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# A study to identify factors impacting upon the decision-making processes of elective home education professionals when determining the suitability of parental provision

Venetta Buchanan

A thesis submitted to the University of Huddersfield in partial fulfilment of the requirements for the degree of Doctor of Education

The University of Huddersfield

August 2020

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## Abstract

This thesis identifies the factors influencing the decision-making of home education professionals as they attempt to establish whether children are receiving a suitable education at home. This task represents the core element of a home education officer's role yet it is fraught with challenges. The regulatory framework which underpins England's system of elective home education is problematic. Emanating from archaic legislation, government policy in this area is sparse. Consequently, the practice of officers overseeing home education lacks the regulatory scaffolding evident within school provision. The absence of comprehensive policy has left professionals vulnerable. Customary practice is regularly criticised by home educators and their advocates. Detractors within the home education community regularly reject the validity of the professional role, accusing officers of re-interpreting guidance. Recent interest in home education has led to an increase in academic and advocacy-based research. However, with a focus on parental motives and children's outcomes, the practice of professionals has been neglected. This research aims to readdress the balance by affirming professionals' stakeholder status and exploring their perspective of contemporary home education.

This study investigates the interplay between the regulatory and the personal within the professional practice of home education officers. Similar to the parental community, the realm of the professional is typically beyond the reach of outsiders. This then is the intimate insider project of a home education professional. Phenomenologically motivated, unstructured conversations with 8 home education officers are explored to reveal previously inaccessible practice details. Interpretive analysis of personal accounts indicates the extent to which home education guidance is embedded within practice, activated via an experiential toolkit. Research findings demonstrate professional practice is primarily influenced by education law and whilst procedures vary, professional beliefs are consensual and consistent. The findings of this research provide valuable insights for policy makers and the suggested recommendations could significantly improve the infrastructure and management of elective home education.

# Acknowledgements and dedications

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## List of abbreviations

| | |
|---|---|
| ADCS | Association of Directors of Children's Services |
| AEHEP | Association of Elective Home Education Professionals |
| CAMHS | Children and Adult Mental Health Service |
| CoE | Colleagues and other external professionals |
| CoP | Community of Practice |
| DCSF | Department for children, schools and families |
| DfE | Department for Education |
| EA | Education Act |
| ECHR | European Convention on Human Rights |
| EHCP | Education and health care plan |
| EHE | Elective home education |
| ESO | Education supervision order |
| GLA | Elective Home Education - Guidelines for Local Authorities |
| GRT | Gypsy Roma Travellers |
| HoC | House of Commons |
| HRA | Human Rights Act |
| LA | Local authority |
| LaE | Life as Education |
| Ofsted | Office for standards in education, children's services and skills |
| ONS | Office for National Statistics |
| PPM | Participant Protection Model |
| SCC | Sheffield City Council |
| SCR | Serious case review |
| SEN | Special education needs |
| UDHR | Universal Declaration of Human Rights |
| UNCRC | United Nations Convention on the Rights of the Child |
| US | United States of America |

# Chapter 1: Introduction

In no country are there greater anomalies –
greater differences not merely in the means, but in the ends of education
(Wyse,1938, cited in The Spens Report, pp. 18-19)

### 1.1: Overview - Chapter 1

This chapter introduces the rationale and objectives of this study commencing with a summary of elective home education (EHE) and its legal position. EHE is a parental right substantiated by an unusual combination of case law and proactive lobbying. Astute harvesting of government policy, education acts and court judgments has empowered pressure groups to contend parental provision resides beyond the remit of local authority (LA) scrutiny. The impact of this perspective upon professional practice and government legislation is explored. A discussion of the concerns of EHE officers, colleagues and other professionals indicates the necessity of this insider research. The chapter concludes with an outline of the format and contents of this thesis.

### 1.1.2: Aims and objectives

Section 7 of the 1996 Education Act places a duty upon parents to ensure their children receive an efficient full-time education suitable to their age, aptitude and ability. Parents have the power to decide whether this duty is fulfilled via school attendance or an education otherwise. As a result of this, education within England is dispensed via a dual system of public and personal provision. Schools - the public face of education – continue to represent the primary option for the majority of parents. With nearly 9 million children attending over 24,000 mainstream or independent institutions, the educational norm is one of communal provision. (Department for Education [DfE], 2019b; Office for National Statistics [ONS], 2019) However, whilst education is compulsory, school attendance is not. EHE describes the personal face of education - the provision delivered by parents electing an education otherwise. In stark contrast to schools, the number of children located within this category is unknown. Of the 300,000+ school-aged children estimated to be residing in England but not registered at school, only 54,656 are known to local authorities as educated at home. (Association of Directors of Children's Services [ADCS], 2019; ONS, 2019) The content and quality of the educational provision received by these children is unclear.

This project focusses on the issues surrounding attempts to ascertain the suitability of parental provision. More specifically, this thesis is the outcome of 'a study to identify

factors impacting upon the decision-making processes of EHE professionals when determining the suitability of parental provision'. An EHE professional is defined as any LA officer working directly with home educators and their children with responsibility for the day to day delivery of an EHE service. Within this thesis the term 'professional' always refers to EHE officers unless otherwise indicated. Professionals maintain the government guidance which underpins their role is problematic. The aims and objectives of this research are designed to establish the grounds for this concern and its impact upon the manner in which professionals discharge their duties. This investigation explores the interplay between the experiential and the regulatory with a view to resolving three questions:

1. What role does non-statutory guidance play in the decision-making process when reviewing parental provision?

2. To what extent does professional interpretation and previous experience inform decision-making?

3. Is there a professional consensus regarding criteria for suitable education and what are the consequences of a positive or negative response to this question?

### 1.1.3: The legal position

The directives embedded within the 1996 Education Act lay at the centre of this investigation. Whilst this Act requires the Secretary of State to "promote the education of the people of England and Wales" (Education Act, 1996, chapter 2, para. 10) this enquiry is restricted to professional experiences within England. However, it is worth noting that laws regarding home education are broadly similar throughout the United Kingdom. In England, Wales and Northern Ireland parents may elect to educate at home without seeking external authorisation. Scottish policy differs in that parents must consult the LA prior to removing a child from school. (Scottish Government, 2007) Legislation in this area is minimal. The regulation of English EHE in particular has been described as "lax" (Burke, 2007, p. 8). De-registration - the process of removing a child from school roll - merely requires the production of a letter stating the intention to provide an education at home. Parents are not obliged to indicate how they will fulfil their educational responsibilities prior to removing their children from school. Specific qualifications or minimum standards of parental education are unnecessary and EHE may commence at any point between the ages of 5-18. Children below statutory school age or those not yet registered at school may be educated at home without notifying the LA or any other

professional body. Permission for EHE is only required for children on roll at a special school. In these instances, the LA has the capacity to decline a request for EHE if the parent appears unable to fulfil the requirements of the child's education and health care plan (EHCP). Once at home the education a child receives is typically determined solely by the parent and is not subject to routine external monitoring from EHE officers.

Professionals are only permitted to intervene in parental provision if it 'appears' unsuitable – a somewhat paradoxical proposition as EHE officers have no statutory power to view children's work or meet with parents. Even so, this approach appears consistent with Article 26 of the Universal Declaration of Human Rights (UDHR) which affirms a child's right to education and the right of parents to determine provision. However, the extent to which professionals can or should intercede may not be as restricted as the GLA suggests. Section 7 provides parents with a legal basis to pursue home provision whilst imposing a number of duties designed to ensure children receive their rightful education. Children have distinct educational rights which are not completely subsumed within the rights of parents. Both the UDHR and the United Nations Convention on the Rights of the Child (UNCRC) refer to the right of children to participate in decision-making which impacts their future, express their voice and receive an education which enables them to fulfil their potential. As such, the limitations placed around the professional role appear incongruous with this wider discourse regarding children's rights. "It cannot…be inferred that the State only has obligation to refrain from interference and no positive obligation to ensure respect for this right" (European Court of Human Rights, 2020, p.5) – an interpretation which legitimises LA involvement. This disparity between the GLA and supplementary documents pertaining to the rights of children is problematic. As the GLA appears to afford primacy to the parental right, the ability of professionals to determine whether EHE children receive the education proposed in Article 29 of UNCRC is limited; EHE policy appears to frame suitability around the actions of parents rather than the rights of children. Whilst this aspect of EHE is worthy of further discussion, this thesis focuses on the parental right. As the gatekeepers of home education, parents are able to determine whether professionals secure the access required to establish the educational rights of children are being achieved. Professionals must first engage with the parental role, even though a focus on the rights of the child would arguably clarify responsibilities and issues regarding suitability.

### 1.1.4: Rationale

As an EHE professional based within Sheffield City Council (SCC) this is not the work of a detached, external researcher; this thesis is the product of an intimate insider. "'Intimate insider research' can be distinguished from 'insider research' on the basis that the

researcher is working, at the deepest level, within their own 'backyard'" (Taylor, 2011, p. 9). This project was directly motivated by ongoing disputes with home educators and their advocates regarding the validity and statutory basis of decision-making. The tension between professional judgment, EHE guidance and the expectations of parents has become increasingly problematic. Personal deliberation developed into an exploration of wider professional practice. Discussions with other EHE officers revealed a recurring question; 'how, in the absence of robust guidance, can we as professionals effectively determine the suitability of parental provision?' A colleague summarized the dilemma by stating, *"we haven't got the right to see the parents, the children or their work and even when we do there's nothing to say what we should be looking for. So, what are we supposed to do?" (EHE Officer)*

Rukeyser declared "the universe is made of stories not of atoms" (Rukeyser, Kaufman, Herzog, & Levi, 2006, p. 467) - a quintessentially constructivist sentiment which informed the outlook of this project. Research embedded within this perspective acknowledges the existence of multiple, potentially contradictory narratives. From the array of viewpoints connected to EHE, this project isolates and explores the narrative of the professional. Resolving the issues raised here required unprecedented access to a community of professionals whose stories are often overlooked and/or discounted. Elective home education is an arena with many stakeholders yet it is essentially a tripartite system comprising the parent, the child and the professional. Obtaining the narrative of the child is complex, contentious and not an option typically afforded to those outside the community of parents and their advocates. Instead, the majority of investigations tend to concentrate on the stories of parents, with an extensive amount of literature produced by their supporters. EHE advocates in particular emphasise the activities of ideologically motivated families providing rich and diverse educational programmes. (Morton, 2010; Nelson, 2014; Rothermel, 2004) Great attention is paid to parental approaches and successes. However, the image of EHE presented by advocates does not reflect the entirety of contemporary parental experiences. The stories of the 'others' - the families embroiled within a myriad of challenging social, emotional and economic circumstances - have yet to gain widespread recognition. (Beck, 2015) Whilst further investigation of this section of the parental cohort is required, some inroads have been made. Academics such as Kate D'arcy (2014) and Maxwell, Doughty, Slater, Forrester and Rhodes (2018) have commenced the process of unravelling the marginalisation and dissatisfaction of these families. Indeed, research conducted by the Office for Standards in Education, Children's Services and Skills (Ofsted) recognises the extent to which EHE has become a last resort, rather than a positive choice, for an increasing number of parents. (Ofsted, 2019a) Whilst policy makers now appear receptive to considering the diversity of the parent community, one group remains underexplored; the narratives of professionals have yet to be

examined in depth. In analysing the thought processes underpinning a fundamental aspect of professional practice, the intention here is to restore an element of balance to the dissemination of stakeholder perspectives. Phenomenologically inspired, this project provided a space for colleagues to both live within and co-create experiential narratives. As an idiographic project (Finlay, 2009) firmly ensconced within the individual experiences of current EHE officers, this research does not aspire to generalisation. Instead, the personal sphere of English education is deconstructed by examining the personal perceptions of its professionals.

### 1.1.5: Professional concerns

The disparity between the extensive legislative scaffolding of mainstream education and the nominal guidance within EHE is a key area of professional disquiet. Successive governments have utilised numerous education acts and white papers to specify the aims, requirements and expectations of school provision. The exactitude of legislation underpinning England's schools has overwhelmed parents and teachers alike. Having identified the appropriate age to commence and complete formal education, politicians proceeded to consider the nature of provision outside these parameters. (Education Act, 1921; Education Act, 2007; Board of Education Consultative Committee, 1908; Education Act, 1918; Lewis, 1917) The content of the curriculum and the measurement of its effectiveness is an ongoing issue, with English children now amongst the most highly assessed in the world. (Education Act, 1988; Education Reform Act, 1988; Board of Education Consultative Committee, 1911; DfE, 2013a; 2013b; Department of Education and Science, 1978; Hutchings, 2015; Pont, Nusche, & Moorman, 2008) Potential barriers to learning have been identified and addressed, particularly in relation to the attainment of children from working class backgrounds. (Department of Education and Science, 1985; House of Commons Education Committee, 2014; Sammons, 2015; Sharp, 2015) Support measures for children with special educational needs, behavioural difficulties or medical conditions have also been developed. (Children and Families Act, 2014) In an attempt to ensure the best outcomes for children, the level of prerequisite qualifications for teachers has been increased. (DfE, 2010a, 2011, 2016a) With policy devised to specify the preferred architecture of schools (Space for Personalised Learning, 2010) and the food children should eat therein, arguably every aspect of school education is subject to regulation. (DfE, 2014; Dimbleby and Vincent, 2013) This proliferation of policy has not been mirrored within parental provision.

Government guidance for home education was not created until 2007 - approximately 100 years after the first court case debating the legality of EHE. When introduced, the policy was irrefutably minimal. Taking the form of a single, non-statutory framework

comprising no more than 20 pages, *Elective Home Education: Guidelines for Local Authorities* (GLA) represented the entirety of specific EHE policy. GLA 2007 attempted to outline professional and parental responsibilities by clarifying "the balance between the right of the parent to educate their child at home and the responsibilities of the local authority" (Department for Children, Schools and Families [DCSF], 2007/13, p. 2). Amended in 2013 to remove a reference to flexi-schooling, GLA 2007 and 2013 are otherwise identical. Whilst school policy is continually reviewed and updated, the framework upon which EHE is constructed remains "essentially unchanged from that formulated to suit social conditions of the late nineteenth century" (Jennens, 2011, p. 149). Professionals contend the directives within GLA 2007/13 were not sufficiently robust to facilitate the execution of their duties. "The right to home-educate is not a fundamental one. It is conditional on parents providing their child with an 'efficient' and 'suitable' education" (Department for Education and Skills, 2017, p. 4). Hence, whilst EHE professionals serve as a source of information, signposting and advice, their core task is to determine whether suitable provision is being delivered. (Appendix 1 and 2) The 1996 Education Act is clear,

> 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 by regular attendance at school or otherwise. (Education Act, 1996, p.4)

In spite of this, GLA 2007/13 does not provide numerical clarification of, or a definition for, 'full-time'. Similarly, explanations of the terms 'efficient' and 'suitable' were also not established within EHE guidance. Instead, criteria for these central concepts have been extracted from legal rulings. Case law has determined an efficient education is one that "achieves that which it sets out to achieve" (DCSF, 2007/13, p. 4). A 'suitable' education is one which,

> primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so (DCSF, 2007/13, p. 4).

The practicalities of evaluating parental provision armed only with nebulous definitions and minimalistic guidance are problematic. From the professional perspective, the inability of GLA 2007/13 to resolve conflicts and provide practice specific instruction rendered it unfit for purpose. After years of campaigning by professionals and their allies,

the DfE accepted the need for change. The acknowledgement that "current legislative arrangements […] were designed for a different age" (DfE, 2018a, p. 6) was a significant step forward which resulted in revised guidance. The creation of GLA 2019 is undoubtedly a positive progression. The clarification it provides regarding the responsibilities of parents and professionals represents a substantial improvement. However, whilst local authorities have set about the task of updating websites and local processes, the actual practices of officers in relation to the questions posed here remain largely unchanged. Firstly, the level of access to parental provision is still an issue; secondly, definitive criteria for suitable education remains elusive. As such, GLA 2019 is beneficial in that it confirms the reasonableness of professional requests yet it does not provide additional powers. Having acknowledged that "some authorities feel uncertain over their role in assessing the suitability of education" (DfE, 2018a, p. 14), the government was not minded to take action. Contrary to professional protestations, "the [DfE] does not [...] believe that it is in the interests of home educated children, parents or local authorities for there to be detailed centralised guidance on what constitutes suitability" (DfE, 2018b, p. 25). Instead, local authorities should "attempt to make clear in their home education policies what overall factors they will take into account and how they will go about assessing suitability" (DfE, 2019a, p. 32). Whilst this licence to set terms appears to empower LA's, in actuality it has led to conflict. In the absence of official criteria parents and advocates refute professional decision-making, questioning the grounds upon which it is based.

GLA 2019 confirms professionals are entitled to make informal enquires yet in keeping with GLA 2007/13 restrictions remain. Parents are once again reminded that there is no legal requirement to meet with officers and the content of their education is a matter of personal choice. GLA 2007/13 and 2019 confirm home educators are not required to -

- acquire specific qualifications for the task
- have premises equipped to any particular standard
- aim for the child to acquire any specific qualifications
- teach the National Curriculum
- provide a 'broad and balanced' curriculum
- make detailed lesson plans in advance
- give formal lessons
- mark work done by the child
- formally assess progress, or set development objectives
- reproduce school type peer group socialisation
- match school-based, age-specific standards

(DfE, 2019a, p. 8)

As the interviews and discussions conducted for this project occurred between 2015-2018, with analysis completed in 2019, reference is made to all versions of the guidance. The use of the term 'GLA' in isolation denotes EHE guidance as a general concept; the addition of a year draws attention to specific information within a particular version. The process of transition between GLA 2007/13 and GLA 2019 is still in its infancy. The national Association of Elective Home Education Professionals (AEHEP) intends to consult its members on the impact of GLA 2019 in real terms. This latest revision may, in time, increase the confidence with which professionals discharge their duties. Even so, a number of officers continue to seek legislative intervention.

### 1.1.6: General concerns

The government's reluctance to amend EHE policy prior to 2019 became increasingly unfeasible following a series of incidents which amplified professionals' concerns. An initial attempt to review the GLA came in the aftermath of a tragic case of abuse and neglect. The death of 7-year-old Khyra Ishaq in 2008 generated public and political debate regarding the legal requirements of EHE. Starved to death by her mother and step father five months after de-registering from school, this case revealed an alternative face of home education. Prior to Khyra, tenacious campaigning by EHE support groups had popularised the persona of the ideologically motivated home educator. (Williams, 2018) This representation served to establish the EHE community as a self-sufficient minority with both the capacity and the right to self-determination. Indeed, Graham Stuart (MP) commented at the launch of AEHEP that the 'doctors and lawyers' supposedly responsible for the majority of parental provision did not require LA oversight. In actuality, EHE is no longer a marginal concern primarily populated by the philosophically minded. In the interests of anonymity, it is not possible to include data relating to the LA's of professionals contributing to this research. Instead, numerical details have been provided from SCC. This data, sufficiently representative, indicates the increasing size and vulnerability of the cohort. The majority of parents cite a range of social and emotional reasons for their provision at home. Anxiety, depression, special education needs (SEN), school refusal and exclusion, all rank highly amongst parental motives. (Appendix 3) A similar pattern is mirrored in each of the participating LA's. The increasing complexity of cohorts and the extent of unelected provision, now feature heavily in political debates regarding EHE. (Longfield, 2019; Ofsted, 2019a; Timpson, 2019) The case of Kyra Ishaq was instrumental to this process, triggering a conversation regarding the nature and prevalence of inappropriate EHE.

The serious case review (SCR) which followed Khyra's death acknowledged that the abuse inflicted upon Khyra and her siblings was ongoing and existed prior to home education. However, EHE was identified as a factor. Reference was made to the manner in which the family exploited loopholes within EHE policy. In particular, parental manipulation of ineffectual guidance was deemed to have both enabled the deflection of professional scrutiny and validated non-engagement. (Radford, 2010) Kyra's case led the then Secretary of State, Ed Balls, to commission Graham Badman's 2009 *Review of Elective Home Education in England*. This inquiry was tasked with investigating "barriers to local authorities and other public agencies in effectively carrying out their safeguarding responsibilities in relation to home educated children" (Badman, 2009, p. 4). Badman's review was doomed from the outset. Castigated as the consequence of an unjustified conflation of EHE and abuse, lobbyists rallied to avert the threat. Of the 2000 questionnaires submitted during the review's consultation period, over 75% were attributed to home educators. EHE supporters took the battle to the heart of government, establishing a new record for the number of petitions submitted to parliament on any single issue, on any one day. (BBC, 2009) This call to arms, directed by a conglomerate of EHE support groups, was motivated by fears of tightening government regulation. Lacking cross party support on the eve of government transition, the Badman review's 28 recommendations fell by the wayside. Efforts to strengthen LA oversight were summarily defeated. Even so, the issue of lacklustre regulation continued to surface in the media and courts. (Boswell, 2014; Butler, 2020; Maddern, 2009)

In 2015 the child protection case of S (a child with disabilities), Re [2015] EWFC B40 (20 February 2015) - a severely disabled boy who suffered significant neglect after being removed from school - prompted additional calls for changes to EHE frameworks. In delivering her judgment, Judge Lynn Roberts concluded,

> this judgment must be disclosed to the Education Department. It cannot be right that a school-educated child has his school premises inspected but that a home-educated child does not have his home inspected. As this case shows, such a child can be being educated in a harmful environment and the State neither knows nor acts for years. It must be, in my judgment, incumbent on the Home Education Service to visit and assess a child in his home environment (S (a child with disabilities), 2015, para.25)

Judge Roberts' sentiments were echoed in Alan Wood's 2016 review of LA safeguarding boards. Commissioned by the Secretary of State for Education and the Minister of State for Children and Families, the Wood report raised a number of issues regarding the

ineffectiveness of EHE governance. Wood advised "new guidance should be provided which makes clear the responsibility of parents to ensure information about their child's education is provided to the local authority" (Wood, 2016, p. 34). The government's failure to respond to Wood's recommendation was highlighted by Baroness Deech in a question posed to the House of Lords in January 2017. Two themes transpired from the subsequent debate; firstly, EHE is a concern to a number of peers and secondly, the government is unable to defend the efficacy of EHE policy. Lord Nash's assurance that the government "are looking at this carefully" (*Hansard,* 11 January 2017 col 1953), did little to assuage peers. In the aftermath of this debate an attempt to secure legislative change was instigated by Lord Soley via his *Home Education (Duty of Local Authorities) Bill* in June 2017. Successfully proceeding through the House of Lords, the government's unwillingness to lend its support to EHE legislation ensured its eventual defeat. Convinced that local authorities "already have the tools for the job" (Foster & Danechi, 2019, p. 24), statutory guidance remains elusive. Even so, the government is prepared to acknowledge "that the changing landscape of home education gives sufficient cause to look at the possibility of reform" (Foster & Danechi, 2019, p. 24).

### 1.1.7: Project outline

This project has a clear line of enquiry. Previous research centres on the parental rationale for EHE or the tensive relationship between parents and professionals. This thesis contributes to knowledge by identifying the processes employed by EHE officers when determining the suitability of provision. The knowledge gained from this project is valuable in that it will establish the efficacy of EHE frameworks and produce inductive data to inform future policymaking. Having commenced with an overview of the aims, objectives and concerns motivating this project, Chapter 2 focusses on the historical context. The nature of EHE prior to, and following, the institution of universal schooling provides valuable insight into the origin of contemporary issues.

Chapter 3 provides a review of literature relating to 4 key concepts; the purpose of education, the power of the state, parental rights and the content of home education. Difficulties regarding the selection of appropriate literature are ever present. The majority of texts relating to EHE are evangelical or overly anecdotal. (Murphy, 2014) The availability of academic material is increasing yet positionality is still evident. These factors are taken into consideration when reviewing literature.

Chapter 4 details the theoretical perspectives underpinning this project. Constructed from the stories and experiences of fellow professionals, an ideology sensitive to the validity and value of personal narratives was essential. Phenomenology, with its

celebration of the individual and the veiled, provides the framework for this investigation. Interpretive phenomenology's reluctance to omit the presence of the researcher (Smythe, Ironside, Sims, Swenson, & Spence, 2008) is particularly useful to insider projects. These themes are explored further in Chapter 5's outline of methods and approach. Ethical considerations are also discussed due to the proximity of the researcher and the decision to re-appropriate practice tools as research methods.

An analysis and discussion of findings is presented in Chapter 6. The 'as structures' (Watts, 2018) which emerged from professionals' narratives were used to design a decision-making model. This model charts the changing status of EHE officers' relationship with the GLA during different stages of their practice. Whilst the interplay between the interpretive and the regulatory is evident, the findings revealed in Chapter 7 indicate a reliance upon official directives. This research found the practice of EHE officers is both grounded within the GLA and consistent in its theoretical foundations. The ramifications of these findings are examined in Chapter 8. This thesis concludes with a review of the aims and objectives, suggestions for further research and recommendations to policy makers.

# Chapter 2: Historical context

Can we hope, even approximately, to attain our great ideal,
the education - elementary, indeed, but substantial – of every English child?
("ART.IX-1 The Elementary Education Act, 1870," 1871, p. 265)

## 2.1: Overview – Chapter 2

The process of establishing a system of state education in 19th century England was fraught with difficulties. Chapter 2 reveals how and why the statutory right to educate at home became embedded within legislation designed to establish universal school education. The rationale and outcomes of EHE's subsequent exclusion from government regulation are explored. This chapter contextualises contemporary issues, highlighting the historical basis of professional concerns. The interplay between EHE regulation and legal judgments is discussed. The impact of the case law which has supplemented and defined professional practice is also examined.

### 2.1.2: The rationale for universal school education

The 1870 Elementary Education Act (EA) was ground-breaking legislation which dealt with the universal education of English children for the first time. (Parliament, n.d.) However, it should be noted that this Act did not introduce schools to England. (Gillard, 2011) Instead, EA 1870 was designed to 'fill in the gaps' of existing provision. (Smith, 2009) Routinely ascribed to William Forster, EA 1870 was, in actuality, the result of an allegiance between Forster, Henry Bruce and Lord de Grey. This triumvirate, swayed by the romanticism of the era, viewed society as "an organic whole, a corporate entity in which national cooperation replaced individual competition" (Baker, 2001, p. 216). As such, all echelons of society deserved cultivation for the wider benefit of the country. In particular, the social and economic outcomes of children lodged in the substratum of society were too significant to ignore. The 1870s and 1880s were notable decades within English history, signalling the transition from one era of social consciousness into another. (Hughes, 2014) As the country's gaze became less insular, politicians were forced to recognise the deficiencies and detrimental effects of England's educational provision. The 1851 Education Census revealed the reality of the relationship between Victorian children and schools. With just under 5 million children aged between 3-15 years old, only 2,046,848 were registered at school. (Mann, 1854) This was particularly concerning as school registration was by no means indicative of school attendance. Educational provision was sporadic and cursory with the majority of children receiving no

more than a combined total of 4 years of schooling. Interestingly, only 599,829 children were engaged in remunerative employment – a somewhat unexpected discovery.

