

Kent Consultation Response 2015

Legal references on this page apply to England.

Kent Policy Consultation 2015

Kent New Policy December 2015

At the end of November, Kent County Council Cabinet formally adopted [a new elective home education policy](#) which can also be found in Appendix 2 of the Report to Kent councillors [here](#). It was announced by Patrick Leeson [here](#). Kent's home education web page is [here](#)

Although the final policy is substantially unchanged from the 2014 consultation draft, Kent has now added more information about how it will attempt to monitor schools and support parents to get school places back, but there are no sanctions and ultimately it relies on the goodwill of schools, as seen by the quote below where the word "ask" is used four times. The stated aim of the policy is to target resources to those most vulnerable and support those less able to provide effective education. (See [Report to councillors](#) page 29)

"Schools are asked to take every step to avoid a decision by parents to home educate in situations where more could be done to address problems and improve concerns. The Policy asks schools to ensure there is a cooling off period before a child's name is removed from the school roll. Can I ask schools to please involve Early Help or the EHE Team to work with families who may be about to decide to home educate, or where there are home-school issues that could be mediated and improved. And lastly can I please ask schools to be helpful where we are working with a family of a home educated child or young person and there is a wish to return to school. Many of these children and young people are among our most vulnerable learners and we must do everything we can to secure the best educational chances for them." [\[LINK\]](#)

Background

In mid-2015 Kent consulted on a new elective home education policy [\[Consultation page\]](#) and asked for feedback on its [new home education web pages](#).

The 2014 draft policy can be found [here](#) I marked up the draft policy with tracked changes [here](#). I have explained my reasons for making changes [here](#)

The rest of this page is my commentary on the draft policy

Policy and Law

Page 1 of the draft policy says:

"The role of the EHE Team is to respond to concerns that a child is not receiving a full time education suitable to his or her age, ability and aptitude and, where appropriate, provide support and information for parents."

Part 5 of the draft policy also says KCC will record a child as receiving suitable education unless there is a "matter which suggests the child is not receiving a suitable education".

In other words, KCC accepts that there is no proactive duty to investigate or for the parents to "satisfy" the authority.

Thus far, the draft policy is in accordance with the law. The legal references for home education are [section 7 of the Education Act 1996](#) and [sections 436A to 443 of the same Act](#). [Section 436A](#) of the Education Act 1996 relates to Children Missing Education, while sections 437 to 443 deal with School Attendance Orders.

Under section 436A local authorities have [a duty to make arrangements to identify children outside school who aren't receiving education](#).

The Government has also issued [Statutory Guidance on Children Missing Education](#) which was last revised in January 2015. I have a web page on the CME guidance [here](#)

Suitable education is defined in law as education which is [suitable to the child's age, ability, aptitude and special needs](#).

Minister Edward Timpson [has confirmed](#) that "there is no duty on local authorities to assure themselves that the provision being made by parents for home educated children is suitable".

[Section 437\(1\)](#) is the first step in [the School Attendance Order process](#) and is framed in the negative. **If and only if it**

appears to the LA that a child is not receiving suitable education, the LA shall serve a formal notice on the parent under section 437(1) of the Education Act 1996.

Prior to the formal notice, the law does not require the LA to "be satisfied". The LA is **NOT** required to ascertain suitability in all cases, only to act where there is an appearance of problem or failure. Examples in the [Government Home Education Guidelines](#) of how parents can provide further information and evidence **only arise** after a problem has already been identified (ie "if it appears...").

In other words, councils should not be requiring **evidence** of learning unless it **already appears** that a child is not receiving education. If a local authority has specific information which suggests that a particular child may not be receiving suitable education, [it can investigate further](#).

Children who have 'factors'

However, KCC is also proposing to operate completely different system for a subset of home educators. The council will take a look at the child's experience in school, and where school has failed, the council will treat the family as though home education has **already** failed, even before it has begun. This is what KCC means by "concerns" about the home education provision which equates to predictive "factors which may affect their ability to learn well." ([Equalities Impact Assessment](#) p.8)

The 2 tier system is set out on page 5 of the draft policy as follows:

*"Where one or more of the conditions set out below are met, expect every child whose parent(s) elect to home educate to participate in **a meeting with an EHE officer and the child** at a mutually convenient time and place in order to **satisfy KCC of the suitability of the education provision proposed**. To ensure that the critical voice of the child is heard and to establish education suitability KCC will request that both the child and **evidence of learning** are seen. Where one or more of the conditions set out below are met education will not be recorded as suitable if this meeting is not facilitated."*

"The conditions where this meeting would be required are:

a) The child has a history of persistent unauthorised absence from school (by persistent absence, KCC mean absence of 15% or higher);"

"(b) The child has a record of poor attainment at school as measured by progression in performance using prior attainment and National Curriculum Test Results as the basis for assessment;"

"(c) The child has previously been permanently excluded from school(s) or has been subject to more than one fixed term exclusion whilst at school; d) The child has been referred to early help and/or to children's social care."

"From past experience the presence of one or more of these factors is a strong indication that the child in question may well not be receiving a suitable education and may be seriously under-achieving..."

If the aim is to have an early dialogue with 'factor' families where it is believed that home education is a forced choice, driven by problems with school, then the council is going about it in completely the wrong way by setting up an inspection framework, and insisting on questioning the child. It would be far more useful to offer parents a chance to say whether they want help with school, as well as signposting to a range of local and national peer support networks for home educating families. This is [what happens in Lancashire](#), which is regarded as a model of good practice.

