

# Home Education Law in England

<http://edyourself.org/articles/helaw.pdf> available via <http://edyourself.org/articles/helaw.php>

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Click here to read [the Government Elective Home Education Guidelines \(England\)](#) which we have set out in easily searchable web-page format. Parents do not have to request permission to home educate or notify anyone, but parents wishing to remove their children from school need to [deregister by writing to the proprietor of the school](#). Parents are not eligible for funding when children are home educated. A number of families whose children have [special needs](#) including autism find home education to be a lifeline.

Local authorities have no statutory duty to monitor parents' home education provision. At the same time, [section 436A Education Act 1996](#) gives local authorities the duty to make arrangements to identify children outside school who are not receiving education. Government Guidelines indicate that the authority should address the situation informally by making inquiries with parents. If it appears that a suitable education is not being provided, the local authority should seek to gather any relevant information that will assist in reaching a properly informed judgement. Ultimately if the authority is not satisfied that the child is receiving education, it has a duty to begin the process for [a School Attendance Order](#).

Suitable education is defined in law as education which is suitable to the child's age, ability, aptitude and any special needs he or she may have. Click [here](#) for a map showing the numbers of home educated children in different local authorities in England. By 2015 young people will have to stay in education till 18 (Raising Participation Age). Home education [counts as a valid form of participation](#).

Social care may become involved with a child when the family requests help or where a child protection referral is made to social services. Read more about [Home Education and Social Services](#). Where separated parents disagree about home education, the family courts may become involved and lone parents are recommended to seek legal advice.

["Education otherwise than at school"](#) comprises home education by parents under [s.7 Education Act 1996](#) and also alternative provision which is arranged by the local authority under [s.19 Education Act 1996](#).

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## Freedom in Education

The [Government's home education guidelines](#) say that the parent is not required to provide any particular type of education and is under no obligation to:

- teach the National Curriculum
- provide a broad and balanced education
- have a timetable
- have premises equipped to any particular standard
- set hours during which education will take place
- have any specific qualifications

make detailed plans in advance  
observe school hours, days or terms  
give formal lessons  
mark work done by their child  
formally assess progress or set development objectives  
reproduce school type peer group socialisation  
match school-based, age-specific standards.

Neither is the parent required to:  
produce examples of 'work' for inspection  
seek permission to educate 'otherwise'  
take the initiative in informing the authority  
have regular contact with the authority  
meet with the authority

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## **Legal References**

### **Parental Duties**

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

- (1) to his age, ability and aptitude, and
- (2) to any special educational needs he may have,  
either by regular attendance at school or otherwise.

[Section 7 Education Act 1996 England and Wales](#)

### **Children Missing Education: Section 436A Education Act 1996**

A local education authority must make arrangements to enable them to establish (so far as it is possible to do so) the identities of children in their area who are of compulsory school age but—

- (a) are not registered pupils at a school, and
- (b) are not receiving suitable education otherwise than at a school.

[s436A Education Act 1996 England and Wales](#)

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### **CME Guidance November 2013**

<http://media.education.gov.uk/assets/files/pdf/c/cme%20guidance.pdf> published November 29th 2013, available  
via <http://www.education.gov.uk/g00229816/children-missing-education> [Comparison successive CME guidance](#)

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### **Taking a child out of school**

Parents wishing to remove a child from school in order to home educate need to go through [the deregistration process](#) which is set out in [Education \(Pupil Registration\)\(England\) Regulations](#)

[2006](#). This involves writing to the headteacher or proprietor of the school. The position is the same for child with a statement of special needs who is a pupil at a mainstream school (including a specialist provision/unit within the school or attached to the school). The only exception to the general rule is where a child is registered at a special school.

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## **What Happens After Children Are Taken Out of School?**

Once parents notify the school that they are home educating, this may prompt a review of the family's circumstances which could include prior child protection concerns or outstanding problems with the school. Some authorities also ask the Education Welfare Service to make initial contact with the family. Education Welfare Officers do not have teaching qualifications and in some cases may not be aware of the law on home education. Where children have a statement of SEN, the parent may also be asked for information about how home-based education will cater for the child's special needs as outlined in Part 2 of the Statement.

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## **Who Deals with Home Education?**

Local authorities may have between 6 and 600+ home educated children "on their books" ie children who are known to the authority, usually because they have been taken out of school. The job of overseeing home education may be a full-time or part-time post or may simply be passed to someone who is already working in Education Welfare, Alternative Provision, Special Needs or Traveller Education Services. Read more about local authorities [here](#). Some of the better LAs' paperwork can be found [here](#). Local authorities do not receive any funding for home education services. For a map showing the numbers of home educated children known in each local authority in England, click [here](#) As may be seen from [the Government's Home Education Guidelines](#), local authorities do not have a statutory duty to monitor education provided by parents and there is no requirement in law for the authority to interview home educating families.

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## **Child Protection Issues in Home Education**

More information on home education and safeguarding can be found in [our page on home education and social services](#) and in [the Government Guidelines on Elective Home Education and Child Protection](#)

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## **What Happens if the Local Authority Has Concerns that a Child is Not Being Educated**

If it appears that a child is not on a school roll and is not being educated elsewhere the local authority has a duty to take steps to satisfy itself that the child is in fact receiving education. Government Guidelines recommend that the situation is first addressed informally which would involve asking parents for more information about the arrangements they are making for their children's education. Ultimately if the authority considers it expedient that the child attends school, it has the power to issue [a School Attendance Order](#).

