

# Elective Home Education Consultation Wales 2012

## Consultation Elective Home Education, Wales 2012

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Closes November 23rd 2012

I am an [independent home education consultant](#) based in Sheffield. During September and October 2012 I led four workshops for home educators throughout Wales (Wrexham, Cardiff, Llandrindod Wells and Llandudno). I also met with Bridgend Council. Over the same period I carried out [a survey on Welsh local authorities' practice](#) with regard to the Government's Elective Home Education Guidelines. I obtained Freedom of Information responses from all 22 Welsh LAs which I uploaded to my website and I am also mid-way through ascertaining whether any Welsh LAs circulated information about this consultation and the Government consultation events to stakeholders. Last month [I responded to the consultation on Additional Needs](#), questioning how the proposals would work for home educated children.

Before becoming an independent home education consultant in 2010, I was Trustee and Chair of Education Otherwise Government Policy Group and Disability Group for 3 years, covering the period of the English Government's failed attempt to change the law in England. I was one of the national co-ordinators of [the mass presentation of hundreds of petitions to parliament on December 8th 2009](#). I gave evidence on elective home education to the Public Bill Committee at Westminster in 2010 and have twice given oral evidence on elective home education to the Education Committee at Westminster (2009 and 2012). I am currently assisting the Home Education Advisory Service acting as secretariat for the All Party Home Education Group at Westminster.

I have home educated my son throughout his education. He is now 19 and has never been to school.

### Question 1: Home Education Register

**Do you agree that a register should be kept and that it should be a requirement to register if a parent elects to home educate?**

**Disagree** I categorically disagree with the suggestion that parents should have to apply to the local council for permission to home educate their children. The Government has not put forward evidence to justify such a disproportionate intrusion into family life.

### Home Educators Report That The Council Ignores Them

During September and October 2012 I led four workshops for home educators throughout Wales (Wrexham, Cardiff, Llandrindod Wells and Llandudno) and talked to many home educating families, some of whom had travelled a considerable distance to attend the workshop. The consistent feedback I received was *"the council completely ignores us"* or *"you can't even find out who is meant to be dealing with home education"*. Some parents reported that the local authority was set on holding a meeting at the family home, and that if parents declined to meet, they had no further contact from the council. [Local councils' Freedom of Information answers](#) confirm the impression that current practice tends to be inflexible and binary - a meeting or nothing - and does not follow the Government Guidelines which say that *"Meetings or other forms of discussion should be taken as an opportunity to provide information for the parents or guardians and if meeting in person is not possible, local authorities should endeavour to provide the same information through the post."*

### Why the Government Should Heed Bridgend

The exception was when I went to Bridgend and met separately with the council and with home educating parents. In contrast to every other council I heard about, in Bridgend the home educating families do know who to contact at the council and parents report that the council does respond to recommendations and requests from home educators and is always seeking to improve its service in consultation with home educating families. I would suggest - as I am sure others have done - that Bridgend should be signposted as a model of good practice, not just because Bridgend council offers much-valued help with exams - although it does - but rather because the Council has taken care over redesigning its service and has shown that respecting boundaries, offering non-judgemental support, and facilitating access to other council services, all promote engagement and improve outcomes for children and young people. I would expect Bridgend council - and other councils where there is a system which works - to be against the current proposals for compulsory registration and monitoring.

By contrast, I would imagine that where councils seek to impose a one-size-fits-all model, insist on meeting the family and looking over the children's work, where mistrust and non co-operation is rife, and where local families will advise newcomers to have as little to do with the council as possible, in these circumstances, introducing an element of compulsion might be welcomed as appearing to make the job easier. However, where an essentially adversarial system is not working, the fault may be in the design and it may benefit from a rethink rather than simply entrenching a them and us mentality by giving one side more powers.

### Plan B: Use Existing Powers To Develop Statutory Guidance Best Practice LAs

In addition to the more radical and controversial proposals requiring a change to primary legislation, the Ministerial Foreword to the consultation states that the Government also intends to *"use existing powers to develop statutory guidance which sets out best practice for LAs when working with home educating families and encourages LAs and home educating parents to work together in*

*the best educational interests of the learner.*" My recommendation is that the Government takes Plan B forward with regard to statutory guidance and drops Plan A for compulsory inspections which has little or no chance of success. A participant at the Conwy consultation event organised by the Welsh Government [said](#) *"the people I spoke to [at the event] said the proposals weren't supportive of developing good working relationships between LA and HE families. The local authorities I spoke to wanted to retain their good working relationships with the home education community."*

A framework already exists for local authorities in their dealings with home educating families, namely [the Government Home Education Guidelines](#) published in 2006. After the consultation was announced, I undertook a preliminary survey of local authorities' practice with regard to the current Guidelines. Responses from all the local authorities in the country, plus examples of current paperwork may be found here <http://edyourself.org/articles/FOIwales2012.php> I have also included all the responses in a short pdf here <http://edyourself.org/walesfois.pdf> For an overview and comparison of different authorities, I have set out the responses in the form of a spreadsheet here <http://edyourself.org/walesfoioctober2012.xls>

## **Current Government Guidelines Advocate Building Positive Relationship**

Current Welsh Government Home Education Guidelines emphasise the importance of *"trusting relationships"* which it says *"may need time to develop"* and recommend that the local authority:

- 1/maintain a list of all school-age children known to them who are home-educated
- 2/make contact on an annual basis to seek a meeting or request an updated report
- 3/seek to build effective relationships
- 4/provide a named contact who is familiar with a range of home education philosophies

The Guidelines go on to say that *"the approach home educating parents take to assessing their child's progress is likely to be dictated by their own philosophy or views, and in many cases, the absence of formal assessment may be a feature of the education provision"*

## **Current Government Guidelines Already Set Out Enforcement Procedures**

The authority has a duty to act where it appears that a child is not receiving education. *"Under Section 437 of the Education Act 1996, an LEA must by law serve a School Attendance Order (SAO) on the parent of a child of compulsory school age who fails to prove that the child is receiving suitable education and where the authority is of the opinion that the child should attend school."* [[Government Home Education Guidelines, Page 2](#)]

**3.10** Where there are concerns about the efficiency or suitability of the education being provided for the child, more frequent contact may be required. Where concerns merit frequent contact the authority should discuss these concerns with the child's parents, with a view to helping them improve their provision in the best interests of the child.

