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Informal Process in New Guidance

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The number one problem with **the new draft home education guidance** for England is that an informal enquiry potentially becomes a **detailed “assessment of suitability”**. This means many more families will be under active investigation at any given time. Meanwhile the government says it wants to **promote positive relations** between home educating families and the local authority. The consultation asked for views on this, as well as asking whether the new system would be **proportionate**.

The new guidance is not ready to be used. It is still at the draft stage. The consultation closed 18.1.24. The current guidance remains in force until such time as a final new version is published. The current guidance can be found here <https://www.gov.uk/government/publications/elective-home-education> **The law has not changed and there is no new funding** (or indeed any funding) for local authorities dealing with elective home education.

Background Information

Where a child is not registered at a school, the local authority has a duty to take formal action if it appears that the child is not receiving education otherwise than at school. This has come to be understood as requiring the authority **in the first instance to make informal enquiries** about the child’s education. The title of **Chapter 6** is *“How local authorities decide whether a child appears to be receiving suitable EHE”* and covers **informal enquiries**.

The process for taking formal action is set out in a sequence of steps starting at section 437 of the Education Act 1996 as I explain on my page about School Attendance Orders <https://edyourself.org/school-attendance-orders/> There is no equivalent detail in primary legislation for the informal enquiries process; it has just evolved over time. In 2006 the government added section 436A immediately before s 437 which is headed **Duty to make arrangements to identify children not receiving education**. I explain more in my page on Children Missing Education

Children Missing Education

Local authorities have a duty under section 436A Education Act 1996 to make arrangements to identify children outside school who aren’t receiving education. 436A became law in February 2007. The current GOV.UK web page on Children Missing Education is here AND WAS LAST UPDATED IN SEPTEMBER 2025. The Law 436A Duty to make arrangements to ... [Continue reading](#)



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After reading **the new draft**, local authorities might wrongly believe that an informal enquiry should be a lengthy task where families should be chased for a great deal of personal information to enable the LA to complete its “assessment of suitability”. It would make LAs over-cautious since box-ticking would become the priority and the LA would have to keep coming back for more evidence before it could sign off “suitable education.”

Related Pages

Guidance

The current version of home education guidance for local authorities in England was published in April 2019. The emphasis is on ensuring LAs are fully aware of existing powers and duties. The Home Education Guidance does not introduce any new powers or duties for local authorities to monitor the suitability of home education nor any ...

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Home Education and the Law

There are no specific laws about elective home education although there is non-statutory government guidance. There are however education laws which set out parents' responsibilities and the duties of local authorities. In future this may change, see <https://edyourself.org/childrens-wellbeing-schools-bill/2025> Parents: Rights and Responsibilities Section 7 of the Education Act 1996 states that: "The parent of ...

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Suitable Education

Section 7 of the Education Act 1996 explains what is meant by suitable education for a child educated "otherwise" than in school. "The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—(a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either ...

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