> We have been accustomed to believe that if children are not at school they are at work. This is the excuse which the schoolmaster, in ignorance of the real state of the case, has made for the thinness of his school, and which, considering the poverty of the parents, has been accepted by the public as sufficient. The census has come to disabuse us of this error ("ART. III.- Census of Great Britain," 1855, p. 378)

The financial rewards reaped from England's 19th century industrial prowess had engendered a schizoid society. "The Victorian town symbolised Britain's progress and world pre-eminence, but it also witnessed some of the most deprived people, and depraved habits, in the civilised world" (Evans, 2011, para. 19). England's limited educational infrastructure had become problematic, threatening the continued advancement of the nation. Contemporaneous commentators lamented how children in America, France and Prussia received extensive access to education which far surpassed their English counterparts. (Edward, 1882; Shaftesbury Society and Ragged School Union, 1870) In spite of this, the concept of universal education remained a controversial topic in Victorian society. Attempts in 1807, 1839 and 1843 to introduce state led education were rejected. (Clayton, 2013) Many politicians feared educating the poor "would teach them to despise their lot in life; […] instead of teaching them subordination, it would render them factious and refractory" (*Hansard,* 13 June 1807 col 798). Whilst policymakers disagreed as to how social pressures should be alleviated, there was a consensus regarding the consequences of inaction.

> All the inquiries which have been made show a deficiency in the general Education of the People which is not in accordance with the character of a Civilized and Christian Nation […] there is a large class of children from [which] the thieves and housebreakers of society are continually recruited. It is this class likewise which has filled the workhouses with ignorant and idle inmates. (Douglas, Young, & Handcock, 1956, p. 851)

Rosalind Crone (2015) elaborated upon this theme of moral decline in her attempt to identify the relationship between criminality and education. Scrutinizing 19th century criminal records, Crone discovered the connection is neither straightforward nor conclusive. Even so, evidence that social commentators attributed Victorian society's ills to the moral turpitude of working-class households is unmistakable. (Crone, 2015) The cry was clear - "fill our schools that you may empty our workhouses and our gaols"

("ART.IX-1 The Elementary Education Act, 1870," 1871, p. 299). As the 19th century progressed, political intervention directed towards children not attending school became a key part of safeguarding the economic and social wellbeing of the nation. Compelled by a desire to restrain and regulate the masses, EA 1870 was designed to educate the working class and reduce criminality. The importance of this task did not persuade detractors to withdraw their opposition. As such, the attempt to reshape England's educational map required a significant degree of negotiation. The compromises which ensued impacted upon both school provision and elective home education. Indeed, it is somewhat ironic that the battle to secure regular attendance at school also conceived the clause which enabled parents to keep their children at home.

### 2.1.3: Legislative appeasement and the origin of elective home education

Forster's Act created controversy on three fronts. Firstly, the Act threatened the Church's monopoly of educational provision; secondly, government intervention within the home was unprecedented and thirdly, the financial implications of national provision were a grave concern. In an attempt to circumvent these issues, the state invoked its right to introduce policy to safeguard its citizens.

> The State is justified in providing for the education of its people. It has a right to protect itself from the dangers arising from ignorance and vice, which breed crime and turbulence. It has a duty also to protect children from the neglect and sin of parents, and to guard their rights to receive an education which shall fit them for human society and for civil life
> (Edward, 1882, p. 958)

Enacting EA 1870 required a transferal of educational power and control from the religious to the secular. "They tell us that the time is come for enlarging our conceptions of the State, by claiming for it a right to exercise those functions which the clergy have hitherto regarded as their own" (Edward, 1872, p. 20). Rather than accepting this transition, the Church – both catholic and protestant - waged war against the government. By invoking Aquinas' concept of natural law, the clergy attempted to retain its dominance over the private realm of education. The Church maintained that God had bequeathed a duty to parents to educate their children in the ways of Christianity. The ordained, as representatives of God, rightfully subsumed this parental right. In light of this, the government's attempt to interfere with this duty was portrayed as an attack upon the will of God.

> Christianity is the sole educator of mankind […] because the Christian Church alone has received the commission to educate […] by the law of

> nature parents are bound to educate their children [...] by the law of Christianity the Church has the obligation to see that parents fulfil the duty of education. The duties and obligations of parents and of the Church are in perfect harmony (Edward, 1872, p. 10)

In order to secure its position, the Church campaigned for the continuance of parental rights to education. Whilst the Church did not envisage parents taking personal responsibility for education at home (particularly working-class parents), it wholeheartedly fought for that right as a means of assuring its own power base. Its position was clear, "the State has no right to educate" (Tenbus, 2008, p. 442).

Forster's 1896 memorandum – the basis of the first education act – revealed the amendments made to increase the political palatability of EA 1870. (Roper, 1973) All efforts were taken to ensure the Act would neither disturb the power of the Church nor intrude upon the established educational provision of middle and upper-class families. In particular, Forster yielded on the issue of compulsory school attendance, introducing clauses for exemption.

> Any of the following reasons shall be a reasonable excuse; namely,
> (1) That the child is under efficient instruction in some other manner:
> (2) That the child has been prevented from attending school by sickness or any unavoidable cause:
> (3) That there is no public elementary school open which the child can attend within such distance, not exceeding three miles, measured according to the nearest road from the residence of such child, as the byelaws may prescribe (Education Act, 1870, p. 472)

The parental right to provide an education at home derives from EA 1870 Section 74 clause 1, which features in all subsequent Education Acts - in one form or another - excluding EA 1876. The introduction of this clause was not intended as preparation for parental provision. Instead, exemption from universal school education safeguarded the home based tuition of the upper classes. (Monk, 2009) The 1851 Census revealed 44,625 children "were all apparently receiving instruction from tutors or governesses not members of the family" (Mann, 1854, p. xxv). This figure was raised to an estimated total of 50,000 to reflect the children receiving an education at home under the age of 5. (Table 1) This confirmation of the parental right assuaged Church leaders to an extent, although controversy remained regarding government plans for nondenominational instruction within rate funded schools. With over 2 million children not attending school due to work or other unknown activities, Forster's intentions were unambiguous. "Our

aim [...] must be – (1) to cover the country with good schools; (2) to get the parents to send their children to school" (Reid, 1888, p. 464). In spite of this, parents were afforded the right to withdraw from universal education to ensure sufficient support for an Act which sought to consolidate England's position on the world stage. The ramifications of this clause were both significant and unanticipated. Indeed, the contemporary challenges within EHE arguably derive from this moment in history.

| | |
|---|---|
| Total number of children aged 3-15 years old | 4,908,696 |

| Acceptable reasons for non-attendance at school | Amount |
|---|---|
| Children between the ages of 3-5 | 574,611 |
| Children too ill to be placed on a school register | 195,435 |
| Children receiving domestic education | 50,000 |
| Number of children not attending school for acceptable reasons | 820,046 |
| Total number of children required in school | 4,088,650 |
| Actual number of children registered at school | 2,046,848 |

| Other reasons for non-attendance | Amount |
|---|---|
| Children engaged in unpaid labour | 499,829 |
| Children engaged in remunerative labour | 599,829 |
| Children between the ages of 12-15 | 73,245 |
| Children not engaged in any known activity | 868,899 |
| Total number of children missing from school | 2,041,802 |

*Table 1: 1851 Education Census data*

### 2.1.4: The legal history of elective home education

Undeniably momentous in terms of its long-term benefits, the fledgling system of education EA 1870 instigated was inconsistent and permeated with anomalies. (Ball, 2017) Whilst the compromise of parental provision was not in itself an issue, the regulatory ring-fencing it received proved problematic. Prior to EA 1870 the methods parents enlisted to educate their children were not the concern of authorities. Forster's Act was significant in that it legislated the duty to provide an education. (Monk, 2009) For the first time in English history the state would determine what children should be taught, where, by whom and, significantly, why they should be taught it. Conversely, similar specifications for an education otherwise were not outlined within legislation. This

omission instigated a political policy of non-interventionism which is still evident within the modern incarnation of EHE. In the absence of legislative frameworks, legal judgments became the means by which parents and professionals gained practical information regarding the requirements and expectations of EHE.

Confirmation that the right to provide an education otherwise was not intended as an invitation to parents is demonstrated by the case of William Broadbent. (R v West Riding of Yorkshire Justices, ex parte Broadbent [1910] 2KB 192) Whereas subsequent court cases concern the quality and content of parental provision, this case is significant in that the parental right itself was disputed. (Monk, 2004) In 1910 Broadbent, a school teacher of 25 years, was summoned to court for failing to ensure his children's regular attendance at school. The suitability of his provision was not contested. Indeed, all parties agreed that the children were in receipt of an education in advance of the provision delivered at the local school. (Monk, 2004) In spite of this, the school board disputed the right of a parent to personally provide education, deeming it contrary to education law. In deciding upon this situation, Justice Alverstone noted "the case is one of difficulty and the material sections are obscure" (Barrell, 1970, p. 141). Indeed, the paucity of legislation was such that "it would be a very strong thing to wholly deprive the parent of the right to give efficient elementary instruction to his own child" (Barrell, 1970, p. 142). Drawing attention to the lack of direction contained within the legislation, Alverstone noted "it would require clearer language than the section contains to deprive him of that right" (Barrell, 1970, p. 142). With this judgment a precedent was established. Broadbent's success essentially facilitated the transition from domestic education – learning which took place at home for pragmatic reasons (Gaither, 2017) - to parental provision. Alverstone's references to the ambiguity of the law did not instigate a review of policy or lead to any amendments. Instead, EHE was free to operate alongside mainstream provision without any additional or alternative legislative oversight.

Questions regarding the content of parental provision were addressed in the case of Bevan v Shears [1911] 2KB 936, 80 LJKB 1325. In a reversal of Broadbent's situation, the education delivered to these children was not an improvement upon, or comparable to, school provision. The conviction that contemporary home education is not required to conform to school-based standards emanates from this case. The judge concluded,

> in the absence of anything in the by-laws providing that a child of a given age shall receive instruction in given subjects, in my view it cannot be said […] there is a standard of education by which the child must be taught (Bevan v Shears, 1911)

However, the right to renounce educational standards is not as conclusive as suggested by contemporary advocates. In a further section of the judgment Justice Bankes noted,

> I do not wish it to be even suggested that the effect of our decision is that the justices should disregard the accepted standard of education for a child of that age in an elementary school. I do not say that that test should be applied in all cases; but in my opinion such a test may be a most useful guide in considering whether the child is receiving efficient instruction (Bevan v Shears, 1911)

It would appear that Bankes queried the suggestion that justices *must* be bound by school standards in light of the fact that definitive standards had not been established. Justices proceeded to question the extent to which the appellant

> considered whether there is such a thing in existence as "the standard of education corresponding to the age of the child prescribed by the minutes of the Board of Education." We have not been referred to any such standard and I do not know whether any such thing exists
> (Bevan v Shears, 1911)

Contrary to the situation in 1911, the English government has instituted educational standards for children within mainstream provision. The national curriculum in particular demonstrated the shift from curriculum definitions based on processes or content to those of outcomes and expected levels. (Elliot & Hughes, 1998) As such, the question as to whether the judgment of Bevan v Shears (1911) would have been achieved were standards introduced at the outset is open to conjecture.

Having established the parental right to provide personalised education, the issue as to when provision should commence was also considered by the courts. R v Gwent County Council ex parte Perry [1985] 129 SJ 737 concluded the LA should afford parents "a fair and reasonable opportunity to satisfy that proper education is being provided, having first allowed a sufficient time to set in motion arrangements for home education" (R v Gwent County Council, 1985, p.14). Home educators maintain this judgment endorses 'de-schooling' – "the process of decompression from the effects of school" (Rivero, 2008, p. 48). The oft quoted formula for this process suggests a child requires 1 month free from formal educational activities for each year of schooling. (Buehler, 2017; Devitt, n.d.) EHE advocates maintain de-schooling provides an opportunity for both parents and children to re-engage with the learning process. (Rivero, 2008) However, this method of

transferring from school-based routines to those of home can lead to extensive periods of minimal education. Unlike GLA 2007/13, GLA 2019 stated "there is no legal basis for such a position [...] families should be aiming to offer satisfactory home education from the outset" (DfE, 2019a, p. 17). R v Gwent County Council (1985) could not be used as a means to justify a pause in parental provision.

As stated in Chapter 1, definitions of 'suitable' and 'efficient' were not determined by EHE guidance. Instead, judicial arbitration was required to resolve disputes between professionals and parents in relation to these terms. (Harrison & Harrison v Stevenson [1982] QB (DC) 729/81; R v Secretary of State for Education and Science ex parte Talmud Torah Machzikei Hadass School Trust [1985] Times, 12 April) "The function of the published opinion – the dynamic instrument of the common law system – is (as a consequence of deciding the dispute between the parties) to instruct in the meaning of the rules of law, indeed in many cases to declare rules of law" (Leval, 2017, p. 207). The absence of comprehensive EHE guidance has created a situation in which legal judgments have become fragmented weapons employed by stakeholders to justify their stance. Daniel Monk's (2004) review of EHE legislation notes how rulings which appear to undermine the foothold of EHE advocates are often disregarded. Hence, little attention is paid to Judge Stevenson's criticism of unstructured, autonomous home education. Stevenson stated that to merely "allow a child to follow its own devices in the hope that it will acquire knowledge by imitation, experiment or experience in its own way and its own good time is neither systematic or instructive" ("Judgement in the Harrison case," 2008, para. 2). Whilst this part of Stevenson's judgment regarding suitability is rarely acknowledged by lobbyists, it is particularly relevant to EHE officers.

Access to home provision is an ongoing source of disagreement between professionals and parents. The home visit - a means of observing practice in situ - is a disputed aspect of professional practice. Regarded as intrusive by a number of home educators, professionals maintain the opportunity to meet with families assists the determination of suitability. GLA 2007/13 and 2019 confirm the LA cannot require parents to meet with its officers and professionals cannot insist upon home visits. However, the case of R v Surrey Quarter Sessions Appeals Committee, ex parte Tweedie [1963] Crim LR 639 adjudged this position was not absolute. Whilst home inspection should not be considered routine, "there were cases in which the authority was entitled to insist on such inspection" (R v Surrey Quarter Sessions Appeals Committee, 1963). Furthermore, the pro-active monitoring of EHE provision - specifically discounted by GLA 2007/13 - is deemed acceptable (R (SD and PD) v Essex County Council CO/6935/2012); a position recently adopted by GLA 2019.

### 2.1.5: Summary - Chapter 2

EA 1870's transference of education from church to state, discrete to universal, remains a momentous achievement. In proposing an education for all however, school attendance would not be compulsory; parents would retain overall responsibility for the education of their children. Whilst this concession was not essentially problematic, the government's response to personal provision was flawed. The initial failure to establish expectations for the education of children outside universal provision was at best short-sighted. This oversight set a tone which continues to impact professional practice. Impervious to the changing face of EHE or the protestations of professionals, EHE legislation remains cloaked by Victorian non-interventionism. For a significant period of time EHE appeared untouchable. As a corollary of this, "there are no national statistics recording the number of children home educated and the legal framework, and the central role of local education authorities (LEAs) within it, has remained effectively unchanged for over 130 years" (Monk, 2004, p. 569). The following chapter explores the impact of EHE's history upon contemporary discussions with a review of relevant literature.

# Chapter 3: Literature review

There seems to be a consensus on all sides that the homeschooling movement is likely to have an important impact beyond what happens in individual homes with specific children
(Murphy, 2014, p. 250)

## 3.1: Overview – Chapter 3

EHE is external to universal education in that it is exempt from the numerous political expectations imposed upon mainstream provision. Even so, EHE cannot be divorced from communal concepts of education. As such, this literature review considers the relationship between EHE and general education theory. In examining the purpose of education and the role of the state it is apparent that EHE is at odds with accepted principles. The disparity between EHE frameworks and theories regarding school-based provision is a recurring theme. A discussion of parental rights and the content of home education demonstrates the challenges faced by professionals. Tasked with establishing the suitability of learning, difficulties regarding access and expectations are highlighted.

### 3.1.2: Issues within elective home education literature

The decision to fulfil the parental duty outlined in Section 7 via an education otherwise appears uncontentious; EHE is merely a benign request made by parents, as is their right to do so. However, the presuppositions and ramifications of this decision are far from insignificant. Masking a tangled web of competing interests, duties and rights, EHE is arguably the greatest unresolved issue within English education. In numerical terms, EHE is a relatively minor educational subset. In spite of this, parental provision poses a range of political, social and philosophical dilemmas, challenging the premise of both mainstream provision and education itself. This project does not attempt to either prove or disprove the efficacy or validity of parental provision. In line with Spiegler (2015), detailed consideration is not afforded to the specifics of the numerous advocacy studies which promote the superiority of home education. Even so, in an examination of decision-making, professional perceptions of parental provision are relevant. In light of this, reference is made to the overarching themes within advocacy literature.

The diversity of literature in the field of EHE is far from comprehensive. In particular, the viewpoint of EHE officers remains underexplored. (Maxwell et al., 2018) Obtaining the professional voice is undoubtedly complicated by council processes. The potential

repercussions of blurring distinctions between the perspective of 'the council' and the perspective of 'the professional' have led to a degree of reticence amongst officers. However, the absence of the professional may also indicate a reluctance to view EHE officers as legitimate stakeholders. Samantha Eddis' (2015) examination of EHE parents and professionals in England, Wales and Florida is an exception to the norm. Whilst Eddis' findings identified sources of tension between parents and professionals, these themes are not extensively developed within the research of others. The quality and content of available literature is also problematic. Brabant and Dumond (2017) experienced a range of difficulties in their attempt to produce a systematic review of EHE in Canada. The application of academic criteria to the available material designated a significant number of texts as ineligible. Their decision to concentrate on "only the most serious and reliable scholarly work" (Brabant & Dumond, 2017, p. 272) resulted in a cull of research material emanating from some of the most prolific and influential advocacy groups. Issues regarding source material are not restricted to Canada. A significant proportion of UK literature also lacks impartiality and academic authority. (Murphy, 2014) As the majority of authors possess personal connections to the field, literature in England tends to focus on the benefits of EHE and its capacity to surpass school education. (Burke, 2007; Rothermel, 2004) Publicly commissioned research from established organisations unconnected to EHE interest groups is still in its infancy. (Jennens, 2011) Whilst research of this nature is yet to gain ground, the growing recognition of its necessity is a positive development.

### 3.1.3: The importance and purpose of education and schools

In its most rudimentary sense, education is merely the process of delivering or receiving information. The superficiality of this definition is rapidly revealed when discussions turn to content and objectives. History's most renowned philosophers have debated the purpose of education since time immemorial. From Socrates' emphasis upon the development of reason to Dewey's child centred instruction for a healthy democracy, the impetus for educating the young is a key subject in all societies. (Siegel, Phillips & Callan, 2018) Education is a value laden and value driven pursuit which exposes the interdependence between the personal and the communal. Irrespective of cultural differences, education is the means by which all societies re-invent themselves and ensure their continuation. As such, the issue of educational purpose is as pertinent to discussions regarding EHE as it is to school provision.

> The question of purpose is the most fundamental one for the simple reason that if we do not know what it is we are seeking to achieve with our educational arrangements and endeavours, we cannot make any

> decisions about the content that is most appropriate […] education necessarily needs a (sense of) purpose (Biesta, 2015, p. 77)

This literature review starts from the position that all societies have a concept of informal and/or formal education which possesses a range of implicit and explicit objectives. The purposes of education are numerous, developing over time in relation to the specific needs of each country. Purpose is also relative to the stakeholder, as politicians, parents, teachers and students all have different agendas and concerns. (Stemler, Bebell, & Sonnabend, 2011) In spite of this, recurring themes have emerged. Consensus seems to suggest that educational objectives are embedded within theories relating to socialisation, subjectification and qualification. (Biesta, 2009) Intrinsically intertwined, these concepts possess the capacity to equip children with the means to develop into effective members of society. (Dewey, 1934) All children are born illiterate, innumerate and without awareness of cultural norms. (Seigel & Phillips, 2013) Socialisation and subjectification ensure children acquire the necessary social and cultural awareness to realise their potential and contribute to the development of society. The drive to compete with global markets is often held accountable for an emphasis upon 'qualification'. (Widdowson, Dixon, Peterson, Rubie-Davies, & Irving, 2015) Even so, whilst debate continues regarding the methods used to measure learning, the importance of assessing progress is valid. (Howard et al., 2017) In attributing significance to what children learn and why, consideration should also be afforded to identifying accomplishments. The transformative benefits of effective education are undeniable. "How we care for, educate and support the children of today is an indication of how successful our country will be tomorrow" (Michalska, 2017, p. 6). Irrespective of political persuasion therefore, England's system of education is pivotal to the realisation of government agendas.

Education is essentially a theoretical concept which requires a physical outlet. Within England, educational purpose is predominantly disseminated via schools. Public schooling was borne from the desire to achieve a specific purpose – the universal education of the working class. The assimilation of education and school was not unproblematic as many doubted the ability of schools to achieve its objectives. (Osborne, 2008) Even so, the promise of public schooling was too tantalizing to ignore. Hence, rather than abstain from participation in the fledgling system, all factions recognised its panacean potential. Wary of the consequences of educating the masses, Conservatives hoped limited and targeted education would serve as a stabilising force. Schools could be a powerful weapon in the battle to ensure children recognised and accepted their place in society. (Ball, 2017) Conversely, socialists relied on universal provision to reveal the reality of working-class inequality. Liberals envisioned education's capacity to create a utopia, whilst child advocates anticipated the end of child exploitation. Even the Church

eventually committed to universal education, recognising an opportunity to disseminate its ideology. (Osborne, 2008) As Victorian society united behind the concept of universal provision, the conflation of education with school was established. "Schooling became a Pandora's Box and once the lid was opened there was no way to control what came out of it, including the tendency for schooling to turn into education" (Osborne, 2008, p. 28).

The role of the teacher is central to the fulfilment of educational purpose. "If there is one uncontested fact in education, it's that the quality of teaching is the single most important school-level determinant of educational outcomes" (DfE, 2016b, p. 15). As such, the realisation of educational objectives is heavily reliant upon effective implementation by teachers and school staff. Widdowson et al (2015) discovered that for teachers, social and academic objectives outweighed economic goals in terms of importance. Even so, teacher, student and parental attitudes towards purpose were comparable to those identified by Biesta. The connection between the role of teachers and the government's agenda is particularly relevant to this discussion. As LA control over education continues to decline, the hold of the state is increasing. Indeed, "the degree of control exerted by central government via funding and regulation is unique to England" (West, 2015, p. 21). Conversely, the relationship between the state and EHE is less defined. Government directives for parents as educators or professionals as overseers is limited to say the least. This stance indicates the role of EHE officer is not perceived as a conduit for ensuring wider educational objectives. Consequently, the state has no overview of home education and is unable to confirm even the most basic details. The government cannot definitively state how many children are currently educating at home or comment on the educational purposes being delivered therein. (Badman, 2009; Foster & Danechi, 2019; Hopwood, O'Neill, Castro, & Hodgson, 2007) This distancing from EHE has left the government unaware of the issues developing within personal provision. Professional concerns regarding the practice of off-rolling were not heeded within official circles for a substantial period of time. First raised formerly during AEHEP's inaugural conference in 2015, the DfE and ministers were reluctant to accept its existence. The potential consequences and long-term impact of a system which operates on its own terms are wide reaching. As Lubienski and Brewer explain,

> when parents exercise their right to make choices for their children, the consequences of those choices effect not only the individual making the choice, but also the child who must also bear the ramifications of those choices. And because the education of future generations is a central cornerstone in democracies and impacts the larger public good, the choices that parents make […] extend beyond the child and reach into the larger public good (Lubienski & Brewer, 2015, p. 129)

The resurgence of the EHE movement in the 1970s was driven by a desire for the alternative. Citing dissatisfaction with mainstream schools, pedagogy and family motives, home education was perceived as an antidote to the prescriptiveness of schools. (Carpenter & Gann, 2016) Early adherents of the EHE pathway consciously rejected established notions of educational purpose. Whilst the autonomy afforded to the delivery and content of EHE is cherished by many, "such freedom raises questions about the very essence of education" (Jennens, 2011, p. 145). Parental provision operates on a spectrum which incorporates a range of differing perspectives. The practices employed vary significantly yet it is generally accepted that parental provision falls into two broad camps - structured and unstructured. (Neuman & Guterman, 2017b) Literature produced by authors embedded within the unstructured perspective tends to either reconfigure or discount educational purpose. Indeed, advocates in line with Thomas and Pattison (2013), appear to contend home education should not be defined by identifiable or measurable outcomes. As a result of this, the concepts of qualification, subjectification and socialisation are subordinated to a prioritisation of family life. (Merry & Howell, 2009)

The inability or disinclination to demonstrate educational outcomes has engendered an aspect of intangibility to some parental practice. The danger of restricting purpose solely to qualifications or subjectification is genuine, yet so too is the peril of provision which either rejects purpose or mystifies its delivery. (Biesta, 2016) Whilst not intended as a comment upon home provision, Biesta's (2012) exploration of the general trend towards 'learnification' is pertinent to this discussion. Whereas education is heavily reliant upon content and purpose, learnification reflects the individual journey of the student so often reflected in EHE. However, "the educational demand is not that students learn, but that they learn something and that they do so for particular reasons" (Biesta, 2012, p. 583). The GLA – in any of its versions - does not articulate the government's perspective regarding the wider purpose of elective home education. This omission creates a dilemma for professional decision-making. In determining suitability, professionals must choose whether to implement general government ideals regarding educational purpose or disregard these universal principles as suggested by the GLA. "Officers dealing with the practicalities of actual children whose parents declare they are being educated at home have to work against a background of confused values and practice requirements" (Jennens, 2011, p. 150).

### 3.1.4: The role of the state

Whilst this literature review discusses EHE in relation to four aspects of education, the power and role of the state is arguably the central issue. EHE as a modern movement emerged as a revolutionary critique of formal education as dispensed via schools.

