

Rationale for proposed changes to Kent CC Draft Elective Home Education Policy, Fiona Nicholson April 2015

The address for this file is <http://edyourself.org/2015kentchangesrationale.pdf> via <http://edyourself.org/articles/kent.php>

The 2015 draft policy can be found here <http://edyourself.org/kentdraftehepolicy2015.pdf>

The tracked changes document is here <http://edyourself.org/kent2015policycomments.pdf>

See also <https://edyourself.wordpress.com/2015/04/12/more-on-kents-new-home-education-policy/>

1. Introduction

- i/ Not everyone agrees that it is in the best interest of every child for parents and the LA to work together
- ii/ There should not be a presumption that families who make a proactive decision are good home educators and that families who make a reactive choice are going to be bad at home educating.
- iii/ Better to be realistic about what can be achieved and also to acknowledge the limits of the LA's powers
- iv/ Better to explain directly to families the implications of home education, rather than rely on schools
- v/ Parents are allowed to home educate a child at any age. This is not conditional on parents being able to demonstrate that the young person is able to take exams
- vi/ How realistic is it to say that a young person can take exams at the previous school as an external candidate? Surely the syllabus would be completely different for external candidates? This is potentially extremely misleading to families
- vii/ It would be good to have something about KCC attempting to challenge schools rather than simply blaming the families
- viii/ The local authority can't 'ensure registration'

3. Context

- i/ Working Together to Safeguard Children was substantially revised in March 2013 so there is absolutely no reason to list the superseded 2010 version. Further revisions were published in March 2015 after this draft policy was agreed.
- ii/ The Inter-Agency Threshold document has been substantially revised on a number of occasions since 2011, most recently in February 2015

4. The Law Relating to Elective Home Education

Parents

- i/ I know this is a quote from Government Guidelines but it is misleading since suitable IS defined as suitable to age ability aptitude and SEN.
- ii/ The policy can't tell parents what they must do

Schools

- i/ The first sentence adds nothing to the policy and is potentially misleading. Parents don't have to satisfy the school that they are fully informed.
- ii/ I have suggested making a much clearer distinction between informal conversations where parents might indicate that they are considering home education, and parents sending formal notification that the child's name is to be removed from the school roll (otherwise known as deregistering)

- iii/ Why not acknowledge that schools may be acting out of self-interest when they push families to home educate?
- iv/ It is better to be realistic about the limits of KCC's influence and ability to provide support
- v/ It would be good to spell out the implications of Alternative Provision funding
- vi/ It would be good to spell out the 14-16 FE funding unless KCC is trying to keep this option hidden?
- vii/ Parents don't have to justify their decision to the school
- viii/ Schools should listen to parents long before parents feel they have no choice but to home educate
- ix/ "Recommended good practice" just means that KCC hopes it will happen. Parents should not be misled by this when they read the policy.

KCC's roles and duties

- i/ The draft policy has omitted the relevant part of the quote from the Education Committee about its not being the role of the LA to monitor whether a suitable education is being provided. I have suggested adding it back.
- ii/ There is no point in paraphrasing section 436A while at the same time putting the paraphrase in quote marks. If it's a paraphrase, take the quote marks out.
- ii/ The LA's duties are restricted to s 436A and s 437. There is no need to mention s 437 twice in successive paragraphs, and it is simply misleading to introduce Phillips vs Brown because the judge in that case specifically said that asking parents for information was not the same as a formal notice, but this part of the draft policy IS talking about a formal notice under s 437.
- iii/ There is no need to mention s 175 twice here (having already mentioned it anyway in Part 3. Context)
- iv/ The draft policy has omitted "where there are grounds for concern" from its summary of s 17 and 47 of the Children Act 1989. As it stands this is an extremely misleading and inaccurate quote from the Government Guidelines. I have recommended reinstating "where there are grounds for concern." Otherwise at present the draft policy implies that the law allows KCC to insist on seeing children simply to "inquire about their welfare"