Where home education is begun after difficulties with school, KCC also plans to insist on seeing the child, and to record the education as unsuitable if the family does not agree to a meeting. Somewhat puzzlingly, the [Equalities Impact Assessment](#) says *"meetings with families **where agreed** [my emphasis] will seek to gain a better understanding of why EHE has been chosen and to support parents having difficulty with EHE to access more resources or indeed re-enter state education.*

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](#). At present the draft policy implies that the law allows KCC to insist on seeing children simply to *"inquire about their welfare"*, although KCC has also given itself permission to insist on interviewing all the 'factor' children anyway, despite the possible impression given in the EQUIA [where agreed] that families are free to agree not to meet.

There is no justification for regarding a home educated child as "missing education" simply because s/he has not been interviewed by the council.

The draft policy also quotes very selectively from [2.10](#) of the Education Committee Report of 2012 and does not include the part which says it isn't the role of the LA to monitor whether a suitable education is being provided. I gave [oral evidence](#) to this enquiry and am quoted in [the final report](#) a number of times.

Much of the draft policy is really about how schools nudge out inconvenient pupils for whom adequate provision is not being made by the school. The [Equalities Impact Assessment](#) says that 16% of secondary age pupils going into home

education have had more than one fixed term exclusion. It is not clear whether KCC has traced this back to individual schools.

From the [Equalities Impact Assessment](#) accompanying the consultation: "*Kent has identified a significant increase in the number of registrations - from 793 in 2008 to 1326 in 2013-14. New referrals are being received at a significantly increased rate of 65 per month. In response to this increased demand KCC is reviewing its current policy and there has been a renewed focus on engaging with families earlier. Further analysis will be undertaken to see if this increase is clustered around districts or a protected characteristic.*"

"We know from some of our meetings with families that in some instances schools are encouraging parents of children with challenging behaviour to agree to home educate to improve the school's attendance records and results. There appears to be growing numbers of families who feel they have no option but to electively home educate due to a breakdown in relationships with schools rather than this being a considered choice."

"By tracking the time of year referrals for EHE come into the LA from schools we are able to see a pattern which indicates many of these decisions may be schools driven. We see a significant rise immediately before school census and SATS and a very high number who opt to take this decision in Year 11. The decision to remove a child from education after 10 years of school immediately before their final exams may indicate that home schooling is not the preferred approach to education for these families but rather driven by other underlying causes."

At the same time, School Improvement in Kent is [focused on driving up exam results and Ofsted ratings](#), so any pupil falling behind who drops out is actually doing the school a favour. Schools are acting out of self-interest when they push families to home educate. Realistically, a home education policy is not going to have much influence on schools and is not likely to be able to provide 'support' to make schools behave differently.

Early Help

A closer look at the [Alternative Provision Prospectus](#) reveals that 'support' equates to [Early Help](#) and Team Around the Child leading to a CAF or equivalent. Multi-agency support workers in the Early Help teams are in no position to tell schools what to do, although parents may be offered parenting classes. In the meantime, simply by being referred to 'Early Help', a family will have its card marked should it ever start to home educate as being unlikely to succeed.

It is important to emphasise that "engaging with families" does **not** mean listening to families about their problems they are having with school and asking schools to do something about it. "Engaging with families" means referring families to Early Help and then assuming that home education will be a failure.

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.

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 bad at home educating. It is prejudicial and discriminatory to condemn entire categories of home educators.

For children who have unmet or undiagnosed special needs, home education can be a lifeline. But it seems that these families are to be treated as second class home educators. Where school has been difficult, KCC will make home education virtually impossible.

As soon as parents raise the topic of home education, they risk getting a referral to [Early Help](#) which will mean their card is marked if they start home educating.

The rules on what must happen if a pupil is to be taken off the school roll in order to be home educated are covered by the [Education \(Pupil Registration\) \(England\) Regulations](#). The Government has also issued [non-statutory Advice on School Attendance](#) which summarises the Pupil Registration Regulations with reference to children who "*have been taken out of school by their parents and are being educated outside the school system eg home education*".

Schools are required to delete a pupil's name from the school roll if the pupil has ceased to attend the school and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school. As soon as the school receives such notification from parents, it must inform the local authority. Unless the school is a special school, there is no provision in law for the school to keep the pupil on roll once the relevant written notification has been received from parents.

There should be a much clearer distinction in the draft policy 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](#)). Parents are not obliged to give notice that they intend to home educate.

Under this policy why on earth would parents mention home education to the school in advance, since this could prompt a referral to Early Help which would mean further down the line that the family was treated as a second class home educator who had to pass an inspection. (Of course, also under this policy, the family might not be able to escape a

referral anyway, simply based on test scores or attendance, including for fixed term exclusions)

There is absolutely no reason to think that schools will give away money to Alternative Provision or EOTAS funding, irrespective of whether 'Early Help' thinks it would be a good idea.

The [Equalities Impact Assessment](#) says "removing a child or young person from the education system may isolate them from their peers and prevent them receiving support from professionals who have been assigned to work with the family in a support, mentoring or safeguarding capacity." If it is the case that home educated young people no longer receive **"support from professionals who have been assigned to work with the family in a support, mentoring or safeguarding capacity"** then this is a separate issue - possibly around resources allocation - which needs to be addressed.

Why would deregistering a child from school **"prevent"** further support? Is the support school-based or from professionals outside school? Is it simply withdrawn or do families opt out once they are free to choose, and if so, why might this be?

14-16 Home Educated College Funding

The draft policy should have much more information about [14-16 FE funding](#) where students are home educated, since this, unlike the EOTAS funding, is 'new money' in the sense that a place will be funded by the Education Funding Agency. [Many other LAs](#) are signposting home educators to these opportunities and arranging taster days and open evenings for home educating families.