Proponents sought isolation and autonomy, claiming they "could not find the alternative whilst efforts to do so are enclosed by scientific and/or legislative discourse which act to control the realms of possibility through theories of the universal and the normal" (Pattison, 2016, p. 8). Home educators cherish the heterogeneity of their 'community'. Affiliated merely through their interest in or commitment to EHE, parents and advocates regularly unite to protect their way of life. The perceived encroachment of the state represents such a situation. "The common thread that ties most homeschoolers together […] is the conviction that parents should be able to shape the education of their children, and the government should have little or no say about it" (Kunzman, 2012, p. 76). EHE officers, as representatives of the state, have become the focal point for opposition. Attempts by some advocates to reinforce the 'LA' versus 'home educators' narrative has resulted in the formation of crude and distinct battle lines. (Eddis, 2015) Within this combative environment the actions of professionals are routinely assailed. (Jennens, 2011) Questions regarding the expertise of EHE officers and the arbitrariness of actions have once again been reprised. (Lowden, 1989) The use of professional knowledge is common within people-based services. (Bondi, Carr, Clark, & Clegg, 2016) Defined as "a goal orientated decision-making or problem-solving process carried out in the interest of one's client" (Facione, Facione, & Giancarlo, 1997, p. 3) the emphasis upon a 'reasoned consideration' of context is generally valued. Within EHE however, the use of professional judgment is often considered as an unwanted variation. (Lees & Nicholson, 2017) Lobbyists maintain professionals are "very much lacking in understanding" (Walker, 2014, para. 12), a theme disseminated within particular strands of the media. (Weale, 2014) Accusations of ultra vires activities fuel advocate requests for self-governance to supposedly reduce the impact of flawed LA interventions. (House of Commons Education Committee, 2012)

The traction of narratives regarding the disruptive nature of professional oversight is disconcertingly conspicuous within political discussions. The notion that "local authorities should be the servants and not the masters in their relationships with home educators" (Stuart, 2015, p. 4) undermines the role of the state within parental provision. EHE professionals are somewhat atypical in their requests for additional government regulation. Indeed, the HoC Education Committee noted that "local authorities themselves did not seem averse to further scrutiny; several, indeed, welcomed it" (House of Commons Education Committee, 2012, p. 11). The anomalies resulting from the government's confused position are becoming increasingly apparent. The Casey Review (2016) magnified the absence of the state's presence within EHE. In drawing attention to the manner in which some families and communities may become disengaged within home education, the government was advised to re-evaluate its position. The judgment in a case concerning Essex City Council's attempt to secure a care order for a home

educated child serves to capture the essence of this debate. Highlighting the absence of scrutiny and oversight, the disparity between the role of the state within schools and EHE was denounced. With regards to the parental right to educate at home, Judge Roberts concluded,

> if this right is to continue, surely the State must do much more to establish that the child is being educated according to his or her needs and that the child is not otherwise neglected or having his or her needs unmet (S (a child with disabilities), 2015, para.62)

State control of school-based education within England is undeniably robust "because education directs not only the lives of individuals but also the future of the state itself" (Koons, 2010, p. 145). In light of this, a laissez-faire approach to education in England ceased to be an option following the introduction of EA 1870. Indeed, school inspectors were operational from as early as 1839. Monk's (2009) exposition of Edwardian case law revealed EHE's position as a refuge for the wealthy, exempt from the scrutiny directed towards universal education. The requirement for a similar system of inspection or monitoring for EHE was neither envisioned nor desired. As such, the legitimacy of state intervention within parental provision is a historic issue which is yet to be resolved. EHE advocates central "critique rested upon the premise that the state did not have ultimate moral responsibility for certain facets of (their) children's learning" (Kraftl, 2013, p. 446). As parents insist upon the immutability of familial privacy, Marples (2014) notes the right to privacy is distinguishable from the right to autonomy. Furthermore, as neither privacy nor autonomy are unconditional rights, they do not supersede the rights of the state. In spite of this, England's EHE framework is arguably the most liberal within Europe. (Koons, 2010) The state does not require parents to register their children or deliver a particular curriculum. In addition to this, the education delivered is not subject to monitoring or testing as is the case in many other countries. (Eurydice, 2018) The limited amount of intervention suggests EHE lobbyists are not battling the current role of the state within home education. Instead, EHE advocates appear wary of the potential replication of school-style state intervention. The previously negligible number of parents withdrawing children from school, alongside their perceived social status/motivation seemingly justified the governments 'leave well alone' strategy. (Lees & Nicholson, 2017) However, the modern proliferation of parental provision, the increased complexity of the cohort alongside mounting concerns from professionals and other public bodies, has rendered the continuation of political inertia untenable. Even so, the government's eventual amendment of GLA 2007/13 was as begrudging as it was inevitable. "It makes little sense to identify something as a legal right if we cannot also specify what it would look like to

have that right met" (Kunzman, 2012, p. 89); a perspective the government has yet to fully acknowledge.

Lubienski and Brewer (2015) discussed the ramifications of EHE's privatisation of education and rejection of external accountability. In claiming EHE is an exemplar of choice rather than democracy they maintain parental provision is in direct conflict with the role of the state. A similar view is echoed by Michael Apple in his exposition of the powerful social movements within American EHE. (Apple, 2000, 2015) Socially and culturally retrogressive, large elements of the United States (US) home education network seemingly refuse to align with customary principles regarding democracy and equality. Concerns regarding the potential for parallel societies led the German government to insist its statutory duties superseded the rights of parents in matters of education. (Spiegler, 2015) Whilst a number of countries restrict or prohibit parental provision, Germany has achieved notoriety for the severity of its actions. On occasion, children have been temporarily removed from parents who refuse to comply with laws regarding compulsory school attendance. EHE lobbyists around the world have rallied to support German parents to no avail. Judgments handed down in national and European courts have vindicated the position of the German government. (Leuffen v Federal Republic of Germany [1992] Application no. 00019844/92; Konrad v Germany, [2006] ECHR Application no. 35504/03) In the recent case of Wunderlich v. Germany [2019] Application no. 18925/15, the comprehensive rejection of mainstream provision coupled with an excessively exclusive parental bond is heavily criticised. (Monk, 2019) Wunderlich's assertion that children are the "property" of their parents is problematic on many levels (Wunderlich v Germany, 2019, para. 18). Finding in favour of the state the court confirms "parents have no right to insulate their children from conceptions of the good at variance with their own" (Marples, 2014, p. 23). Whilst the ability of schools to function as a societal equaliser is open to dispute, they do have the capacity to expose children to worlds beyond the direct experience of themselves and their parents. (Lubienski & Brewer, 2015)

### 3.1.5: Parental rights

Parental motives are one of the most researched areas within elective home education. (Spiegler, 2010) Disappointment with the school system is a primary cause for EHE with other factors such as bullying, SEN and an ideological or religious preference also ranking highly. (Rothermel, 2003; Spiegler, 2010) From the abundance of available literature in this area, Lubienski and Brewer (2015) condensed parental rationale into four key areas - parental rights, academic progression, the opportunity to surpass school provision and parental duties. Of the aforementioned reasons, parental rights were described as the

most persuasive argument. Within England the educational duties of parents are well established in education law, corroborated by case law and ratified within international charters. The European Convention on Human Rights (ECHR) confirms the state is required to respect the rights of parents with regards to the education they elect for their children. Similarly, the UDHR affirms the parental right to select their child's provision. Even so, the right to home educate and the freedom to determine the content of home provision is not universally accepted.

The Eurydice network collates information regarding educational systems within Europe, including the legality of, and criteria for, EHE. Parental provision is permitted in the majority of countries. (Appendix 4) However, EHE is either monitored or subject to assessment everywhere except the United Kingdom where parental provision is ordinarily free from routine external scrutiny. In addition to this, 50% of Eurydice countries require any individual delivering provision to possess a teaching qualification or specified level of education. (Eurydice, 2018) By collating data from a number of widely available sources (Blok, Merry, & Karsten, 2017; Eurydice, 2018; HSLDA, n.d.) it is possible to observe similar patterns in other countries around the world. (Figure 1) Whereas the English government has delegated most of its educational responsibilities for EHE to the jurisdiction of parents, the majority of other countries impose stipulations.

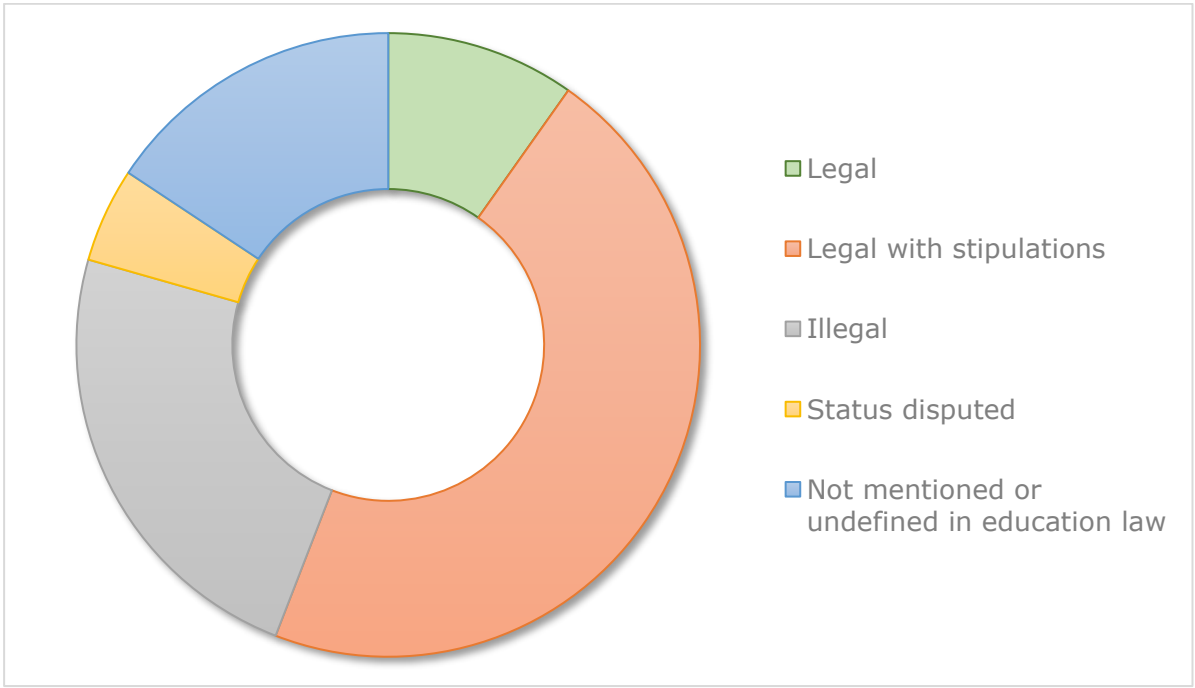


*Figure 1: Legal status of elective home education in 102 countries*

EHE is illegal in 24 of the 102 countries reviewed, with a further 47 countries limiting parental powers by determining the content or quality of provision. (Appendix 5) Alongside monitoring and testing, some countries require parents to follow the school curriculum and ensure their provision is of an equal standard to school education. (Figure 2) A further 40 countries require parents to register their children with government authorities or obtain official permission/permits prior to commencing EHE. As indicated in Appendix 6, some countries demand parents fulfil a combination of different specifications. The manner in which the German government has withstood numerous legal challenges to its prohibition of parental provision evidences the parental right is not inviolable. (Monk, 2015) The case of Leuffen v Federal Republic of Germany (1992) in particular is "an explicit challenge to the claim that the right to home educate is a fundamental 'human right'" (Monk, 2004, p. 579). Whilst the legal status of EHE internationally is far from liberal, within England the concept of parental rights remains the cornerstone of advocacy campaigns. (Glanzer, 2013)

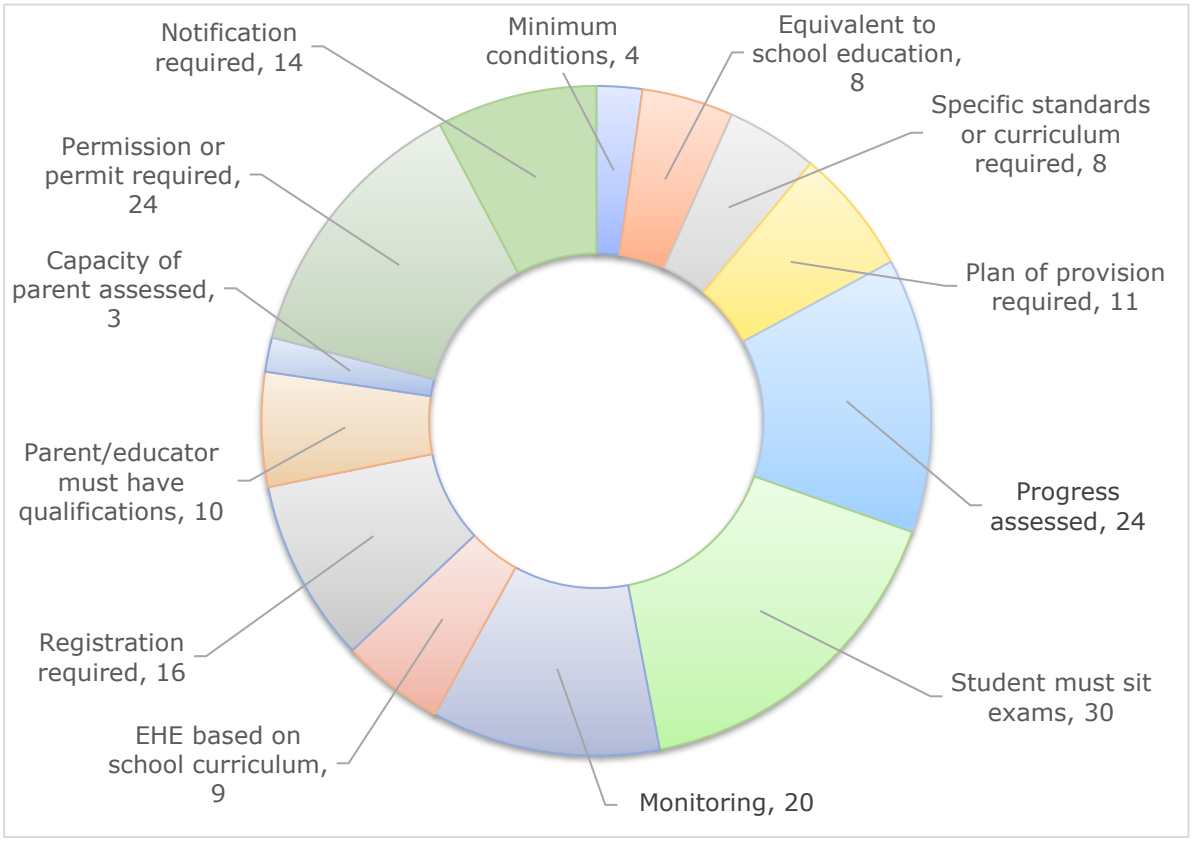


*Figure 2: Criteria for elective home education in 102 countries*

The home has become a battleground of competing theories. The argument is relatively rudimentary; the state performs a range of necessary functions related to the maintenance of society, yet the scope of the government to intervene within the home should be limited. Using the role of social services as an example, home educators

contend the remit to protect children does not permit social workers to routinely request information from parents regarding the well-being of their children. (Kunzman, 2012) Furthermore, adults are not required to demonstrate their suitability or provide details regarding their intended approach to child-rearing prior to parenthood. There is not, nor should there ever be, a presumption that children are not receiving appropriate care. Likewise, parents electing to educate at home should not be subject to non-evidential scrutiny solely in response to the execution of a statutory right. Section 7 imposes a duty upon any and all parents irrespective of social, economic or educational background. Estarellas (2014) suggests that the actual role of the state should therefore lay in endorsing, rather than attempting to diminish, the rights of parents. "It is the duty of a social state to be responsive to the legitimate demands of its citizens" (Estarellas, 2014, p. 150). The state has no remit to customarily pervade the privacy of the home. Parents - as the moral and legal gatekeepers to their family - may justifiably reject any attempts to monitor or intervene in the provision therein. The GLA, with its confirmation of the limitations placed upon the professional role, appears to endorse these claims. Drawing parallels with totalitarian governments, advocates maintain "a society that truly values freedom will avoid unnecessary censorship of parents' influence over their children" (Glanzer, 2013, p. 351). However, this stance - described as the 'clear and present danger criterion' – has the potential to place children at significant risk. (Marples, 2014) The restriction of avenues for intervention prior to situations becoming dire is a problematic proposal. Even so, advocates rightly contend professionals are empowered to intervene solely when there *appears* to be an issue. As such, ongoing involvement is both unwarranted and without legal foundation. In short, the government, via its EHE officers, possesses neither the legal nor moral right to divest parents of their educational powers and responsibilities. Nevertheless, whilst this assertion may appear compelling, it neglects to recognise the independent rights of children. The UNCRC confirms that whilst the state should recognise the rights of parents, the voice of the child and the protection s/he should receive is significant. As such, the state may take any legislative or educational action deemed necessary to ensure a child's well-being. Furthermore, the explicit rights afforded to children in UNCRC are implicit both within the Human Rights Act (HRA) and the ECHR.

Linda Wang's (2011) examination of EHE law within the US is aptly titled "Who knows best?" Acknowledging the parity between the objectives of biological and state-based guardianship, difficulties emerge when attempting to establish which role takes precedence.

> Both "parents" seek to raise a child who will possess a good moral character, […] and who will engage in his or her community in hopes of

> perpetuating the values of democracy and civic virtues. Each "parent" has a different basis for its intent. On the one hand, the parental right of the biological parent or guardian to make decisions regarding the education of his or her children is deeply rooted in "the history and culture of the Western civilization." On the other hand, the State's police power and its constitutional mandate obligate it to provide a basic education. Who prevails? (Wang, 2011, p. 418)

Whilst the question posed by Wang highlights the tension emanating from attempts to secure a balance between state and parental authority, it also raises the concept of intent. As Monk (2009) established in his examination of educational responsibility, the expectations attributed to the role of parent have undergone a radical transformation. The journey from EA 1870 to contemporary EHE required a repositioning and restructuring of parental responsibility. Within this process, a parent's educational liability transferred from *whether* to educate their children to the question of *how* to do so. (Monk, 2009) The challenges that this transition presented were largely unforeseen. As the parent possesses the right to determine the extent to which they engage with or reject the norm, the perspective of the state becomes secondary. Disrupting traditional concepts of purpose, EHE re-visions the interplay between autonomy and community. The extent to which the government continues to facilitate this process is open to discussion. As parents assume the right to champion the intimate and the personal over the external and communal, the GLA becomes a valuable device. The home educator response to GLA 2007 ranged from the wary to outright disgust. (Lees & Nicholson, 2017) However, as unwanted as the arrival of formal guidance may have been, it soon became apparent that it would not be as restrictive as parents feared. Instead, the GLA provides parents with the freedom to recast the educational mould. EHE, "rather than representing an advancement towards utopia through the perfecting of what already exists, becomes a pursuit of the good life through a destruction of socially entrenched norms and fundamental beliefs" (Pattison, 2015, p. 625). The GLA 2007/13 and 2019 continue to endorse the parental right to self-determination regarding the content and delivery of their child's education. Irrespective of rationale or capacity, parents remain the gatekeepers of home learning. Whilst professionals are disappointed to discover the GLA is not imbued with the presence of the state, home educators take solace in its opacity.

### 3.1.6: The nature and content of parental provision

EHE "as much as it is an alternative education model, is equally conceived as a social movement and as a counter culture or a resistance" (Després, 2013, p. 370). Pattison

(2015) extended this viewpoint in her characterisation of EHE as a heterotopia, "a space created through its suspension, inversion and negation of society's educational norms" (Pattison, 2015, p. 628). The intention here is to dismantle the conflation between education and school via a truly alternative and independent approach. Even so, large sections of the parent community continue to reference mainstream school provision. The infrastructure of formal education has become anathema to many EHE advocates (Beck, 2006), yet school outcomes and results are the standards against which proponents regularly measure success; home educators strive to be categorised as both 'better and different'. (Pattison, 2015) The potential for EHE to surpass mainstream provision in terms of student progression ranks highly among parental motives. (Lubienski & Brewer, 2015) Numerous advocacy-based studies appear to demonstrate the effectiveness of home provision. (Blok, 2004; Guterman & Neuman, 2019; Howell, 2013; Rothermel, 2004) Most notably Ray (2009; 2013) and Rothermel (2004) have utilised school-based assessments to demonstrate the extent to which EHE out performs school learning. The deficiencies of research in this area have been catalogued in great detail. (Lubienski, Puckett & Brewer, 2013) Even so, it should be recognised that any provision truly tailored to the needs of its recipients will undoubtedly be beneficial - a theory which prompted the government's drive for personalised learning. (DCSF, 2008; Department for Education and Skills, 2004) Whilst parents and advocates emphasise this aspect of EHE, professionals are not permitted to employ school-based criteria in their determination of suitability. Each edition of the GLA has confirmed parents are not required to follow the national curriculum or match school-based standards.

Criteria relating to the quality and content of parental provision remain undefined, requiring EHE officers to construct a workable frame of reference for suitability. For professionals, this process is made possible by considering both analytical and intuitive factors. (Betsch & Glöckner, 2010) Decision-making is not merely related to superficial or school-based concepts. Instead, the specific factors of the decision itself, alongside environmental factors and individual circumstances, contribute to assessments. (Appelt, Milch, Handgraaf, & Weber, 2011) Even so, EHE officers are accused of being overly reliant on school-based norms as parents and advocates claim professionals are unappreciative of the alternative philosophies within EHE. (Jennens, 2011; Lees & Nicholson, 2017) In the "dismantling of swathes of understanding about not only education but society, the nature of childhood, the needs of the political economy, the practices of democracy and ultimately, what it means to be a person" (Pattison, 2015, p. 625), EHE has assumed a different character. For a large section of the EHE community learning is no longer an external other. As education morphs into family life it ceases to be distinguishable from day to day familial experiences. Kunzman's reference to 'Life as Education' (LaE) (2012) describes the numerous natural experiences and activities which

combine to facilitate a comprehensive education at home. The onus here is not related to external requirements or predetermined outcomes. "There is no intention that teaching or learning should take place, this is simply the way that daily life functions" (Thomas & Pattison, 2013, p. 145). Defenders of this approach assert the impracticality of attempting to identify what children are learning, when and how. Indeed, the lack of distinction between living and learning is indicative of the success of this approach. Similar sentiments are echoed by Després (2013) who referred to the 'humanness' which pervades home education. Transferred from the communal into an intimate and individual undertaking, EHE reifies the familial bond. The dominance of this perspective is evidenced in Rothermel's (2011) exploration of home based practices. In discussing the proficiencies required for EHE, parental commitment was considered to be an essential qualification.

Issues between parents and professionals arise when LaE is presented in fulfilment of Section 7. The amalgamation of parenting with educational purpose can obstruct the determination of suitability on two fronts. Firstly, the level of engagement required to establish the nature of this provision is not ordinarily available to professionals. Secondly, learning in this context is not intended to be observable. Ethereal provision, embedded within general family routines may not appear sufficiently educational. The replication of familial events which also occur in the homes of non-EHE children require additional explanation. Thomas and Pattison's (2013) research into home educators' experiences frames these issues. Parental responses to professional requests for information included comments such as, "we don't do anything, we just hang out" (Thomas & Pattison, 2013, p. 153). Such information exemplifies the misconceptions identified in Eddis' (2015) research. Statements of this kind are both indicative of a particular philosophical perspective and may also demonstrate the absence of learning. Whilst the parental right to educate at home is well established, the conditionality of this duty is less appreciated. Section 7 is explicit in terms of the stipulations underpinning parental provision. An educational approach which presents as a 'non-provision' (Kraftl, 2013) – valid in terms of the GLA - is not exempt from the requirement to fulfil Section 7. Hence, whilst intimacy and a strengthening of the parental bond may be outcomes of EHE, it is questionable as to whether they can be defended as purposes in themselves in fulfilment of education law.

Figure 3 depicts Neuman and Guterman's (2017a) pictorial representation of the relationship between home and education. Commencing with the pre-modern interconnectedness of life and learning, the diagram illustrates the rupture caused by the industrial revolution. In essence, LaE epitomises the attempt to return to a pre-modern concept of learning within the home, re-categorising the informal as the formal. As

appealing a concept as this may be for a significant proportion of home educators, it does not account for modern sensibilities. Whilst the objectives of phase A and phase D are comparable, the legal responsibilities placed upon parents within these distinctive historical periods are not. The home educators endeavouring to evoke the ethos of phase A may be doing so at the expense of their contemporary duties. Furthermore, Neuman and Guterman's diagram does not expound upon the rationale for the transition from phase A to phase B. "It is important to remember that public schools were and are a victory. They constituted a gain for the majority of people who were denied access to advancement" (Apple, 2000, p. 256). The pre-modern arrangement - revived as a 21st century ideal - was not beneficial to the majority of children prior to the industrial revolution. Indeed, its efficacy as a model for the general education of children in modern society is open to debate.

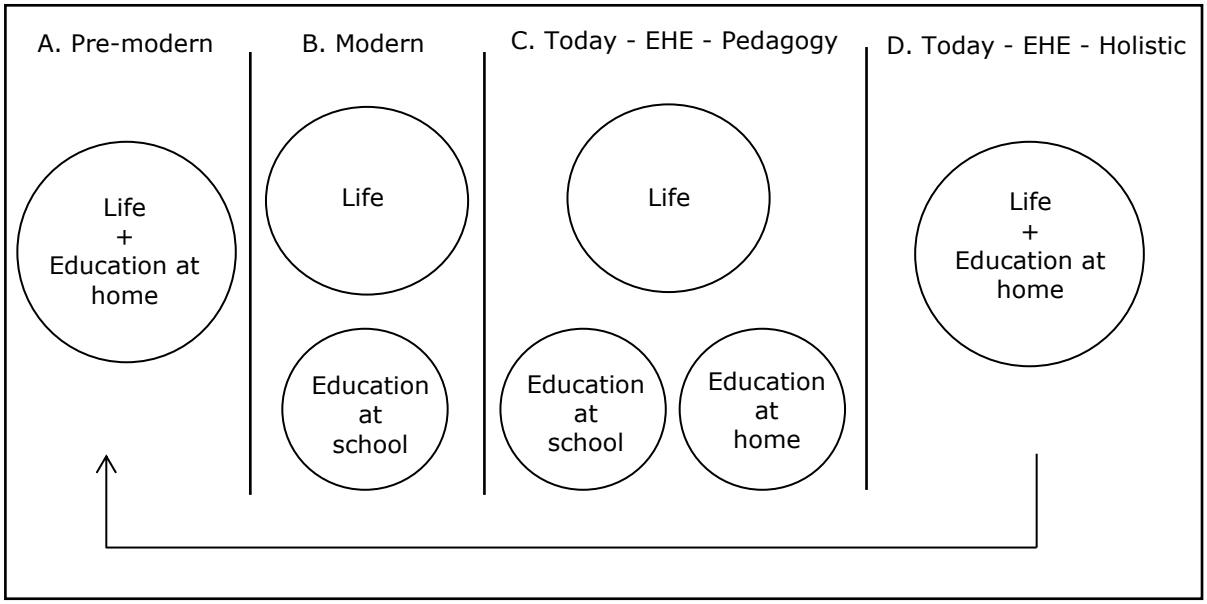


*Figure 3: Neuman and Guterman's schematic representation of the relationship between education and home (amended) (Neuman & Guterman, 2017a, p. 163)*

Scant reference is made within advocacy research to the difficulties and constraints experienced by some families. The question of parental capacity within EHE is both sensitive and muted. The case of Lueffen v Federal Republic of Germany (1992) determined home education was not an absolute right, but rather one that rested on the parent's ability to educate. (Monk, 2015) As logical as this statement may appear, this position is not widely endorsed by EHE advocates. Instead, proponents promoting the supremacy of parents' educational powers maintain the right to home educate is inviolable. Phil Brown's (1990) 'ideology of parentocracy' referred to a third wave in education in which parental wealth and wishes determine the level and extent of a child's education. (Burke, 2007) When applied to EHE, the ideology of parentocracy indicates the

manner in which limited parental capacity and resources diminish the effectiveness of provision within the home. (Bell, Kaplan, & Thurman, 2016) Resonant with the case of Joy Baker - a 1950s housewife whose provision formed the basis of a 10-year legal battle with Norfolk County Council – the potential for a parent to restrict a child's world view is ever present. (Anglia Television, 1960, 1961) The nature of LaE is such that the richness of the provision it promises may also have the capacity to foster inappropriate learning; children are only able to encounter what their parents select or are able to make available. Joy Baker's eventual success resounds throughout the GLA which "defends the rights of parents to provide a narrow and limited education [...] and places too much value on the opinion of parents over a careful consideration of the issues" (Davies, 2015, p. 18). Even so, the subject of parental capacity is complex and distinctions should be made between families in need of additional support and those consciously providing unsuitable provision.

