

By email: NotInSchool.consultation@education.gov.uk

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Department for Education consultation on establishing a local authority registration system for children not attending state-funded or registered independent schools

1. The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the Children Act (2004). The DCS acts as a single point of professional leadership and accountability for services for children and young people in a local area, including children's social care and education. ADCS welcomes the opportunity to respond to the Department for Education's (DfE) consultation on proposals for local authorities (LAs), other education settings and parents of children who are not attending state-funded schools or registered independent schools.

General comments

2. Education is a fundamental right for every child and ADCS members recognise that parents and carers can choose to educate their child at home rather than at school. We want this to be a positive experience and our members wish to work in partnership with parents and carers to help and support them to be confident in fulfilling this important role. However, a lack of clarity or guidance with regards to the suitability or efficacy of home education makes this a difficult task, particularly in the context of reduced funding in real-terms for schools and LAs alongside an increase in the number of parents choosing to educate their children other than at school.
3. Over the past three years, ADCS has surveyed LAs across England to gauge the size of the cohort of electively home educated children and young people. The most recent [survey \(2018\)](#) evidenced that the number being educated at home has been increasing over the past five years by an average of approximately 20% each year, however, respondents also emphasised that it is likely there is a significant number of children and young people being home educated who are unknown to children's services. It is essential that LAs have a comprehensive understanding of the size of this cohort so that they can effectively safeguard these children who we know can sometimes be vulnerable to exploitation or radicalisation.
4. ADCS members welcome the proposals set out in this consultation which will provide a much better understanding of the size of this cohort. However, we remain concerned that LAs have little power to assess whether those children and young people being home educated are receiving a good standard of education, delivered in a suitable learning environment, and that they are safe. Without seeing both the child and their place of learning, this cannot be known. While it is recognised that home educated children are not vulnerable by definition and that largely, parents who choose to educate their children at home

provide a broad and balanced learning experience, concerns remain where families choose to home educate as a cover for sending their child to unregistered education settings or to avoid attendance fines. LAs must have the ability and the means to assess the quality of education being delivered and to effectively safeguard all children and young people.

5. In some instances, parents can be encouraged by a school to educate their child at home in order to avoid a permanent school exclusion. This practice, known as 'off-rolling', has been highlighted in the [Timpson Review of School Exclusions \(2019\)](#) as a growing concern. Off-rolling, or gaming the system to improve a schools' results, will disproportionately affect the most vulnerable learners, such as those with special educational needs or an education, health and care plan and those eligible for free school meals. This practice raises multiple issues about the preparedness of parents and carers to offer a suitable and efficient educational experience in the home as well as the child's wishes and the long-term impact on their outcomes. The most recent ADCS survey on home education found that children at Key Stage 4 age were the fastest growing cohort of children being home educated, suggesting that this is heavily linked with GCSE results and improving school league table standings.

The introduction of a duty on local authorities to maintain a register of children of compulsory school age who are not registered at a school of specified type

6. ADCS members welcome this proposal, which will provide us with a far better understanding of how many children are not being educated at the types of schools specified in the consultation document, or those who have never attended school. However, the register should not be limited to identifying only those children and young people being educated "during school hours" outside of state-funded or registered independent schools. This creates a potential loophole for proprietors of illegal schools to still operate during unsociable hours, which has been identified by Ofsted as a growing problem. This could be re-worded to "educating children and young people of school age who are not registered at a state-funded or registered independent school".
7. The register must follow a national format and information contained within it could include: name of child(ren) and the parent(s) or carer(s) overseeing education in the home, date of birth, place of birth, address and contact details, previous school attended (if applicable) and whether the child has any special educational needs. The register should also include the name and address of any other education settings that a child is attending both outside and within normal school hours.
8. ADCS welcomes the use of data sharing between LAs and other agencies which should be used to help map the whole child population, assist with place planning and to fill any other gaps in information that is held by other agencies, such as health. Data returns to a national register should be attached to information held on the National Pupil Database and school census so that outcomes of home educated children and young people can be tracked using Unique Pupil Numbers (UPN). A similar process will need to be put in place for those children who have never attended school and therefore do not have a UPN. The data return should be made annually in case a family moves out of area or has moved back into

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formal education. We know this is a fluid cohort and that some electively home educated families are transient, for example those from Gypsy, Romana and Traveller communities.