**4.10** It may be necessary for the LEA to serve a notice on the parents. Under Section 437(1) of the Education Act 1996, LEAs can intervene if they have good reason to believe that parents are not providing a suitable education by serving a School Attendance Order. This will allow a period of at least 15 days for the parent to provide the education authority with whatever information they require to satisfy themselves about the suitability of the education. The parent may choose to do this by meeting with the authority in person, or by supplying the information in writing.

### **Section 437 Education Act 1996**

**(1) If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.**

**(2) That period shall not be less than 15 days beginning with the day on which the notice is served.**

**(3) If (a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and (b) in the opinion of the authority it is expedient that the child should attend school the authority shall serve on the parent an order (referred to in this Act as a "school attendance order"), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.**

## **Current Government Guidelines Already Set Out Child Protection Procedures**

**6.1** If any child welfare concerns come to light in the course of engagement with children and families, these concerns should immediately be referred to the statutory authorities for consideration.

**6.2** Concerns may arise where a parent states their intention to home educate. Specific instances where advice from the local social services department would be appropriate on the suitability of home education include:

- where a child or family member has been identified as being in need;
- where a child or family member has been referred to social work or the police for child protection reasons, and the matter is being investigated;
- where a child or a sibling is on the child protection register;
- where a child or family member has been referred on care and protection grounds, and the referral is being considered;
- where the child is the subject of a supervision requirement.

## **Current Government Guidelines Already Allow For Diversity Home Education Provision**

Page 7 paragraph 4.1: "in their consideration of parents' provision of education at home, education authorities may reasonably expect the provision to include the following characteristics:

- consistent involvement of parents or other significant carers - it is expected that parents or significant carers would play a significant role, although not necessarily constantly or actively involved in providing education;
- an indication that parents have thought through their reasons for home educating and what they hope to achieve;
- signs of commitment and enthusiasm, and recognition of the child's needs, attitudes and aspirations;
- opportunities for the child to be stimulated by their learning experiences;
- involvement in activities to cater for the interests of the child and his/her stage of development;

- access to resources/materials required to meet the objectives of the parents;
- the opportunity to interact with other children and other adults;
- the involvement of Careers Wales at an appropriate stage; and
- development of numeracy and literacy skills suitable to the child's age, aptitude and ability and taking into account any special educational needs that they may have

## Question 2: Failure to register

**Do you agree that if a parent fails to register or provides inadequate or false information then the child being home educated should be required to attend school?**

### Subjective Nature of Inadequate Information

I categorically disagree with the proposal that parents must be granted permission from the local authority before being allowed to home educate their own children. The suggestion that children should be required to attend school if – in the opinion of the authority – the parent provides “*inadequate information*” is setting up the family to fail and gives limitless discretionary powers to the local council whose decisions will inevitably be subject to legal challenge.

### Why Don't LAs Issue More School Attendance Orders Already?

According to Freedom of Information responses received in October/November 2012 (see spreadsheet [here](#)) only 4 School Attendance Orders were issued by local authorities in Wales last year. There are several possible explanations for this low number. Firstly, it may be the case that only 4 home educated children (from [a total of 986](#) - ie 1 in 245 - were deemed not to be receiving education. In other words, in 244 out of 245 cases there is no cause for a School Attendance Order.

Another possible reason for the low number is that Welsh LAs don't feel able to issue SAOs because they think they need evidence/proof that a child is not receiving education and that they can't obtain the necessary evidence of failure unless they have more engagement from the family. If true, this would be a possible reason for the current proposals to compel families to engage, in order to enable the authority to collect evidence. However, local authorities are currently failing in their duties if they do not follow the procedure set out in section 437 of the Education Act 1996, with a formal request for the parent to satisfy the LA with evidence if it appears that child is not receiving education. Before issuing a formal notice, LAs should be following the relevant paragraphs from the Welsh Government Elective Home Education Guidelines which I have set out below.

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**(1) If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.**

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### Government Elective Home Education Guidelines

The following paragraphs are reproduced from the Government's Elective Home Education Guidelines.

The authority has a duty to act where it appears that a child is not receiving education. “*Under Section 437 of the Education Act 1996, an LEA must by law serve a School Attendance Order (SAO) on the parent of a child of compulsory school age who fails to prove that the child is receiving suitable education and where the authority is of the opinion that the child should attend school.*”  
[Page 2]

**3.10** Where there are concerns about the efficiency or suitability of the education being provided for the child, more frequent contact may be required. Where concerns merit frequent contact the authority should discuss these concerns with the child's parents, with a view to helping them improve their provision in the best interests of the child.

**4.10** It may be necessary for the LEA to serve a notice on the parents. Under Section 437(1) of the Education Act 1996, LEAs can intervene if they have good reason to believe that parents are not providing a suitable education by serving a School Attendance Order. This will allow a period of at least 15 days for the parent to provide the education authority with whatever information they require to satisfy themselves about the suitability of the education. The parent may choose to do this by meeting with the authority in person, or by supplying the information in writing.

### New Definition of Suitable Education

Moreover, the Government is currently indicating that there is to be [a revised definition of "suitable education"](#) [consultation document paragraph 12 which would bring a completely new set of requirements and obligations for home educating families. It is not difficult to envisage a situation where additional burdens keep being added and where parents can be deemed to have failed in their duty to provide all the required information.

