

Consultation on Elective Home Education Guidance Review

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) is a trade union and professional association representing over 25,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business leaders and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million children and young people across primary, secondary, post-16 and specialist education. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to contribute to this consultation. Our response is based on the views of our members, obtained through discussions at ASCL Council, with relevant advisory groups, and prompted and unprompted emails and messages.
3. When considering the impact of any proposals on different groups, it is ASCL's policy to consider not only the nine protected characteristics included in the Equality Act 2010, but also other groups which might be disproportionately affected, particularly those who are socio-economically disadvantaged. We have answered any equality impact questions on this basis.

B. Key points

4. ASCL is concerned by the rapid increase in elective home education (EHE) post-pandemic. The Department for Education publishes aggregate data on EHE from local authorities. LAs reported an estimated 80,900 children in home education on the Autumn 2022 census day and 86,200 in Spring 2023.
5. ASCL therefore welcomes greater clarity through the revised guidance.
6. Making the decision to home educate is not an easy one for parents, and ASCL welcomes the way the guidance lays out the significant implications for parents as educators. School leaders can signpost families to the guidance when they are considering home educating their child.
7. ASCL recognise this guidance has been updated for greater clarity; however we would like to see a single set of transparent guidance for both parents and LAs, rather than two separate versions.

D. Answers to specific questions

Questions on the tone and overarching content of the EHE guidance for local authorities and parents, including consideration of people's protected characteristics

Question 1. Does the guidance convey positively the Government's position of supporting the parent's right to elect to home educate?

8. Strongly agree.

Question 2. Does the guidance convey the flexible nature of EHE and respect for different education methods and pedagogies?

9. Somewhat agree.

Question 3. Does the guidance consider relevant protected characteristics and ensure none are disadvantaged by the revised guidance?

10. Somewhat agree.

Question 4. Do you have any comments regarding the tone or general content of the guidance, including consideration of protected characteristics or further information that illustrates your answers above?

11. It's difficult to cover all examples, but more case studies would further strengthen the guidance and the capacity of parents and LAs to maintain clear roles and responsibilities.

Questions on the EHE guidance for parents

Question 5. Is the EHE guidance for parents clear and easy to understand?

12. Strongly agree.

Question 6. Would there be value if there was an additional short (one- or two-sided) document for parents summarising the key points for parents to be aware of should they wish to home educate?

13. Somewhat disagree.

Question 7. Is the complaints process, as outlined in the guidance, clear?

14. Somewhat agree.

Question 8. Please provide further details of any sections within the guidance for parents that need to be simplified further or further information that illustrates your answers above?

15. N/A

Question 9. It is vital that the parent guidance is consistent with the local authority guidance. If you believe there to be any inconsistencies between the two documents, then please detail these below.

16. We don't see inconsistencies. However, our view is that one transparent set of guidance would be more helpful than retaining separate guides for LAs and parents.

Question 10. If you know of local authority EHE guidance which you believe to be good practice, please provide details so it can be considered for inclusion as an example of good practice in the guidance.

17. N/A

Questions on suitability

Question 11. Does the guidance clearly set out the factors that should be considered when assessing whether education appears suitable?

18. While the draft guidance goes further in explaining what EHE is and is not, and includes terms such as 'unschooling' and 'de-schooling', it does not give agreed definitions of these terms. This could be done in consultation with home educating families, and would benefit the professionals trying to navigate and understand the different ways that home education can be delivered.

Question 12. Is it helpful to provide separate sections on (i) how local authorities decide whether a child appears to be receiving suitable education and (ii) what to do when it appears that suitable education is not being received?

19. Somewhat agree.

Question 13. Is the guidance clear on what is considered a proportionate level of engagement between local authorities and parents when establishing whether home education appears to be suitable as part of the informal process?

20. Somewhat agree.

Question 14. Do you have any comments regarding how suitable education is outlined in the guidance or further information that illustrates your answers above?