Beck's (2015) examination of EHE in Norway identified four types of home educators. Category 1 represents the structured, well-educated, middle class families providing a 'school at home' experience. Category 2 also comprises the well-educated, middle classes, yet differs from category 1 in their emphasis upon child-centred unstructured learning. Sharing an ethos similar to that of EHE advocates in England, these families endorse alternative, anti-establishment perspectives and tend to hold sway over the public face of EHE. Politically active, this cohort has effectively established the narrative of successful, ideologically inspired provision. From the vantage of the professional, this category of providers is indicative of the minority rather than the majority. Instead, Beck's identification of a category referred to as the 'unregistered', embodies the previously unacknowledged families central to the escalation of EHE within England. This collective, comprising the socially troubled families, "appear to use home education as part of a self-imposed isolation from society" (Beck, 2015, p. 92). Reluctant to engage with professionals or interact with EHE networks, the suitability of the provision delivered within these homes is indeterminate. The last of Beck's categories describes the parents with "limited formal education" (Beck, 2015, p. 92) that commence EHE as a result of issues with school – a cohort also on the rise in English EHE.

### 3.1.7: Summary – Chapter 3

The birth of home education as a largely unregulated appendage of universal provision has seeded a range of issues. In many respects elective home education is not a large-scale concern. Even so, the issues this cohort poses far outweighs their numerical status. The question as to whether EHE is a right, a responsibility or both is a valid one, highlighting tension between the power of the state and parental rights. The political

reluctance to tackle these issues places professionals in a difficult position. Numerous theories exist concerning the purpose of education, yet there is consensus regarding its importance both individually and communally. In spite of this, parental provision stands alone. Theories and expectations widespread within mainstream education are neither mirrored within, nor scaled down to, the micro level of EHE. The content and quality of provision at home is determined solely by the family, essentially devoid of external oversight. For an increasing number of families, the distinction between home and education is indistinguishable. This merging of the formal with the informal, alongside the absence of expectations regarding purpose, reflects the parental reinvention of the concept of suitability.

# Chapter 4: Theoretical perspective

Nothing is more difficult than to know precisely *what we see*
(Merleau-Ponty, 1962, p. 67)

## 4.1: Overview - Chapter 4

This chapter outlines the rationale for employing an interpretive phenomenological standpoint. The ontological and epistemological perspective of the researcher is explained with reference to the nature of the topic under investigation. As an insider project, the appropriateness of selecting an approach which affirms the presence of the researcher is discussed. The affinity between home education and phenomenology is also explored.

### 4.1.2: Identifying a theoretical approach

According to Cresswell (2013), the identification of a researcher's methodological stance is the first step to selecting a theoretical approach. This process involves aligning the ontological and epistemological disposition of the researcher with the focus of the investigation. In doing so, an element of symmetry is achieved between the theoretical motivation for research and its realisation. As a qualitative researcher receptive to the notion of multiple readings of 'reality', methodologies which aim to generalise or reveal a sole, objective truth are inappropriate. In light of this, the theoretical approach upon which this project is founded corresponds with the constructivist paradigm. The aim of this study is to identify the decision-making processes of EHE professionals. The intuitive approach of a constructivist researcher is to engage with the individuals related to this topic to elicit personal perceptions. Elective home education is essentially a subjective topic, with both parents and professionals defining their own practice. As such, this subject lends itself to an approach which celebrates the individual. The investigation of the experiential this project requires sits comfortably with a phenomenological standpoint. Max van Manen (2017a) warns against the injudicious application of the phenomenological label to research claiming an affinity with lived experience. Nevertheless, as the principal objective here is to glimpse into the heart of professional practice with a view to isolating the locus of meaning production (van Manen, 2007), a phenomenological approach is appropriate. In addition, the resolution of this project will answer the essential phenomenological question namely - what is it like to have this experience? (van Manen, 2017b)

### 4.1.3: Phenomenology

In its most literal sense, phenomenology is the rational account - 'logos' - of 'phainomai' - phenomena ("Phenomenology," 2015). This though is a deceptively simplistic definition which belies its theoretical complexity and the intricacies of its realisation. Phenomenology is an ancient discipline, practised in one form or another for centuries. (Kafle, 2011; Mastin, 2008; Smith, 2016) Indeed, the presence of the phenomenological spirit within a range of religious and theoretical concepts led Spiegelberg to contend "phenomenology was not founded: it grew (Spiegelberg, 1975, p. 3). Even so, it was Edmond Husserl who earned the title of the 'father of phenomenology' due to his creation of a comprehensive approach. (Sawicki, n.d.) Functioning as both a philosophical system and a method, phenomenology is a process which facilitates the differentiation between 'appearance' and 'reality'. "Promising fascinating insights into the meaningfulness of everyday life and professional practice" (Adams & van Manen, 2017, p. 781), an increasing number of researchers are drawn to phenomenological praxis. (Randles, 2012) It was Husserl's intention to develop a rigorous human science with the capacity to reveal the essence of experience - the overall objective being to return to the nature of things themselves. (Eberle, 2015) Husserl's impact upon the development of phenomenological understanding and 20th century philosophical thought in general should not be underestimated. Even so, the movement he inspired is not without its detractors. As appealing as its capacity for profound understanding may be, the 'phenomenology of practice' (van Manen, 2007) remains a difficult process to implement. The innate intangibility of its concepts continues to receive criticism due to their perceived lack of usability and purpose. Concerns regarding the validity of phenomenological findings and its lack of generalisation are also common. (Bloor & Wood, 2006) Tom Sparrow delivered a particularly ferocious attack in referring to phenomenology as a 'zombie philosophy' (Zahavi, 2016) which is extremely active yet methodologically hollow.

Phenomenology is distinctive in that many of its advocates have distanced themselves from its Husserlian origins (Zahavi, 2008) – a situation which has not had an adverse effect upon its continued development. The fluidity of phenomenology is such that it almost lends itself to customisation. With a host of notable proponents including Merlau-Ponty, Sartre and van Manen, the essential tenets of phenomenology have been reviewed, revised, strengthened and, in some cases, discarded. In spite of this, an unexpected level of accord remains amongst the disparity. Accordingly, the distinct perspectives grouped under the title of phenomenology remain anchored within five interrelated motifs. (Gill, 2014) In particular, adherents share "an explicit interest in the meaning of individuals' experiences and a desire to grasp the point of view of the 'experiencer'" (Gill, 2014, p. 128). The key difference appears to lie in whether

proponents align with the descriptive, epistemological phenomenology of Husserl or the ontologically weighted interpretive account of his protégé, Martin Heidegger. (Dowling, 2007; Mackey, 2005) This project is couched within the interpretive, predominantly in response to Husserl's concept of bracketing.

Three concepts were central to Husserl's philosophy; intentionality - the conscious awareness that attached individuals to the world; eidetic reduction - the search for the fundamental constituents of consciousness and phenomenological epoche or bracketing. (Gill, 2014) The process of bracketing requires the researcher to set aside their presuppositions and past knowledge. Intended as a means of acquiring a fresh perspective of the world (Finlay, 2009), the suggested neutrality of bracketing is particularly problematic for an insider researcher. "Nothing can be accomplished without subjectivity, so its elimination is not the solution" (Giorgi, 1994, p. 205). The recollections and experiences of the EHE officers which form the nucleus of this project are a deliberate co-creation. The narratives were shared not with a researcher, but with a colleague as invested in the issue at hand as the researched. In light of this, any subsequent attempt to absent myself from the research seems disingenuous, potentially undermining the spirit in which the data was created. Hence, as opposed to bracketing, Heidegger's interpretive phenomenology has been implemented to acknowledge the presence of the researcher whilst exploring the realities of others. The concept or state of Dasein - an individual's awareness of being-in-the-world – is intricately connected to the experiences of others. The events referred to by colleagues and the discussions which they facilitated are a product of our relationship and our familiarity with the topic and/or each other. Phenomenology is particularly adept at scaffolding such experiences.

> As researchers of this methodology we are never outside our research […] we are always already in the midst of the research, confronting the possibilities, making choices, wrestling with the restlessness of possibilities […] One must live the experience, drawing from who one is and is becoming (Smythe et al., 2008, p. 1391)

This thesis is not an autobiographical account, yet the project is built upon an appreciation of what is shared; in this instance, object and subject are not separate entities. The role of the researcher is thus both challenging and transformational. Unencumbered by the subterfuge of distance and objectivity, the life world of the researched is explored with full transparency. (Smythe et al., 2008)

### 4.1.4: The affinity between elective home education and phenomenology

In employing "a method designed to better understand the underlying structure of human thought" (West, 2017), the aim is to ascertain 'what it is like to be'. This thesis expands this concept by investigating what it is like to be a professional determining the suitability of provision. The adoption of a phenomenological outlook for this research is particularly apt. Elective home education and phenomenology share a number of underlying characteristics; neither system has a definitive approach, both concern individual constructs and eschew generalisation. From the professional perspective, these systems resonate in their attempt to explore the appearance of realities. The decision-making of EHE officers - typically constructed with minimal access to physical evidence – is embedded within perception. Indeed, professionals are only empowered to intervene if it *appears* provision is not suitable. With minimal material to consider, the process of decision-making is typically formed from intangible experiences. Phenomenology explores the lived world as EHE officers explore the lived educational experiences of parents. As such, access to, and interpretation of, parental narratives inform professional decision-making processes. Phenomenology is grounded in the premise that reality is constructed from objects and events – phenomena – as they are perceived and understood in individual consciousness. (Mastin, 2008) In essence, phenomenology is a study of the manner in which experience is experienced. So too the professional role involves an investigation of the experience of providing an education at home. However, whilst phenomenology is not concerned with positivistic outcomes the role of the EHE officer is. In assessing parental practice, professionals are tasked with producing an 'objective' judgment from the subjective.

Van Manen differentiates between phenomenology as a philosophical system and its practice-based counterpart. (van Manen, 2017b) Whilst the former retains its esoteric reputation, the latter is noticeably more accessible. Even so, the processes involved within phenomenological inquiry are not self-evident. In line with van Manen (2017b), Quay (2016) determined the crucial element within phenomenological research is action. The pivotal moment lay in the response to an instance of self-recognition, "the realization that one is engaged somehow differently, in an experiential sense" (Quay, 2016, p. 487). The 'spark' which instigated this project emanated from a brief, semi-conscious awareness of an ordinarily pre-reflective moment. Sparrow (2015) explored the concept of the afterimage - the almost imperceptible consciousness of an experience which is difficult to identify in its own right. Intangible and unnamed, the afterimage retains the silhouette of an original experience. In terms of this project, the awareness of an afterimage of decision-making provided the 'phenomenological starting point' (Adams & van Manen, 2017) for this enquiry. The subsequent conversations/interviews with

colleagues were designed to reveal the afterimages concealed within their experiences. As such the objective here is not to highlight procedural accounts of practice. Instead, a phenomenological stance was employed in an attempt to observe a process which fluctuates between the visible and the invisible. "Our quest is not to prove or disprove [...] but rather to provoke thinking towards the mystery of what is" (Smythe et al., 2008, p. 1391).

"Our relation to the world is so fundamental, so obvious and natural, that we normally do not reflect upon it. It is this domain of ignored obviousness that phenomenology seeks to investigate" (Zahavi, 2008, p. 665). For EHE professionals operating in a mire of blurred expectations and minimal regulation, the notion of ignored obviousness is particularly relevant. Education policy places a duty upon local authorities to ensure parents fulfil their responsibilities. This commission - largely unsupported by GLA 2007/13 - places professionals in a dilemma. The customary practice which has developed from a system with regulatory deficiencies has become the 'natural' way to proceed. As such the 'reality' of professional practice is borne from a myriad of imperceptible decisions. "Whether we realise it or not, we are always choosing possibilities of action in what we do" (Guignon, 2012, p. 100). Hence, processes which present as "average everydayness" (Guignon, 2012, p. 101) are laden with meaning and contain rich seams of sense information. Phenomenology thrives in the unnoticed, functioning in the crevices between conscious, reflexive experiences and the subconscious pre-reflexive. Operating in the space between what individuals think or feel and how they act (van Manen, 2007), the phenomenology of practice provides a means to obtain a deeper understanding of the typically unconsidered motivators which mould professional practice.

### 4.1.5: Summary – Chapter 4

Phenomenology is a system well suited to facilitating the resolution of the issues posed here. Its emphasis upon the experiential and the veiled provide an appropriate theoretical foundation. The development of the phenomenological question, 'what is it like to be', enabled the exploration of suitability from the professional perspective. The interpretive branch of phenomenology is particularly supportive to the approach of insider researcher. In removing the requirement to erase the presence of the researcher this project is able to maintain its connection to the inner world of the professional.

# Chapter 5: Methods

The responsibility for ethical conduct before, during and after the research must lie with the researcher. They have a responsibility to ensure that […] no harm is done to any participants
(Brooks, te Riele, & Maguire, 2014, pp. 167-168)

## 5.1: Overview – Chapter 5

Chapter 5 details the processes and methods used to create data. This research was divided into three phases which took place over a 3-year period. Phase 1 gathered colleague perceptions regarding the validity of the project, culminating in a focus group discussion. Phase 2 centred on a pre-research survey designed to gather contextual information. Purposeful sampling was employed to identify participants for Phase 3 interviews. Research methods were location specific, derived from the customary practices of the community under investigation. In all 8 unstructured research discussions took place. Data was created via face to face meetings, telephone discussions and emails. 3 of the contributors were previously unknown. The ethical implications of insider research are discussed in relation to the re-appropriation of customary practices. The blurring of the distinction between the role of researcher and colleague is also explored.

### 5.1.2: Phase 1 – The focus group

Each phase of the research process was designed to contribute specific insight to the overall inquiry. Commencing in 2015, Phase 1 established whether the issues confronting my personal practice were a source of concern to other professionals. Initial conversations with colleagues suggested decision-making with regards to the suitability of provision was worthy of investigation. A focus group was held to gather the views of a range of professionals in a timely manner. Initially developed as a means of obtaining intelligence during World War II, the focus group has become a cornerstone of marketing and research. (Côté-Arsenault & Morrison-Beedy, 2005) Serving as an invaluable means of acquiring the perspectives of clusters of individuals, focus groups differ from traditional one to one or group interviews. Within an interview, the researcher assumes an investigative role, controlling the ensuing discussion via a series of structured or unstructured questions. However, during a focus group, the researcher is tasked with facilitating a discussion led by the respondents. As such, the role of the researcher transfers from the centre to the periphery. (Nyumba, Wilson, Derrick, Mukherjee, &

Geneletti, 2018) As the intention was to ascertain the perspectives of EHE officers, this method appeared fit for purpose.

The organisation of the focus group did not present any problems. The debate occurred during a pre-arranged meeting for EHE officers. Professionals have access to a network of regional groups, each one functioning as a 'community of practice' (CoP) (Wenger-Trayner & Wenger-Trayner, 2015). Whilst geographical practicalities are generally the deciding factor, professionals may access any regional network of their choosing. The general support, sharing of ideas and creation of protocols which occurs within these forums confirms their status as CoP's. The selection of the focus group was determined by practical considerations. The group comprised of 16 individuals representing 12 local authorities. All professionals had been in post for over 12 months and regularly attended regional meetings. The initial request to conduct a focus group was presented to members of the CoP via a group email. Contributors were made aware that the discussion would form part of a wider research project. Consent was obtained prior to the discussion which was introduced as an agenda item. The CoP was presented with a purposely vague topic for discussion in the form of a question –

> *As advisors it's up to us to work out if the education taking place is or isn't suitable and efficient. How do you make that decision?*

No reference was made to the GLA or experiential factors so as to not restrict or guide the frame of reference. This approach enabled professionals to make sense of the issue in their own terms. A lively debate took place over a period of 55 minutes which I observed and recorded via shorthand.

The use of focus groups within phenomenological research is neither traditional nor widely accepted. (Bradbury-Jones, Sambrook, & Irvine, 2009; Webb & Kevern, 2001) The essential characteristics of the focus group seemingly place it at variance with phenomenological investigations. Indeed, Bradbury et al (2009) contend that the application of a method embedded within group dynamics upon a study which explores individual experiences is an oxymoron. Nevertheless, the tensive interplay between the individual and the collective is particularly relevant to this study. To understand the narratives of EHE professionals it is necessary to consider our historicity and the extent to which decision-making is moulded by professional culture. The capacity of this method to gather socially constructed data enabled the investigation of individual perspectives alongside the dynamics of group norms and values. (Gronkjaer, de Crespigny, & Delmar, 2011) Hence, whilst the focus group was not the central method of data production, the information gathered from the communal discussion of perceptions was valuable. Not

only did this phase confirm the validity of the research topic, it also enabled colleagues to engage with, and contribute to, the design stage of a project exploring their practice.

### 5.1.3: Phase 2 – Participant selection

Having established the demand for this research, Phase 2 commenced in 2016. Comprising of two steps, the initial task was to identify research participants followed by the collection of cohort specific background information. The re-interpretation of traditional concepts of validity and credibility within phenomenological research places additional emphasis upon participant selection. The search for 'a truth' is a fallacy (Freeman, 2011), yet the requirement for research to both reveal a portal into another world and engage its audience, remains. As such, the capacity of data to address research aims and objectives is primarily determined by the individuals chosen to contribute. Purposive sampling - historically employed to identify statistically representative samples – was used in this inquiry. However, as generalisations are antithetical to both the spirit and objectives of this project, a modified version of 'purposeful' sampling was preferred. (Patton, 1990, 2015) The power of this approach rests within its capacity to elicit rich cases adept at convincing the audiences to whom the work is addressed. (Emmel, 2013) Sampling was non-random; individuals with direct experience of the phenomenon under investigation were targeted due to their insider knowledge. (Palinkas et al., 2015)

The process of gaining access to professional narratives during Phase 2 required ethical consideration. As a representative of AEHEP and an active participant in a regional forum, contact with professionals in other authorities is not unusual. Prior involvement in research undertaken on behalf of AEHEP emphasised the importance of an unambiguous demarcation between personal and professional requests. Rather than following the normal process of contacting LA's directly, a formal request for support was presented to the Chairs of AEHEP. Information regarding the project's aims was supplied and permission granted to utilise AEHEP's avenues of distribution. An appeal for participants was emailed to each of AEHEP's 14 board members who subsequently filtered the information to their regional networks. In total around 80 of the 152 local authorities received the request. In contrast to the initial focus group, colleagues received full disclosure regarding the aims and objectives of the project. Any professional interested in contributing was invited to make direct contact. 16 local authorities responded positively between July and September 2016. 2 professionals expressed concern regarding the sharing of information which could be misconstrued as the position of their local authority. Of these LA's, 1 felt unable to participate on an individual basis but was comfortable contributing within the group setting of a regional meeting.

Phase 2 centred on the collection of secondary data - non-verbal, predominantly explanatory material. Interested parties were asked to complete a pre-research survey. Distributed via email, this semi-structured questionnaire obtained relevant background material and statistical details. This information - unlikely to surface during experiential conversations – provided contextual detail. Arguably, all data contains the capacity to inform or enlighten. Even so, the purpose of this project is not to merely collect statistical information relating to previous employment, numbers of EHE students or geographical categories. Hence, whilst the secondary data collected in Phase 2 was pivotal in terms of its ability to identify the parameters and characteristics of the research, it was not, in itself, phenomenologically grounded. The intention here is to glimpse into the pre-reflective and thus the secondary data was employed to signpost experiential narratives. Accordingly, the electronic conversations that emerged during Phase 2 identified the sample group, the critical cases likely to "yield the most information and have the greatest impact on the development of knowledge" (Patton, 2002, p. 236). These participants engaged with, and committed to, the creation of primary data - the first-hand accounts, rich with meaning and critical insights generated in Phase 3. (Park Lala & Kinsella, 2011)

### 5.1.4: Phase 3 - Data creation

The selection of inappropriate methods undoubtedly undermines research projects, potentially tainting findings. Even so, the import of methods should not detract from the inquiry itself. Indeed, van Manen (2011) counselled researchers to ensure method was not permitted to surpass objectives. Instead, primacy should always be assigned to the investigation itself – the 'what is happening?' and the 'why?' This proposition was employed in earnest within this enquiry in that professional praxis was held as the deciding factor when determining methods. This is an insider project borne from within a private space beyond the monolithic machinery of the local authority. Access to this environment is restricted to fellow professionals and membership comes with a tacit recognition of our responsibility to, and support of, each other. Within this space communication is candid and informal. Participation is accessible to all and whilst some inhabit this space frequently, some engage on an intermittent basis. Other professionals rarely participate yet appear content with the knowledge of its existence.

This project sought the disclosure of narratives typically protected by the privacy of the professional space. Protocols within this arena are well established. All efforts were taken to distinguish between the dual roles of colleague and researcher during Phase 2. However, an alternative approach was taken during data creation; within Phase 3, a conscious decision was made to remove the barrier between colleague and researcher by

discarding processes and methods not in keeping with professional practice. As a result of this, the customary ways of being in this space were re-appropriated as research methods. The use of face to face unstructured conversations supported by telephone and email discussions were not alien methods imposed upon research participants. Instead, these approaches exemplified the natural mediums for interaction within our space. (Alshenqeeti, 2014) As congruous as this strategy may be, this appropriation camouflaged the distinction between my actions as 'colleague' and 'researcher'. The ethical ramifications of an approach whereby research is visibly invisible, are discussed in section 5.2. At this point it is adequate to note that the research locale and its traditional methods of communication became the tools for data production.

Phase 3 represented the longest stage of the research process with in-depth interviews scheduled throughout 2017. Commonplace within qualitative research, the use of interviews is so dominant that many researchers employ no other mode of investigation. Indeed, it has been suggested that interviews are so omnipresent that the concept of an 'interview society' has become a reality. (Brown & Durrheim, 2009) In spite of this, discussion continues regarding the constituent parts of an effective interview and whether they should indeed be perceived as discreet events. (Knox & Burkard, 2009) In its most basic sense, the interview is nothing more than a routine occurrence, "developed in everyday life over centuries in relative independence from epistemological discussion" (Kvale & Brinkmann, 2009, pp. 49-50). In keeping with this perspective and the ethos of the project, all interviews were conversational in nature. The purpose of my discussions with colleagues was not to merely gather replicated answers to set questions. Instead, the primary query here is 'what is it like?' (Englander, 2012) and thus the intention was to access a variety of experiences. The decision to extract data from this method of communication is indicative of the epistemic convictions upon which this project is based. As a perspective that relishes the enigmatic, the paucity of instruction concerning the execution of a 'phenomenological interview' is to be expected. Further guidance, where available, is deceptively simple; for Quinney, (Quinney, Dwyer, & Chapman, 2016) the key is to determine the world under examination and to then converse with individuals participating in that world. The number of participants is inconsequential as value is intrinsic to, and derived from, the personal stories of participants.

A variety of techniques have been proposed to scaffold semi and unstructured interviews. Data derived from talk is not naturally occurring (van Enk, 2009) and thus even unstructured conversations contain an internal motivation; they are '"oriented" to opening up the lived experience through uncovering meaningful stories and anecdotes" (van Manen, 2014, p. 281). In the case of this inquiry, the use of a hierarchical dialogue

map was particularly beneficial. Conscious of the suggestion – "the place to begin is …with ourselves" (Cerbone, 2014, p. 42) - I commenced with Luker's (2008) duo of recommendations. Step 1 involved the identification of the issues I had experienced within my own practice. The knowledge gained from this introspective review was expanded and externalised into step 2 – the identification of the questions and issues presented to colleagues. The hierarchical aspects of this framework were adopted from Tomlinson's (1989) five-point strategy as a means of ensuring key concepts were not neglected. Akin to Luker, Tomlinson also suggests an analysis of the domain under investigation prior to determining the issues requiring interviewee elaboration. The dialogue map was shared with participants in recognition of the co-createdness of conversational data. Discussions were open ended with subtle 'turning points' (Luker, 2008) employed to encourage specific recollections. Discourse was essentially non-directed and concordant with both customary community practice and conversational etiquette. A consciously circuitous approach, receptive to the input of colleagues, was employed. The intention was to create an open space for conversation with a fellow professional. As such, control over the encounter and the precise nature of its content was not restricted to the researcher. Instead, areas of interest raised by co-creators were welcomed into the discussion. (Raheim et al., 2016) Conversations were allowed to 'run their course', ranging from 50 minutes to 1hr 40. In total 7 interviews were held – six individual conversations and one joint discussion.

Guidance regarding interview location typically focusses on the conduciveness of conditions. Specifically, the privacy of the environment alongside its quietness and accessibility appear to be the main issues for consideration. However, location selection may provide further insights, indicative of underlying power relations or participant's behaviours. (Elwood & Martin, 2000) In keeping with pre-established community practice, research conversations were held in a variety of venues. Locations for face to face meetings were selected following discussion and generally occurred in familiar venues. Settings ranged from café's and coffee shops to discussions within private work-based environments. For associates situated further afield, telephone interviews were preferred. 3 research conversations were conducted in person, with the remainder via telephone. The use of telephone interviews is widely established. (Sweet, 2002) Extensively employed in marketing based quantitative research, data regarding the efficacy of this method within qualitative projects is far from comprehensive despite its increasing popularity. (Lechuga, 2012) The omission of telephone interviews from the majority of qualitative research texts has led some to question methodological bias. (Novick, 2008) This method is not without its challenges. In comparison with electronic approaches, the telephone's capacity to impede the development of interpersonal relationships may be an issue. Potentially serving as a barrier to the acquisition of rich

data, the appropriateness of the telephone should be considered. However, the use of this method by an intimate insider researching within a community for whom face to face contact is atypical, is valid. Rather than appearing stilted or contrived, telephone interviews provided a welcome break from the pressures of work. Generally perceived as an opportunity to 'catch up', the prospect of talking to a colleague from a different LA was welcomed. Discussions took place at different points in the day – before, during and after standard hours of work. Free flowing and unstructured, reference to the dialogue map was beneficial, providing a means to track conversations which circumnavigated a range of professional issues.