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# Home Educating Children with Special Educational Needs

[Website devoted to home ed and SEN Lancashire Council SEN policy](#) (recommended) In [Home Education and SEN discussed at Westminster Changes to SEN system in England](#)[Changes to SEN code of practice News Page](#)

Some parents turn to home education when they have been unable to get their child's needs met in the school system. Other families decide when their children are very young that school is unlikely to meet their needs. In addition, parents of children with special needs may also have philosophical or religious reasons for home educating. Children with special educational needs have an equal right to be educated at home. Click [here](#) for more information on changes to the benefits system regarding lone parents on Income Support, Jobseekers Allowance, Working Tax Credit, Universal Credit, and Personal Independence Payment which will replace Disability Living Allowance.

## Taking Child with Special Needs out of School

If the child is a registered pupil at a mainstream school, the parent wishing to home educate should send a written request to the proprietor for the child's name to be taken off the school roll. [The process is the same](#) irrespective of whether the child has a statement of or not. If the child is a registered pupil at a special school, [the parent requires consent from the local authority before the child's name can be removed from the school roll](#). Some local authorities will ask for further information before agreeing that the child's name can be removed. [The Government's Home Education Guidelines](#) set out the position in relation to home education and special needs.

## Special Needs Code of Practice

NB there will be a [new SEN system](#) and [new Code of Practice and regulations](#) in September 2014, but children who already have a statement of SEN will not immediately be transferred to the new system; [the two systems will run in tandem up to 2017](#). Current SEN code of practice paragraphs 8:95 and 8:96 Read more [here](#) Current code paragraph 8:92 [Section 319 of the Education Act 1996](#) empowers the LEA to arrange for some or all of a child's special educational provision to be made otherwise than at school only if it is inappropriate for the provision to be made in school. Read more [here](#)

## Part 4 of the Statement

Part 4 of the statement will name a school or will specify the type of school which the authority consider appropriate for the child...or any provision for his education otherwise than at a school which the authority make under [section 319](#). (See [SEN regulations](#)) The fact that a school may be named in Part 4 before the parent has enrolled the child, [does not mean that the child is automatically registered at the school without any further action on the part of the parent](#). Nor does naming the school in Part 4 mean that a child who is not currently on the roll of the school will be obliged to attend the named school in future rather than - for example - being home educated.

## Reviewing the Statement

Where a child has a statement of , the local authority has a duty to review the statement annually. The statement is not enforceable on the parent. Please see <http://ehe-sen.org.uk/statement.php> for further information. The Westminster Government confirmed in 2010 that it was not mandatory to see the child or the home as part of the annual statement review. The matter was [placed on record in the House of Lords on March 17th 2010](#). See also <http://webarchive.nationalarchives.gov.uk/20100413151441/http://teachernet.gov.uk/wholeschool/sen/home-educatedchildren/> and - in the event that the web archive page may be unobtainable -

the same [Teachernet page on SEN Review as word doc held on the EdYourself server](#) Please see <http://ehe-sen.org.uk/annreview.php> for further information.

## **Arrangements not Binding on Parents**

All parents have a duty to cause their children to receive education suitable to age ability aptitude and special needs. In the case of children with a statement of SEN, The Government has made it clear that parents of children with statements do not need to arrange the provision specified in the statement. The point has been reiterated in case law (see DM and KC vs Essex 2003 below)

Some noble Lords have raised issues concerning the parents of children with statements who choose to educate their children at home. Advice on this is included in the draft code. It makes clear that where such education takes place, local education authorities will retain their duty to ensure that the child's needs are met. The statement must remain in force and the authority must make sure that parents can make suitable arrangements. The term "suitable arrangements" does not mean having to specify exact arrangements in the child's statement. However, the authority must satisfy itself that the arrangements put in place by the parents are suitable to meet the needs of the child. Where that is the case, the authority is relieved of its duty to arrange for provision as specified. If, however, the arrangements fall short, then the authority is not absolved of its responsibility. However, the authority could, for example, itself make some provision to help the parents to put in place suitable arrangements. Furthermore, even where authorities are satisfied that arrangements are suitable, they will still have a duty to maintain the child's statement and to review it annually.

[Baroness Ashton of Upholland in the Lords on October 29th 2001 \(Hansard Column 1261\)](#)

## **Useful Links**

Please see <http://www.ehe-sen.org.uk/> for further information.

[All Party Group Home Education Meeting SEN and Disability, November 2012](#)

[Support list for home education and SEN](#)

[Legal changes to SEN system 2014-17](#)

[SEN Tribunal Forms from Ministry of Justice website](#)

[Code of Practice](#)

[DM and KC vs Essex County Council 2003. Case law which demonstrates that parents do not have to make the provision specified in the statement](#)

[Baroness Ashton on parents not having to make provision specified in statement](#)

[David Wolfe, Matrix Chambers: SEN Case Law](#)

[SEN Green Paper March 2011 mentions help for home educating families](#)

[Ipsa's Guide to SEN Law](#)

<http://autistickidsgrowup.wordpress.com/2013/02/20/drafting-the-s139a-learning-difficulty-assessment-lda-for-16-25-year-olds/>

[Diane King consultancy: home education for children with complex needs](#)

[HE-Special internet support list for home educating parents of children with](#)

<http://www.ehe-sen.org.uk/#exams>

## **Funding for Special Needs**

<http://edyourself.org/articles/funding.php> updated November 2013