21. While the guidance attempts to provide more clarity, the challenge remains the mismatch between the fundamental rights of home educators to design and deliver an education that they see fit for their child without the involvement of 'the state', and the growing expectations on LAs to monitor not only the safety of the child but also the quality of the education that they are receiving. This is still not resolved in the new guidance. Ultimately LAs will want clear monitoring processes and greater power to take action when needed, and home educating families will want their right to be left alone respected. We recognise that this tension requires continuous navigation, and the guidance can only offer an outline.

Questions on Preliminary Notices and School Attendance Orders (SAOs)

Question 15. Does the guidance make clear when and for what reason a preliminary notice must be issued?

22. Strongly agree.

Question 16. Is the guidance clear why and at what stage a SAO must be issued?

23. Strongly agree.

Question 17. Does the guidance clearly set out the process for SAO revocation?

24. Strongly agree.

Question 18. Do you have any comments regarding what the guidance says about preliminary notices and SAOs or further information that illustrates your answers above?

25. No additional comments.

Questions on Special Educational Needs and Disabilities

Question 19. Is the guidance clear on the difference between EHE and EOTAS that is arranged by a local authority in accordance with an EHC plan?

26. Somewhat agree.

Question 20. Are you clear on how the law and guidance applies when a child with an EHC plan is or will be electively home-educated?

27. Somewhat agree.

Question 21. Do you have any comments regarding SEND in relation to EHE or further information that illustrates your answers above?

28. A simple list of the statutory expectations would be helpful to include alongside the narrative, explaining the rights of children with and without an EHCP.

Questions on support for EHE parents

Question 22. Does the guidance provide sufficient information on potential support that could be offered to home educators?

29. Neither agree nor disagree.

Question 23. Do the recommendations for support encourage positive relations between parents and local authorities?

30. Strongly agree.

Question 24. Do you have any comments regarding support for parents in the EHE guidance or further information that illustrates your answers above?

31. ASCL would like to see the relevant legislation pulled out and presented in separate windows in an easy-to-access form for parents. For example, for EOTAS it could summarise the law that underpins EOTAS contained within the Education Act 1996, and the Children and Families Act 2014 as follows:

- **Section 7 of the EA** contains the parental duty to ensure that their child receives a suitable full-time education, by regular attendance or otherwise.
- **Section 9 of the EA** confirms the principle that children should be educated in accordance with their parents' wishes (subject to that being compatible with the efficient instruction and training and the avoidance of unreasonable public expenditure).

- **Section 19 of the EA** places a duty on an LA to make provision for alternative education for pupils who cannot attend school for some reason (including exclusion, health needs, medical conditions or some other reason).

Questions on case studies

Question 25. Have you found the inclusion of case studies in the EHE guidance for local authorities helpful?

32. Strongly agree.

Question 26. Are there other issues you would like to see us address through case studies or further information that illustrates your answer above?

33. It would be helpful to include more examples of children with SEND, both EHCP and non-EHCP.

Questions on safeguarding

Question 27. Do the changes made to the guidance give you an improved understanding of out-of-school settings, informal groups of home educators, and unregistered independent schools?

34. Strongly agree.

Question 28. Does the guidance clearly set out the rules and expectations in regard to EHE children and work experience and child employment?

35. Somewhat agree.

Question 29. Do you have any further comments related to safeguarding in the EHE guidance or further information that illustrates your answers above?

36. We believe that further signposting for parents to support transition to employment or FE is needed. We would suggest reference to the use of the Local Offer.

37. We would also like to see cross-referencing to KCSIE, as a reference point for parents who are transitioning young people to home education.

E. Conclusion

38. This guidance is clearer than the existing version, and the tone is constructive.

39. However, we think that one transparent set of guidance which can be navigated by both parents and LAs should be possible and would be preferable.

40. The case studies included in the current guidance will help school leaders to support parents when they are considering home education. We would like to see more of these.

41. To support both parents and LAs, ASCL would like to see more structure in articulating what constitutes a 'suitable' education. Simply expecting some numeracy and literacy doesn't go far enough.

42. Our members tell us that current arrangements for children to sit exams are difficult when they are electively home educated. DfE needs to address this as a significant equity issue.

43. I hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

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