Funding College Places for Home Educated 14-16s

1.

"Colleges sometimes admit children aged 14 or 15 who are being electively home educated, to take courses on an infill basis by arrangement with the local authority or with the parents. Where these courses are at level 3, they are funded by entering the student on the ILR and the student then counts for lagged funding in just the same way as if they were aged 16- to 18-years-old.

2.

Prior to September 2013, students on courses below level 3 were funded either directly by the local authority, or sometimes by the parents, paying a fee to the college. These arrangements changed with effect from September 2013. Colleges now enter these students on the ILR and they count towards the college's student numbers for lagged funding in the following year. **Local authorities and parents should no longer be expected to pay fees for this provision.**

3.

Colleges make such local arrangements as they deem appropriate. There is no national prescribed model for provision to these students and they do not form a part of the arrangements for the full time enrolment of 14 -16 year-olds in Further Education and Sixth Form. Further information is provided on the elective home education section on GOV.UK." [Annex C pdf](#) via <https://www.gov.uk/government/publications/enrolment-of-14-to-16-year-olds-in-full-time-further-education> (New links March 2015)

Exams

When I [surveyed local authorities in 2013-14](#), Kent was one of the few authorities which consistently evaded responding to my questions about support for exams access and college funding. I have found a thread where I sent 13 emails trying to get an answer. Kent could learn useful lessons from [good practice in other LAs](#).

Parents don't have to prove that their children are able to take exams before they are 'allowed' to home educate. The council could signpost to [peer support networks](#) for home educating families whose children are taking exams. The Education Committee and [the Home Education APPG](#) have done a lot of work to explore the issues for home educated private candidates. It doesn't seem to me very realistic to say that a young person can take exams at a previous school as an external candidate. The syllabus would most likely be [completely different for external candidates](#). This is potentially extremely misleading to families.

Race

The draft policy tiptoes around the issue of race, particularly Gypsy, Roma, Traveller. The [Equalities Impact Assessment](#) also talks of needing to know more about "particular communities where children are more or less likely to be in receipt of effective education at home" "clustered around districts or a protected characteristic" and the "need to ensure that girls within the Gypsy Roma and Irish Traveller Community are also able to access education". Pages 15-16 of the EQIUA says that a member of KCC home education team will "Engage with Virtual Head- GRT, ISK [\[Virtual School for Gypsy Roma Traveller at Inclusion Support\]](#) as part of consultation to explore information and data that they may hold and to explore any discernible trends that have arisen in service delivery."

Special Educational Needs

I have information about home education and SEN on [my main website Edyourself](#), including details of the [new SEND Code of Practice](#) in relation to home education, and [Local Offers throughout the country](#). I also run several other websites, [one focused on home education and SEN](#), and another on [SEN Pathfinders](#)

In the draft policy it is misleading to lump statements and EHCPs together. The [2001 SEN Code of Practice](#) differs significantly from [the 2015 code](#). The statement is maintained under the 2001 Code - until it is [converted following a transition review](#) or is ceased, and the EHCP is maintained under [the 2015 SEND Code](#).

The [All Party Parliamentary Group for Home Education](#) looked in detail at the draft SEN legislation with regard to home education [as far back as 2012](#) and together with Jane Lowe and Tricia Farey from the Home Education Advisory Service I had a number of meetings with the Department for Education to discuss home education in the Children and Families Act 2014 and in the associated new SEND Code of Practice.

Reference should be made in the draft policy to [the home education section in the new Code of Practice](#). Information about Annual Reviews of EHCPs can be found in Chapter 9 of the [2015 SEND Code of Practice](#) Parents and children/young people must be invited to the review but are [not obliged to attend](#).

As stated in the [Pupil Registration Regulations](#), parents don't have to ask permission or "request" to home educate a child unless the child is a registered pupil at a special school. The [new SEND Code of Practice](#) says that "If the school is a special school, the local authority must give consent for the child's name to be removed, but this should not be a lengthy or complex process."

It should not be up to the SEN team in Kent to decide whether parents are 'allowed' to home educate. Most importantly, deregistration does **not** need to be tied in with amending the statement or EHCP. Amending the statement or EHCP would take considerably longer.

The way the policy is currently drafted, it 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.

The SEND Code of Practice says nothing about '*learning needs*'. As currently drafted, the SEN section 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. This is outside the law.

I should like to know what is meant by the following sentence from [the Equalities Impact Assessment](#): "*the Legal Framework relating to children with statements of Special Education Needs may be a barrier to parents providing their children with a suitable home education*."

During annual reviews of statements or EHCPs, parents are not required to 'demonstrate provision'. Neither the statement nor the EHCP is binding on the parent in the sense of the parent having to carry out specific programmes or processes. The new SEND Code of Practice specifically says that home education need not look like school education.

It would be interesting to discover whether services and therapies are withdrawn in Kent when a child is taken out of school on the basis that parents have 'opted out.' A [nationwide survey](#) I carried out in 2013 found this to be a widespread practice. (Read more [here](#))

In 2015 it is surprising to have a new policy which refers exclusively to s 319 (Education Act 1996) and makes no reference to [s 42 \(2\) Children and Families Act 2014](#) or the 2015 SEND code of practice paragraph 10.31. Kent was [a Pathfinder authority](#) and should be relatively advanced in its understanding of the new SEN legislation.

Consultation Questions

Question 1. We know from looking at the data we hold on registered Electively Home Educated children that about 50% of families chose to electively home educate following a breakdown in relationship with the child's schools which followed on from poor attendance levels and/or because the family felt their child wasn't being appropriately supported by the school. Do you think KCC is right to try to engage families early who feel they are in this position with the offer of support in accessing their previous school (or an alternative school place) whilst providing additional support and advice on the delivery of home education if on balance this is preferred?