There is no need to frame a new definition of suitable education. By law, education has to be efficient and full-time and suitable to age, ability aptitude and to the child's special needs. The Government claims that a new definition is needed because of the variability of home education provision, yet this is already dealt with in the Welsh Government Home Education Guidelines via the “expected characteristics of provision” (See Answer to Question 1)

### Disproportionate Impact On Home Educated Children With Additional Needs

In a separate but related area, the Government is undertaking [a massive overhaul of the special educational needs system](#), which will have an unquantified impact on home educating families. On the one hand, the proposed changes could make it even more difficult for home educated children to access services once they are out of “the system.” From another perspective, it is

also possible that home educated children could be unfairly caught up in the proposed new definition of additional needs encompassing "school phobics" and "school refusers". Where a child is categorised as having "Additional Needs" the proposed new system would require Individual Development Plans to be reviewed every 6 months by a multi-agency team.

It must be acknowledged that there are many reasons for children to reject school and that this option should not be automatically pathologised. In some cases home education may begin as a rejection of school or as a response to intractable problems with the school, but we have seen many cases where home education then becomes a positive choice for families.

In the consultation document, the Government says that where a home educated child has special/additional needs, "the local authority should establish the suitability of education provision in conjunction with a qualified and appropriate expert in the relevant field." The expert assessment will be a determining factor in whether the child is allowed to be home educated, and therefore the legislative proposals for elective home education and for additional needs are interdependent and should not be considered in isolation. My response to the Additional Needs consultation may be found here <http://edyourself.org/ANwales2012consultresponsesummary.pdf>

## Tackle Issue Of School Exclusions Where Children Have Additional Needs

Instead of attempting to stifle home education, which is often a lifeline for children with Additional Needs unmet in schools, the Government should - as a matter of urgency - tackle the rising number of school exclusions where children have Additional Needs. The Assembly's Cross Party Autism Group raised the concern to education minister Leighton Andrews over the dramatic rise in exclusions, which increased by 111% from 4,275 to 9,015 between 2003 and 2011 and a report can be found here <http://www.walesonline.co.uk/news/education-news/2012/11/12/special-needs-children-not-given-proper-support-in-mainstream-schools-91466-32212272/#ixzz2BzdHdOU1>

## Use Existing Powers To Develop Statutory Guidance Best Practice LAs

In addition to the more radical and controversial proposals requiring a change to primary legislation, the Ministerial Foreword to the consultation states that the Government also intends to "use existing powers to develop statutory guidance which sets out best practice for LAs when working with home educating families and encourages LAs and home educating parents to work together in the best educational interests of the learner." My recommendation is that the Government takes Plan B forward with regard to statutory guidance and drops Plan A for compulsory registration and monitoring which has little or no chance of success.

A participant at the Conwy consultation event organised by the Welsh Government [said](#) "the people I spoke to [at the event] said the proposals weren't supportive of developing good working relationships between LA and HE families. The local authorities I spoke to wanted to retain their good working relationships with the home education community."

## Question 3: Working together

**Do you agree that home educating parents should engage with their local authority to enable them to assess the suitability of their home education provision?**

Disagree.

Registration could be revoked if the family does not "engage" (or "co-operate with reasonable requests to monitor") but by the same token, any engagement could supply the authority with evidence to refuse registration. In short, home educators are damned if they do and damned if they don't. The question is phrased from the wrong perspective since there is an implication that the authority is ready to engage and that the authority performs a useful function in signposting families to information. However, the Government has failed to give consistent direction to local authorities, so the process is somewhat random.

## Criticism Of Ambiguous/Misleading Phrasing

The Plain English (children's) version of this question asks whether "parents should work with their local authority to make sure home education is meeting their child's needs" which is quite different. The Plain English version seems to lay emphasis on co-operative joint working, with the possible implication that the authority might have a contribution to make, whereas the standard version makes it clear that the authority's role is to "assess" the provision. Please see my answer to Question 8 for further comments on the misleading text in the children's version of the consultation paperwork.

## Discrepancy Between Local Authority Reports And Home Educators' Experience

Current practice amongst local authorities is very variable as can be seen from the spreadsheet summarising Freedom of Information responses here <http://edyourself.org/walesfoioctober2012.xls> and self-reports from local authorities may not agree with home educators' experience on the ground. For example [Blaenau Gwent](#) told me that material sent through the post could be "an initial letter of introduction, an appointment letter and /or a report of visit letter including any advice offered" and that support included "SPLD, EP, and exam arrangements."

However, one home educator living in the Blaenau Gwent area commented that "what you get through the post is an appointment letter which assumes you will meet the council and that the meeting will take place at your home. It doesn't say you have any choice or that you can provide the council with information in some alternative form such as writing a report on your child's home education. Years after we had started home educating, two people from the council turned up unannounced on my doorstep and told me they no longer had access to any of the information I had previously sent the council about my home education provision. They also said they could give me support and advice so I asked them what they could actually offer me. Their reply was ... NOTHING! Surely if they could have helped with exam arrangements they would have mentioned it?"

A similar discrepancy has been found with Gwynedd. After reading the FOI responses [here](#) and [here](#) from Gwynedd council, a small survey was carried out in October/November 2012 with 8 home educating families in Gwynedd, all of whom believe they must be "on the books" since they had taken children out of school. None of the families knew that the council had a named contact for home education and none had ever received any information about home education from the council. Half of the families had been visited by the council in the past, but without any follow-up. Only 1 family out of the 8 had received information on resources and materials and only 1 family was aware that Gwynedd had a formal policy on elective home education. Parents commented as follows: *My family has never had any contact with Gwynedd LA they do not seem bothered/ I have tried again and again to find information and have been ignored every time/ Apart from the initial LEA visit no communication has been received or any involvement from Gwynedd/ All I have been told is there is no financial support or any physical resources support.*

In addition to the 2 councils cited above, as can be seen from [myspreadsheet and FOIs](#), a further 4/22 councils either don't have anyone in post or are in the process of appointing someone. 2 councils expressly state that they do not have a named contact for home education because of restructuring. 2 more refer to doing more in future because they have now put someone in post ("new person appointed to post will allow more focus" and "started to make contact to request report") I also received feedback from a home educator in North Wales stating that "the person at the LEA we have dealt with previously is now no longer dealing with HE, due to 'staffing changes related to regionalisation'; there is a temporary person who seems to act out of one of the local primary schools who has done some home inspections in July but is due to retire soon". This makes a total of 7 out of 22 councils (ie 1 in 3) where there is either nobody in post or where home educators on the council's books have no idea who is responsible for home education.

