

# OUT OF SCHOOL SETTINGS CALL FOR VIEWS RESPONSE

<http://edyourself.org/oosresponse.pdf> January 11<sup>th</sup> 2016

<https://www.gov.uk/government/consultations/out-of-school-education-settings-registration-and-inspection>

See also my FAQ <http://edyourself.org/articles/outofschoolsettings.php>

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## 1. Please select the item from the list below that best describes you and your interest in this call for evidence?

Other

I am an independent home education consultant. I run a number of websites associated with home education and special educational needs and I assist the Home Education Advisory Service with the secretariat function for the All Party Parliamentary Group on Home Education chaired by Graham Stuart MP.

## 2. What local authority area do you live in (respondent)?

Sheffield (although this has no bearing on my response in terms of information about local settings)

## 3. What local authority area(s) do the providers you know about operate in?

I have been told about tutor groups for home educators in Hampshire and also in South London. There may be more in other areas.

It is unfortunate that this call for views has come at the same time as the well-publicised crackdown on illegal schools driven by Ofsted and the reported clampdown on home education because of parents "filling children's minds with poison and hate" etc.

Many home educators have contacted me because they are alarmed and angry as they perceive the Government wants to monitor their groups and impose a certain style of teaching. Sometimes this is because people haven't read the call for views document, but in other cases they have read it but don't have any faith in the reassurances.

I have also seen the view expressed that Muslim home educators will be the first target.

## 1 What type(s) of setting are you providing information about? Please select one or more from the following list and provide details in the box below:

Other

Comments: I am not providing information about a specific setting. I was hoping to raise questions about registration of more fluid or ad hoc tutor groups which are sometimes set up by home educators.

## 2 How many hours do individual children attend the setting for each week? Please provide a number of hours or state "do not know".

Do not know

## 3 How many children receive instruction at this setting and how many staff work in this

**setting?**

Do not know

**4 What is the nature of the premises at which tuition, training or instruction is provided?**

Variable

**5 What subjects are taught in this setting?**

Variable

**6 How many out-of-school settings do you know about in this area? Please state a number or "do not know". Can you tell us whether there are likely to be many more out-of-school settings in this area?**

Do not know

**7 What types of settings do you know about? Please choose from the following list. If your information covers a mixture of settings, please choose all applicable types and provide comments in the box below:**

Other

I am told that home educators use tutor groups. The only groups I am directly aware of are linked to Faregos exam centre in Hampshire. The reason I know about this is through discussions hosted by the All Party Parliamentary Group for Home Education to improve access to exams for home educated children.

**8 What proportion of settings provide tuition, training or instruction for individual children who attend for more than: (a) 2 hours; (b) 4 hours; (c) 6 hours; (d) 8 hours; and (e) 10 hours per week?**

Do not know. I see this has reverted to tuition training or instruction but elsewhere in the call for views document there is mention of "enrichment activities" and music, art, sport etc. It would seem that you aren't ruling anything out at this stage?

**9 How many staff, on average, work in these settings?**

Do not know. Also I'm not sure home educators would call them "staff" as it may be a parent volunteer who leads a group.

**10 How many children, on average, attend these settings?**

Do not know.

**11 Which settings that you are aware of subscribe to voluntary accreditation schemes with regard to curriculum development and/or safeguarding children? Please provide details of the schemes.**

I don't know any directly

**12 Please give details of any positive benefits that you think out-of-school settings provide for children and the local community, including any case studies.**

<http://edyourself.org/exams8.pdf> case study of home education exams co-operative in Hampshire using a private school to sit exams as external candidate.

<https://edyourself.wordpress.com/2015/03/20/message-from-faregos-exam-centre-about-access-arrangements/> the same tutor group several years later, having set up as its own exam centre

**13 Do you have any concerns about any of the settings you know about? These might be general or specific and in relation to safeguarding, extremism, physical punishment or suitability of premises. Please provide as much detail as possible.**

No

I don't know about many settings

**14 We are keen to understand more about what advice and assistance is available to out-of-school settings and what additional support would be welcome. Please provide as much detail as possible.**

Do not know

## **Thresholds**

**15 Do you agree that intensive education is where a child attends a setting for more than between 6 to 8 hours per week? Please provide details of whether further reference should be made to the frequency of that attendance (e.g. number of times during a week or number of weeks over a year etc.), including views on how to ensure settings do not simply amend their provision to evade regulation**

Don't Know

From the perspective of home educators who may have fluid or ad hoc arrangements, it will be very relevant how many weeks a year this is intended to cover and how "education" is defined.