Answer 1. The question is not an accurate reflection of the draft policy. Personally I don't have a problem with the council's 'trying to engage families early' as long as this is in terms of a dialogue with parents which could be by email, letter, phone or face to face, where parents who CHOOSE to do so can go through their options with someone from the council who is well briefed on the following (not an exhaustive list): how the SEN system works (in theory and in practice); how (if possible) to access alternative provision; 14-16 college provision for home educated young people; local home education networks events and activities; taking exams as an external candidate; challenging the schools where families feel pushed into home educating; helping families on request to navigate the in-year admissions process and so on.

In fact, I think the council should also consider having someone available whom parents can contact **BEFORE** deregistration, in cases where the school is imposing repeat fixed term exclusions and is telling the family that the next step will be permanent exclusion, or where the school is not making adequate provision for a child's special educational needs. This should absolutely **NOT** mean reducing the family's autonomy or parents having to convince someone that they are able to home educate.

What I think **IS** problematic however is where the local authority officer tries to make deregistration difficult and then assumes an inspection role as soon as a child is off the school roll. I think it is completely counterproductive. I also think it is very unfair to insist on questioning children and young people about what they are learning, as well as causing enormous stress to children who have suffered bullying or other problems at school and who will be scared of giving the wrong answers and thereby 'failing' the inspection and being sent back to school.

There is nothing in law to back up these elements of the proposed policy and imposing such a regime will encourage fear, resentment and mistrust. I believe it will also have the opposite effect to that which I presume is intended, in that families will try and keep the council at a distance for as long as possible.

2. There is no duty on the Local Authority to monitor the quality of elective home education and we know from our data that about 50% of home educating families we visit are well resourced and their children's education is thriving. Do you think it is reasonable for KCC to ask parents to evidence this so that the Local Authority can quickly identify families as not of concern and target their efforts more readily where children may not be receiving appropriate education?

Answer 2. Kent seems to be tying itself into pointless knots over this, based on a misunderstanding over its legal duties. Since the law does not require the council to assess the suitability of home education nor to assure itself that provision is suitable, KCC should not be drawing up a priority list of families for investigation in the first place. If the council genuinely wishes to improve outcomes for home educated children and young people, it would be more helpful to signpost families to peer support networks and to assist with access to exams and resources. It could also take steps to ensure that home educated children with SEN are not deprived of services and therapies on the basis that parents are deemed to have 'opted out.'

The entire policy seems to be an answer to the question 'what convincing-sounding reason can we come up with to catch problem families as early as possible since otherwise they will just avoid us and the child's education will suffer.' And the answer seems to be 'the law says we can only use school attendance order powers "if it appears" that a child isn't receiving education, so we've decided that certain things **DO** make it look bad for families and whenever we become aware of those things we are (sort of) justified in going in to investigate.'

3. KCC's policy distinguishes those EHE children where one or more of the factors listed below is present which from past experience and our data is a strong indicator that the child in question may not be receiving a suitable education. Do you think that the four conditions set out in the policy are reasonable indicators to use to help determine where officers should focus their attention and support?

Answer 3. The majority of the indicators relate to absence from school, academic performance at school and exclusion from school. These factors are about the poor fit between the child and the school, not about the home environment (unless KCC is implying that school problems are caused by problems at home, which is certainly one possible explanation for the recommended referral to early help)

Another way to look at it is that these factors indicate school has been letting the child down and failing to provide a safe and supportive environment or alternatively that the requirement to conform with a rigid academic curriculum has caused an unbearable level of stress. KCC should assist parents who want to raise these issues with the school.

Additionally, I think it is prejudicial and discriminatory to use 'referred to early help and/or to children's social care' as a way of singling out 'failing' home educators.

Firstly, where parents opt to discuss problems with school prior to taking children out, KCC actually instructs schools to refer families to early help, which means that the problem is reframed as 'parents who can't ensure children's conformity to school expectations.' This will backfire and have the perverse incentive of deterring families from raising issues with school in order not to get labelled.

Secondly, referral to early help or children's social care could come about because the child has - or is believed to have - a disability or special educational need. KCC might just as well be open and say that they don't believe children with SEN can be adequately educated at home.

As stated in previous answers, I do not consider that the present draft policy is in the least supportive, rather it is punitive and it demonstrates a fundamental misunderstanding of the council's legal duties.

4. The Local Authority is primarily concerned where it is suggested by schools and other agencies that families are unlikely to have the capacity to effectively home educate. Where this is the case, do you think the Local Authority should

ask for evidence of learning so we can be confident the child is not denied access to education?

Answer 4. No. The law is written in the present tense not in the future tense. The law does NOT say '*if it appears to a local authority that a child of compulsory school age in their area might not receive suitable education at some point in the future...*' it says '*if it appears to a local education authority that a child of compulsory school age in their area IS NOT [my emphasis] receiving suitable education*'. The law absolutely does not require the LA to feel 'confident' about a child's prospects. If the LA chose to be proactive, it could take a general look (sometimes described as "informal enquiries") to see whether there seemed to be a problem which might require further enquiry. On the other hand, where the authority had specific information about a particular family (for example if the parents had told the school that they had no intention of home educating but were just taking children out of school) then it would be reasonable to ask parents a few questions.

5. Although there is no legal obligation for EHE families to engage with the Local Authority, KCC believes that some level of engagement is constructive to help meet its welfare and safeguarding responsibilities to Kent children. To what extent do you agree or disagree that engagement with EHE families should be undertaken for this purpose? If you disagree or strongly disagree, please tell us why.