During September and October I led four workshops for home educators throughout Wales (Wrexham, Cardiff, Llandrindod Wells and Llandudno) and talked to home educating families from around 3/4 of local authorities in Wales. The consistent feedback I received was "the council completely ignores us" or "you can't even find out who is meant to be dealing with home education". One educator - this time in South Wales - commented that they "Never had any offer of support/ Never had any advice on educational matters. Sometimes parents reported that a representative from the local authority had insisted on holding a meeting at the family home. The exception was when I went to Bridgend and met separately with the council and with home educating parents. In contrast to every other council I heard about, in Bridgend the home educating families do know who to contact at the council and parents report that the council does respond to recommendations and requests from home educators and is always seeking to improve its service in consultation with home educating families. I would suggest - as I am sure others have done - that this should be signposted as a model of good practice.

## Revised Definition Of Suitable Education

There is an overwhelming problem with the concept of "suitability" since the Government has also announced plans to redefine what is meant by "suitable education" for home educated children. There is no need to frame a new definition of suitable education. By law, education has to be efficient and full-time and suitable to age, ability aptitude and to the child's special needs. The Government claims that a new definition is needed because of the variability of home education provision, yet this is already dealt with in the Welsh Government Home Education Guidelines via the "expected characteristics of provision"

In the consultation document it is proposed that children will be required to demonstrate language skills and to show samples of work demonstrating progress as precondition of being allowed to continue in home education. Not all children are able or willing to show work or to talk about themselves, and this will be particularly stressful knowing that not saying enough or saying the wrong thing will cause home education to be disallowed. Home educators who follow autonomous or self-directed learning will have problems with the new definition of "suitable education" which would prohibit spending too long on one activity, as "no one aspect of learning is emphasised to the exclusion of others."

Concern has also been raised over the requirement for home education to "prepare [children] for the responsibilities of adulthood" which could be interpreted by some council employees as meaning that the parent has to teach children about sex and contraception by a particular age. Some parents who are home educating because of particular religious or philosophical convictions would find themselves unable to comply and would not wish their children to be asked about sex education during the mandatory interview.

## Recommendation: Use Existing Powers To Develop Statutory Guidance Best Practice for LAs

In addition to the more radical and controversial proposals requiring a change to primary legislation, the Ministerial Foreword to the consultation states that the Government also intends to "use existing powers to develop statutory guidance which sets out best practice for LAs when working with home educating families and encourages LAs and home educating parents to work together in the best educational interests of the learner." My recommendation is that the Government takes Plan B forward with regard to statutory guidance and drops Plan A for compulsory registration and monitoring which has little or no chance of success.

## Question 4: First meeting

**Do you agree that the initial meeting between the local authority and the home educating parent should take place in the main location where the education is being provided?**

Disagree

## Lack Of Transparency Over Compulsory Access To Home

It should not be compulsory for a family to meet with the authority simply because the family has made a decision about the child's education. I disagree with the first premise of the question, namely that parents should have to apply to the local council for permission to home educate their children. Therefore to an extent, any debate over where such a meeting would take place is a secondary issue. However, in using the circuitous phrase "the main location where the education is being provided", the consultation is not being conducted in an open and transparent way since it ducks the issue of whether the family is required to grant the council access to the family home as a precondition for being allowed to home educate.

The Plain English version of the consultation (which the Government specifically states is for children, see my answer to Question 8 for further details) refers to "the place where the child is being home educated". The person responsible for translating the question into Plain English certainly seems to have understood "the home educated child's main location of education" as meaning the home.

We are told that registration could be revoked if the family does not "engage" or "co-operate with reasonable requests to monitor", from which it follows that a family would be severely disadvantaged if the parent objected to what a third party might define as "reasonable", irrespective of whether access to the home is specifically granted by legislation or not.

In addition to the more radical and controversial proposals requiring a change to primary legislation, the Ministerial Foreword to the consultation states that the Government also intends to "use existing powers to develop statutory guidance which sets out best practice for LAs when working with home educating families and encourages LAs and home educating parents to work together in the best educational interests of the learner." My recommendation is that the Government takes Plan B forward with regard to statutory guidance and drops Plan A for compulsory registration and monitoring which has little or no chance of success.

## Question 5: Annual review – place of meeting

**How often should the annual monitoring meetings with both the home educator and the home educated child take place at the main location of education?**

There should not be an "annual monitoring meeting". Any meetings between the authority and the family should not be compulsory.

Firstly, the question presupposes that there has to be a meeting between the authority and the family every year as the family seeks the council's permission to home educate. I disagree with the proposal that parents should have to apply to the local council for permission to home educate their children.

Secondly, the question skirts the issue of whether the family is to be required to grant the council full access to the home as a precondition for being allowed to home educate. The Plain English version of the consultation (which the Government specifically states is for children, see my answer to Question 8 for further comment) refers to "the place where the child is being home educated" where the person responsible for translating the question into Plain English certainly seems to have understood "the home educated child's main location of education" as meaning the home.

### Lack Of Adherence To Current Government Guidelines

Current Welsh Government Guidelines recommend that local authorities make contact with families on an annual basis, but current practice amongst different local authorities is very variable as can be seen from the spreadsheet summarising Freedom of Information responses here <http://edyourself.org/walesfoioctober2012.xls> The Government Elective Home Education Guidelines may be found here [http://wales.gov.uk/dcells/publications/policy\\_strategy\\_and\\_planning/schools/inclusionandpupilsupport/guidance/section6/section6inclusionpupilsup1.pdf?lang=en](http://wales.gov.uk/dcells/publications/policy_strategy_and_planning/schools/inclusionandpupilsupport/guidance/section6/section6inclusionpupilsup1.pdf?lang=en)

Another point to bear in mind is that self-reports from local authorities may not agree with home educators' experience on the ground. [Conwy local authority](#) said it tried to make contact but "many families currently chose not to correspond", yet when I asked local home educators about this, I was told that the council took no interest and made no attempt to contact families, but after the present consultation was announced, [a letter arrived out of the blue](#) requesting basic details of home educated children "in line with the Welsh Government's consultation for a more 'robust' monitoring of home education."

A summary of the current Welsh Government Home Education Guidelines can be found here <http://edyourself.org/articles/walesbriefing.php#currentguidelines> The Guidelines say that local education authorities "should seek to build effective relationships with home educators that function to safeguard the educational interests and welfare of children and young people. Doing so will provide parents with access to any support that is available and allow authorities to understand the parents' educational provision" (page 4, paragraph 3.1).

Government Guidelines also say that "meetings or other forms of discussion should be taken as an opportunity to provide information for the parents or guardians and that if meeting in person is not possible LEAs should endeavour to provide the same information through the post" (page 5, paragraph 3.6) yet as can be seen from the Freedom of Information responses obtained from Welsh local authorities, many LAs only write to parents to ask for a meeting, or to send a policy document. Click here to see the FOI spreadsheet <http://edyourself.org/walesfoioctober2012.xls>

### Sue Mitchell's Research

Sue Mitchell's research, which was commissioned by the Welsh Government and published in September 2012, found that in the area where the LA officer was the most stringent and eager for stronger regulation, the level of suspicion among home educators is definitely higher and more protective of their anonymity. The Bridgend research found local authorities and the home education community felt increased regulation would be counter-productive as it would increase suspicion and resistance to even basic interaction as well as being unwieldy to apply. The Government should signpost to models of good practice

Three distinct attitudes [amongst local authority home education staff] were clearly definable in even so small a sample, as supportive, aggressive or conflictual. Developing an agreed and clarified best practice therefore is a matter of urgency. Click here to read Sue Mitchell's paper <http://wales.gov.uk/docs/dcells/publications/120927homeden.doc>

In addition to the more radical and controversial proposals requiring a change to primary legislation, the Ministerial Foreword to the consultation states that the Government also intends to "use existing powers to develop statutory guidance which sets out best practice for LAs when working with home educating families and encourages LAs and home educating parents to work together in the best educational interests of the learner." My recommendation is that the Government takes Plan B forward with regard to statutory guidance and drops Plan A for compulsory inspections which has little or no chance of success. A participant at the Conwy consultation event organised by the Welsh Government said "the people I spoke to [at the event] said the proposals weren't supportive of developing good working relationships between LA and HE families. The local authorities I spoke to wanted to retain their good working relationships with the home education community."

Sue Mitchell to Kara Richards: "Please can we reaffirm that this review is essentially a local, fully collaborative review, covering initially only 3 closely related regions so as to gather sufficiently cohesive yet comparative data...A second area of concern is that the review is mentioned in the light of the NBAR recommendations. I realise that from your point of view, the strategic direction of the NBAR report does inform WAG's interest in gaining a clearer picture of what is happening 'out there' in EHE but appreciate that it is in no way influencing the process or outcome of the review, which was originally introduced to consider creative and co-operative (best practice) ways of supporting home educators in the Bridgend area."  
[Correspondence with Sue Mitchell concerning the home education scoping research](#)

## Question 6: Refusing registration

**Do you agree that registration should be denied or revoked in the limited set of circumstances set out in the consultation document?**

<http://wales.gov.uk/docs/dcells/consultation/120902registeringmonitoringen.pdf>

I disagree with the proposal that parents should have to apply to the local council for permission to home educate their children.

There is no need for additional powers with regard to education, welfare or child safety, since existing powers and duties are sufficient.

From the consultation document page 6:

"The LA would only be able to refuse a new application or revoke an existing registration in a very limited set of circumstances:

- if the parent fails to satisfy the LA that they are fulfilling their duty under section 7 of the Education Act 1996
- if the LA becomes aware of new or existing welfare or safeguarding issues that affect the suitability and effectiveness of the education provided
- if the parent fails to cooperate with monitoring and/or reasonable requests to monitor"

### **Attempt To Minimise Far-reaching Grounds For Refusing/Revoking Registration**

Registration can be refused or revoked where the parent fails to satisfy the LA that education is "suitable", and we are informed via the consultation document that "suitable education" is to be redefined by central government in new statutory guidance. The mandatory interview with the child is unacceptable, as is the requirement for the child to demonstrate language skills and for the child to show samples of work demonstrating progress as precondition of being allowed to continue in home education. Not all children are able or willing to show work or to talk about themselves, and this will be particularly stressful knowing that not saying enough or saying the wrong thing will cause home education to be disallowed. Home educators who follow autonomous or self-directed learning will have problems with the new definition of "suitable education" which would prohibit spending too long on one activity, as "no one aspect of learning is emphasised to the exclusion of others."

Concern has also been raised over the requirement for home education to "prepare [children] for the responsibilities of adulthood" which could be interpreted by some council employees as meaning that the parent has to teach children about sex and contraception by a particular age. Some parents who are home educating because of particular religious or philosophical convictions would find themselves unable to comply and would not wish their children to be asked about sex education during the mandatory interview.

Grounds for refusing or withdrawing permission to home educate will include "welfare or safeguarding issues that affect the suitability and effectiveness of the education provided". Fears have been expressed that the home could be deemed to be too cramped, too tidy, too messy, too isolated, have too many pets, be too urban with no outside play space, or too rural in a remote area. The age of the parent could also become a "welfare issue" with the parent being judged too old or too young. Some members of the children's workforce see home education in and of itself as a welfare issue. "Welfare issues" could include socialisation; objection to home education from the non-resident parent as part of ongoing access/maintenance dispute; neighbours reporting children for playing outside during "school hours"; council staff objecting to the child's education being shaped by religious precepts; the parent having previously suffered from depression; a preference for alternative medicine; not being registered with GP or the GP not having seen the child within a particular timeframe; the family being seen as "too large"; an only child being seen as lonely or emeshed. Where the parent has a disability, the authority may arbitrarily decide that the child is home educated in order to be a carer.

### **Current Government Guidelines: Enforcement/Welfare/Safeguarding**

**1.5** Under Section 437 of the Education Act 1996, an LEA must by law serve a School Attendance Order (SAO) on the parent of a child of compulsory school age who fails to prove that the child is receiving suitable education and where the authority is of the opinion that the child should attend school.

**3.10** Where there are concerns about the efficiency or suitability of the education being provided for the child, more frequent contact may be required. Where concerns merit frequent contact the authority should discuss these concerns with the child's parents, with a view to helping them improve their provision in the best interests of the child.

**4.10** It may be necessary for the LEA to serve a notice on the parents. Under Section 437(1) of the Education Act 1996, LEAs can intervene if they have good reason to believe that parents are not providing a suitable education by serving a School Attendance Order. This will allow a period of at least 15 days for the parent to provide the education authority with whatever information they require to satisfy themselves about the suitability of the education. The parent may choose to do this by meeting with the authority in person, or by supplying the information in writing.

**6.1** If any child welfare concerns come to light in the course of engagement with children and families, these concerns should immediately be referred to the statutory authorities for consideration.

**6.2** Concerns may arise where a parent states their intention to home educate. Specific instances where advice from the local social services department would be appropriate on the suitability of home education include:

- where a child or family member has been identified as being in need;
- where a child or family member has been referred to social work or the police for child protection reasons, and the matter is being investigated;
- where a child or a sibling is on the child protection register;
- where a child or family member has been referred on care and protection grounds, and the referral is being considered;
- where the child is the subject of a supervision requirement.

In addition to the more radical and controversial proposals requiring a change to primary legislation, the Ministerial Foreword to the consultation states that the Government also intends to "use existing powers to develop statutory guidance which sets out best practice for LAs when working with home educating families and encourages LAs and home educating parents to work together in the best educational interests of the learner." My recommendation is that the Government takes Plan B forward with regard to statutory guidance and drops Plan A for compulsory registration and monitoring which has little or no chance of success.

### **Question 7: Notice of registration**

**Do you agree the amount of time taken between receipt of application to register and notification of registration outcome should be no more than 12 weeks?**

### **Waiting To Be Granted Permission To Home Educate**

I completely disagree with the proposal that families should have to stop home educating until they have obtained permission from the council. Almost a thousand children in Wales are already recorded as being home educated; there would be overwhelming objections to these children having their lives significantly disrupted by being sent to school while the council works its way through all the home education applications. For children who are currently on a school roll, it is equally unacceptable that they should have to remain at school until the council has finished its deliberations. This puts the family between a rock and a hard place if the child rejects school, since the Government is proposing to pathologise "school refusal" and "school phobia", whereby the family would be required to attend multi-agency panels twice a year and the child's home education would have to be approved as suitable by "a qualified and appropriate expert in the relevant field."

## Offrolling

The Welsh Government would do better to tackle the issue of off-rolling or unlawful/illegal exclusions. It is not lawful for schools to ask parents or guardians to keep their children away from school without the school giving formal notification of an exclusion. In instances when this does occur the correct term is 'unlawful exclusion' but it is commonly referred to as an 'illegal exclusion'. Research published by Barnardos Wales found that "6 of the 7 LA staff claimed that illegal school exclusions did not happen, stating "I'm not aware of any schools using unofficial exclusions"; but no other professionals agreed with this position. This suggests either that the LA will not necessarily hear about illegal exclusions because paperwork was not completed and it happens at the school level, or that illegal school exclusions are controversial and not something to discuss with researchers." See <http://www.snapcymru.org/exclusion> and [http://www.snapcymru.org/USERFILES/FILE/HELP\\_AND\\_ADVICE/ILLEGAL\\_EXCLUSION\\_SEN\\_RESEARCH\\_2011.PDF](http://www.snapcymru.org/USERFILES/FILE/HELP_AND_ADVICE/ILLEGAL_EXCLUSION_SEN_RESEARCH_2011.PDF)

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## Question 8 – Any other comments.

During September and October I led four workshops for home educators throughout Wales (Wrexham, Cardiff, Llandrindod Wells and Llandudno) and talked to many home educating families. The consistent feedback I received was "the council completely ignores us" or "you can't even find out who is meant to be dealing with home education". Sometimes parents reported that a representative from the local authority had insisted on holding a meeting at the family home. The exception was Bridgend, where I met separately with the council and with home educating parents. In contrast to every other council I heard about, in Bridgend the home educating families do know who to contact at the council and parents report that the council does respond to recommendations and requests from home educators and is always seeking to improve its service in consultation with home educating families. I would suggest - as I am sure others have done - that this should be signposted as a model of good practice

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## Flawed Consultation Process: Government Did Not Ask Local Authorities To Circulate Information To Stakeholders

The conduct of the consultation has been less than exemplary. I have established via Freedom of Information responses that the Government did not ask local councils to circulate details of the consultation or of local consultation events to home educating families living in the area. This should have been done as a matter of course and the fact that it didn't occur to anyone running a consultation designed to elicit the views of stakeholders speaks volumes. Government Guidelines tell local authorities to keep a list of children known to be home educated. Surely it would be obvious that local councils are well-placed to alert local families to relevant consultation events? It would appear that the consultation documents were sent to local councils together with an invitation to attend Government-commissioned consultation events. By contrast, home educating families only discovered about these events if they found the consultation web page mentioning "facilitated workshops for children and young people" but giving no further details. Many families found this description very off-putting. Parents were subsequently taken aback to find so many local authority representatives at events which they understood were designed for children and where adults would only participate in cases where parents accompanied their children.

When I gave my first workshop in Wrexham 10 days after the launch of the consultation, there was very little information in the public domain about the consultation events, other than that there would be "a small number of facilitated workshops for children and young people". No dates or times had been given. We didn't even know that the events were going to take place during October, let alone which area of the country. There was no mention of adults being invited to give their views as individuals or as representatives of local authorities irrespective of whether they were chaperoning any home educated children. Many parents attending my workshop had heard nothing and were rightly apprehensive of signing up children to such an unknown quantity. The events had potential to function effectively on a number of levels but the opportunity was largely squandered by mismanagement and lack of joined-up thinking.

According to Freedom of Information responses received in November 2012, the Government did **not** routinely ask local authorities to circulate information about the present consultation. [Anglesey](#) told me they were **not** requested to pass the information on but they did pass it on to every home educator where they had an e-mail address who had agreed to the LA's forwarding information. Documents were shared in Welsh and English, plus the date of the workshops. [Ceredigion](#) told me that they were **not** asked to circulate information about the consultation or about the consultation events, and that they did not send anything out, although they "did discuss it with those families with whom contact was made." [Denbighshire](#) told me that they "sent information to the co-ordinator of the Denbighshire network for parents who home educate so that she could notify parents who are in their group as the council does not have email contacts for any other parents so could not send it directly to any other than the co-ordinator of this group." [Pembrokeshire](#) told me that while they **didn't** actually receive a request from Government to circulate information about the consultation, they did nevertheless send information by post about the regional consultation event to all home educating families of whom they were aware.

[Gwynedd](#) said **nobody** asked the council to send information about the consultation or the consultation events and information

was **not** in fact sent. [The Vale of Glamorgan](#) was **not** asked to circulate information to families but nevertheless did so via SNAP. [Conwy](#) reported that it was **not** asked to inform parents of the consultation process, but *"the consultation documents included an invitation to attend one of the two events held across Wales to consult on this issue. Conwy expressed an interest. Whilst on the phone expressing this interest, the Welsh Government representative said it would be helpful to inform parents of the consultation process. This phone call was approximately a week before the North Wales event and two or three days before the Cardiff consultation meeting."* However, the Council seemed to feel this was superfluous as it had [recently written to families](#) asking for more details about their children, adding by way of explanation *"Conwy Borough Council has some legal responsibilities, although currently these are limited (the Welsh Government is, however, currently consulting on a more rigorous role of monitoring for the Local Authority [www.wales/uk/consultations](#))"*

[Carmarthenshire](#) told me *"there was **no request** made to the Council to circulate information about the consultation to home educating families. The Council did not send any information about the consultation to home-educating families in our area. The final comment from Carmarthenshire seems to indicate that the council may have decided it wasn't necessary to inform local stakeholders about relevant local events because "home-educating families have their own campaign organisations, such as Education Otherwise, who will contribute their views to this consultation."*

## Children's Version Of Consultation Paperwork Is Highly Misleading

The consultation document [expressly states](#) that the Plain English version of the consultation paperwork is designed for children.

**18** The United Nations Convention on the Rights of the Child (UNCRC) is an international agreement that protects the rights of children under the age of 18. By virtue of the Rights of Children and Young Persons (Wales) Measure 2011, the Welsh Ministers are required to have due regard to the UNCRC when bringing forward new policy proposals and legislation.

**19** In considering these proposals we have had due regard to the UNCRC. For example, the right of the child to education. There is also a requirement to give children a voice in decision-making processes affecting them. The Welsh Government will take into account the views and ideas expressed by children when making decisions that have a direct impact upon their lives. As such, an easy- read version of this document has been produced.

<http://wales.gov.uk/docs/dcells/consultation/120902registeringmonitoringen.pdf>

The Plain English questions were used at the Government consultation events and provoked a great deal of controversy as can be seen from the comments here. [Feedback from the Powys event](#), and [feedback from the Cardiff event](#) referring to *"problems with the wording of the questions"* while [a second participant from Cardiff](#) noted that *"the questions which were asked for the electronic feedback were very misleading"* [One participant at the Conwy event](#) noted that *"the questions are horribly skewed to obtain agreement" while a second participant from Conwy<sup>[53]</sup> *"felt that the questions on which the young people were expected to answer were very tunnelled. It led them down a narrow path that used the premise that "having established a register what do you want now". The questions also linked together points about "not receiving adequate education and safeguarding issues" which simply should not be in the same possible answers."* I have set out the two versions of the consultation questions for comparison purposes [here](#) and invite readers to contrast the wording of questions 3 and 7 in particular.*

## National Behaviour and Attendance Review

[A Freedom of Information response](#) sent to Dr David Shone in September 2012 stated that "the Minister made the decision to consider legislation in November 2011. The decision follows the National Behaviour and Attendance Review (NBAR)". [NBAR](#) has had a consistent focus on multi-agency partnerships in tackling issues of poor attendance and behaviour, including consideration of regional models, and was tasked with identifying potential new legislation that would assist in promoting positive behaviour and improving school attendance, including specific consideration of the provision of education for excluded pupils. The NBAR Report only mentioned home education in the context of establishing reasons for home educating, noting that the reasons could include unofficial exclusion, the child's additional needs not being met, and also that bullying could be a reason for a child to be taken out of school. Unofficial exclusions were seen as a significant problem, as was the low standard of provision for excluded children. In [the separate 26 page NBAR Summary](#) a recommendation was added that the Welsh Government should consider a more robust inspection of home educators. This suggestion does **not** appear in the actual Report.

## Child's Right To Education: School Exclusions

In terms of Children's Rights, I should like to reiterate the point made in answer to Question 2 regarding the deplorable practice of using exclusion to solve school problems when children have additional needs and also the point made in 7 that the Government must - as a matter of urgency - tackle the issue of off-rolling or unlawful/illegal exclusions, which is again something which is used to solve difficulties for the school rather than for the pupil.

## Children Missing Education

Children Missing Education and "the section 436a duty" has been given as the reason why the law on home education needs to be changed. However, Wales has been slow to incorporate CME into Welsh law and the guidance was much delayed and far too long to be used easily by practitioners. This might be a reason for producing a useable summary of the CME Guidance, but it is certainly no excuse to change the law on home education. 2006-7 saw the introduction of legislation on Children Missing Education in England and Wales, stating that "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. This new duty appeared in [the Education and Inspections Act 2006 \(England and Wales\)](#)<sup>[58]</sup> which added section 436A to the Education Act 1996 (England and Wales) in February 2007. This did not become part of the law in Wales until September 2009 via [WELSH STATUTORY INSTRUMENTS 2009 No. 1027 \(W.89\) \(C.60\) EDUCATION, WALES The Education and Inspections Act 2006 \(Commencement No. 3\) \(Wales\) Order 2009](#) ie two and a half years later than in England - and [statutory guidance on Children Missing Education](#) weighing in at 130 pages, was not published in Wales until Spring 2010.

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## Link Reference

This article is <http://edyourself.org/electivehomeeducationconsultationwales2012.php>. The following links to other websites are contained in the article, displayed as citations to aid you in printing the document.

1. I responded to the consultation on Additional Needs <http://edyourself.org/>
2. the mass presentation of hundreds of petitions to parliament on December 8th 2009. <http://www.publications.parliament.uk/pa/cm200910/cmhansrd/cm091208/debtext/91208-0022.htm#0912092300006>
3. said <http://edyourself.org/conwyfeedback.pdf>
4. <http://edyourself.org/walesfoioctober2012.xls>  
[http://wales.gov.uk/dcells/publications/policy\\_strategy\\_and\\_planning/schools/inclusionandpupilsupport/guidance/section6/section6inclusionpupilsup1.pdf?lang=en](http://wales.gov.uk/dcells/publications/policy_strategy_and_planning/schools/inclusionandpupilsupport/guidance/section6/section6inclusionpupilsup1.pdf?lang=en)
5. Government Home Education Guidelines, Page 2] <http://wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/inclusionpupilsupportguidance/section6/?lang=en>
6. Section 437 Education Act 1996 <http://www.legislation.gov.uk/ukpga/1996/56/section/437>
7. a total of 986 <http://edyourself.org/walesfoioctober2012.xls>
8. Section 437 Education Act 1996 <http://www.legislation.gov.uk/ukpga/1996/56/section/437>
9. Government Elective Home Education Guidelines <http://wales.gov.uk/topics/educationandskills/schoolshome/pupilsupport/inclusionpupilsupportguidance/section6/?lang=en>
10. a revised definition of "suitable education" <http://edyourself.org/articles/welshconsultationdoc.php#ensureed>
11. a massive overhaul of the special educational needs system <http://wales.gov.uk/consultations/education/senframeworkconsultation/?skip=1&lang=en>
12. <http://edyourself.org/ANwales2012consultresponsesummary.pdf>  
<http://edyourself.org/ANwales2012consultresponsesummary.pdf>
13. <http://www.walesonline.co.uk/news/education-news/2012/11/12/special-needs-children-not-given-proper-support-in-mainstream-schools-91466-32212272/#ixzz2BzdHdOU1> <http://www.walesonline.co.uk/news/education-news/2012/11/12/special-needs-children-not-given-proper-support-in-mainstream-schools-91466-32212272/#ixzz2BzdHdOU1>
14. said <http://edyourself.org/conwyfeedback.pdf>
15. Blaenau Gwent <http://edyourself.org/blaenauqwentfoi.pdf>
16. here <http://edyourself.org/gwyneddfoi.pdf>
17. my spreadsheet and FOIs <http://edyourself.org/walesfoioctober2012.xls>
18. [http://wales.gov.uk/dcells/publications/policy\\_strategy\\_and\\_planning/schools/inclusionandpupilsupport/guidance/section6/section6inclusionpupilsup1.pdf?lang=en](http://wales.gov.uk/dcells/publications/policy_strategy_and_planning/schools/inclusionandpupilsupport/guidance/section6/section6inclusionpupilsup1.pdf?lang=en) <http://edyourself.org/walesfoioctober2012.xls>
19. a letter arrived out of the blue <http://edyourself.org/conwyfoi.pdf>
20. <http://edyourself.org/articles/walesbriefing.php#currentguidelines>  
<http://edyourself.org/articles/walesbriefing.php#currentguidelines>
21. <http://edyourself.org/walesfoioctober2012.xls> <http://edyourself.org/walesfoioctober2012.xls>
22. <http://wales.gov.uk/docs/dcells/publications/120927homeden.doc>  
<http://wales.gov.uk/docs/dcells/publications/120927homeden.doc>
23. Correspondence with Sue Mitchell concerning the home education scoping research <http://wales.gov.uk/publications/accessinfo/disclogs/dr2012/octdec/addysg1/dled188/?lang=en>
24. <http://wales.gov.uk/docs/dcells/consultation/120902registeringmonitoringen.pdf>  
<http://wales.gov.uk/docs/dcells/consultation/120902registeringmonitoringen.pdf>
25. <http://www.snapcymru.org/exclusion> <http://www.snapcymru.org/exclusion>
26. Pembrokeshire <http://edyourself.org/angleseyconsultfoi.pdf>
27. recently written to families <http://edyourself.org/gwyneddconsultfoi.pdf>
28. Carmarthenshire <http://edyourself.org/carmarthenshireconsultfoi.pdf>
29. expressly states <http://edyourself.org/articles/welshconsultationdoc.php#UNCRC>
30. <http://wales.gov.uk/docs/dcells/consultation/120902registeringmonitoringen.pdf>  
<http://wales.gov.uk/docs/dcells/consultation/120902registeringmonitoringen.pdf>
31. here <http://www.educationotherwise.net/attachments/article/334/WAG%20YP%20Workshop%20Reports%20Powys.doc>
32. the separate 26 page NBAR Summary [http://www.whatdotheyknow.com/request/registration\\_of\\_elective\\_home\\_ed](http://www.whatdotheyknow.com/request/registration_of_elective_home_ed)
33. statutory guidance on Children Missing Education <http://www.legislation.gov.uk/ukpga/2006/40/section/4>