suitability of education provided to children at home?
  - 21.3 Are there any issues that may prevent councils from fulfilling these duties?
  - 21.4 Do members have opinions on potential sanctions for parents and proprietors who do not fulfil these duties?
  - 21.5 What support (if any) do members feel local authorities should provide to home educating families?
  - 21.6 Any other considerations around the issue of children not in school.

#### **Implications for Wales**

22. The consultation applies only to England – education and children’s services are a devolved matter in Wales.

#### **Financial Implications**

23. None.

#### **Next Steps**

24. Officers will prepare a consultation response to be approved by Lead Members before submission.

25. If the Government decides to proceed with the proposals set out in the consultation paper, primary legislation will be required for which Parliamentary time is needed. Uncertainties around when this would be available mean that no detailed timescale for implementation has been given.