Answer 5. If the authority wishes home educating families to engage with the service there are many ways in which this can be achieved, without operating the proposed deficit model which sets families up to fail. Firstly, the authority could be proactive in challenging schools nudging out pupils who disrupt the smooth running of the school or who are unlikely to achieve the required exam results. The authority could also support and challenge schools to do more about bullying. Both of these actions would represent significant steps towards carrying out its functions as a local authority with a regard to safeguarding and promoting the welfare of children in its area. Secondly, the authority could offer positive reasons for families to engage with the authority by for example opening up access to educational, sporting and creative opportunities and resources for home educating families. Education professionals already have the power to refer families to other agencies where there are concerns about a child's safety or welfare, but the concerns should include more than simply 'the family won't engage with us' as otherwise social care will disregard more serious cases as being yet another blanket referral 'because of home education.'

6. Please tell us any suggestions you have for how best KCC can engage with vulnerable children and families (who have chosen to EHE) to ensure children are receiving appropriate education. (It is not our intention to impose on those families delivering suitable education for their children.)

Answer 6. This question assumes that children who don't fit with the school system or who have been bullied or who have special needs are - along with their families - inherently 'vulnerable' and automatically require intrusive monitoring AFTER they have left the school environment, rather than support and advocacy - including a robust challenge to the school and possible help with a school move or an alternative to the standard academic curriculum - while they are still in the school system. The question also assumes that KCC has a legal duty to ensure that all children receive appropriate or suitable education, when in fact there is no such duty in law. (If there were such a duty it would extend to children in school and families would be able to sue the council for not intervening in failing schools and even for allowing such schools to exist.) For the avoidance of doubt, I disagree with both assumptions and will answer the question as though it were asking *a/ what could be included in the KCC offer to home educating families which would improve outcomes for home educated children, and b/ should KCC be treating some families as 'at risk of being at risk'?*

As stated in the answer to Q5, the authority could offer positive reasons for families to engage with the authority by for example opening up access to educational, sporting and creative opportunities and resources for home educating families. When I surveyed local authorities in 2013-14, Kent was one of the few authorities which consistently evaded responding to my questions about support for exams access and college funding [<http://edyourself.org/articles/examsreport.php>]. I have found a thread where I sent 13 emails trying to get an answer. Kent could learn useful lessons from good practice in other LAs [<http://edyourself.org/councilexamsupport.pdf>]

The draft policy should have much more information about 14-16 FE funding [<http://edyourself.org/articles/14-16collegeFAQ.php>] where students are home educated, since this, unlike the EOTAS funding, is 'new money' in the sense that a place will be funded by the Education Funding Agency. Many other LAs are signposting home educators to these opportunities and arranging taster days and open evenings for home educating families as can be seen here [<http://edyourself.org/articles/WolfReport.php#14-16spositive>]. (This links with my comments elsewhere on the KCC EHE web pages)

KCC has more than twice as many home educated children on its books as the next largest local authority in England. There are more children recorded as home educated in Kent than in the whole of Wales or Northern Ireland. Kent is literally off the scale in relation to other LAs in England, as can be seen here [<http://edyourself.org/ednumchart.php?sortby=2014&absscale=on#>]

It makes sense for Kent to look at what is being done by statistical neighbours, and not just Sussex. For example in Somerset, Essex, Cambridgeshire and Hampshire the service has been reconfigured and there is no longer a visitor/advisor in post, while Lancashire still has home education officers, but again has redesigned its whole

system and is now regarded as a model of good practice, which I have blogged about here <https://edyourself.wordpress.com/2015/03/02/lancashire-model-of-good-practice/>

I think it is prejudicial and discriminatory to treat home educators as 'at risk of being at risk' or 'at risk of becoming at risk', although there is a case for requesting further data from schools in order to challenge schools which are ejecting or nudging out problem pupils or failing to provide support for SEN or deal with bullies. As stated in response to Question 5, education professionals already have the power to refer families to other agencies where there are concerns about a child's safety or welfare.

7. We know from our visits with some families and data relating to spikes in the school year when families opt to EHE that this can be driven by schools and parents have felt pressured to EHE. Has this been your experience?

Answer 7. I am not a resident of Kent and can't comment from personal experience. What I can say though is that I have talked to many home educating families throughout the country and they don't always realise how they have been driven into a corner with regard to home education, what the alternatives might be, and how much entitlement they sign away once they deregister. I have spoken to families who feel they have no choice but to home educate and while they are angry with the school and 'the system', they are relieved that home education is a legal option. Many families wish they had done it sooner and not clung on to the last hope that things might improve with the school or believed people who told them that home education was too difficult or was somehow 'depriving' the child. These families see home education as a lifeline because it removes a major stressor from the child's life and/or because it averts what is perceived as the stigma of a permanent exclusion.

9. Do you have any other suggestions as to how we can improve the quality of our contact and engagement with EHE families?

Answer 9. Trust has broken down. In July 2014 Kent Council was on the point of finalising a new elective home education policy. Following urgent complaints from home educators and a letter from Graham Stuart MP, the council decided to delay consideration of any new policy until there had been consultation with local home educators. The council held one meeting on September 2nd 2014 with a small group of Kent home educators. At this meeting the council promised to consult more widely with the home education community and also said it would keep home educators informed. There was then an official silence until the current policy consultation arrived in May 2015. I recommend that the council look to Lancashire to see how to rebuild trust.