5. KCC's Policy

- i/ The local authority is not legally required or empowered to "determine the suitability of education"
- ii/ The law does not require kcc to be satisfied of the suitability of educational provision, only to take action where it appears that a child is not receiving education
- iii/ KCC should not be requiring evidence of learning unless it appears that a child is not receiving education
- iv/ KCC should not be insisting on seeing the child where there is no safeguarding concern
- v/ it is prejudicial and discriminatory to condemn entire categories of home educators
- vi/ KCC should not presume at the outset that home education will fail. what about children who have unmet or undiagnosed special needs for whom home education would be a lifeline, are these families to be treated as second class home educators?
- vii/ The current draft policy sets up two classes of home educator. one where children are fortunate in not having had problems at school, this good fortune will continue through into home education. The other where school has been difficult, and KCC will make home education virtually impossible.
- viii/ Information about statements and EHCPs should be in the SEN section

6. Procedural Guidance

- i/ It would be helpful for the EHE team to assist with finding a school place if this is what the

- family wants, rather than the entire policy simply being about inspecting and judging home educators who have come out of a difficult situation with school
- ii/ It is good that the draft policy talks about what might happen prior to receiving formal notification, but this has already been dealt with several times already in the policy, and is also included in the next paragraph as well.
 - iii/ First contact should be in writing.
 - iv/ KCC should be offering parents the opportunity to talk about the school experience, not trying to get children back into school negatively by inspecting and failing the home education provision.
 - v/ It is important to be realistic about the limits of KCC's influence on schools
 - vi/ Once again, KCC is not required to assess suitability at the outset and parents are not obliged to provide evidence
 - vii/ The LA only has a duty to act where it appears that a child is not receiving education
 - viii/ There is no justification for regarding a home educated child as "missing education" simply because the child has not been interviewed.
 - ix/ Four weeks is too long to wait
 - x/ There should be a clear distinction between what happens before the formal notice and what happens afterwards
 - xi/ The paragraph about 'legal action' fits better after the paragraph about prosecution

7. Children with an Education Health and Care Plan/Statement of Special Educational Needs

- i/ It is misleading to lump statements and EHCPs together.
- ii/ Parents do not have to ask permission or "request" to home educate a child with a statement of SEN or an EHCP unless the child is a registered pupil at a special school
- iii/ The 2001 SEN Code of Practice differs hugely from the 2015 code. The statement would be maintained under the 2001 Code and the EHCP under the 2015 SEND Code.
<http://edyourself.org/articles/newcode.php>
- iv/ It should not be up to the SEN team to decide whether parents are allowed to home educate
- v/ Deregistration doesn't need to be tied in with amending the statement or EHCP. Amending the statement or EHCP would take considerably longer. The way this is written currently suggests a delay while KCC SEN department approves home education. This is not what the law says should happen. Home education can begin without any changes being made to the statement or the EHCP.
- vi/ It is redundant to say "certain duties". The duty to review the statement or EHCP while it remains in force is set out subsequently anyway.
- vii/ Parents are not required to 'demonstrate provision'
- viii/ The SEND Code says nothing about 'learning needs'
- ix/ As currently drafted, it suggests that KCC SEN department will decide what the child should be learning and will fail any home education which doesn't match up to what they think the child should be achieving. Why is there no reference to the new SEND code which says "In some cases a local authority will conclude that, even after considering its power to provide support to home educating parents, the provision that is or could be made for a child or young person with an EHC plan does not meet the child or young person's needs..."?
- x/ Reference should be made to the home education section in the new Code of Practice
<http://edyourself.org/articles/newcode.php>
- xi/ The full quote should be given about parents being invited but not having to attend
- xii/ In 2015 it is no longer appropriate to have a policy which refers to s 319. If a statement required amending to such an extent surely it would be converted to an EHCP and therefore s 319 would be completely irrelevant? The relevant legislation is s 42 (2) Children and Families Act 2014 and the 2015 SEND code of practice paragraph 10.31
- xiii/ It is only where a child is a registered pupil at a special school that consent is required from the local authority before the child's name can be taken off the school roll.