

Response ID ANON-TN9R-CRPD-P

Submitted to **Children not in school**

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Introduction

1 What is your name?

Name:

Steve Thomas

2 What is your email address?

Email:

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3 Are you responding as an individual or on behalf of an organisation?

Organisation

4 If you are responding on behalf of an organisation, what is your organisation?

Organisation:

Education and Children's Services Group of Prospect

5 Which of the following best describes the capacity in which you are responding to this consultation?

Representative of other organisation

6 Would you like us to keep your responses confidential?

No

Reason for confidentiality:

LA duty to maintain a register of children not in school

7 Do you agree that local authorities should be obliged to maintain a register of children who are not registered at specified schools (those listed at paragraph 2.2 of the consultation paper) or being educated under s.19 arrangements?

Yes

Maintaining a register - implementation details

8 Why do you support the concept of a duty on each LA to maintain a register?

Support comments:

A register will improve the ability of each LA to undertake its obligations under Section 436A of the Education Act 1966 to make arrangements to establish the identities of children who are not receiving a suitable education. In addition, a register will help ensure that in the most extreme cases that children are safeguarded where currently there may be no professional support. While off-rolling, bullying and other reasons may be given we believe that too many vulnerable children are being withdrawn from schools, sometimes under intense pressure on all stakeholders. In summary, LAs have a key role in safeguarding and promoting the welfare of children and a register will improve access and support for children of compulsory school age who are not in school. Properly explained, with clear and consistent guidance setting out stakeholders' rights and responsibilities home educating parents should have no objection to this.

Prospect believes that it is crucial that we have this register in place. In order to maintain the a register that provides accurate information to provide support to children and their families Local Authorities (LAs) must be given the powers to require parents to give them this information –and also to gather information from unregistered providers.

Another advantage of a register would be a clearer picture both locally and nationally of how many children fall into this category. At present the picture is very incomplete and we believe that data would enable more informed public policy based on need rather than anecdote.

LAs must be resourced to do this with ring fenced funding and a professional cadre of staff. A lack of funding in LAs, with competing demands on statutory obligations will need addressing to allow for the time and staff to follow this up.

9 Should such a register specify whether children are attending an educational setting (other than their own home) during school hours? Add comments if you wish.

Yes

Other settings comments:

LAs should be made aware if children are attending other provision and the LA must have powers to visit these providers which will also help to identify unregistered providers that are acting as schools. This will enable earlier intervention to spot those that may be delivering an overly restrictive or limited curriculum, possibly faith-based, that may cause concerns about radicalisation. This helps to protect children.

10 Should the register be widened still further to also include children who are being educated under s.19 arrangements? Add comments if you wish.

Yes

s.19 comments:

LAs should currently be tracking and monitoring children educated under S19 arrangements anyway as they hold the responsibility for this. However, a requirement to report on this as above will ensure that all LAs are doing so and all are collecting the appropriate information and acting on it. Again, this needs to be properly resourced.

11 Should the register include flexi-schooled children (ie those who are educated at home or elsewhere for some of the week during school hours but are also on the admission register of a state-funded or registered independent school)? Add comments if you wish.

Yes

flexi-schooled comments:

Possibly. LAs should be gathering information on these as part of their responsibilities under CMOE guidance anyway as schools should report this. There should be a reporting requirement on schools to provide the basic level of information to the Local Authority but the school retains responsibility. The LA should have a quality assurance role here.

12 What information as a minimum do you think the register should contain about each child? Check as many as required

Name, Address, Date of birth, Place of birth, Known previous local authorities of residence, Whether educated at home currently, Whether educated at home previously, Current settings outside home attended if known, Previous settings outside home attended if known, Whether on child protection plan, Name and address of each parent, Parental reasons for child not being in school, Other (add comments if wished)

Data to be required:

We believe that the majority of factual information above should be captured. This is a basic register with basic contact information plus relevant information about any education providers. SEN needs should also be collected.

However, parents should be invited to provide additional information of reasons a child is not in school and if there are safeguarding concerns there should be a clear responsibility and right on LAs to gather additional information.

13 Do you think DfE should prescribe a national format for the register? Add comments if you wish.

Yes

national format comments:

Gathering and reporting on this information needs to be in a standard format so the exact responsibilities on all are clear. In addition data is then able to be collected, compared and aggregated nationally and the DfE can track what's happening in a consistent way

14 Do you believe that local authorities should share information from their register with other local authorities and other agencies? Add comments if you wish.