[\[https://edyourself.wordpress.com/2015/03/02/lancashire-model-of-good-practice/\]](https://edyourself.wordpress.com/2015/03/02/lancashire-model-of-good-practice/)

There has been a dysfunctional cycle over the past few years consisting of a new policy appearing out of the blue, attempts to drive it through which are met with a barrage of complaints, followed by a promise of 'consultation', and then silence. The sorry history has been documented on the Kent Home Education Wiki which can be read here <http://kenthepublic.pbworks.com/w/page/50021854/FrontPage>

10. Do you have any further comments about the Kent EHE policy?

Answer 10. I had additional comments on Q3 but I used the online form there was nowhere to put them, and I also had more comments for Q5 than would fit in the comment box provided on the online form. I have emailed my comments to ehefeedback@kent.gov.uk and scott.bagshaw@kent.gov.uk

Comments on KCC EHE Web Pages

Do you have comments on the elective home education pages of the KCC website?

[Educating Your Child at Home](#)

[Guide to home education](#)

[Things to Consider](#)

[What to Teach](#)

[How to get started](#)

[How we're involved](#)

[Exams](#)

[College training and school](#)

[Resources to help you](#)

[ALL WEB PAGES IN ONE FILE](#) (7 pages)

Equalities Impact Assessment

[The Equalities Impact Assessment](#) makes interesting reading.

"Historically the quality of data held on EHE has been poor and inconsistent across the county. Measures have been taken to centralise the EHE officers and ensure a standard approach to referrals and information capture. There has

been little profiling of EHE learners to establish if there are particular communities where children are more or less likely to be in receipt of effective education at home and more work must be done identify if this is the case to ensure appropriate targeted advice, support and information is available."

"Not all families who elect to Home Educate make this choice with full knowledge of what is involved or what their financial responsibilities will be."

My comments on key background documentation

Page 5 of the Equalities Impact Assessment has a list of **'key background documentation'** as follows: European Convention on Human Rights, 1953; UN Convention on the Rights of the Child, 1990; Education Act 1996; Education Act 2002; Children Act 1989; Children Act 2004; Education and Inspections Act 2006; Education (Pupil Registration) (England) Regulations 2006; Elective Home Education: Guidelines for Local Authorities, 2007; Badman Report to the Secretary of State, Review of Elective Home Education in England, 2009; Revised DfE guidance for local authorities on the funding of home educated children 2013-14; Ofsted report into Elective Home Education, Local Authorities and home education, 2010; Birmingham Safeguarding Children Board, Serious Case Review into Khyra Ishaq, 2010; Barking and Dagenham Safeguarding Children Board, Serious Case Review into Child T and Child R, 2011; Serious Case Review, June 2013, anonymised, Family W; Support for Elective Home Education, Committee Report, DfE, December 2012; Working together to safeguard children, 2015; Children and Families Act 2014; SEND Code of practice, 0-25 years, 2014; SEND Code of practice, 0-25 years, 2015; Kent Inter Agency Threshold Criteria for Children in Need February 2015; X County Council v The Mother, The Father, The Child by his Children's Guardian[2015] EWFC B40 [Link](#)

It is somewhat puzzling to find a reference to the 2009 Badman Report. Proposals for registration and monitoring put forward in the Badman Report were [dropped 5 years ago](#) after [more than 300 backbench MPs](#) presented petitions to parliament. The Conservative Party's objections to Badman are already well known, and the Shadow Secretary of State for Education, Tristram Hunt, also [said in March 2015](#) that that the Labour Party does *'not consider the Badman Review to be a document which reflects the current party view and we harbour no intention to change the existing regulations on home education.'*

However, perhaps KCC had something else in mind, since the Badman Report also recommended greater use of flexischooling, and said that LAs should extend access to school libraries, sports facilities, school visits, specialist facilities, key stage assessment, specialist music tuition, work experience, and post 14 vocational opportunities. The Badman Report also said LAs should make school based ICT materials and facilities available to home educated children.

The 2010 Ofsted Report into Home Education has been superseded by new guidance to inspectors (April 2015) from Ofsted which can be found [here](#)

The background documentation cites three Serious Case Reviews. It would be interesting to discover what lessons KCC has learned from these Reviews. In the Barking case, social care had been involved with the family from before the child was born and the Serious Case Review concluded that this case was *"highly unusual and therefore more difficult to predict or anticipate. The circumstances of the death did not fit a pattern of risk factors that any established approach to risk assessment would have predicted."* In the case of Family W, which the SCR characterises as *"an extremely unusual case"*, there were repeated referrals to children's social care which were not dealt with adequately. With Khyra Ishaq *"once the children were withdrawn from school, social services seemed to think that it had no role in welfare ... People were in their tramlines, and when you have that mindset and a service under enormous pressure, with increased demand, increased complexity and high expectations, that is when things can go wrong..."* [\[Link\]](#)

Meanwhile, X County Council care proceedings (published February 2015 whilst the draft policy is dated December 2014) demonstrate that for some families, there is no support from 'health' for a disabled child, even where the GP is extremely proactive on the child's behalf. The case also shows that once a family opts to home educate, this can be used as further reason to withhold therapies and services, since parents are deemed to have opted out, even though there is still a medical need. A Disabled Child assessment does not appear to have been offered nor access to statutory Short Breaks. As the judgement says *"the NHS has clearly failed him."*

Statistics

The first figure is % at primary age; the second is % at secondary age. NB around a third of the home educated children in Kent are of primary age, while two thirds are secondary age. One of the most striking statistics is that apparently 16% of secondary age home educated children have previously been subject to more than 1 fixed term exclusion from school.