Email interactions were used to clarify specific points following face to face meetings or telephone conversations. The prevalence of individuals congregating online has led researchers to delve into the electronic arena as a viable means of data collection. (Bowden & Galindo-Gonzalez, 2015) Potentially problematic in terms of the elimination of visual clues and limited spontaneity, the familiarity of this method amongst colleagues was sufficient to nullify these concerns. Face to face in depth interviews continue to hold sway for many researchers in terms of conventionality and preference. Even so, the email is a unique tool with the capacity to eliminate restrictions imposed by time and location. Electronic communications can also enhance the depth of discussions, affording greater scope for thoughtful and considered responses. The email is an invaluable means of communication for many professionals. "What happens online is interwoven with offline social life and the two are mutually shaped and shaping" (Illingworth, 2006, para. 1.3). Separated by geography, emails are indispensable to our community, facilitating information sharing and support between scheduled regional meetings. In line with the intention to utilise customary practices as research tools, the use of emails was both familiar and fit for purpose. Once perceived as a poor substitute,

> there is now a rich literature in the social sciences concerning how the Internet has become a site where the social interactions of individuals and communities can be researched and where the construction of practices, meanings, and identities can be investigated (James, 2016, p. 150)

### 5.2: The ethical insider

The desire to comprehend our environment and gain insights into the exploits and motivations of our self and others appears intrinsic - albeit to differing degrees. Whilst the impulse to research is generally benign, consequences are not always beneficial. Investigations of personal communities and/or wider society typically induce creativity or extend learning. However, the desire to know also instigates potentially detrimental

behaviours; the Pandora effect is alive and well. (Hsee & Ruan, 2016) The prospect of resolving the questions emanating from the uncertainties of life motivates research. From the eternal conundrums regarding the essence of life or knowledge itself, to the ostensibly insignificant minutia of daily existence, researchers seek to know. In grossly over simplified terms, a natural scientist measures, estimates and predicts phenomena. Conversely, the social scientist endeavours to extrapolate latent perceptions. Presented as polar opposites, consensus between these epistemological camps is evident in their ultimate objectives. Positivists and constructivists alike endeavour to resolve two fundamental questions – 'What is happening?' and 'Why?' The legitimacy of the response to these queries is undoubtedly intertwined with the positionality of the inquirer. Indeed, the ontological and epistemological perspective of the researcher determines the criteria for validity. In addition, the status of the investigator and their connection to the community is vitally significant. As such, an investigation of professional decision-making from the inside out provides an additional dimension to this research project. Whilst any exploration of living subjects fosters ethical dilemmas, insider research is particularly prone to the problematic. Hence, whilst the outcomes of the view from within are generally informative, the ethical reverberations require further consideration.

Trowler (2011) contends that far from being fixed, the attribution of insider or outsider status operates on a continuum. Taylor (2011) developed this concept by defining the characteristics not merely of the insider, but of the intimate insider who operates at the extremity of the spectrum. As "a key social actor within the field […] the researcher is privy to undocumented historical knowledge of the people and cultural phenomenon being studied" (Taylor, 2011, p. 9). The strength of the connection between the self of the researcher and that of the participants is such that intimate insider research is likened to a form of autoethnography. (Taylor, 2011) In the interests of transparency, I acknowledged my position within this acute location at the outset of this project. Whilst this investigation would not have been possible without this status, research embedded within the emic appears to engender academic scepticism. Brannick and Coghlan's, "In Defense of Being Native" (2007), attempts to confront and dispel the negativity surrounding insider research. The titles of a number of journal articles appear to demonstrate the necessity of Brannick and Coghlan's intervention. Spanning from Moore's (2007) reference to "Original Sin", Drakes (2010) "Cautionary tale" and Mercer's (2007) "Double edged sword", insider research casts an unfavourable shadow. Synonymous with internal dilemmas, ethical conundrums and issues regarding validity, research from within is not always recommended. With regards to this project, the challenge presented by my proximity was twofold. Firstly, the extent to which my interactions could impact upon the outcomes had to be considered. Secondly, academic

expectations led to dilemmas regarding the importance of professional allegiances versus research priorities.

Questions regarding levels of disclosure are familiar to researchers of all epistemological persuasions. Contributors to research require sufficient information to generate interest without influencing responses. As a naturalistic approach was employed which re-appropriated customary practice I elected for full disclosure. As a result of this, interactions were unstructured with no attempt to conceal positionality. In line with Mercer (2007), "I, myself, am not convinced that researchers who reveal their own stance automatically contaminate their data, but this is a highly debatable point" (Mercer, 2007, p. 13). Initial attempts during Phase 1 to maintain an element of detachment proved ineffective, negating the benefits of insider access. What appeared as reticence to commit to conversations regarding professional matters was noticeably uncharacteristic. The awareness that questions were being posed in relation to a research project was not perceived as sufficient reason to limit my interactions. The process of insider research has been described as "a journey from nearness to distance - and back" (Brannick & Coghlan, 2007, p. 66) – a viewpoint which informed my revised approach. As such, data creation was located within the realm of the intimate. Conversely, data analysis and interpretation would be produced from a position of distance. The journey back to colleagues is evident in the conclusion which illustrates the impact of this research upon our community and future practice. The validity of this process, whilst appropriate to the project at hand, presented ethical challenges to my role as a researcher and a professional. Some colleagues may have been aware of my perspective towards suitability. Even so, I would contend that the nature of the research questions, alongside the general practice of our CoP countered concerns regarding influence. The third objective of this project is to establish whether there is a consensus amongst professionals. In line with this, colleagues were acutely aware that this was an endeavour to determine their processes and the extent to which they compared or contrasted with others. As such, the compulsion to agree or disagree with 'the researcher' was nullified. Professionals were both anxious to share their experiences and discover the practices of others. Hence, whilst my presence undoubtedly influenced data production, it was not detrimental to the validity of the subsequent material.

"An insider is aware of the two separate lives that an organization may have: formal and informal" (Teusner, 2016, p. 85). As an intimate insider, the likelihood is that the researcher is both aware of these lives and actively involved in their creation and implementation. The power of social science research lay in its ability to facilitate the acquisition of knowledge regarding the social world which is inaccessible by other means. (May, 2011) As mentioned earlier, the knowledge emanating from the unrestricted

access of an intimate insider intensifies the ethical challenges of allegiance and omission. All participants were aware of the outcomes of their contribution and its inclusion within this thesis and other connected material. Consent was provided, yet the level of trust with which it was issued was indicative of the 'double-edged sword' referred to by Mercer. (2007) Information regarding usage, dissemination and ownership was provided but were not taken into consideration as factors which could prevent participation. Instead, the professional assumption that this project is in the best interests of all, eliminated the perceived requirement for detailed conversations regarding consent. The trust in my ability and preparedness to 'do the right thing' was both overwhelmingly complimentary as a colleague and inherently daunting as a researcher. Floyd and Linet (2010) referred to a similar experience of insider research and the manner in which this enhanced trust amplified their sense of responsibility. Akin to their approach, I also endeavoured to safeguard colleagues and "went to great lengths to ensure they were "protected", more than any ethics form or university policy procedure could achieve" (Floyd & Linet, 2010, p. 3). I have identified myself as the Lead Officer for EHE in Sheffield and included statistical data regarding my cohort. All possible efforts have been taken to ensure similar information cannot be elicited about other participants. Conscious of the difficulties colleagues have experienced following the publication of information which appears to reveal personal opinions, no identifiers are included within this research. Even so, the protection of identities is merely one aspect of the ethical process, with further challenges arising during the interpretation and editing of information.

Phenomenological analysis commences with a process of submersion in the data. My initial review of research material was concerning. The depth of detail and openness regarding experiences - whilst rich in content – appeared problematic. Challenges arose when attempting to extract disclosable information from un-tempered conversations. The nature of some discussions was exceptionally frank – as would be expected within a private conversation between colleagues. Sleat's (2013) exploration of research responsibility suggests strict adherence to the participant protection model (PPM) may be detrimental in some instances. The prevalent principle in ethical policies maintains research should do no harm, yet Sleat advocated a utilitarian approach whereby communal benefits could outweigh individual distress. The examples provided by Sleat were unambiguous, demonstrating the manner in which social science research could reveal practices which inflict harm on others. Fortunately, the scenarios referred to by Sleat were not an issue within this project, yet I remained conscious of information which could result in professional harm. My personal investment within this research is not benign and I would concur with warnings regarding the efficacy of self-regulation. "There is no neutrality. There is only greater or less awareness of one's biases. And if you do

not appreciate the force of what you're leaving out, you are not fully in command of what you're doing" (Rose, 1985, p.77, cited in Dwyer & Buckle, 2009).

### 5.3: Summary - Chapter 5

In discussing the tools and processes employed to resolve this project's aims and objectives the extent to which my insider status impacted upon this research was evident. The approach taken was described as 'visibly invisible', as the familiarity of the methods essentially concealed the presence of 'research'. "When we observe and talk to people, analyse what they do and say, and publish our interpretations to the larger public, we are engaged in a process with inescapable ethical aspects" (Brinkmann & Kvale, 2017, p. 259). The depth of the relationship between the researcher and the researched further intensifies ethical considerations. Researchers routinely encourage individuals to divulge their innermost secrets with a view to widening awareness or sharing good practice. However, adequate consideration is not always afforded to perhaps the most significant questions a researcher should pose – 'Did the individual or community intend to disclose this information?' and 'What are the potential consequences of their involvement?' As an intimate insider these questions were ever present, particularly informing the analysis and disclosure of narratives in Chapter 6.

# Chapter 6: Data analysis and discussion

An interpretation is never a presuppositionless
apprehending of something presented to us
(Heidegger, 1962, pp. 191-192)

## 6.1: Overview – Chapter 6

This chapter presents a comprehensive analysis of the data created to resolve the questions posed in this project. This thesis contributes to learning by interpreting previously unobtainable narratives from 8 EHE officers. Data from 1-2-1 interviews, telephone calls and email communications are analysed here. In the interest of anonymity, names have been altered and all personal identifiers removed. The narratives of professionals reveal the manner in which decision-making progresses through four interconnected areas – a visual representation of which has been created. The relationship between the regulatory and the interpretive is revealed as the role of the GLA and professional judgment is outlined.

### 6.1.2: Limitations of analysis

The ontological premise which underpins this research owes much to the notion that the world is constructed of stories not atoms. (Rukeyser et al., 2006) In an attempt to access the source of professional decision-making a series of interrelated professional narratives were created. These narratives, when combined, recreate and relay experiential versions of a reality specific to both the storyteller and story seeker. Conscious of the negative connotations of bias, reflexivity and transparency are employed to create perspectival rather than prejudiced accounts. (Watts, 2018) In capturing, suspending and reliving isolated moments in time, professional practice regarding suitability becomes visible. The application of a phenomenological mind set assisted the distillation of specific elements of the professional role. The following sections dissect - and to some extent destroy - the totality of professional practice in an attempt to access a typically unnoticed phenomenon. This research owes much to the position of an insider, yet the inevitable limitations of qualitative investigations remain.

Data analysis is not the culmination of the research process, it is its inception. Interpretation is a living system of reality construction, operating on a sub-textual level, ultimately controlled by the story teller. The act of responding to an interview question requires an act of interpretation on the part of the interviewee. Within this process the respondent analyses the question, identifies the memories or events which relate to the experience and then selects what to disclose. "All narratives tell one story in place of

another story" (Jackson & Mazzei, 2013, p. 262). The interviewer may only consider the information presented, proceeding in the knowledge that either through election or omission, alternative stories may have been discarded, ignored or concealed. As such, this analysis should be accepted as an imperfect interpretation of partial retellings. "In a realm where multiple voices can co-exist, and multi-stability and multi-dimensionality are permitted […] the interpretations we offer […] are not the only interpretations available" (Boden & Eatough, 2014, p. 161).

### 6.1.3: The approach to analysis and discovery of 'as structures'

The phenomenological impulse is to dwell in received data, making room for the phenomenon to reveal itself. (Finlay, n.d.) There is no guidebook to assist with this process. Even so, the consensus seems to suggest that one must live in and know the material as something more than mere data to be coded mechanically. (Finlay, 2014; Jackson & Mazzei, 2013) The 'how' of achieving this is a matter for each researcher and one which occurred inadvertently within this project. Initially intending to solely transcribe relevant sections, the process of re-engaging with narratives after a passage of time led to a revised approach. Vivid recollections of the experience of data creation were rekindled and the interconnectivity of the narratives became apparent. Individual interviews were no longer perceived as solitary events. What had originated as distinct conversations began to take the form of a debate with multiple contributors. For perhaps the first time within the research process, the voices of participants were heard in concert; the process of dwelling had begun. Whilst the final outcome necessarily involves the dismantling of narratives, the process of dwelling countered the impulse to hasten this process. Instead, due attention was afforded to both listening to and re-experiencing the narratives during the process of transcription.

The transition from audio to text, from living to lived, enables a scrutiny of the subtext – an opportunity to pause in a moment. In listening and re-listening to recordings I began to appreciate Finlay's reference to the "journey through the looking glass" (Finlay, 2008, p. 106). As an intimate insider who had co-constructed these narratives, the process of transcribing highlighted the duality of the emic researcher. Tensions between subject and object came to the fore as the interpretative outsider confronted the invested insider. Even so, this process is a vital step towards penetrating the veneer of conversation to access its inner meanings. For Heidegger, interpretation is an act of articulation –

> something is understood with regard to something: it is taken together with it, yet in such a way that this confrontation which understands will at the same time take apart what has been taken together, and will do so by Articulating it interpretatively (Heidegger, 1962, p. 202)

In adopting this approach, the interpreter attempts to 'remain true' to the original dialogue to ensure signification is revealed rather than attributed. Via a process of listening to the text and *hearing* what is said, the contextual is able to amplify the sub-textual. As the activity of articulation began to unfold naturally and manually, the introduction of data analysis software was rejected to reduce any distancing from the material. (Sohn, 2017)

In listening to colleagues, various 'as structures' emerged which, when combined, produced the framework for this analysis. (Watts, 2014) "To make sense of an entity means to encounter it as something, as useful, as obstructive, as irrelevant, etc." (Kaufer, 2005, p. 151). Professional decision-making emerged as a composite process within four interrelated areas - Personal Horizons, External Landscapes, Physical Constraints and Practice Consolidation. Personal Horizons, the bedrock of decision-making, are the foundations upon which the other themes are based. This locale is representative of "both the space [...] that one is located in and the presence of a beyond" (Freeman, 2008, p. 387). Personal Horizons operate as a living archive, amalgamating the past with the present to develop an experiential database which informs future actions. Functioning as a fail-safe for unpredictable or unfamiliar situations, the richer the experiential database the greater the prospect of navigating challenges.

The External Landscape is the locale of 'the other'. This is the space where the experiences and interactions of stakeholders combine to create the world of EHE inhabited by the professional. Physical Constraints emanate from the tension created by the conflicting interests within the External Landscape. Decision-making becomes possible when the experiential database provides the tools to eliminate impediments within this sector. As a circular process, Personal Horizons are reinforced as the knowledge and understanding gained within each section of this process are relayed to, and immersed within, the experiential database. Contrary to the appearance of figure 4, the dimensions of each quadrant of the decision-making process are not identical. Professionals with extensive Personal Horizons are more resilient to the External Landscape. Physical Constraints present less of a problem and thus Practice Consolidation is achieved in a timely manner. Similarly, professionals with limited experience may become ensnared within Physical Constraints to such an extent that decision-making is impeded.

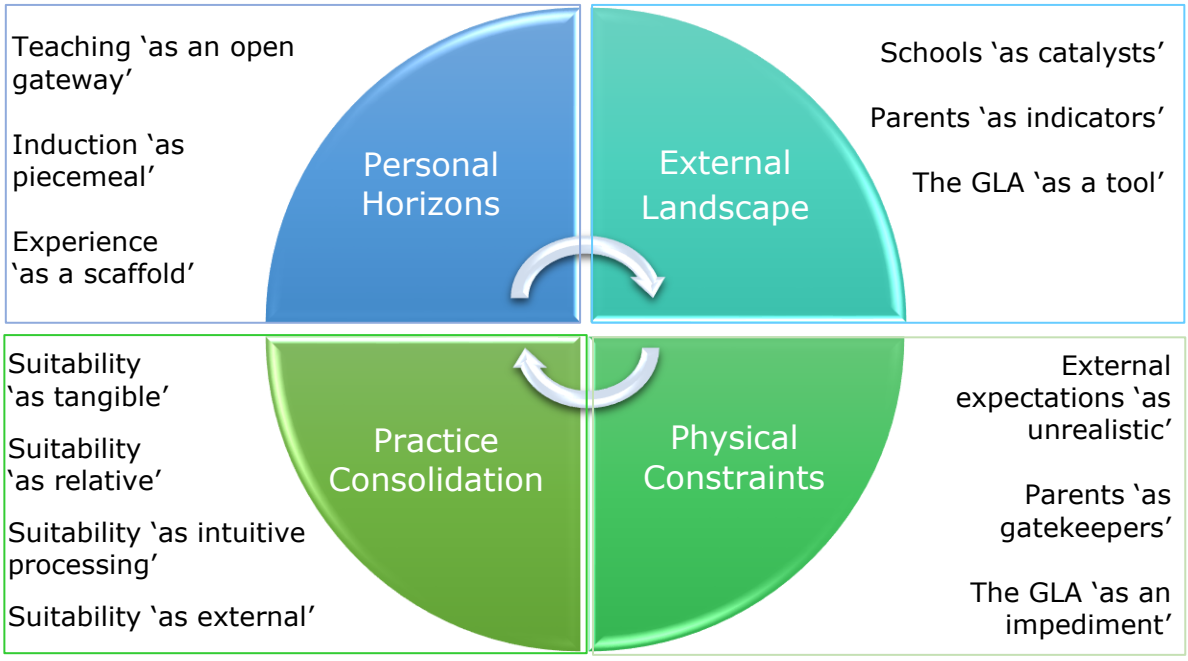


*Figure 4: Model of professionals' decision-making*

The landscape of EHE is a contested arena. Relations between professionals and parents cover the full spectrum from amiable to acrimonious. Sections of the EHE community have previously gone to great lengths to unmask professional contributors to research or ascertain personal perspectives. To protect EHE officers from any reprisals all names were changed. Prior to or following interviews professionals were asked to choose a number from 1-100 from sheet A or sheet B. Both sheets were unseen prior to selection. Sheet A was a list of the year's top 100 names for girls in numerical order; sheet B was a similar list of boys' names. This process resulted in the allocation of identities which may or may not correspond to the actual gender of participants. In doing so Tom, Toby, Stanley, Brooke, Jessie, Evelyn, Jasmine and Annabelle were created. To complete this process references to other identifiers regarding current and/or previous employment, staffing structures, age, ethnicity, geographical characteristics and the specific size of EHE cohorts have also been removed. LA specific terminology used to describe colleagues, teams or parental documentation have been generalised. In addition to this, any distinguishing comments relating to the parents or children discussed such as year groups and gender have also been amended. However, it is possible to say that when presented with the choice of identifying as an urban, rural or coastal geographic location, the majority identified as urban, with cohorts ranging from band C to band G. (Figure 5)

- Band A: 0-49
- Band B: 50-99
- Band C: 100-199
- Band D: 200-299

- Band E: 300-399
- Band F: 400-499
- Band G: 500+

*Figure 5: Numerical boundaries of elective home education cohorts*

### 6.2: Personal Horizons

> *I do things and I know, I'm not being funny, but I know that I'm right and I know that I'm kind of quite confident in my ability (Jasmine)*

Within phenomenology a horizon "is a versatile and unsurpassable limit, which is always relative to subjectivity and which delimits each and every phenomenon" (Rabanaque, 2014, p. 2). Drawing on this concept, the term Personal Horizon is used to describe the sphere where knowledge is developed and extended via the interaction between previous experience and the social world. "The past experience of 'experienced' people is at their disposal, informing in intimate detail their way of meeting and interpreting what is now appearing within their experience here" (Dunne, 2016, p. 18). With no disconnect between living in the world and interpreting it (Freeman, 2008), the backgrounds of EHE officers contribute to their sense making which in turn fuels their decision-making.

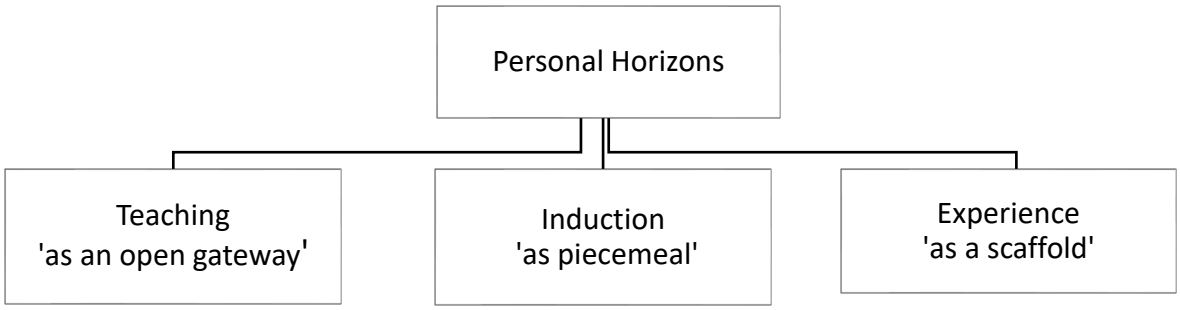


*Figure 6: Personal Horizons' 'as structures'*

Inherently personal, this process is somewhat enigmatic, informed by a multitude of individual and communal concepts. In talking to colleagues, the extent to which their personal horizons impact upon their professional practice is apparent. EHE officers do not enter into post as tabula rasa (Rekret, 2018) and thus the GLA must initially contend with other influences. Accordingly, three recurring themes or 'as structures' emerged relating to previous experiences and the pathway into EHE. 90% of contributors have school-based experience and thus for most, teaching served as a gateway into EHE. A similar pattern is observed in the parental community as the majority of children currently educated at home were previously in school. (ADCS, 2019; ONS, 2019) The

nature of induction processes varied yet most felt sufficient information was not provided. In light of this previous experiences were used to scaffold early practice.

### 6.2.1: Teaching 'as an open gateway'

> *I can sort of understand where they're coming from when they say it was difficult in the classroom and the teacher can't give attention to everybody and I can think yeah, I understand that, 'cos that's part of my reason for coming out of teaching. It just got too bureaucratic. It wasn't about the kids anymore (Brooke)*

For a number of professionals, experiences within the classroom provided the impetus for a transition into an alternative career. Issues vary, yet teaching unions regularly report on the disaffection of their members. Work life balance, bureaucracy and increasing demands/expectations have become problematic. Attempts to reduce levels of discontent within the school sector prompted the DfE to devise a strategy to identify and address challenges. (DfE, 2015) For an increasing number of parents, the decision to home educate also relates to school-based difficulties. Research conducted by advocates and government bodies alike, consistently confirms that dissatisfaction with schools is a key factor leading to EHE. (Ofsted, 2019a; Rothermel, 2003; Spiegler, 2010) In spite of this, analogies between parental and professional motivations - and their implications - have not been thoroughly considered by, or addressed within, previous research. Eddis' (2015) research identified tensions between professionals and parents, highlighting the need for greater co-operation. Even so, the ties that bind professionals and parents remain ignored. Whilst a number of EHE advocates appear reluctant to acknowledge similarities, this research indicates a professional appreciation of parental difficulties. Brooke is able to empathise with the parental experience of school, revealing the extent to which it aligns with her personal understanding of classroom challenges. Parental expectations of the classroom centre on the quality of teaching and the capacity of the teacher to address the needs of students. (Neuman & Guterman, 2018) Brooke acknowledges the manner in which an emphasis on the bureaucratic hindered this process. As the focus transferred from the learner to the administrative, Brooke elected to leave.

Whilst the repositioning of priorities impacted upon teachers' decisions to leave the profession, the gateway between teaching and EHE remains open.

> *You know, you get a bit sick of being in the classroom all the time, well I did […] It was just through seeing this advert and saying 'oh they're looking for a teacher', oh right ok, 'but you don't have to be in a*

*classroom', that's brilliant […] I was so pleased at first to be out of the classroom. I was so like happy (Annabelle)*

The conflation between education and school is arguably as entrenched as the connection between a teacher and a classroom. Following a number of years within teaching Annabelle had become disheartened. 'Sick' of being in the classroom, dissociation occurred between the role and place of schools and the role and place of a teacher. The activities of teaching were divorced from being in the classroom, with neither one reliant on the other. Being a teacher involves engaging in a range of tasks relating to individuals and experiences which are not confined to location. The classroom, inextricably linked to the domain of 'school', ceased to be a positive space yet the prospect of continuing the role of teacher was 'brilliant'. Negativity surrounding teaching experience is prevalent within EHE. Teachers, characterised as tools of the state, are frequently portrayed as propagators of government ideology, indoctrinating children with pre-determined norms. (Glanzer, 2013) Tension between professional and parent perspectives appears driven by superficial understandings of the diversity of the teaching role. Studies examining teachers' attitudes towards educational purpose are sparse. The research which does exist reveals teachers' emphasis upon the social and emotional wellbeing of the learner (Widdowson et al., 2015) – processes not restricted to the school environment. Instead, for teachers the classroom is merely the physical location for a range of practical and theoretical activities designed to support learning and assist progression. The frustrations caused by the system were problematic, yet professionals were keen to continue the ethos of teaching. In the case of Evelyn, EHE is compatible with her perspective of diverse educational approaches.

