

DfE consultation on Children not in school: proposed legislation

Special Educational Consortium position statement

About SEC

The Special Educational Consortium (SEC) is a membership organisation that comes together to protect and promote the rights of disabled children and young people and those with special educational needs (SEN). Our membership includes the voluntary and community sector, education providers and professional associations. SEC believes that every child and young person is entitled to an education that allows them to fulfil their potential and achieve their aspirations.

SEC identifies areas of consensus across our membership and works with the Department for Education, Parliament, and other decision-makers when there are proposals for changes in policy, legislation, regulations and guidance that may affect disabled children and young people and those with SEN. Our membership includes nationally recognised experts on issues including assessment and curriculum, schools and high needs funding, the SEN legal framework, exclusions and alternative provision.

Restating the SEC position on proposed legislation on children not in school

SEC submitted a response to the Department for Education's call for evidence on Elective Home Education in July 2018, in which we set out our position on the proposed approaches to supporting children with SEND who are home educated.

Our overarching position, as set out in that response is that home education for children and young people with SEND should be a positive choice for children, parents and carers rather than as a consequence of the education system failing to meet their needs. We recognise that the department is consulting on broader proposals around children missing education. We have, however focused on core issues of the monitoring of children with SEND who are home educated.

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SEC's positions on:

- **Creation of a duty on local authorities to maintain a register of children not registered at specified types of school;**
- **Creation of a duty on parents to register their child with local authority if not registered at specified types of school**

If children with SEND are missing education and are not known to local authorities this directly undermines the ability for local authorities to carry out their legal duties to identify and be responsible for these children under Section 22 and Section 24 of the Children and Family Act 2014.¹

SEC's position is that all children and young people with SEND who are missing education should be registered with the local authority. There should be a statutory duty for any parent or carer of a child with SEND to register this with the local authority. Registration could help ensure these children are safeguarded, receiving their entitlement to a suitable education and being sign posted to support where necessary.

On the proposal for a duty for local authorities to provide support to parents who educate children at home

Local authorities should ensure there is accessible information for parents, carers, and children and young people with SEND about the children's entitlement and the entitlements of the parents and carers. Specifically information should be made available about the effect of children missing education on these entitlements, both in terms of what they might miss out on, and how these entitlements can be accessed whilst not in formal education.

Parents and carers, and children and young people with SEND should be made aware of Independent Advice and Support (IAS) services in their local authority and the support these can provide in advising them on accessing their entitlements.

SEC recommends having a Virtual School Head, in each local authority, with responsibility for home educated children and other children not attending school. This role should be fulfilled by a teacher with appropriate level of experience and seniority, experience of SEND, and experience of issues effecting children not in school. The successes of Virtual School Heads for looked after children, in terms of leadership and accountability for looked after children, indicate the potential benefits of this model for home educated children and others not attending school.

¹ Section 22 and 24 of the Children and Families Act 2014 can be found here:
<http://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>

Other positions on the government's proposals for legislation relating to registration and support for home education

SEC is open to a proposal for monitoring for home educated children and young people with SEND. Effective monitoring of children and young people with SEND who are missing education, could help ensure they are receiving their entitlement to education. More specifically monitoring of children with SEND missing education could help ensure that children and their families are supported to have their special educational needs met, for instance, monitoring could identify families who need support to meet the requirements of the Education Health and Care Plans.

Monitoring should also provide a picture of gaps in suitable local provision for children being educated at home. This should inform commissioning decisions.

However, any provision or duty for local authorities to monitor children with SEND missing education should be adequately resourced. SEC is concerned about the financial and resource constraints on local authorities and a model for monitoring and the resulting provision of support should be mindful of this. In addition monitoring should also not interfere with parents' and carers' right to provide and children and young people with SEND's right to receive, a suitable education at home, in the way they see fit.

For further information:

If it would be helpful to provide further information or to clarify any aspect of this response, we would be pleased to help.

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