1, 16 more than 1 fixed term exclusion from school

6, 7 behavioural SEN

2, 1 Educational Psychologist referral

5, 4 85% -90% school attendance

10, 7 less than 85% attendance

0, 2 permanently excluded from school

11, 8 free school meals

2, 8 Come under Troubled Families
5, 7 physical SEN
11, 10 Social Care Services referral
2, 3 Child in Need
0.3, 0 Children in Care
1, 1 Child Protection
0, 3 under Youth offending team
14, 12 referred as Children Missing Education

What the EQUIA **doesn't** have is: breakdown of the home education population by age, gender, area of Kent, or how many years a child or young person has been home educated. We are not told whether young people who begin home education in Y10 and Y11 are distributed equally across the county, nor whether the council holds any data on deregistration from particular schools. There is no reference to Education, Health and Care Plans, although Kent was [a well-funded Pathfinder LA](#). Neither is there any definition of 'physical SEN' or 'behaviour SEN'.

"... some families may feel that electing for home education is the only available option when it appears that school issues cannot be resolved or where personal circumstances mean that attending school regularly is problematic. Not all families who elect to home educate make this choice willingly or having fully considered the implications on their family life and the limited support available."

The EQUIA says *"There is growing evidence that decisions are being taken, because of concerns about the schools their children attend rather than a true desire to educate outside of the state system. Some parents are surprised to learn what is involved and what their financial responsibilities are. KCC EHE officers are assigned to support all families who inform the authority and are mindful that the level of support required will vary according to the expertise and experience of the family."*

However, in the policy itself, 'support' equates to compulsory inspection meetings between the council and the family, where the parent and child will have to **satisfy KCC of the suitability of the education provision proposed** and where **evidence of learning** will be judged.

The EQUIA says *"By engaging with Kent's families who educate at home, best practice evidenced by more experienced families can be shared with those who may be less experienced but equally motivated to educate their children at home."*

The KCC home education web page could provide links to local and national support groups. The EQUIA makes it sound as though experienced families will talk to the council about what they are doing and that the council can then pass this information on to new families. While this may be a laudable aim, I imagine that one effect of the punitive new policy will be that families opt **not** to meet the council.

"Where families have reluctantly elected to home educate these families will be identified and supported at the earliest opportunity, enabling KCC officers to support the family in securing a school place, or directing them to educational resources if they prefer thus preventing any unnecessary delay in children accessing suitable education."

"Where there are safeguarding concerns which indicate the child is unlikely to be accessing suitable education, professionals will be on hand to engage with and support families meaning no Child or Young Person is left unsupported."

Useful Links

- [New KCC home education web page](#)
- [Consultation page](#)
- [Draft Policy](#)
- [My Suggested Changes](#)
- [Rationale for My Changes](#)
- [Letter to parents/carers](#)
- [Equality Impact Assessment](#)
- [Paper version of questionnaire](#)
- [Online questionnaire](#)
- [Edyourself blog on Kent](#)
- [Edyourself web page on Kent](#)
- [My comments on draft policy](#)
- [Consultation Walkthrough](#)
- [My consultation response](#)

Link Reference

This article is <http://edyourself.org/articles/kentconsultresponse2015.php>. The following links to other websites are

contained in the article, displayed as citations to aid you in printing the document.