I note in an earlier question there is a reference to "activities (e.g. music, sport or art)" and to "enrichment activities" which doesn't seem to cover the same area as "intensive education". The consultation document refers to "education settings providing intensive tuition, training or instruction to children"

Is there an intention that anything which falls outside "childcare" will be defined as "education"?

Also with the focus on "education" does this apply exclusively to children of compulsory school age?

**16 Do you agree that private providers of alternative provision catering exclusively for children who have been referred to them by local authorities and/or schools should be exempt from the requirement to register? We welcome views on whether it would be appropriate to exclude any other providers with reference to any of their defining characteristic, for example their educational offer, physical premises, affiliations with professional bodies, etc.**

Don't Know

The question assumes that LAs only use AP providers whom they have checked in some way? Is this belief well-founded?

From the perspective of home educators, it would be interesting to hear more about how the Government intends to proceed with fluid or ad hoc tutor groups or co-operatives where parents will often -but not invariably - be in the vicinity.

Much of this call for views seems as though home educators may be caught up in it but many home education groups don't seem to fit the definition of "provider".

## **Inspection and registration**

**17 Do you agree that settings meeting the proposed threshold should be required to register with their local authority?**

Don't Know

A lot hinges on what is meant by "register with their local authority." Home educators would tend to be very sceptical of "light touch registration" and some would assume that there will be inevitable

mission creep.

"Required to register" sounds like having to get approval, although I am aware that the call for views document says this is not the case.

We aren't told whether the local authority will take an active part in verifying the registration details, for example visiting premises talking to proprietors, keeping an eye out for particular names or types of settings, or whether the council will simply log the information received.

I have suggested elsewhere that being registered with the local authority could be taken as a badge of approval which might be a perverse or unintended consequence of the proposals.

**18 Do you agree that, when registering, settings should provide details about the proprietor, location(s), education offer and numbers of children? Please provide details of any further information that settings should provide.**

Don't Know

It is difficult to see how the Government's stated aims could be achieved simply by the council keeping a list.

Wouldn't parents think that a setting on the list had been vetted by the council? Parents might blame the council even if it fell outside strict legal liability.

**19 Do you agree that settings required to register should be eligible for investigation and possible intervention where concerns arise? Please provide comments.**

Don't Know

I really can't see what role the local authority is expected to take. Ofsted could consider it a concern if the local authority didn't make any safeguarding referrals about any settings in its area.

Ofsted inspects local authority safeguarding arrangements and could easily start asking detailed questions about out of school settings and holding local authorities to account in much the same way as they keep doing with home education <https://edyourself.wordpress.com/2016/01/07/ofsted-new-guidance-home-education-inspections/>

**20 Do you agree that Ofsted should be able to investigate concerns that arise in out-of-school settings that meet the proposed threshold for registration? Please provide comments.**

Don't Know

I have read that Ofsted will not routinely inspect all providers, or look at the suitability of education or judge the quality of teaching. Apparently Ofsted will be reactive, investigating when concerns are reported and the investigation will focus on prohibited activities.

The examples given are failing to keep basic records and emergency contact details for children in attendance, appointing unsuitable staff, operating in unsafe premises, undesirable teaching ("including teaching which undermines or is incompatible with fundamental British values, or which promotes extremist views") and the use of corporal punishment.

However, although at this stage it is about "not undermining Fundamental British Values", this was the old rule for independent schools, but the newer Independent School Standards require active PROMOTION of Fundamental British Values so some people will be asking how long before we see the same in out of school settings and even possibly in home education.

No details have been provided at this stage about whether concerns would be reported to the local council first, or blow the whistle directly to Ofsted, or even to a Government hotline. It could end

up being a tremendous amount of work for Ofsted, unless it came under the council's Children Missing Education duties which are of course inspected by Ofsted.

It is relevant in this context that the Government plans to amend the statutory guidance on Children Missing Education, in response to calls from Ofsted.

"Sampling" inspections are also mentioned in the call for views document. It allows for the possibility that Ofsted would "sample" a number of settings in cities known to have a lot of madrasas and mosque schools.

**21 What impact do you think the proposed system for registration and inspection will have on out-of-school settings? Please provide as much detail as possible.**

I don't know, because I don't know how it will end up and I don't know how much Ofsted will be able to develop its own agenda on the back of this.