*I started off [name of subject] teaching […] promoting alternative ways of education […] I was involved in all that in our area and getting groups of staff and so on to get together, so quite open to the idea of seeing that there are different ways of learning, can completely see that. And some people learn better with practical rather than academic, I can see all that, so you know even the autonomous learning I can see yes, there are different ways of learning (Evelyn)*

EHE exponents allied to the ideology of autonomous advocates such as Thomas (2013) or Rothermel (2000, 2011, 2015) contend home provision operates beyond the auspices of schools and its agents. The supposition within advocacy literature is that former teachers have a particular perspective of education which is incompatible with EHE. Lees and Nicholson maintain "having a school teacher background affects [professionals'] perception" (Lees & Nicholson, 2017, p. 315). The domination of this narrative is counterproductive and unsubstantiated by the narratives explored here. Such messages

serve to obscure common ground regarding motives for EHE and educational philosophy. Whilst the introduction of the national curriculum and other universal guidance provides a framework for school provision, avenues for teacher discretion remain. The propagation of alternative modes of learning was important to Evelyn prior to entering EHE. Actively engaged in both delivering and promoting diverse practice, progressive approaches to learning continue to form a core aspect of her personal horizon. Evelyn's focus upon student needs instilled a receptiveness to the spectrum of educational styles. The emphasis of EHE advocates upon the vestiges of school-based ideologies fails to appreciate the beneficial impact of professionals' perspectives of education.

### 6.2.2: Induction 'as piecemeal'

> *I am surprised about the system because coming out of school teaching, which is so prescriptive and you know everything has to be done really by the book, and then you get to this and you think eh? What? (Annabelle)*

All professionals contributing to this project confirmed they were aware of the GLA either prior to commencing their post or shortly afterwards. Conscious of the transition, professionals conducted research into the regulations and expectations of the post. Whilst the field of EHE is inundated with advocacy literature, government directives are minimal and thus supplementary policy information for professionals is not readily available. The inability of the GLA to function as an applied guide was apparent to professionals from the outset. Lacking in explicit instruction, GLA 2007/13 did not function as an informative practice handbook. The stark contrast between EHE policy and teaching regulations was greeted with incredulity by Annabelle. The increasing government control over education as described by West (2015) bore no relation to her experience of EHE. The absence of centralised instruction regarding general purposes and outcomes essentially created a procedural vacuum which was reflected in induction processes. With no visible input into EHE infrastructure, the role of the state is not evident in specifications for the professional role. (Davies, 2015; Koons, 2010) Whilst mainstream provision is arguably over regulated, home education lacks direction. The requirement for teachers to perform their tasks 'by the book' instils an understanding of school objectives. EHE professionals have no similar agenda. Indeed, the government continues to insist that the role of EHE officer is not an area they intend to prescribe. (DfE, 2019a) The absence of government information is confounded by entering into a vacant post.

> *Brooke: I think I might have looked at [the GLA] around about the interview time*

*Venetta: How did you find it, was it useful?*

*Brooke: Not really 'cos it's so woolly isn't it? But it was helpful in that, you know, my boss took the view that well, you know, do what you can because there's nothing, there's not much specific guidance*

*Venetta: Was there someone in post when you started? Did you have a cross over?*

*Brooke: No, there was no cross over they just left. I don't really know why. I think it was a surprise to the employers that they left*

*Venetta: How did you work out what to do?*

*Brooke: I didn't basically! I was just told a bit about what the previous person had done and read a couple of their reports that they'd left when they'd done visits and was told at interview that it would involve visiting*

Stemler, Bebell and Sonnabend (2011) maintain educational purpose is embedded within educational systems, varying depending on the perspective of its stakeholders. However, Brooke's experience indicates purpose is absent from both the official guidance and the structures set up to implement EHE. The traditional top-down management structure employed within local authorities was ineffective in this instance. As a relatively niche area, general knowledge of the post and its expectations did not extend throughout the organisation. Brooke's manager endorsed a relatively laissez-faire approach, providing minimal additional direction. The government via the DfE has authored nominal EHE guidance for local authorities. In light of this dearth of procedural instruction, Brooke is merely asked to 'do what she could'. With no clear indication of the rationale underpinning EHE and with no access to previous post holders, professional practice is without support. In some instances, newly appointed officers with access to the former post holder also experienced difficulties.

*I went around for I think two weeks doing visits with [name] […] At that time it was a role that was filled by just whoever had the time. It was very much a fill in job (Jessie)*

Induction in this instance is predominantly observational. Jessie was provided with an opportunity to shadow a former post holder. The rationale for prioritising home visits during the induction process is understandable. Home visits are advantageous in terms of the knowledge they provide yet this contact is a contentious and undefined aspect of the role. The opportunity to observe this process should have yielded invaluable information. However, the continual privation of policy and government scrutiny fostered a perfunctory

environment. Issues regarding resources and financial capacity have led to understaffing in numerous authorities. Within Jessie's LA the position of EHE officer at the outset of his career was a 'fill in job' allocated on the basis of time as opposed to expertise. EHE was an interim post which would undoubtedly have a negative impact upon the workload of the individual to whom it was assigned. The impetus to engage with the intricacies of the post is undoubtedly limited in such circumstances. With no requirement from central government to put specific systems in place, the role of the professional could be transient.

### 6.2.3: Experience 'as a scaffold'

> *I'm kind of making it up as I go along and doing a professional judgment based on what I know as a teacher […] I think you forget how naturally it comes to you [...] I think you forget how much wealth of knowledge you've got because it comes to you, it's part of you. You've done it for so long, do you know what I mean? Whereas say someone that wasn't a teacher, it would be like a foreign language to them really so I think, well no I don't think, I know. I am an expert, but actually yeah […] I think I just take it as written that I use [my experience], does that makes sense? (Jasmine)*

The process of addressing the shortcomings of the GLA necessitates an ongoing engagement with prior knowledge. Teaching functioned as an open gateway as professionals used this experience to make sense of an associated career with limited official counsel. The view that customary practice is 'made up' initially suggests an unconsidered or disordered approach. However, supplementary information indicates decisions are neither rash nor ill-advised. Jasmine confirms Dunne's (2016) view that the authority and esteem of any profession is intricately connected to the knowledge held by its practitioners. The ease with which Jasmine utilised her experience belies its extensiveness and value. Indeed, Jasmine's experience is engrained to the point of imperceptibility; it is a part of her which operates intuitively. On reflection, Jasmine is not 'making it up'. The wealth of experiential information she possesses in her personal horizon enables her to develop the expert knowledge referred to by Luntley. (2016) In this instance the symmetry between the aptitude and abilities required within mainstream provision and the competencies of an EHE officer are beneficial. Within EHE literature home education is known by a variety of titles. Described as a social movement (Donnelly, 2016), global phenomenon (Estarellas, 2014) or natural way of being (Pattison, 2016), EHE is rarely referred to in terms of what it actually is – a system of education. As such, individuals with knowledge of education possess the capacity to understand and engage with EHE. For non-teachers, the process of unlocking elective

home education is akin to 'understanding a foreign language'. Accordingly, the activation of the experiential equips professionals to navigate the uncharted territory of EHE.

> *Having taught I kind of know what would be produced in a school within a few months or whatever so I can sort of gauge [work] against that […] I think its help me know what to look for, you know, sort of what's age related to learn reading and writing and maths etc […] It's also helped that I sort of can relate to children and parents 'cos obviously teachers you do a lot of that, and also parents have found it useful. Some of them have been reassured that I come from a teaching background and they've sort of opened up a bit about what school experiences have been like for their kids (Brooke)*

The experiential scaffold provided by Brooke's background is beneficial in three areas. Firstly, it assists the process of assessing suitability. The GLA's reluctance to set criteria for suitable education does not remove the requirement for specifications. Brooke is able to address this issue by referring to the content and quality of work produced by children she previously assisted. Tools for the identification of appropriate provision in relation to age and ability honed within the school system are consulted to provide a starting point. Secondly, the ability to engage with children is as important within the classroom as it is within EHE. Whilst access to children is not guaranteed, the ability to relate their experiences of school is beneficial. Finally, the fractiousness associated with parental and professional relations is alleviated through shared understandings. The advocate promotion of an absolute division between home and school-based teaching expertise is unnecessary. Brooke's encounters present an alternative narrative whereby teaching experience engenders a level of reassurance. The relationship between parent and professional strengthened and barriers were reduced as parents 'opened up' about family experiences.

> *I think the background experience helps with when you want to give them advice […], you know what to tell them to do to make it more suitable (Annabelle)*

Questions pertaining to authority continue to recur in home education. (Jennens, 2011; Lees & Nicholson, 2017) Within the general population of EHE officers a large proportion have former associations with school. Ironically, the absence of teaching expertise is problematic for some families. Confronted with queries concerning the content of their provision, some parents reject the intervention of EHE officers on the grounds that they may not be adequately qualified. The task of establishing the implementation of Section 7 requires professionals to possess sufficient knowledge to determine its fulfilment and take appropriate action when necessary. Information regarding the amendments parents may

wish to consider to enhance suitability may be ineffectual and/or rejected in the absence of direct knowledge of learning and progression. In light of this, teaching experience has the capacity to both scaffold the delivery of professional practice and improve the prospect of a positive reception from parents.

### 6.2.4: Summary - Personal Horizons

In exploring the personal horizons of professionals, it is worth noting that the situations described here refer to an environment which continues to undergo change. At the outset of this project, EHE was struggling to make its mark on the political agenda. The position of EHE within many local authorities has now been revised in response to increased interest and scrutiny. *"As things grew it gradually became more of a designated job, it became more focussed, senior management became more interested in it" (Jessie)*. The experiences embedded within professionals' personal horizons were central to this evolution. EHE officers, conscious of the inconsistencies within their role, began to demand improvements. Whilst GLA 2007/13 was the initial port of call for all professionals, it did not possess the capacity to function as a working document. As such, experience was employed to implement rather than supplant the GLA. The benefits of the experiential upon the decision-making process should neither be underestimated nor dismissed. In its absence, professionals would have traversed the barren landscape of EHE regulation in search of the tools to discharge their duties. Whilst pockets of limited knowledge remain, the structures established by professionals - for professionals - have dramatically altered the comprehensiveness of customary practice. In particular, regional networks of professionals meet regularly to share good practice and induct new officers. Even so, challenges remain and the activities of some stakeholders continue to create tension within the wider landscape of EHE.

## 6.3: The External Landscape

> *There's just so much wrong […] If someone were to say […] what is the fundamental problem of the whole EHE department […] I can't quantify it. It's just messy and for me that's the problem, but I can't describe it because there's so many things wrong with it (Stan)*

The external landscape is the extrinsic world of EHE navigated by professionals as they discharge the responsibilities of their post. Inhabited by stakeholders – the individuals, organisations and texts affiliated to EHE – this landscape has become increasingly challenging. The external landscape is the realm of vested interests, where stakeholders jostle to gain advantage or further their individual causes. The GLA, as the bedrock of this arena, has a paradoxical position; theoretically dominant, it defines the terms by

which stakeholders compete. In practice GLA 2007/13 was impotent, proffering minimal intervention on contentious issues. Professionals arrive in the external landscape armed with their personal horizons to commence the process of sense making. Tasked with collecting and collating data from stakeholders, the information gathered here directly informs the decision-making process. The 'as structures' emerging from professional narratives in this area indicate numerous concerns relating to the actions of schools, parents and the deficiencies of guidance. (Figure 7)

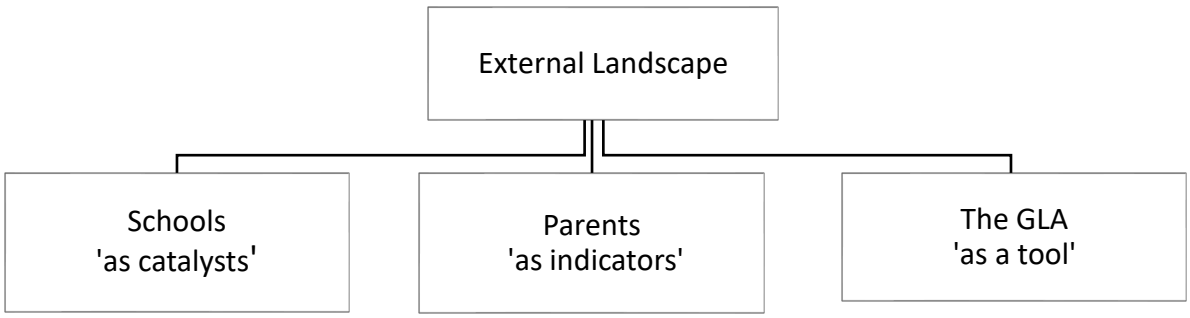


*Figure 7: External Landscape 'as structures'*

### 6.3.1: Schools 'as catalysts'

> *Schools and head teachers and teachers had a moral compass that all the children that lived in their community, in their catchment area, were their responsibility […] The good ones would go bend over backwards to make sure they provided a suitable education for those children and met their needs, and that's where I think the whole system is breaking down […], that's gone (Tom)*

The role of schools as catalysts appears connected to the perceptions of leadership teams and teachers regarding their responsibilities toward the children in their care. Schools are prohibited from removing a child for the purposes of EHE without a parental request and the LA must be informed when a child ceases to attend school. GLA 2007/13 clearly states school providers should not be involved in the parental decision to home educate. GLA 2019 reinforces this position whilst acknowledging good practice in this area is lacking amongst an increasing proportion of schools.

> *They've off rolled children to be electively home educated because they're vulnerable, because they have poor attendance, because they've got a low attainment, because they've got poor behaviour, which is probably to do with some learning difficulty that's been unidentified. They happily off roll them to elective home education (Tom)*

The apparent reluctance or inability of some schools to provide inclusive educational provision has led to a 'break down' in the system. Consequently, professionals indicate an increasing number of schools are discarding their benign role within the EHE process. As a result of this, a significant percentage of parents do not 'elect' to educate at home. Off-rolling refers to an element of active persuasion by one or more members of school staff. In a YouGov survey of over 1000 teachers, around 25% had direct experience of off-rolling. (YouGov, 2019) With behavioural issues, low attainment and SEN identified as key motives, vulnerable children in disadvantaged areas were particularly affected. Research conducted by Ofsted (2019a) exploring reasons for home education purposely removed the word 'elective' to provide a more accurate reflection of the contemporary climate.

"Our duties as a society to support, protect and ensure the education of children do not end if they are home educated" (Forrester, Maxwell, Slater, & Doughty, 2017, p. 9). EA 1870 established a system of universal education for all children. Schools were developed as the conduit for achieving specific educational purposes. As such, the onus is on the government to respond when its organisations are actively subverting its aims. The barriers to learning discussed by Tom originated from a variety of interrelated social, emotional or medical issues. A non-attender may have extreme levels of anxiety, depression or absence from school due to their role as a carer or involvement in anti-social behaviour. Irrespective of the motivation, some schools strategically encourage the deregistration of children whose needs or behaviour are categorised as excessively challenging. As a consequence of this, barriers to learning are merely relocated rather than resolved.

Parents are not required to possess specific qualifications or resources in order to deliver an education at home. Even so, the manner in which some school providers dealt with information concerning parental capacity confirms their status as negative catalysts. Evelyn recounted a conversation in which a home educator disclosed the pressure exerted upon her to withdraw her child. Contrary to the GLA, a letter had been provided by staff members. The parent's attempts to replicate the letter revealed significant difficulties with basic skills. The subject of parental capacity is discussed at length in section 6.3.2. At this juncture reference need only be made to the response of school staff. The inability of a parent to write a de-registration letter understandably raises questions regarding their capacity to personally deliver a suitable education at home. Whilst mainstream schools are not permitted to refuse a parental request, their presentation of EHE as the sole option is highly concerning. In instances where it is evident the subsequent delivery of suitable provision is improbable, encouragement from schools reflects questionable ethical standards. Unlike GLA 2019, GLA 2007/13 provided minimal

instruction regarding how to proceed in such scenarios; particularly problematic as provision emanating from off-rolling is often unsuitable.

> *The school person came out and gave her a letter to copy from because they didn't want to write it for her [...] so she started to change some words and this school person said 'if you can't spell anything ask your children' […]. The school must have had an inkling that this mum was going to struggle. That was evident in the letter […] but they still didn't phone anybody up and say this family needs help (Evelyn)*

Marples (2014) discussed the interplay between parental rights and state rights whilst acknowledging the government's responsibility to ensure the effectiveness of its system of education. The practice of off-rolling manipulates parental rights, disregarding the needs of the state and weakening EHE. The intervention of some schools in the parental decision to home educate ranges from a direct request to covert coercion. The aforementioned experience shared by Evelyn is an unmistakeable instance of the former. The subtlety of other approaches often leaves parents unaware that off-rolling has occurred. *"Essentially, they're clever in saying I think this is a good idea for you and your child and they don't say as well what home education entails, they just say 'why don't you just do schooling from home?'" (Stan)*. Presented with selective information depicting EHE as a panacea to their child's ills, conversations with school staff appear child-led and compassionate. School staff *"made it sound brilliant, so the parents signed the letter [...] unfairly, not knowing what they've signed on to" (Stan).* At the point at which parents become aware of the responsibilities attached to providing an education, the process is complete with minimal avenues for redress. Whilst some families experiencing issues at school may benefit from de-registration, the actions of catalytic schools emanate from concerns relating to school targets as opposed to family welfare. *"We've had so many year 11s that have had that happen to them and now they're missing out on GCSE's" (Stan)*. Unknowingly placed in a difficult situation, the impact upon the outcomes of these children is often substantial.

### 6.3.2: Parents 'as indicators'

> *More recently there's been families which have decided to home educate because of issues in the school rather than any great desire to take on this role themselves. They're the ones I'm likely to find most concern with. They're also likely to be quite cursory in terms of home education. 3-6 months quite frequently they've decided no, the child needs to go back to school (Jessie)*

According to the GLA, parental motives should not be taken into consideration when reviewing learning. "The local authority's primary interest should lie in the suitability of parents' education provision and not their reason for doing so" (DCSF, 2007/13, p. 3). However, from the professional perspective the motives for home education are potentially indicative of the suitability of intended provision. Section 6.3.1 raised the issue of catalytic schools. Whilst a number of schools attempt to remove 'troubled' learners, an increasing cohort of parents perceive schools as problematic. Disaffection with the school system instigated EHE's resurgence in the 1970s and 1980s as parents sought alternatives to what was perceived as a prescriptive and potentially damaging system. (Carpenter & Gann, 2016) Even so, the rationale which underpins current dissatisfaction with school is a relatively new phenomenon. Jessie has good experience of parents entering into home provision due to school related issues. Whilst all parents have the right to determine whether their child's educational base is at school or otherwise, the selection of home provision is not always accompanied with a desire to home educate. As a result of this, the subsequent education received by the child is at best cursory. In a number of cases the parental instinct to protect has a detrimental impact upon outcomes and future progression.

> *Families want to protect their children. It's actually easier to keep them at home and safe in the family because they don't want them bullied, upset, pressured and there's a sense of, 'I'll keep you safe, I'll keep you at home and keep you safe', without an understanding of, but actually, is that preparing them for adult life? (Evelyn)*

As an increasingly vulnerable cohort, a growing number of EHE students experience challenges surrounding mental health. Alleviating these issues becomes problematic in the face of unrealistic parental expectations (Maxwell et al., 2018); merely removing the child from school may not have the desired outcome. Extended waiting lists for Children and Adult Mental Health Services (CAMHS) and other support groups are the norm in numerous local authorities. The parental priority in the face of limited external support understandably centres on wellbeing. EHE for some is adopted solely as a means of eradicating the negative effects of challenging situations with little intention of providing an alternative form of education. Instead, parents endeavour to provide refuge in an environment other than school, foregrounding the distinction between being at home and home educated. In the midst of the external pressures associated with school life, EHE has become the path of least resistance. The desire to establish a safe zone within the confines of the home can increase the potential for isolation. The removal from school often has a cathartic effect at the outset. However, the absence of a long-term plan encompassing specialist support and educational development does not prepare children for life in the wider community. The phenomenon of 'bedroom kids' refers to the cohort of

young people unable to engage with life beyond the bedroom door. Struggling to engage with family members and/or the outside world, the social and educational prognoses for these children is unfavourable. The argument for limiting state intervention within EHE on the grounds of parental rights is worthy of discussion. Nevertheless, the state should have the capacity to intervene in situations which weaken the social and educational outcomes of children. As Lubienski and Brewer note, "when considering the education and socialisation of future generations, the public has a legitimate interest in the process" (Lubienski & Brewer, 2015, p. 145).

> It should be noted that parents from all educational, social, linguistic, religious and ethnic backgrounds successfully educate children outside the school setting and these factors should not in themselves raise a concern about the suitability of the education being provided (DfE, 2019a, p. 37)

All versions of the GLA are consistent in their support of the right to home educate irrespective of motives or capacity. However, as the suitability of provision delivered directly by the parent is inextricably linked to their ability, professionals maintain capacity cannot be discounted.

> *I don't believe that even the most well-meaning parents unless they've got a modicum of learning and qualifications themselves are necessarily fit to really properly teach their children fundamentals of English and maths and I hate to say that […] I appreciate the home edders would challenge me and say that some schools don't provide adequate education, I get that, but [schools] are challenged and they then have processes in place to ensure that they will, you know, those schools will eventually be providing an adequate education (Tom)*

Rothermel's (2011) research on approaches to EHE highlights parental views regarding their capacity to deliver education. The majority agreed with the GLA, ranking commitment ahead of formal qualifications or basic skills. Instead, parental strengths such as commitment were designated as key requirements. Alamry and Karaali (2016) developed this concept in their discussion of 'flipped learning' – a self-directed, independent approach which removes the requirement for an 'expert'. In contrast to these perspectives, professionals regard the willingness to provide an education otherwise as important but insufficient if unaccompanied by certain proficiencies. A proportion of parents de-registered their children to access the educational, social or emotional benefits EHE has the potential to deliver. (Neuman & Guterman, 2017a) However, well-meaning intentions unsupported by basic skills can diminish the effectiveness of the education delivered. In the rush to remove children from school, the 'how' of EHE is often

overshadowed, with minimal parental provision deemed preferable to ongoing non-attendance/non-engagement. Professionals possess no statutory powers to routinely monitor the content or quality of EHE. As such, the level of contact between families and professionals varies drastically, reducing opportunities to challenge unsuitable provision. Whilst many home educators are reluctant to consent to contact with EHE officers, some families are comfortable with regular engagement and ongoing support. However, uncertainty regarding the suitability of provision is not solely restricted to families resistant to contact.

> *I have massive concerns. I mean I've got a lovely family that have engaged with me every year […] and their older son was taken out and he then accessed qualifications at a local college and he did well, but he'd had all of his education right up to year 9 so he was well able to just continue with mums encouragement and then go to college […] then she decided to home educate some of the younger ones who'd never been to school and she was telling me they were struggling in maths and I'm thinking she can't help them to learn maths because she doesn't have the skills […] and I was trying to help her, I was trying to teach her how to teach her son different strategies to understand the concepts (Tom)*

In many respects the concepts of suitable and unsuitable education are a misnomer, implying a level of definitiveness which is not always possible within EHE. Education at home covers a spectrum of provision with extremities of suitable and unsuitable. This scale is essentially fluid and thus a family's position can fluctuate at different points in the week, month, year or between different children. Tom's experience is not unfamiliar. Strategies developed at school alongside the support of the parent were initially sufficient to assist an older learner with a transition to alternative education. The 'encouragement' of the parent minimises the disruption to learning yet the education provided is merely sufficient. In an ever-expanding number of cases the nature of the education delivered is neither disconcertingly poor nor is it an exemplar of suitability. In this instance issues arose following an attempt to initiate an educational programme for younger children. In the absence of the scaffolding provided by school, the incapacity of the parent became apparent. On a positive note, the family openly acknowledged their difficulties and a request was made for additional support. Even so, the parent lacked the capacity to fulfil the criteria of Section 7, requiring direct intervention via 'teaching' from the EHE officer. Public and political emphasis tends to focus on those children experiencing the extremes of unsuitable provision and neglect. (Forrester et al., 2017) However, this research suggests this focus may warrant reconsideration. The challenge EHE professionals routinely encounter relates to the expansion of families providing partial provision. Within the external landscape, the diversity of parents delivering an education otherwise

remains, yet the overall quality and content continues to decline. (Nicholas, 2016) Partial provision, which may or may not be full-time and is not consistently efficient or suitable is rapidly becoming the norm.

> *When I first started parents were like, 'I don't want a visit, you don't have to come visit, I don't want you, I know my rights […], and that's fine […] but now they're like, 'right, well, can you come over and give me some support please? What can you give me to support 'cos I'm not a teacher. I can't do it. I mean I don't know what I'm doing' [...] I always try and say, 'so how do you think you're going to home educate? What is it that you're going to do?' You've got to ask yourself, do you have the ability to do this? 'Well no, I'm not a teacher, I'm not a teacher, I can't do this'. I'm like 'so why have you decided to do this?' (Stan)*

Stan describes a scenario in which families are aware of their incapacity to provide a suitable education yet proceed to withdraw their children from school. Professionals report a change in their perceived role as a result of this. The challenges experienced in school encourage parents to seek an alternative solution. Previously, the ending of mainstream provision signalled the withdrawal of expectations of LA support. Parents cited directives in the GLA confirming the parental right to decline contact. Indeed, the view that professionals have no place within parental provision is one of the few areas of consensus amongst lobbyists. (Kunzman, 2012) However, alongside the partial providers, the external landscape is also inhabited by parents insisting the LA should maintain an element of responsibility for provision at home. Boundaries become blurred as parents demand assistance to establish and maintain unelected provision. Whilst the GLA suggests LA's should assist parents with information, the responsibility for provision clearly resides with the parent.

### 6.3.3: The Guidelines for Local Authorities 'as a tool'

> *Well for me anyway it works in two folds. Number one, the con of it is when people know what the guidance says, so they know 'I don't need to follow a curriculum, I know I don't need a visit' (Stan)*

The position of the GLA within the external landscape is one of stark and unexpected contradictions. For the overwhelming majority of EHE professionals GLA 2007/13 is regarded as an outmoded and intrinsically flawed document, detrimental to working practice. Indeed, literature from a number of sources re-iterates the extent to which GLA 2007/13 was no longer fit for contemporary practice. (DfE, 2018b; Monk, 2016) Whereas the active presence of the state within mainstream provision ensured the ongoing review and amendment of school policy, a similar process has not been devised for EHE. Prior to

2007 specific EHE guidance was non-existent. Conflict within the external landscape required a policy-based resolution. GLA 2007/13 was tasked with countering the regulatory breach, yet Stan views it with apprehension. The GLA is described as a 'con', restricting the avenues available to professionals to perform their duties. However, Stan proposes a secondary function of the GLA which I had not appreciated prior to this discussion.

> *Then on the other hand it does help me in some way because […] when it was written it was meant to sort of empower parents and give them full autonomy over their children's education, so because of that there's to be no professional interference. So for me that's good to use […], to say 'do you understand that technically I'm not allowed to give you any kind of help? This is on you. This is your responsibility' (Stan)*

The independence the GLA bestows to parental provision has become a positive negative. The power attributed to the facilitation of an 'education otherwise', seemingly validates complete autonomy. This abdication of the role of the state is criticised by theorists such as Apple (2000, 2015), Spiegler (2003; 2015) and Lubienski and Brewer (2015) who maintain the rights of the state supersede parental rights. In affording choice to parents, the state must consider the potential ramifications. (McAvoy, 2015) Stan describes a complex relationship with the guidelines. The GLA's confirmation of the ability of parents to construct a provision of their choosing is unexpectedly empowering. As a result of this, Stan did not interfere with parental provision and - in keeping with Section 7 – expects parents to possess the capacity to provide an education without intervention. Paradoxically, the minimalism and opacity of the GLA provides some professionals with a base upon which to construct their practice. EHE officers endeavour to provide information but are not required to instigate suitability. As such, provision which needs extensive and continual professional support is clearly unsuitable.