1. here <http://www.kent.gov.uk/about-the-council/strategies-and-policies/education-skills-and-employment-policies/elective-home-education-policy>
2. here <http://www.kelsi.org.uk/news-and-events/patrick-leesons-update/1-december-2015-weekly-update>
3. LINK <http://www.kelsi.org.uk/news-and-events/patrick-leesons-update/1-december-2015-weekly-update>
4. Consultation page <http://consultations.kent.gov.uk/consult.ti/Policy/EHE/consultationHome>
5. here http://consultations.kent.gov.uk/gf2.ti/f/576354/15074309.1/WIZ/-Item_8_2_Elective_Home_Education_Policy_Draft_Dec_2014.doc
6. here <http://edyourself.org/2015kentchangesrationale.pdf>
7. Section 436A <http://www.legislation.gov.uk/ukpga/1996/56/section/7>
8. a duty to make arrangements to identify children outside school who aren't receiving education <http://www.legislation.gov.uk/ukpga/2006/40/section/4>
9. here <http://edyourself.org/articles/cme.php>
10. suitable to the child's age, ability, aptitude and special needs. <http://www.legislation.gov.uk/ukpga/1996/56/section/7>
11. has confirmed <http://edyourself.org/articles/ministersen.php>
12. the School Attendance Order process <http://www.legislation.gov.uk/ukpga/1996/56/partVI/chapterIII/crossheading/school-attendance-orders>
13. Government Home Education Guidelines <http://edyourself.org/articles/guidelines.php#ifappearsnotsuitableed>
14. it can investigate further <http://edyourself.org/articles/guidelines.php#ifappearsnotsuitableed>
15. Equalities Impact Assessment http://consultations.kent.gov.uk/gf2.ti/f/576354/15077413.1/WIZ/-Version_8_EHE_EqIAreport_290415.d
[OC](#)
16. Equalities Impact Assessment http://consultations.kent.gov.uk/gf2.ti/f/576354/15077413.1/WIZ/-Version_8_EHE_EqIAreport_290415.d
[OC](#)
17. the Government Guidelines <http://www.legislation.gov.uk/ukpga/1989/41/contents>
18. the final report <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmeduc/559/55905.htm>
19. Equalities Impact Assessment http://consultations.kent.gov.uk/gf2.ti/f/576354/15077413.1/WIZ/-Version_8_EHE_EqIAreport_290415.d
[OC](#)
20. Equalities Impact Assessment http://consultations.kent.gov.uk/gf2.ti/f/576354/15077413.1/WIZ/-Version_8_EHE_EqIAreport_290415.d
[OC](#)
21. focused on driving up exam results and Ofsted ratings <http://www.kentadvice.co.uk/peters-blog/news-a-comments/item/693-disappearing-kent-headteachers-part-two.html>
22. Early Help <http://www.kent.gov.uk/about-the-council/strategies-and-policies/education-skills-and-employment-policies/kent-early-help-and-preventative-services-prospectus>
23. Early Help <http://www.kent.gov.uk/about-the-council/strategies-and-policies/education-skills-and-employment-policies/kent-early-help-and-preventative-services-prospectus>
24. deregistering <http://edyourself.org/articles/deregistration.php>
25. Equalities Impact Assessment http://consultations.kent.gov.uk/gf2.ti/f/576354/15077413.1/WIZ/-Version_8_EHE_EqIAreport_290415.d
[OC](#)
26. Many other LAs <http://edyourself.org/articles/14-16collegeFAQ.php>
27. good practice in other LAs <http://edyourself.org/articles/examsreport.php>
28. completely different for external candidates <http://edyourself.org/articles/exams.php#wiki>
29. Virtual School for Gypsy Roma Traveller at Inclusion Support http://consultations.kent.gov.uk/gf2.ti/f/576354/15077413.1/WIZ/-Version_8_EHE_EqIAreport_290415.d
[OC](#)
30. SEN Pathfinders <http://edyourself.org/>
31. the 2015 SEND Code <http://www.education.gov.uk/publications/eOrderingDownload/DfES%200581%20200MIG2228.pdf>
32. not obliged to attend. <http://webarchive.nationalarchives.gov.uk/20100413151441/http://teachernet.gov.uk/wholeschool/sen/home-educatedchildren/>
33. new SEND Code of Practice <http://edyourself.org/articles/deregistration.php>
34. the Equalities Impact Assessment http://consultations.kent.gov.uk/gf2.ti/f/576354/15077413.1/WIZ/-Version_8_EHE_EqIAreport_290415.d
[OC](#)
35. here <http://edyourself.org/articles/2013foissenandlocationehe.php>
36. a Pathfinder authority <http://www.legislation.gov.uk/ukpga/2014/6/section/42>
37. <http://edyourself.org/council/examsupport.pdf> <http://edyourself.org/articles/examsreport.php>
38. <http://edyourself.org/articles/WolfReport.php#14-16spositive> <http://edyourself.org/articles/14-16collegeFAQ.php>
39. <http://edyourself.org/ednumchart.php?sorby=2014&absscale=on#> <http://edyourself.org/ednumchart.php?sortby=2014&absscale=on#>
40. <http://kenthepublic.pbworks.com/w/page/50021854/FrontPage>

- <http://kenthepublic.pbworks.com/w/page/50021854/FrontPage>
41. Educating Your Child at Home <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home>
 42. Guide to home education <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/our-guide-to-elective-home-e-education>
 43. Things to Consider <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/our-guide-to-elective-home-e-education#panel2-1>
 44. What to Teach <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/our-guide-to-elective-home-e-education#panel2-2>
 45. How to get started <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/our-guide-to-elective-home-e-education#panel2-3>
 46. How we're involved <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/our-guide-to-elective-home-e-education#panel2-4>
 47. Exams <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/our-guide-to-elective-home-e-education#panel2-5>
 48. College training and school <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/our-guide-to-elective-home-e-education#panel2-6>
 49. Resources to help you <http://www.kent.gov.uk/education-and-children/educating-your-child-at-home/resources-to-help-you-home-e-educate>
 50. ALL WEB PAGES IN ONE FILE <http://edyourself.org/kccehewebpages2015.docx>
 51. The Equalities Impact Assessment http://consultations.kent.gov.uk/qf2.ti/f/576354/15077413.1/WIZ/-/Version_8_EHE_EqIAreport_290415.doc
 52. Link <http://www.bailii.org/ew/cases/EWFC/OJ/2015/B40.html>
 53. said in March 2015 <http://edyourself.org/articles/badman.php>
 54. Link <http://dera.ioe.ac.uk/11452/1/4651.pdf>
 55. a well-funded Pathfinder LA <http://snafu2.org.uk/#kent>
 56. Consultation page <http://consultations.kent.gov.uk/consult.ti/PolicyEHE/consultationHome>
 57. Draft Policy http://consultations.kent.gov.uk/qf2.ti/f/576354/15074309.1/WIZ/-/Item_8_2_Elective_Home_Education_Policy_Draft_Dec_2014.doc
 58. My Suggested Changes <http://edyourself.org/kent2015policycomments.pdf>
 59. Rationale for My Changes <http://edyourself.org/2015kentchangesrationale.pdf>
 60. Letter to parents/carers http://consultations.kent.gov.uk/qf2.ti/f/576354/15074373.1/WIZ/-/Letter_to_parents_EHE_28.04.15.doc
 61. Equality Impact Assessment http://consultations.kent.gov.uk/qf2.ti/f/576354/15077413.1/WIZ/-/Version_8_EHE_EqIAreport_290415.doc
 62. Paper version of questionnaire http://consultations.kent.gov.uk/qf2.ti/f/576354/15076005.1/DOCX/-/Questionnaire_29_04_15_Final.doc
 63. Online questionnaire <http://consultations.kent.gov.uk/consult.ti/PolicyEHE/respondByQuestionnaire>
 64. Edyourself web page on Kent <http://edyourself.org/articles/kent.php>
 65. Consultation Walkthrough <http://edyourself.org/articles/kentwalkthrough.php>
 66. My consultation response <http://edyourself.org/articles/kentconsultresponse2015.php>