The creation of a duty on parents to register their child with a local authority if not registered at specified types of school

9. ADCS agrees with the above proposal which will help improve the accuracy of data on the register. This will help LAs to ensure that enough support is available for home educating families in their area and have a fuller understanding of the size of the cohort. However, more specific information on when a LA should be notified that a child is being home educated is required as this would assist local authorities with place planning. This could be done during the school admissions period or when the child reaches statutory school age in the cases where they have never attended a registered school.
10. Ensuring the safety of all children and young people is in everyone's interest and the sharing of information between local agencies is a vital part of this. ADCS members would welcome emphasis placed on the need for all public bodies and agencies to share information with the LA where they believe that a child or young person of school age is being home educated. It is recognised that not all parents or carers will contribute to a register and their compliance cannot be solely relied upon to maintain its accuracy.
11. ADCS members believe that introducing sanctions for home educating parents who fail to register their child is not a necessary step. Failure to comply can be a sign of safeguarding issues and LAs have clear duties to ensure that all children and young people in their area are safe and to promote their welfare. Children and young people's needs and outcomes must be at the heart of decisions made and the ultimate sanction for providing consistently unsuitable education in the home should be a return to school for the child.
12. A School Attendance Order (SAO) can be sought from the courts if the LA has reason to believe that the educational experiences offered to a child being home educated are unsuitable and all other options have been exhausted. However, ADCS does not believe that this is a satisfactory resolution. The lengthy legal process involved in securing a SAO means that children can be without education for many months, and, even if the SAO is awarded compliance is not guaranteed. It would be useful if SAO legislation could be revised so that they are not just one-off events but remain in place whilst the child is of statutory school age.

The creation of a duty on proprietors of certain education settings to respond to enquiries from local authorities

13. ADCS agrees with the proposal that all proprietors of unregistered education settings should respond to LA requests for information to meet the obligations placed on LAs under the Education Act (1996). ADCS has continually raised concerns over home education being used as a cover for parents or carers to send their children to these settings and Ofsted has also found significant links

between attendance at an unregistered setting operating illegally as a school and elective home education.

14. In order for monitoring to be effective then the learner (the child) and the learning environment (the education setting) must be seen, otherwise this activity can only ever be partial and additional funding would also be required. In no other area of children's services would a professional make a judgement about a child's educational progress, attainment, health, safety or welfare without seeing or meeting the child, it is unclear why children who are educated at home are treated differently in law.
15. As detailed above, all settings, whether operating during or outside of school hours, should be included in the scope of this duty. This will help avoid unregistered settings using the potential loophole of "during school hours" and this should be addressed in final legislation. Further, this should extend to virtual schools that operate online and can offer a full-time education. It is imperative that we are aware of all children and young people and can be satisfied that they are safe and receiving a high quality education.
16. ADCS believes that the use of fines for certain education settings that do not respond to enquiries from LAs would help make this duty more effective. However, where an LA has concerns about a proprietor who refuses to comply, the main concern is the safety of those children and young people attending. The introduction of sanctions will not ultimately stop unregistered settings from operating and the use of court orders can be very time consuming. ADCS urges the government to give greater powers to Ofsted in obtaining evidence or closing illegal schools where they have serious concerns. The government must have a greater focus on stopping these illegal settings that are often operating under the loophole of home education.

The creation of a duty on LAs to provide support to parents who educate children at home

17. All local authority children's services are committed to supporting and working in partnerships with all parents and carers who choose to educate their child(ren) outside of maintained or registered independent schools. ADCS agrees with this proposal and some LAs already provide support to home educating families, such as through the use of exam facilities or access to part-time education programmes.
18. However, this must be adequately funded as a new burden. The introduction of a register will likely reveal a much larger number of home educating families than is currently estimated and it is vital that LAs have the resources to support all those families who request it. ADCS members believe the funding that would otherwise be spent on a school place for a child should be made available to the LA. Children whose parents are struggling to provide a high quality education should not be adversely impacted due to a lack of funding available for LAs to give the necessary support to these parents and carers.
19. Some of the suggested forms of support in the consultation that LAs should provide do not seem equitable or the role of the LA, for example, the carrying out

of checks on private tutors. However, ADCS agrees that the DfE should also provide support for home educating families, such as through access to teaching materials for parents and carers.

20. The consultation recognises that take up of support from parents and carers will vary greatly across the country and this must be recognised in the funding arrangements. Children's services are facing a £3.1 billion funding gap by 2025, highlighting the need for these new duties to be adequately funded. ADCS urges the government to recognise this.

For further information or to discuss the issues raised further, please contact Matt Cunningham, ADCS Policy Officer, via matt.cunningham@adcs.org.uk