> *We've got a duty to have our children educated full-time, suitable to their age, ability, aptitude, so let's just hold on to that idea, so let's just talk to the child if they're there, say 'what would you like to do in the future?' to try and find out what the child wants very early on and then if the child says 'well I want to get a job' or 'I want to go to college', whatever they want to do, I try to use the fact of what this child wants is what you need to prepare them for […] If the child says they want qualifications or they expect qualifications, I say well, right mum, how are you going to get him an education so he gets qualifications? Cos that's what he's just said he wants (Evelyn)*

The GLA has a prime position in the external landscape yet it is not the sole source of official directives. Within Evelyn's customary practice the decision-making process is overshadowed by the concept of preparation. Whilst the criteria for parental provision is outlined in Section 7, the GLA neglects to provide further explanation. Instead, clarification of the terms suitable and efficient were established via court cases between home educators and local authorities. The judgment in the case of R v Secretary of State for Education and Science (1985) produced an initial benchmark with its reference to preparing children for life. In line with this, the process of confirming suitability commences with establishing the aspirations of the learner. The specifics of this aim stand in contrast to the theories of Thomas and Pattison (2016) which endorse the establishment of personal objectives for parental provision. Furthermore, the suggestion that long-term outcomes or expectations regarding qualifications or careers should be taken into consideration are regularly disputed. Instead, the immediacy and 'everydayness' of learning which is free to find its own course is advocated. In contrast to this, having established a child's aspirations, professionals expect parents to demonstrate the manner in which their provision will fulfil these objectives. *"It's the whole package. It's not just the educational plan, it's is this child being prepared for adult life both educationally and socially?" (Jasmine)* Irrespective of the approach adopted by the family, there is a professional expectation for EHE to deliver an education which will equip a child to embark upon the future of their choice.

### 6.3.4: Summary – The External Landscape

The process of decision-making commences as the experiential knowledge of professionals encounters the perceptions of stakeholders in the external landscape. The GLA permeates the activities of all those inhabiting this space. Schools, the source of the majority of home educated children, have an active role in the EHE process. Parental capacity became an issue as the parents coerced or convinced into home education realise their inability to fulfil the requirements of Section 7. On a growing number of occasions children are at home and not home educated. Some parents expect professionals to provide resources or the education itself. The GLA became a tool, used by both parents and professionals to make sense of their practice. As discord regarding the role of the professional vs the role of the parent persists, the impact of challenges upon decision-making is explored in Physical Constraints.

## 6.4: Physical Constraints

> *It's bad enough seeing children who aren't getting an education if you're an educator, you know that's negative enough […] What a negative*

*experience were having in our jobs, it's so negative. I don't think I've ever been in a job as currently that has not got much positives, and it's so negative 'cos I've got so many bloody numbers, trying to do it all on my own […] I'm trying to manage, […] deal with schools, deal with parents, I mean it's, it's, I've drowned. I'm in that dark sea that you don't get any light, 'cos it can't be done can it? (Tom)*

The landscape within which EHE operates is far from placid. *"Parental attitudes can be a barrier […] I think it's fostered by certain activists" (Brooke). "They just see us as the enemy" (Tom).* As a corollary of this, the factors impinging upon the professional are now overwhelming. Tom describes a working practice marred by obstacles, providing further evidence of the partial/unsuitable provision discussed in section 6.3.2. The prevalence of these experiences has consequences for both children and professionals. The role of an educator is to facilitate the process of equipping children with the skills to achieve personal and communal goals. (Biesta, 2012; Neuman & Guterman, 2017c) Encountering children unable to access the opportunities education affords infuses the professional role with negativity. The challenges of maintaining an ever-increasing cohort places additional pressure on EHE officers. Lacking support and with no visible means to improve the situation, impediments to practice verge on the insurmountable. Similar experiences are voiced by other professionals; *"I love the job but the workloads a problem to the extent that I'm thinking of leaving, you know, seriously considering it because I'm getting to the point where I'm stressed" (Brooke). "The issue is that we are drowning" (Jasmine).* The 'as structures' revealed through these discussions identify challenges relating to the expectations of other professionals, the actions of parents and the deficiencies of the GLA.

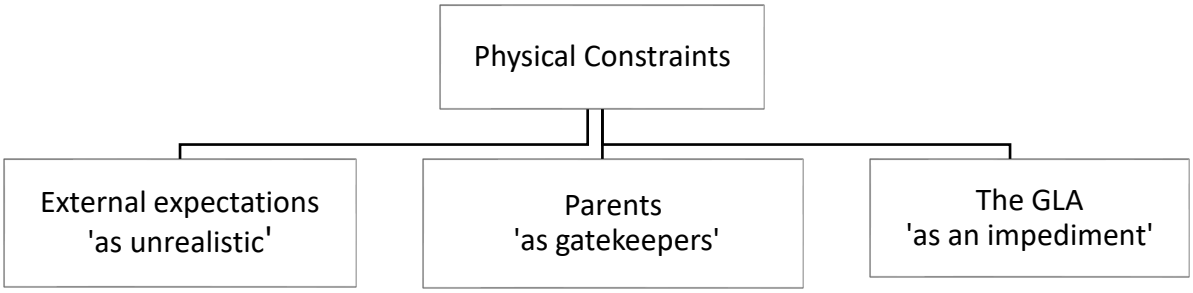


*Figure 8: Physical Constraints' 'as structures'*

### 6.4.1: External expectations 'as unrealistic'

*The role is quite stand alone in many ways. A lot of people in the council, even people of some standing, don't understand elective home education. I had a senior management member of staff saying that we*

> *must somehow reduce the number of home educated children because the numbers going up [...] They honestly thought it was something we had to give permission for, and so if senior management in education doesn't understand even the basics of that then it's a bit of a Cinderella service (Jessie)*

EHE departments are typically served by one or two key workers who may or may not have additional support for administrative tasks. In many local authorities, heightened interest in EHE has not been accompanied by a similar increase in funding or resources. Alongside the physical challenges professionals encounter, the level of expectation is also problematic. Jessie describes a scenario in which senior management are unaware of regulations relating to EHE. Alongside internal misunderstandings, the lack of external knowledge fosters unrealistic demands. Research conducted by Jennens (2011) demonstrated an overwhelming lack of understanding regarding the remit of EHE officers. Professionals in health and welfare are largely unaware of limitations to the powers of EHE officers and the absence of monitoring within the home. *"A social worker will say 'well why haven't you been around to the family home?' and I'll say 'well I've tried but they refused'. They refused a visit and I can't do anything about that 'cos it's their right" (Brooke).* In light of the level of government control West (2015) identified within school provision, the assumptions of colleagues and other external professionals (CoE) are incorrect yet not unreasonable. Even so, the assumptions surrounding professional powers have led to friction as CoE's mistakenly view professionals as unresponsive to their demands.

> *They expect me to do more than I can, you know […] As soon as they hear the words elective home education they want me to step in and do something but I, well I can't do more than the guidelines say I can […] I can't force the child back into school. I can talk to parents or I, you know, talk about school attendance orders and things like that if it's appropriate, but I can't do any more than that really (Brooke)*

Whilst the role of the professional is stand alone in terms of its remit, the complexities of their cohort often require a multi-agency approach. Alongside the standard stakeholders, EHE officers collaborate with SEN departments, social care, youth justice, CAMHS and the police. Publicity regarding off-rolling, increasing numbers and incidents of neglect have started to draw attention to the ambiguity and impotence of EHE regulations. In spite of this, professionals continue to report difficulties associated with limited understanding. As Brooke discovers, the expectations of CoE's surpass the scope of professional powers as identified in the GLA. The assumption that EHE officers have comprehensive access to parental provision is unfounded. Similarly, professionals lack the power to compel a

return to school when provision at home is unsuitable. Whilst EHE professionals are more than aware of the absence of the state within their practice, CoE's are not. The introduction of EA 1870 formalised the theory that the state must protect itself from the consequences of poor education. (Edward, 1882) Variations of this view continue to surface within modern educational debates. Marples (2014) insists the state must ensure its system of education is fit for purpose to guarantee the continuance of democratic society. From this perspective, the notion that the state would relinquish its powers to intervene within EHE is difficult for CoE's to comprehend. Professionals discuss the manner in which they attempt to inform colleagues of the diluted relationship between the state and EHE. *"We've tried to go to different multi-agency meetings to say can we just explain to the leads in these different professions what the law is [...] They need to be aware of what home education means" (Jasmine).* Predominantly reliant upon engagement and agreement, professionals have limited scope to enforce amendments to parental practice. As such, EHE officers are dependent upon support from other agencies to complete their role.

The increasing complexity of the EHE cohort impacts upon professional capacity. The growth of un-elective home education is particularly problematic.

> *Workers say we're visiting this family, we've got a concern, could you come and do a joint visit? So actually because of the numbers […] that's more or less all I'm doing, responding to those, 'we've been to this family, nothing's going on, they were expecting resources, they were expecting whatever', you know, so that's that. I'm kind of firefighting (Tom)*

The bespoke nature of the EHE role and the expertise it encompasses has both positive and negative ramifications. Capable of providing specialist advice to CoE's, the counsel of professionals is sought to assist the resolution of concerns. Adversely, collaboration with CoE's is increasing to such an extent that other aspects of the professional role are being side lined. *"When we explain to [manager] what one child entails, s/he almost couldn't believe it, but yet really couldn't come up with a solution to help. It's 'cos s/he doesn't understand the work that goes into it" (Stan).* Bombarded by numerous external demands the professional role is becoming reactionary. With little opportunity for preventative tasks, EHE officers find themselves 'firefighting' to cope with the influx.

### 6.4.2: Parents 'as gatekeepers'

> *We've tried to put on things for home educators and have had such an appalling response because they don't want to be known and they don't*

*want to come [...] It's not worth the energy, you know. We've spent so many hours doing things, trying to get in touch with them (Tom)*

The process of gaining access to parents is a constraint to professional practice. The home visit is a valuable tool in determining the suitability of provision. Within EHE literature, discussions regarding the home visit tend to centre on the issue of rights and control. As such, the complexity of the processing which occurs during these encounters is generally overlooked. (Facione et al., 1997) The opportunity to engage with families, discuss educational plans and observe their practice is beneficial to all parties. It is not unusual to receive curriculum information which appears to indicate partial provision. However, "the integration of sensory, intuitive, emotional and relational information" (Cook, 2017, p. 442) available during a home visit facilitates an alternative assessment. *"They've explained it in person, I'm comfortable saying yes to that, but in black and white it might not look that detailed but I know it is" (Jasmine).* In addition to this, the discussions which occur during a home visit provide an opportunity to offer support to parents whose provision is not yet established. In spite of this, home visits are arguably the most contentious element of the professional role. (Weale, 2014) The energy expended on devising events to engage families, develop positive relationships and foster further communication far outweighs the benefits; EHE professionals continue to be portrayed as 'the enemy'.

The parental sphere of EHE is a fractured arena with numerous factions espousing conflicting and competing ideologies. Within this space, the lobby which advises parents to refuse LA contact has made significant inroads.

*The visit I went to today, when I was walking out she said 'oh you know […] I like you coming here', and then she said 'you know I know I don't have to have a visit, because they've told me I don't have to have one, but I don't mind them' and I said 'yes, people tell me that when I come and visit, that other people have told them not to let me in, but you know I'm glad you did' (Annabelle)*

Once contact is established with a family there is opportunity for a positive relationship. The direction to avoid LA contact is disregarded by some against the advice of lobbyists. As the balance of power resides with the family, the location of interactions is determined by the parent. The terms of the encounter are also beyond the scope of professionals; parents elect whether to provide access to their children and evidence of the provision itself. In the absence of direct contact, the capacity to establish the suitability of home education is impeded. Access to parental provision is a recurring theme within the literature. Whilst individuals such as Beck (2015) and Lubienski (2015) are wary of

systems of education which operate beyond the public gaze, EHE advocates insist upon their right to protect the sanctity of the home. (Kraftl, 2013) The government's position on this issue is both telling and confused. In response to the need to ensure appropriate school education Ofsted will consider attendance, review learning and monitor progression in situ. (Ofsted, 2019b) Whilst not suggesting Ofsted style inspections, it is worth noting that the GLA 2007/13 endorsed the restriction of professional access to parental provision. GLA 2019 suggests EHE officers should take steps to ascertain suitability, without compelling parents to engage.

> Informal enquiries can include a request to see the child, either in the home or in another location. But the parent is under no legal obligation to agree to this simply in order to satisfy the local authority as to the suitability of home education (DfE, 2019a, p. 18)

Motives for refusing visits vary. For some families, traumatic experiences at school fostered wariness of professionals. Concerned that engagement with EHE officers will disturb the respite provided by the home environment, visits are declined. Other parents reject communication with professionals in an attempt to impede the perceived encroachment of the state within the home. For a number of families, non-engagement is employed to conceal unsuitable provision.

> *I know there's a strong cohort that don't want me anywhere near them […] I think the barriers from parents' side is the fact that they think I'm coming to judge them, which I kind of am in a way, but also some of them think I'm gonna send their kids back to school and I have to say no, I'm not about that. I'm about supporting you to give them the best education you can at home (Brooke)*

As the gatekeepers of the access to their provision, parents can expand or minimise the distance between themselves and EHE officers. The strength of feeling amongst the families restricting access is notable. (Beck, 2015) Anxiety regarding external scrutiny and the outcome of official intervention has led an increasing amount of families to prevent access. In a number of European countries this cohort is required to operate under the radar as publicising their EHE status brings with it varying degrees of oversight. (Eurydice, 2018) In England, whilst there is undoubtedly a hidden cohort of students (ADCS, 2019; Hopwood et al., 2007), autonomy and seclusion are a legitimate aspect of EHE. Concerns regarding undue interference or being 'judged' continue to fuel advocacy advice to parents. In actuality, professionals such as Brooke have alternative goals; the personal development of children via a programme of learning designed to meet their needs is high on their agenda. Even so, whilst GLA 2019 does clarify the professional right to request curriculum information, EHE officers may not insist on anything further.

"*The law isn't behind you making these visits" (Annabelle).* As such, access is heavily reliant upon negotiation.

> *You have to really go in don't you, each time, on a wing and a prayer, hoping to discuss with them and encourage them to share with you what they're doing and to be honest with you and ask them 'oh can I see some of your work? Can I see what you're doing on the computer?' But obviously they don't have to show it you and you can't demand, so I feel we're on a real tricky wicket in those meetings and those visits* (*Tom)*

EHE officers encounter a range of undetermined elements during home visits both in terms of their personal safety and the nature of provision therein. Parents, as the gatekeepers to the assessment process, possess the power to decide. EHE officers are not endowed with the authority to frame the agenda. Instead, Tom is required to 'hope' families engage and present an accurate representation of their provision. The knowledge that the GLA neither encourages nor enforces professional oversight consigns EHE officers to function in precarious circumstances. Operating on a 'wing and a prayer', avenues for establishing the suitability of provision are minimal.

### 6.4.3: The Guidelines for Local Authorities 'as an impediment'

> *All children have got different needs but there ought to be some sense of what a good education looks like. If Ofsted go and visit a school, they have a sense of what a good education looks like. We don't have that in home ed (Evelyn)*

In consulting practice frameworks, professionals justifiably anticipate procedural instruction. Discussions with colleagues were strikingly uniform with regards to their general disappointment on this matter. "*I think it needs to be much more defined what the government thinks is a suitable education for those who are home educated. I don't think it's enough to have the ridiculously woolly definition that it's got currently" (Tom).* The GLA, as the primary source of EHE practice, should have the capacity to counter the barriers within the external landscape. Instead, GLA 2007/13 was itself a significant impediment to professional practice.

> *Given that obviously as a professional you have to make a professional decision about age, ability and suitability, you know, aptitude. You have to sort of do that on the ground, without any assessments, which is pretty hard […] Why can't it be defined for home educators? (Tom)*

Professional judgment lay at the centre of the decision-making process. However, the narrative which maintains EHE officers are ill-equipped to deal with the intricacies of home education remains. (Jennens, 2011) As such, the value of professional assessments and their processing of content, context, evidence and methods (Facione et al., 1997) have been diminished. Indeed, some advocates dispute the efficacy of professional decisions and their right to comment upon parental provision; home practice is perceived to be beyond the scope of the state and its officers. (Glanzer, 2013) Tom's comment rejects this view, aligning instead with the perspective of Dottin (2009); professionals, by their very title, are expected to implement competent judgments via their practice. Facione, Facione and Giancarlo (1997) suggested strategies for minimising poor professional judgment including the use of protocols/procedural handbooks and legislative scaffolding. The absence of these within EHE left officers vulnerable to claims of arbitrary practice. (Lowden, 1989) The GLA's muted narrative regarding this seminal aspect of home education is disappointing. In subsuming a 'ridiculously woolly' definition of parental provision, the GLA is not sufficiently robust to buttress or validate professional practice. In questioning the rationale for regulatory reticence, the disconnect between EHE policy makers and the experiences of professionals 'on the ground' is evident. Government advisors possess the capacity and the means to determine and disseminate comparative specifications yet decline to do so. As such, the non-interventionist stance of the guidance serves to exacerbate, rather than eradicate, ongoing debate regarding the quality and content of parental provision.

> *I don't tend to get examples of work, I tend to just get a letter from the parent telling me all the wonderful things they've done, full of spelling mistakes […] Should I accept that? […] What do I do with that? There isn't anything in the guidance […] Does that give me enough reason to think this child isn't being adequately educated? (Evelyn)*

Professionals query the validity of educational plans which present a theoretical description inconsistent with observations. The question as to whether the material presented is sufficient to warrant investigation is not resolved by consulting GLA 2007/13 or 2019. A similar situation is discussed by Stan. Sceptical of the accuracy of provision descriptions, a challenge was issued. In response a *"massive piece of educational philosophy" (Stan)* was provided which bore no relation to previous written or verbal communications. Conscious of the availability of online curriculums Stan remained unconvinced, yet the guidelines provided no avenues for further action. As evidence of provision was requested, received and 'appeared' suitable, the concerns process as outlined in GLA 2007/13 had been satisfied. However, following a lengthy investigation by social care, Stan's initial assessment was substantiated; the parent had not authored the educational plan and the children were not in receipt of any education. It is too early

to determine how effective GLA 2019 will be in such circumstances, yet GLA 2007/13 was ineffectual. *"I know I have got no jurisdiction [..] so I feel like I am failing in my assessments to be honest, but because my powers are so limited, because it's thrown back in my face when I do challenge it, it's difficult" (Jasmine).* The gulf which exists between the identification of unsuitable provision and the capacity to take action against it leads to despondency amongst professionals. *"We can't just say these children aren't receiving an education because then they can take you to court and they can do this and they can do that […] All this time it takes up and the children are wasted. Their education is wasted" (Toby).* Omissions within GLA 2007/13 created an environment rich with opportunities to refute professional knowledge. Whilst the discrediting of professional judgment undoubtedly affects the morale of EHE officers, the impact upon the learner is a significant cause for concern.

### 6.4.4: Summary – Physical Constraints

The barriers originating in the external landscape from the competing demands of stakeholders impinge upon professional practice. The expectations of CoE's, the actions of parents and the GLA itself, all emerge from professional narratives as significant constraints. Limited access to parental provision - as endorsed by the GLA - places professionals in a difficult situation. Reliant upon support from colleagues with statutory powers, EHE officers are restricted in their ability to effect positive change. The breadth and depth of professional frustration this discussion uncovered was both palpable and disconcerting. The following sections explore the manner in which EHE officers transcend these barriers to fulfil their responsibilities.

## 6.5: Practice Consolidation

> *I feel I really understand home education in terms of its background and the law, which was certainly not the case when I came into the job [...] It's my only role so I take much more interest in it, which is important because people above me are taking much more interest (Jessie)*

Within the model of decision-making, practice consolidation represents the space in which professionals achieve resolution. Customary practice becomes possible as interpretations, evaluations and analysis are employed to facilitate decision-making. Professionals engage in "monitoring the process and impact of their problem solving activity so as to amend, revise, correct, or alter their decisions, or any element that led up to those decisions, as deemed necessary" (Facione et al., 1997, p. 1). In doing so, the outcomes of practice consolidation filter into and inform personal horizons, continually replenishing experiential knowledge. The amalgamation of professional judgment, case law and education law,

enables officers to discharge their duties. Professional narratives indicate four 'as structures' relating to suitability. Parental provision should be tangible, related to the child and embedded within external directives. The experience and knowledge base of professionals is such that decision-making becomes an intuitive process.

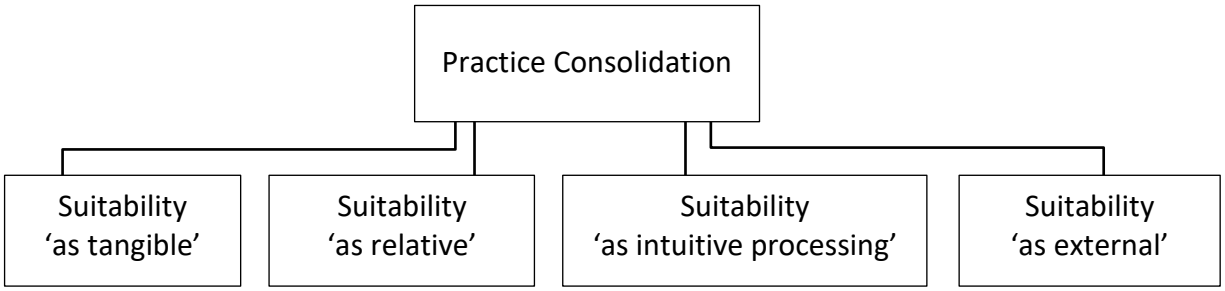


*Figure 9: Practice Consolidation 'as structures'*

### 6.5.1: Suitability 'as tangible'

> *I'm looking for, well, kind of the amount of work in a way, that there is sort of sufficient […] I mean that's the main thing, that they are doing stuff and they're evidencing that they're doing stuff, you know, even if its photos or a diary or whatever (Brooke)*

In delivering an education otherwise, the GLA states parents are not required to demonstrate provision by amassing samples of student work or learning materials. A full-time provision must be in place, yet there is no requirement for education to be observable. Similarly, Kunzman (2012) endorsed the concept of educational provision so embedded within family life that it is no longer visible as a separate entity. The professional requirement for education to be tangible stands in direct opposition to both the GLA and the type of 'naturalistic' provision which reifies the familial bond. (Kraftl, 2013) In all the LA's consulted the process of establishing suitability commences with a request for curriculum information. According to the GLA, if curriculum plans *appear* appropriate no further action is required - provision should be deemed suitable. However, this theoretical determination of suitability requires a high level of supposition. Firstly, professionals are required to accept the information provided is both the product of the family in question and an accurate representation of their provision. It is not unusual for professionals to unearth provision which has dwindled over a period of time or entirely ceased. *"Sometimes the parents simply don't have the facilities or the ability to educate at home and they often discover that quite independently quite quickly" (Jessie)*. As such, the appropriateness of determining suitability on the basis of assumptions is problematic. *"It's just what parent's writing. I know that I had a massive concern about a*

*child [...] and I know this parent then got support from [named EHE Advocate] who provided her with all the information she needed" (Tom).* Secondly, professionals are required to accept education is appropriate to aptitude, age and ability without any form of corroboration. In discussing the physical constraints upon professional practice, the GLA's approval of provision which is not tangible presents as a barrier. The efficacy of decisions concerning unseen education have been severely criticised. A professional report constructed without access to provision is essentially not "worth the paper it is written on" (S (a child with disabilities), 2015, para.62). Professionals agreed decision-making required a less superficial foundation.

In requiring suitable provision to be tangible, abstract materials such as curriculum plans or educational philosophies are regarded as indicators of aspirations and goals. Suitability however, cannot be assigned without direct observation of the provision itself. Evidence of education can take a variety of formats – 'diaries', 'photographs' or anything else. Government reluctance to establish the point at which parental rights should concede to state rights has led to conflict on this issue. Kunzman (2012) correctly notes the right of officials to enter homes is not common practice. However, a distinction should be made between entering homes and the right of the state to oversee education. The former often involves an infraction of some kind and is reserved for specific situations. The latter does not require access to the home and is a reasonable request.

> *I did have a family recently who I've been chasing for ages and they've finally agreed to see me. It's to do with another referral from somewhere else into social services. So they got their act together and they showed me literally a couple of pieces of work and some certificates, but they had so much photographic and video evidence and I met the child and he was talking all about what he'd done that I said yeah, that's satisfactory even though I'd only seen a bit of work because it was obvious that, you know, he was getting some education (Brooke)*

The growing complexity and vulnerability of the current EHE cohort has been accompanied by an increase in unsuitable provision. (DfE, 2019a) The reluctance of some families to engage with the LA is potentially indicative of attempts to conceal the absence of home education. *"Sometimes you're being told what the parent thinks you should be told. Sometimes they're just trying to sort of cover things up and you get a series of excuses and reasons why they haven't done this and why I can't see the work" (Jessie).* Brooke's ongoing attempts to engage with a particular family was a cause for concern. The involvement of social services signals the potential for social, emotional or educational neglect. As a professional that is both evidence-led and attune to the diversity of parental provision, Brooke is able to see beyond the limited samples of

evidence. In isolation, the material observed appears unsuitable. The accompaniment of photographic evidence and, more importantly, corroboration from the learner, are vital persuaders. In seeking tangible provision therefore, professionals are open to accepting a range of evidence. Jasmine confirms the extent to which the determination of suitability is an amalgamation of the observed and the experienced. *"We'd have seen the child, we'd have seen them in the home, we'd have seen the parents, we'd seen a comprehensive plan and a comprehensive log of work and we'd have seen the child in a learning environment, you know, learning" (Jasmine).*

The concept of suitability as tangible refers to both the education and the resources used to facilitate learning. In exploring the nature of parental provision much has been written regarding the extent to which home education is not necessarily based within the home environment. (Kraftl, 2013; Rothermel, 2011) Even so, the home can serve as a physical representation of the suitability of the education it encompasses. As such the richness and diversity of the resources available to learners are also worthy of consideration. *"I have a few other families […] where the house is a mini, overstuffed resource centre and, you know, you're shown everything. Every bit of planning, every detail" (Evelyn).* Professionals reveal a flexible approach, analysing a composite of visible clues to which they apply their experiential knowledge. A home brimming with appropriate resources accompanied with planning and examples of work is a positive sign. Conversely, a home with copious resources which appear unused, irrelevant or unrelated to described activities is not viewed favourably. As the gatekeepers of EHE, the commitment shown by parents, alongside their understanding of the relevance of the materials they incorporate is crucial. *"I think the main thing is interest and enthusiasm from the parents" (Jessie).*

### 6.5.2: Suitability 'as relative to the learner'

> *Mum had brought loads of books. I don't know where she got them from. There were a couple of published work books that were sort of primary age, colouring things in. Fair enough he's got no English so, you know, learning basic words was ok, […] but then there was a […] 2nd year uni level chemistry book. Why? [Mum] said he was reading about English from this […] There was an Oxford English dictionary, big thick version, said he's learning English words from this […] That's fine, but what do you do when he's learnt a new word? There were no conversations, it was just a thick book that sat on the shelf really. And there were some other text books […] interesting stuff, but no use at all to a year 9 boy that doesn't speak English. So I said these aren't the*

*right books, this isn't really gonna help, it's going to put him off if anything (Evelyn)*

The opportunity to physically engage with parental provision is a crucial first step in the decision-making process. Whilst volume is indicative of suitability, it is not definitive. Instead, prominence is afforded to the extent to which the provision relates to the learner. Rothermel's (2011) interviews with home educators frequently refer to the freedom EHE provides to develop personalised learning. Similar sentiments are expressed by Thomas and Pattison (2013) with their emphasis upon the needs of the child. Indeed, Section 7 specifies the personalised nature of suitable education. In line with this, instances in which parents present with a range of inappropriate resources unrelated to their child's ability or aptitude, are deemed unsuitable. Education in such circumstances is not efficient. Evelyn describes an encounter with a parent attempting to utilise resources ranging from primary to university level. Whilst the materials available within this home are substantial, they are also inappropriate in terms of content. The absence of parental discussion and engagement with the learning process merely serves to compound the unsuitability of the resources and approach.

