

Legal Background – Professor John Howson:

This section of the law dates from the 1870s, and is in need of revision in light of three main developments:

- The European convention on human rights emphasises the right of the child to receive an education,
- The phenomenon of off-rolling, where parents are coerced to withdraw struggling or challenging children from school, is becoming more widespread,
- There is an increasing awareness that a tiny minority of parents seek to use the legal provision for 'education otherwise than at school' to deliberately avoid educating their child, or to place them within illegal schools.

A point of view – Almona Choudhury:

A barrister, PPC, and home educator:

- Home educators generally do an excellent job, and interference from the Local Authority would not benefit the child,
- LAs don't have the resources to undertake additional monitoring,
- LA visitors generally lack sufficient expertise to provide any positive contribution or meaningful assessment of provision,
- If there is a child welfare/safeguarding need that isn't being met then this should be addressed with legislation in that area, rather than on home education (noting that home educated children may well be at lower risk of harm than school educated children)

A point of view – Daniel Monk:

Professor of Law at Birkbeck University, specialising in the field of children, families, and education:

- Home educators generally do an excellent job, however we must be careful not to impose any one stereotype – positive or negative – upon home education. Anecdotes are powerful, but the reality is that many different sets of circumstances are caught under the term 'home education',
- Regrettably, it is likely to be impossible to separate 'positive' home education from illegal schooling within any legal framework, since, in practice, any provision for one would provide a loophole for the other,
- In the rare situation where the rights of the parent to bring up their own children and the rights of the child to receive an education come into conflict, it is clear (legally and morally) that the rights of the child must always take precedence.
- The current need is to clarify the existing responsibilities of local authorities. There is inconsistency across the country as to whether any home visits take place and the manner in which they are conducted, but there is a consistent request from local authorities to receive clarification as to whether/how these are expected, and as to whether/how they should maintain any record of the existence of children who have never entered the state or independent education systems.

A point of view – Lucy Nethsingha:

An ex-primary school teacher, currently a county councillor, recently chair of the education policy working group which produced the policy paper 'Every Child Empowered: Education for a Changing World' passed at spring conference:

- The policy paper would have benefitted from greater consultation and consideration in this area, and certain of its phrases were open to misinterpretation.
- It is vital to acknowledge that the overwhelming majority of home educators do a fantastic job, but it is also important to ensure that there is some efficient and minimally intrusive mechanism for local authorities to a). Know of the existence of children being home-schooled in their area, and b). ensure that their right to an education is being met. For the vast majority of children this will be the case, but there must be some mechanism for identifying any instances where it is not.
- There is a serious and growing problem with off-rolling, though it is hard to ascertain its true extent. This tendency is unacceptable, and one way to work against it would be to charge local authorities with maintaining a register of home-educated children, with a brief reason for that 'choice'.

Workshop session – Points with substantive agreement:

- Home education is usually highly effective,
- Most home educated children are active participants in many group activities, and are certainly not 'hidden away' in any pejorative sense – nevertheless this doesn't necessarily mean that the LA responsible for their welfare knows of their existence,
- The liberal right of a parent to educate their child 'otherwise than in school' should be upheld and championed,
- This right should never be hijacked or abused by schools who have failed to adequately support a pupil with special educational needs,
- A key issue with any Local Authority visits to home educated children is 'who are these visitors, do they have adequate skills and experience to support the home educator that they visit, and are they free from any bias against the decision to home educate',
- The current national curriculum is not appropriate for imposition on schools, let alone on home educators,
- We need to work on a bottom-up approach of holistic support for home educators (and indeed for school educators):
 - Openly accessible resource banks,
 - Directly state-funded exam entry fees, (note with each of these that it is fair(/necessary?) to provide the same support to, for example legitimate independent schools and to state schools,
 - Third sector co-ordination of support networks and signposting of child development opportunities,
 - And (possibly voluntary – see below) access to adequately qualified and experienced support from Local Authority Visitors (and/or third sector visitors) who arrive with the assumption that they will find a well-supported child who is thriving on their educational provision, and who understand and respect the reasons why some parents choose to home-educate their child.
 - Some (at least voluntary) national accreditation scheme for tutors. Tutors are often used by home educators and other parents, but currently any individual may declare themselves to be a tutor.

The possible role of the third sector is important to consider here – requiring registration and occasional visits from *either* the LA *or* an approved third sector organisation could provide a compromise under which all points of view could be relatively satisfied.

Workshop session – Points of remaining contention:

- Should registration and periodic visits from the Local Authority be mandatory or voluntary?
 - Joined-up administrative processes between birth registration and Local Authorities could mitigate the need for the former,
 - Voluntary registration and support visits could easily, substantially, and uncontentiously reduce the number of children educated otherwise with whom the LA was not in contact (either via teachers in registered (state or independent) schools, or via voluntary visits,
 - As alluded to by the previous point, it is unclear whether the LAs statutory safeguarding duties can be separated from educational matters, partly because the former is often incorporated into the latter (eg. Through the pastoral role of teachers/visitors), and partly because one of the legal rights that need to be safeguarded is the child's right to receive an education.
 - There is broad agreement that functional levels of (English language) literacy and numeracy form a vital part of every child's education. There is disagreement as to how or whether this should be written into law: for example the spring policy paper realigned the term 'national curriculum' to fulfil this purpose (rather than its current prescriptive format that now applies to only a fraction of state schools), but there is a strong feeling amongst home educators that they should be free from any 'national curriculum' prescription (noting that often home education is chosen as a result of particular circumstances or needs which any such document may not adequately account for).
 - Some feel that there is a responsibility incumbent upon society to ensure the adequate 'socialisation' of all children; others note that this is a slippery slope and that, historically, most mandatory state education came about to indoctrinate a particular political ideal (eg. Under Napoleon, the Third Reich,...)