Yes

Comments:

Info-sharing with other agencies – not automatic but on a need to know basis as with other information i.e. if there are safeguarding concerns. It may be that this information is available to (accessible by) CME officers.

15 Do you think that a local authority should include any information about a child on its register which has been legally obtained from other agencies? Add comments if you wish.

Yes

data from other agencies - comments:

If there are safeguarding concerns or risks to others

See above point on info gathering. The DfE needs to be clearer about the difference between an actual register and extra information that can and should be gathered to support safeguarding. Information should only be gathered on a need to know basis and clear guidance given on its retention.

16 Do you agree that a register held by a local authority should be open to inspection by other bodies as prescribed by the Secretary of State, in order to check whether the local authority is carrying out its obligations to maintain the register? Add comments if you wish.

Yes

register open to inspection text:

The register should be open to inspection by The DfE and OFSTED as part of any SEND or Children's Services LA inspections

17 Do you agree that local authorities should have to make annual returns of collated data from the register to DfE for statistical purposes? Add comments if you wish

Yes

data return comments:

As above –this is the only way that comparisons can be made nationally and across statistical neighbours –and also confirms that LAs are delivering against their responsibilities

18 This question is for local authorities only. What does the local authority believe would be the approximate additional annual cost of maintaining a register for its area? This should so far as possible include any costs already incurred on voluntary registration, but exclude other costs incurred by the authority in relation to home education and children missing education. It would be helpful to set out the basis for the estimates.

Costs - LAs:

19 Do you have any other comments on either the principle of registration or practical issues related to registration on the basis proposed?

Other comments on register:

This needs to be properly resourced with ring-fenced funding for the LAs –this though is a theme throughout the consultation – duties must be supported through reasonable funding allocations

Duty on parents

32 Do you agree that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement?

Yes

Duty on parents - implementation details

33 If a duty on parents was created what data should parents have to provide about their child? Check as many as required

Name, Date of birth, Address, Place of birth, Whether educated at home for part or all of time, Settings currently attended other than home, Settings previously attended other than home, Name and address of each parent, Reasons for child not being in school, Other information (add comments if wished)

data comments:

As above –to include SEND but need to be clear about whether parents are self-reporting – see also answer to question 19

34 Do you agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration?

Yes

35 Whether or not your response to (3) was 'yes', do you think that the most effective consequence for non-compliance with the registration process is that it authorises the local authority to begin the school attendance order process by serving a s.437(1) notice on the parents, which begins the formal process of considering suitability of education and whether a child should attend school?

Yes

36 Whether or not you favour any consequences of non-compliance, what alternatives to initiation of the SAO process would you prefer as an effective way of securing compliance?

alternatives comments:

The SAO process should be sufficient.

Consequences for non-compliance-is a difficult and potentially contentious area that needs to be considered carefully. However, there needs to be some option should non-compliance be an ongoing and sustained problem. The current SAO process may work and it already exists as a compliance measure. This could, however be a significant resource issue for LAs. There are many LAs that do not use ESOs and so there may be whole retraining element which would also need resourcing.

A fine may not be a suitable sanction as parents able to afford payment may choose to pay it and ignore the whole process afterwards.

37 Do you have any other comments about the concept of a legal duty on parents to supply information for the purposes of the proposed register?

duty on parents comments:

Duty on settings

43 Do you agree with the general approach that the proprietors of settings providing education in school hours - other than specified types of school - should be under a duty to supply information to local authorities about any child in scope of the proposed register?

Yes

Duty on settings - implementation details

44 Which settings do you think should be included in the scope of the duty? Check as many as required

Alternative provision settings (part-time), Unregistered independent schools, Yeshivas and other full-time settings not requiring registration, Home education groups not requiring registration, Other settings providing education during school hours, Other (add comments if wished)

settings in scope comments:

Settings used by EHE parents should all be required to provide information. The only exception is informal EHE networks that perhaps provide the most minimal support such as trips out on an ad hoc basis e.g. theatre and very informal learning experiences.

Any provider that delivers enough hours of education to be classified as a school should certainly be covered under this duty and must provide details over the hours the child receives education there (which may vary week to week of course)

45 Which information should proprietors of the settings in scope be required to supply on request to the local authority about a child in scope of the registration requirement? Check as many as required

Name of child, Address of child, Date of birth of child, Other (add comments if wished)

settings data - comments:

46 Do you agree that there should be a sanction on the proprietor for non-compliance with a duty to supply information about a child in scope of the registration requirement?