## **Prohibited Activities**

**22 a) Do you agree that the prohibited activities should focus on the failure of out-of-school settings to adequately ensure the safety of the children in their care, as set out in paragraph 3.19?**

Don't Know

The examples given are failing to keep basic records and emergency contact details for children in attendance, appointing unsuitable staff, operating in unsafe premises, undesirable teaching ("including teaching which undermines or is incompatible with fundamental British values, or which promotes extremist views") and the use of corporal punishment.

It is hard to see how anyone would know whether the setting kept emergency contact details or not unless someone asked to see the records. This could result in the local authority becoming aware of all the children attending the setting and does not seem a proportionate response.

As stated in question 20, although at this stage it is about "not undermining Fundamental British Values", this was the old rule for independent schools, but the newer Independent School Standards require active PROMOTION of Fundamental British Values so some people will be asking how long before we see the same in out of school settings and even possibly in home education.

Back in 2006-7 it was actually proposed that home educators should be subject to a slightly diluted version of independent school standards, and I have read the internal DfES communications obtained via FOI, so although this idea was dropped, it isn't possible to forget that it was debated and considered at a high level.

Similarly with the consultation around the definition of an independent school and the inclusion of "part-time educational institutions" in Part 4 of the Education and Skills Act 2008, where 12.5 hours teaching per week would mean the setting had to be registered and inspected in most of the same ways as a full-time school.

I know that these ideas were not taken forward but again it is difficult to take 6 hours, this not being about parents and children in their own home, absolutely minimal registration requirements, no routine inspections, local authority having a supportive and signposting route etc... at face value.

It may genuinely be what is intended at this time but there will inevitably be pressures to extend it in future. This is what we saw with the Children Missing Education Guidance which has already been changed 4 times and looks set to change again, each time as a reaction to something going on

elsewhere.

It is the thin end of the wedge, surely?

**22 b) Do you agree that the prohibited activities should focus on the appointment of unsuitable staff, as set out in paragraph 3.19?**

Don't Know

I would need to see more details as it depends what constitutes a "setting".

**22 c) Do you agree that the prohibited activities should focus on accommodating children in unsafe premises, as set out in paragraph 3.19?**

Don't Know

I would need to see more details as it depends what constitutes a "setting". Media reports suggest that some of the settings you would wish to regulate (ie madrasas) do in fact operate from domestic premises, so I don't see how you could remove people's homes from the scope of the regulations.

Might we be looking at a scenario in future where home educators running groups would either have to have their homes checked - as some childminders do - or would have to pay for room hire? If so, many ad hoc home education groups would have to close down.

**22 d) Do you agree that the prohibited activities should focus on undesirable teaching, including teaching which undermines or is incompatible with fundamental British values, or which promotes extremist views, as set out in paragraph 3.19?**

Don't Know

I would need to see more details as it depends what constitutes a "setting". As stated in question 20 and question 22, although at this stage it is about "not undermining Fundamental British Values", this was the old rule for independent schools, but the newer Independent School Standards require active PROMOTION of Fundamental British Values so some people will be asking how long before we see the same in out of school settings and even possibly in home education.

**22 e) Do you agree that the prohibited activities should focus on corporal punishment, as set out in paragraph 3.19?**

Yes

**23 Are there additional activities that should be prohibited?**

I don't know. I do think more will be added later anyway.

## **Sanctions**

**24 We welcome views on the proposed sanctions and which body/bodies should have powers to act.**

I think whatever is being suggested at present will end up being extended. I also think that Ofsted will have a lot of leverage over local authorities because of the inspectorate's role in assessing safeguarding arrangements, including children missing education.

We know that the CME guidance is set to be revised yet again so it is very difficult to consider the out of school settings regulations in isolation when we don't know what CME will look like.

**25 Are there any particular groups or people for who the impact of these proposals will be significant? If so, how might these proposals be mitigated or amended in your view to better reflect our duty under section 149 of the Equality Act 2010 to have regard to the need to eliminate discrimination, harassment, and victimisation, to advance equality of opportunity,**

**and to foster good relations between different groups?**

I think these proposals will end up having a disproportionate effect on home educators, and particularly on Muslim home educators.

**26 The Department for Education may contact you either to discuss the evidence you have provided or to seek your further views. Are you happy for us to do so?**

Yes