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Safeguarding in New Guidance

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The new draft home education guidance, England, suggests that *insufficient information* about home education provision can meet the threshold for a child protection referral as the child being at risk of significant harm. This would have a disproportionate impact on children with special needs and disabilities if they are not able to demonstrate a certain level of accomplishment or have not made a measurable and acceptable degree of progress.

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 argument appears to be as follows: *“unsuitable education can be a form of educational neglect”* hence if parents have not proved their case then educational neglect cannot be ruled out, and since neglect can have very serious consequences for the child, *“safeguarding action”* can be entirely justified and parents should consider themselves warned.

General duties seems to be interpreted throughout the new draft guidance as implying that anything the LA chooses to do is justifiable in terms of wellbeing or welfare including collecting a great deal of personal information. This interpretation of the law is highly questionable.

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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Elective home education is not education arranged or funded by the local authority so the question then arises as to where elective home education comes within the LA's *“education functions”*. The answer seems to relate to measures for enforcing school attendance in cases where children are not receiving suitable education as set out in [Part VI Chapter II](#) of the Education Act 1996.

School Attendance Orders

The Children's Wellbeing and Schools Bill – if enacted – will change the law on school attendance orders, read more here <https://edyourself.org/childrens-wellbeing-schools-bill/> (For example, the “best interests” test outlined in the bill is not current law) Key points about School Attendance Orders: in most cases the SAO is threatened but doesn't actually go ahead; before ... [Continue reading](#)



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Children in home education may have been failed by the school system or have had negative and distressing experiences of a particular school but the draft guidance has very little to say about promoting the welfare of the child when it comes to enforcing school attendance.

Statistics published in October 2023 showed that local authorities carried out 225,400 child protection enquiries in 2022-23, up 3.5% on the previous year, and of these, a third resulted in an initial child protection conferences (ICPC). **63,870 Child Protection Plans were started in 2022-23.**

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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