Yes

47 Regardless of your answer to the previous question, which type of sanction do you think would be most effective?

Court order requiring release of information

sanction comments:

Sanction for non-release of information should be a court order requiring release. A fine (unless punitive) may not be sufficient deterrent to some providers.

48 Do you have any other comments about the concept or details of a duty on the proprietors of settings to provide information about children who attend their setting and fall within scope of the registration requirement?

duty on settings other comments:

Duty on local authorities to provide support for home education

54 Do you agree that there should be a statutory duty on local authorities to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations?

Yes

Support for parents - implementation details

55 If such a duty was to be created which of the following should it encompass? Check as many as required

Advice, Other (add comments if wished)

scope of duty comments:

Parents/carers have a duty in law to educate their children. They may discharge this duty in whichever way they deem fit. Should they choose provision which is not state funded, such as home education or privately funded education, the public purse should not support this non-state-funded schooling; Parents/carers need to have a clear understanding of the burden they are choosing to shoulder, including any financial implications. In the interests of safeguarding and ensuring an

appropriate education, all non-state-funded schooling should be regulated and inspected by the public purse.

Duty to provide support. If there is a duty to provide any of these, the management and delivery must be appropriately funded. The equivalent of the AWPU could be made available to LAs by government. Otherwise, it will be impossible for them to afford. The complexity of organizing the logistics of attending school activity for programs places an extra burden on schools.

Checking private tutors –it needs to be clear what would be checked for example teaching ability, qualifications, DBS checks. We believe a better way forward would be to provide advice and support to parents on what they should be considering before withdrawing their children from school.

Schools could be asked to retain a place for a period of time when a parent withdraws (to allow cooling off) and Fair Access protocols mean that the last school the child attended be required to take an EHE returner (unless the family does not want this) . This may reduce some of the pressure that families report is placed on them by schools to withdraw their child.

56 What are the potential difficulties, apart from availability of resources, in ensuring that such a duty is properly discharged by a local authority?

difficulties :

The implementation of some of this may require an extra team to manage and oversee its implementation. It is a complex area and whilst we must take safeguarding concerns into account , some of these issues will remain the responsibility of the parent if a choice to home educate is made

57 Should the duty to provide support on request be limited to children whose details are included on the proposed register?

Yes

limit - comments:

Limited

58 Should other mechanisms be explored for enhancing access to public examinations for children educated at home, and if so, what?

Other (add comment if wished)

other mechanisms - comments:

If parents are choosing to home educate, it should be clear at outset or when a child is withdrawn from school that they will bear the costs of exam fees. In terms of private candidates attending we can see that there may be an opportunity to provide a place by providing a duty on schools/FE colleges to allow private candidates although again this will place a burden on schools exam officers. Clearly having a register and data could make this more manageable. How will they assess risk? Will they always be expected to provide a separate room and invigilator which would be very costly. This could be funded centrally by the DfE but they would not do the local liaison with schools.

Access to public examination centres could be enabled via secondary legislation and would place no burden on LAs, and only minor additional burdens on examination centres re external candidates. However, there may still be issues around safeguarding of the centre's students with a mix of external candidates. This is particularly important if the DfE insists that EHE children sit the statutory end of key stage test in the primary phase.

59 (This question is for local authorities only). What expenditure does the authority already incur on support for home educated families, what types of support does this cover and approximately how many children are in scope of the support?

LA costs on support:

60 Do you have any further comments on the issue of local authority support for home-educating families?

support - other comments:

61 Do you consider that support for home-educating parents should be provided by the Department for Education?

Yes

62 Regardless of your answer to the preceding question, which forms of support do you think particularly suited to delivery on a national rather than local basis? Check as many as required

General advice to parents on home education, Other (add comment if wished)

types of national support comment:

The DfE is unlikely to provide much hands-on support but an amount equal to the AWPU would help. If the DfE supports the cost of public examinations this removes a burden for the LA if the centre claims directly from the DfE. The DfE needs to be clear how the centre results are counted and recorded then-ie whether they are included on the examination profile.

The above plus an online resource bank.

Concluding questions

71 Do you have any comments on the conclusions set out in the published equalities log, UNCRC analysis and family test?

Equalities comments:

72 Do you have any other comments on the government's proposals for legislation relating to registration, and support for home education?

Other comments: