

Report and Third Reading: Ministerial Response to Graham Stuart MP

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[Report Stage](#) of the Children and Families Bill took place on [Tuesday June 11th 2013](#). The Bill passed at Third Reading in the Commons and [the date for second reading](#) in the House of Lords is July 2nd.

Graham Stuart MP tabled [a series of short amendments related to home education](#). Addressing the points covered by the amendments, the Minister did provide some much-needed reassurance but unfortunately, some ambiguities still remain on the face of the Bill.

The Minister repeated that parents' right to educate their children at home applies equally to children with special needs and that the duty on LAs only applies where children have been brought to their attention as possibly having SEN.

Confusion remains about what is actually meant by "where a child has a plan that says that education provided in the home is the right provision for the child". This is most likely restricted to the tiny number of cases where the LA names home education in the plan and **not** where parents have opted to make their own arrangements. In other words, it will only be in a few exceptional cases where the authority actually names home education in the plan that there will be a corresponding duty to arrange the provision. This is unchanged from the current position. Read more [here](#)

However, the Minister went further than before in saying he would "strongly encourage" local authorities to provide support services to home educated children, adding that "the new duty on commissioning bodies to arrange the health provision in the plan and the greater expectation that the social care provision will be made will mean that parents can expect that these will continue to be provided."

In response to Graham Stuart's concern that "suitable alternative arrangements" could mean the authority having to approve the education as "suitable", the Minister offered reassurance that "suitable" has the usual meaning of suitable to age ability aptitude and SEN. Finally, the Minister expects home educators to have input to the SEN Code of Practice but this could simply mean the opportunity to respond to the public consultation later in the year.

There was a discussion about whether local authorities have to assure themselves about the parents' provision. Graham Stuart said: *"My hon. Friend says that local authorities must assure themselves that parents are delivering the education in accordance with 1996 Act. I do not think that that is the case. They have to act if they have reason to believe that parents are not providing suitable education. They have no such overarching duty to assure themselves that every single home educating parent is doing so. The parent, not the local authority, has primacy in the education of their child. The local education authority acts only if it finds out that there is a problem. It does not have to seek it."* [HC Deb, 11 June 2013, c218]

It seems likely that when the Minister spoke of the authority's "**assuring itself**", he had in mind [the current SEN Code of Practice](#) which says where a child has a statement of SEN "the statement must remain in force and the LEA must ensure that parents can make suitable provision, including provision for the child's special educational needs." The use of the word "assure" was unfortunate, since there is a significant difference between "**assuring**" and "**ensuring**." As Graham Stuart rightly said, there is no overarching duty for authorities to assure themselves about the child's education; [the duty only arises where there is a doubt](#). The use of the word "ensure" in the context of the SEN Code of Practice relates specifically to the authority's ongoing responsibility - where the child has a statement of SEN - to "ensure that the child's needs are met". The Minister did make further reference to the SEN Code by saying *"local authorities will continue to have the power to help parents to make suitable provision in the home by providing support services. To take on the right hon. Gentleman's point, I would strongly encourage local authorities to consider exercising that power when making decisions about whether the provision being made by parents is suitable."* HC Deb, 11 June 2013, c217)

The Minister seemed to concede that it came down to the choice of words and responded by saying *"I hope that our differentiation is based simply on the semantics of some of the vocabulary that is being used, but clearly we need to have absolute clarity on the role of each agency in the life of a child, whether they are educated within the school sector or at home. I will write to my hon. Friend to ensure that he has chapter and verse on precisely that point."* [HC Deb, 11 June 2013, c218]

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