Discussions with other professionals reveals Evelyn's experience is not unique. Professionals are aware of numerous examples of school withdrawal followed by the creation of provision with minimal personalisation or cursory parental participation. EHE advocates and the GLA continue to refer to parental provision as "almost continuous one to one contact" (DfE, 2019a, p. 32). Even so, Tom refers to parents that present work that *"hasn't been marked 'cos the child's just been doing it on their own and the parents just ticked it and some of its incorrect".* Whilst the GLA does not require parents to assess learning, the absence of parental monitoring is problematic. The failure to provide accurate feedback encapsulates a provision which neither nurtures learning nor advances progression. *"I've seen [...] [children] just filling out books without [parents] sitting and helping them to learn about new concepts and explain what it is and then go back and correct the bits that they haven't understood" (Tom).* Detrimental in terms of its adverse impact upon student progression, ineffectual parental engagement also signals a general disregard for the requirements of Section 7.

One of the principal characteristics of 'suitability as relative' is the presence of differentiated learning. The transition from the role of supplementing learning to devising education is not always straightforward. In practice, awareness of aptitude and ability is often absent at the outset of EHE. *"My concern at the time was the amount of work and the sort of level being achieved. The child was a key stage 3 and was working at quite a low key stage 2 level […] I'd have to see some more appropriate work in terms*

*of the child's age" (Jessie).* In supporting the education of school-based children, the parent is typically required to assist the process of embedding learning. In contrast, the home educator is the architect responsible for determining the what, how and why of education. Advocates of the autonomous approach would undoubtedly dispute the concept of framing and commencing learning; the experience of education within this perspective is perceived as natural and continuous with no identifiable beginning or end. Furthermore, children are typically allowed to find their own educational path. (Thomas & Pattison, 2013) Contrary to this position the fulfilment of Section 7 requires a high degree of parental awareness of the learning process. Whether structured or unstructured, education which is relative to the learner requires parental scrutiny and support.

> *I'm sort of looking for evidence, whether that's a conversation or whatever, that you now have some new information in your head that you didn't know before. And that's different with different kids because if you're really severely disabled taking a pound coin, going to the shops and buying a loaf of bread is learning. That's a massive thing. But if you're an 'A' star student, in a full day at school you would learn an awful lot of new information. It's impossible to say how long that's gonna take but what I don't want to see is 25 hours of them copying, 'cos that's not learning. Yes, I know you'll pick a few bits up and your hand writing might improve, other than that? (Evelyn)*

The question posed by Evelyn is both succinct and insightful. In confirming the suitability of education, the professional expectation is for parents to be able to answer the question, 'what does your child now know that s/he did not know before?' The response to this will vary and, if provision is relative, will consider the aptitude and ability of the learner. Once again, the requirement for a tangible response to this question is not accompanied with an expectation of school style verification. Instead, evidence of active learning with a demonstrable purpose is key.

In some respects, the GLA could be perceived as a facilitator of Biesta's (2015) concept of learnification. The omission of criteria from parental provision enables generality as opposed to intent. In contrast to this, professional narratives reveal an affinity with accepted principles regarding educational purpose. "Education is in some way always 'framed' and perhaps we could even say constituted by ends [...] this is one of the key ways in which education is different from learning, in that learning can occur without (the specification of) any ends" (Biesta, 2012, p. 584). From the professional perspective, the identification of the 'ends' of parental provision, is an essential part of suitability. The

expectation is for the parent to be aware of what their child needs to know in order to make progress.

> *They were [...] an early years type of age group. Had a timetable, they had a special rug where they did their reading. They showed me books they were reading, the little girl was able to show me all these models of dinosaurs and knew every name, […] they were able to talk to me, […] they were able to show me a little bit of work they'd done in books, but really most of it was forest school and talking to them, but I kind of felt ok, they are the age they are. If they were 12 and 13 and that's all they were doing I'd probably say hang on a minute, how you gonna move to qualifications? […] I'd probably question it, but at that point I thought for early years, you know, I think that's fine. I think that's ok (Tom)*

The anticipation of an education relative to the child is accompanied by the notion that learning should evolve. Provision which is deemed suitable for children at one point in their educational journey may not be adjudged as suitable at a later stage. *"Obviously if there's special needs then that's different but for a kid that hasn't […] that's not gonna get past me" (Brooke).* As such, a flexible provision capable of adapting and maturing with its recipients is a positive indication of a relative and suitable education. The provision described by Tom is not an exemplar of suitability yet the quality and content of learning appears appropriate to the age, aptitude and ability of its recipients. The tangibility of education was achieved via the amalgamation of visual information and discussions with the parent and the children. Indeed, the enthusiasm and capacity of children to share their experiences is a positive verification of learning. The education was efficient in this scenario in that it employed a naturalistic approach to embed learning. A similar, discussion-based provision for children in the latter stages of compulsory education is not inherently unfeasible. Nevertheless, the parent would be required to address questions pertaining to appropriateness and efficiency with reference to future goals.

### 6.5.3: Suitability 'as relative to the professional'

> *I suppose I think to myself, if I was a parent and my child was producing this amount of work would I be happy and […] as a teacher would I be happy? (Brooke)*

The decisions of EHE officers are constructed from a range of interconnected fragments of information. Alongside observability, provision should be relative to the learner. In addition to this, some professionals approach decision-making on an intimate level. Brooke reveals the manner in which she considers the assessment of suitability from her

perspective as a parent and a teacher. This transference of personal expectations onto the determination of suitability attaches an additional component to decision-making. The question as to whether provision is suitable is no longer a detached decision. The pivotal question, 'is this provision suitable?', is amended to 'would I be happy with this education for my child?' A similar theme is explored by Evelyn who discusses how her personal horizons impact upon evaluations of suitability. An encounter at the outset of her teaching career fostered a perspective of education which continues to scaffold her professional practice.

> *I find it a personal sort of challenge because when I started in education the person that I had a lot of respect for was [name] […] Their measure was if this is not good enough for my child, it's not good enough for anybody's child and I kept that […] all through mainstream teaching […] and every conversation I had with them it was always 'is this good enough for your own child?' And you could measure that as a 'yes' or 'no', and now if I look at some of the home ed families again, if I ask the same question, I have to say no, this wouldn't be good enough for my child (Evelyn)*

Setting the benchmark for suitable provision against the personal expectations a professional holds for their own children is an interesting development. For Glanzer (2013) the presence of the state within parental provision is already excessive and unwarranted; to achieve a system of education not designed to merely create future employees, provision should be released from government control. The notion that state officials were at liberty to employ personal criteria would be viewed as further evidence of external intrusion into the private. Even so, the term 'suitable', as a standard, is neither excessive nor aspirational. *"It's sort of saying well ok, it'll do" (Evelyn).* Erring on the side of mediocre, parents would be justifiably disappointed to discover Ofsted had rated their child's education as 'suitable'. The question, 'is this good enough for your own child', presents an alternative point of reference. The official definition of suitability has resulted in an ineffectual interpretation which lacks practical and definitive criteria. The benchmark of a provision good enough for your own child is measurable simply in the positive or the negative. Whilst this notion raises a host of supplemental questions regarding perspectives, it also suggests a higher level of education than that deemed sufficient by the GLA. Evelyn continues by saying,

> *This wouldn't be good enough for my child because I have different expectations for my child, but again it's sort of tempered with […] would it actually cause them any harm if they did this work a while or for full-time? Would this actually cause them any harm and stop them doing*

> *whatever they want in future? And that's the bit where it gets difficult to say well yes, actually it would. It would set them back. So it's always that at this time, on the evidence, the discussion seen today, it appears that education's suitable (Evelyn)*

The acknowledgement that the expectations of the GLA are 'different' to personal criteria highlights the tension involved in the amalgamation of the interpretive and the regulatory. Whereas the personal perspective of suitability is couched in positive associations of excellence, the GLA's standpoint is not. As such, provision which is far from exceptional can be categorised as suitable due to the absence of harm as opposed to the presence of definite benefits.

### 6.5.4: Suitability 'as intuitive processing'

> *When I worked in a school we would get together with other schools and we'd level and we'd see that we were all working from the same song sheet, but no one does that here really (Annabelle)*

A recurring criticism levelled at professionals by EHE proponents relates to the perceived lack of consistency between local authority practices. (House of Commons Education Committee, 2012) Central to this is the notion that professional practice lacks standardization. Consequently, the decision-making of EHE officers is perceived as arbitrary, primarily determined by the personal inclinations of individual officers. (Lees & Nicholson, 2017) Annabelle's reference to the absence of moderation typical within schools appears to validate the criticism. However, as professionals' regional networks continue to grow, EHE officers are increasingly aware of the practices of others. Nevertheless, EHE is an occupation which requires an extensive amount of professional judgment. The experiential arsenal EHE officers develop within their personal horizons is a valuable asset in this process. "*I'm aware it's very much down to my professional opinion, my view. I've been teaching for almost X years and I think I'd be unhappy if I was less experienced […] I'm reasonably well qualified or perhaps as qualified as anyone" (Jessie).* The aim of this project is to capture individual accounts yet the theme of intuitive decision-making is common throughout the narratives of all professionals. "Defined as a form of 'nonconscious holistic information processing'[…] it is sometimes described as a sixth sense, or gut feeling, that is later proven correct" (Cook, 2017, p. 432). For Evelyn, decision-making is *"absolutely just a gut reaction […] based on my experience, which is different to your experience and the next professional's experience."* As such professionals are conscious that their assessments may not correspond to the assessments of others.

*Today a lady had a maths workbook, an English workbook, so good they're doing a little bit of maths, a little bit of English […] She had a few pages of a diary that her son had written. She'd done a couple of craft things […] She showed me a book that he was reading […] what else? oh just a few paragraphs of things he'd written that were set in ancient Greece […] So I'm saying ok, that's suitable but someone else might not because there wasn't much there, so there's not a lot we can go on (Annabelle)*

The decisions made by EHE professionals are inherently contextual. The information known about the family - their circumstances, motives, supplementary information extracted from conversations and the evidence presented – combine to complete the jigsaw of decision-making. What is interesting is the manner in which this intuition is not valued as an example of professional judgment. Bondi et al's (2016) examination of 'professional wisdom' explored the efficacy of the experiential knowledge employed by practitioners in people professions. Recognising that decision-making is sourced from a professional's ability to infuse knowledge with context, interpretation is expected. However, EHE officers are acutely aware of how their perceptions may appear to outsiders. Rather than being satisfied that she had made a reasoned assessment, Annabelle queried whether another professional would conclude suitable provision was in place. The inclusion of English was arguably the starting point for the majority of professionals due to its reference within legal proceedings. Even so, at face value, the description of the education within this home may be considered as unsuitable by others - particularly in light of the following section of the discussion.

*Venetta: what period did that work cover, 'cos that makes a difference*

*Annabelle: yes, well it's the whole year*

*Venetta: she was giving you that for the year?*

The lack of physical evidence for such a prolonged period of time is problematic. Within this family, provision was categorised as structured and thus learning was recorded in a standard format of exercise books and workbooks. When presented with material representing a year of home provision, a significantly greater amount of samples would be expected. However, further information provided additional points to consider.

*The child has dyslexia and other things, ADHD, so it's a child who would have problems getting things down, recorded work, so then its less for you to make a decision […] I know this isn't a child who can write reams*

*and reams 'cos he's got some learning difficulties. That's where the difficulties come in, when its border line like that (Annabelle)*

In this instance, the contextual information Annabelle accesses enables her to make an informed decision regarding suitability. This is an example of a borderline case as Annabelle is required to establish whether provision is non-existent or merely unobservable. As discussed earlier, the tangibility of provision alongside volume are initial indicators of suitability. In the absence of these measures other signals were utilised. In particular, the criterion of suitability as relative to the child is considered. An intuitive decision is reached which appears reasonable in light of the additional information. Whilst the limited samples of work are explained by the child's special education needs, the parent's apparent inability to implement more appropriate methods could potentially indicate unsuitability. Even so, the point remains that the negative connotations associated with 'gut decisions' continue to belie the expertise and experiential knowledge upon which these judgments are founded.

*I think it's more about that feeling of that you're comfortable that these children are ok and the parents are doing it for the children, for the best reasons, does that make sense? It's also a gut feeling (Jasmine)*

The intuition which underpins decision-making was referred to as a 'feeling' in numerous discussions, particularly in relation to the difficulties associated with evidencing assessments; "*we've got no proof […] we just know [...] You know when you just know?" (Stan)* Even so, professionals are able to identify key characteristics. In the case of Jasmine, intuitive decision-making generally centres on the needs of the child. As such, the determination of suitability stems from the view that the child's current situation is the most beneficial. Once again, this decision could be made in the absence of physical evidence when other factors substantiate the 'gut feeling'. The relationship between parent and child, the extent to which provision fosters educational progression and the development of emotional wellbeing are crucial. A similar sentiment is expressed by Evelyn who also delves beneath the physical aspects of provision to gain a deeper understanding.

*Going back to the very severely disabled child, if the education looks like it's just going to promote that child sitting doing nothing, is that actually suitable? No. For that child we want them doing something […] It's having some way of measuring […] what the child wants and has the capacity and the ability to do against what they are actually given, and again it's almost a gut reaction, a gut feeling of does this child look happy? Does it look as if they're going to get what they want out of life? (Evelyn)*

Evelyn confirmed the presence of provision is not in itself sufficient. It is possible for education within the home to fulfil the criteria of 'full-time' and remain ineffectual in its capacity to promote achievement – a situation not appreciated within guidance prior to GLA 2019. Irrespective of ability, the expectation here is that the education received should not merely maintain the status quo; children should benefit from the education they receive. The interplay between 'suitability as relative' and 'suitability as intuitive' is evident in Evelyn's assessment. In line with the concept of suitability as relative, progression may be expressed in a multitude of ways. In determining whether home education is suitable, professionals establish the connection between the child's capacity and the extent to which their provision aligns with their ability. Indeed, in its most basic sense, the confirmation of suitable provision hinges on this rudimentary principle. In the absence of comprehensive access to children and their provision the assessment process is often reliant upon 'gut reactions and gut feelings'. In practice, this experientially led process of reading between the lines is often imperceptible. However, Jessie presents as the exception to this rule.

> *I've got a sort of blueprint which I guess I carry around. It's quite difficult to explain it, but I've got quite adept at recognising when things are not right. Usually within 3 or 4 minutes I'm getting those signals you get once you've done the job for a while (Jessie)*

In an attempt to identify and capture the ethos of his practice, Jessie has created an operational model. The document serves as the physical representation of the experiential knowledge and understanding embedded within his personal horizons. Developed from responses to encounters over the years, specific instances were literally collated and catalogued for future reference. As a result of this, Jessie has become adept at identifying issues within home education. In line with other professional narratives, the identification of unsuitable provision was not problematic. *"I tend to look for is this unsuitable? Is this going to cause you […] a problem or not" (Evelyn).* However, the ongoing process of reflection which engendered Jessie's working document has equipped him with an assuredness. Whilst other professionals query the response to intuitive decisions – albeit it to greater and lesser extents - Jessie appears confident in the rationale which underpins his decision-making. The length of time in service and diverse, previous experience has equipped Jessie with the tools to decode parental encounters. As individualistic as Jessie's method may be, his actions are based upon similar foundations to those of his colleagues – the legislative and judicial criteria for EHE.

### 6.5.5: Suitability 'as external'

> *I'm trying to get the parents to understand yes, you can go on real life, on trips and all those things, but what's the purpose of that visit? What are you learning that's new? That comes down to the suitable, the efficient and the full-time thing (Evelyn)*

The decision-making which takes place as a result of practice consolidation has thus far been framed by a trio of micro level influences relating directly to the professional, parent or child. Professionals discussed the determination of suitability in terms of the amount of information they were presented. Volume of provision is not sufficient in itself as the extent to which it relates to the student is also key. Intuitive knowledge is employed to ascertain the extent to which the capacity and ability of the child is matched by the content of their provision. Each of these areas requires a high level of judgment. However, for all professionals the overarching influence upon decision-making came from independent and external sources. Evelyn discusses the diversity of parental practice and the importance some families attribute to real life experiences. Indeed, EHE advocates promote home education as a natural extension to everyday life. (Després, 2013; Merry & Howell, 2009) Whilst the validity of these activities is not disputed per se, the purpose is not always evident. In establishing whether the event is an effective educational experience Evelyn drew on external criteria established in Section 7. In assuming personal responsibility for the delivery of education parents must ensure their child receives an efficient full-time education, suitable to their age, aptitude, ability and special education needs. The replication of work is not regarded as 'learning' as it did not fulfil these criteria - irrespective of its volume and duration.

> *We've still got this ongoing thing with the GRT [Gypsy, Roma, Traveller Community] […] I cannot accept or assess their curriculum plan because it hasn't been filled out by the person who's educating, it's been filled out by part of the support team because the families can't read and write and so its saying things like making wooden dolls, craft, cookery. […] It is acceptable for their society. But the criteria is so what if they decide not to live in that community when their older and they're not equipped for the wider society? What about that? (Jasmine)*

The topic of education within the traveller community has been under investigation for some time. The DfE's (2010b) *Improving the outcomes for Gypsy, Roma and Traveller pupils: final report* once again expressed concern: "Gypsy, Roma and Traveller pupils are reported to be amongst the lowest achieving ethnic groups within schools in England" (DfE, 2010b, p. i). In light of the issues these families continue to experience, EHE often presents as a preferred option. (D'Arcy, 2014) Whilst data is difficult to collect, around

12,000 children from the traveller community are thought to be receiving an education at home. (Ofsted, 2003) Jasmine's discussion of the provision some of these children receive highlights the tension between parental capacity and educational responsibilities. The activities referred to here also demonstrate the manner in which suitability is ultimately determined by external criteria. In addition to Evelyn's previous reference to Section 7, Jasmine indicates the importance of legal rulings. The parental plan is problematic; devised by a support worker due to the illiteracy of the parent, the information presented may not be an accurate reflection of the education being provided. The capacity of the parent alongside the nature of the provision described causes further concern. Case law has established that suitable provision should equip a child for life in his/her community without restricting access to wider society. An education at home which solely relies upon craft making and cookery will undoubtedly disadvantage the learner in the general community. Alongside the concept of preparation, case law also stresses the requirement for key skills.

> *I would be looking for some information about how they're providing education in terms of reading, writing and numeracy. I'm only going on the Harrison and Harrison case law that fundamentally, unless it's supervised and structured and entails reading, writing and numeracy it cannot be a suitable education and its only child minding if you're leaving a child to its own devices (Tom)*

The characteristics of suitability as defined by external forces in the judicial system clearly directed Tom in his assessment of provision. In examining the material received from parents, the inclusion of maths and English is perceived as a legal necessity. The criteria which determine the adequacy of home provision centre on both the inclusion of core skills alongside a visible level of parental engagement. Supporting the view that suitable provision is relative to the child, education with limited parental oversight is unlikely to fulfil its remit. The extent to which these principles are regarded as fundamental is substantiated by the perceived lack of official support for requests regarding other evidence.

> *Sometimes you're playing ping pong with parents as to what I need to see, pretty much I only look for the English and maths side of things in these cases 'cos legally I'm on sort of quite a sticky wicket if I try to go beyond that. So I ask for samples of work and give them a variety of things that can be provided (Jessie)*

Irrespective of the issue which may have arisen, Jessie is not confident that the non-statutory framework surrounding EHE will support him in his practice. Securing an agreement regarding the evidence required to demonstrate suitable provision is described

as a game. Navigating negotiations with parents requires rounds of offers and counter-offers. The precise nature of what can be requested is limited to core subjects due to the GLA's omission to specify areas of learning. In light of this, sole emphasis is placed upon the areas of English and maths in an attempt to remain within legal boundaries.

### 6.5.6: Summary - Practice Consolidation

The personal horizons of professionals serve as an initial resource as they enter the external landscape. The development of personal horizons is an ongoing, circular process. As such, engagement with the external landscape equips professionals with additional post specific knowledge. Stakeholder interests and competing demands attempt to control the EHE agenda creating numerous barriers to practice. The richness of personal horizons provides a means of deflecting the assault of physical constraints. The locale of practice consolidation represents the final stage of the decision-making journey. Professional judgment and external information are combined, analysed and assessed to facilitate decision-making. In relation to the issue of suitability, the criteria consolidated into sense-making demonstrate the interplay between the experiential and the regulatory. Professionals perceive the requirement to ascertain suitability necessitates an element of tangibility either via physical evidence or direct engagement with parental provision. A suitable education should also be relative to the needs of the child and prepare learners for their future. Consulted by all professionals, the GLA remains at the core of decision-making, functioning as both a tool and an obstacle. Essentially devoid of actionable content GLA 2007/13, supported by external clarifications, was fused with experiential knowledge to transform the ethereal into tangible working practice.

# Chapter 7: Research findings

To understand what the individual is
requires a move beyond the individual to the social
(Hirsch & Stewart, 2005, p. 262)

## 7.1: Overview - Chapter 7

In transitioning from the emic of data creation to the etic, the wider ramifications of individual narratives can be discussed. The analysis of data identified a range of sub themes which were drawn together into the primary concepts of Personal Horizons, External Landscapes, Physical Constraints and Practice Consolidation. Four interconnected findings emerged from these areas, namely -

1. Professional practice may vary yet it is not arbitrary
2. The GLA is counterproductive to professional practice
3. Professional practice is embedded within Section 7 and case law
4. Professional practice is consensual

This chapter discusses these findings in relation to EHE literature and the aims of this project.

### 7.1.2: Finding 1 – Professional practice is not arbitrary

The personal horizons of professionals demonstrate how a range of internal and external factors combine to support decision-making. Even so, the accusation of arbitrary practice is not substantiated by the experiences and narratives accessed as a result of this project. Instead, professionals operate within a transparent regulatory framework supported by professional judgment. Chapter 2's exploration of the historic development of EHE highlighted the origin of contemporary issues. Similarly, the notion of arbitrary practice appears to be a remnant of an outdated perspective which continues to taint professional and parental relations. The experiences which facilitated the English revival of EHE in the 1970s and 1980s fostered a sense of solidarity amongst parents. (Carpenter & Gann, 2016) The pace at which networks were established reflected the parental desire for cohesion in their anticipated battle for educational freedom. These communities - united in their rejection of state intervention – remain largely independent of each other. Families continue to operate in realms of their own creation in which stakeholder status is reserved for parents and their proponents. The expansion of EHE introduced the 'professional other' into the external landscape. As EHE lobbyists fought to maintain their independence, the narrative of arbitrary practice was created in an

attempt to negate the requirement for, and efficacy of, the professional role. EHE officers were characterised as tools of the state intent on encroaching upon the sanctity of the home. Advocates maintained this was particularly problematic as professionals lacked the necessary skills to appreciate the diversity of parental provision. (Glanzer, 2013; Lowden, 1989) Professional practice was labelled as arbitrary in that it was heavily reliant upon the perspectives of individual officers and appeared autocratic in its delivery. EHE officers - bound by codes of professional practice and council processes – had no means to refute such depictions. The new-found willingness of policy makers to engage with professionals via their national association has enabled EHE officers to redress the balance and establish their own identity. Even so, the public persona of professionals has, until recently, been overly defined by a cohort of vocal lobbyists within the EHE community. To all intents and purposes, professionals were defined by their detractors and the received narrative was largely unfavourable.

EHE advocates assert professional practice is inconsistent and at variance with the GLA – a perspective seemingly accepted by policymakers. The contributions of advocates to the Education Committee's home education review repeatedly referred to the disparity between individual officers. "The phrase 'postcode lottery' was raised throughout [...] with reference both to local authorities' behaviour and to the support which they provide" (House of Commons Education Committee, 2012, p. 8). This viewpoint - undisputed by the Chair – served to cement the notion that professional practice is arbitrary and essentially unreliable. Indeed, the committee's endorsement of the creation of a national association was, in part, to eliminate procedural discrepancies. This research evidences that the concepts which underpin professional practice are consistent. However, the mechanisms employed within local authorities are not uniform. The government's abdication of its role within personal education has created a legislative chasm with no overarching principles. In response to this, individual LA's designed differing systems - each one attempting to achieve the same goals. With regards to parental communications for example, all officers contacted families for curriculum information at the outset of EHE. The nature of the information required, response time for submission, method of delivery etc., often varied. Frustrating as this may be, the disparity between council systems is not symptomatic of underlying issues. Contrary to the claims of lobbyists, procedural variation is not indicative of the wayward actions of EHE officers and their unwillingness to action the GLA. (House of Commons Education Committee, 2012) In exploring the inner workings of professional practice this project reveals an overly conscious adherence to EHE regulations. At the beginning of their journey into the external landscape professionals actively sought policy documents in anticipation of procedural guidance. The dearth of directives within GLA 2007/13 fostered a professional attentiveness to the minutiae. Officers attempted to extract elements of

functionality from a document which served to frustrate their practice. The subsequent conflict which ensued as parents similarly focussed on sympathetic excerpts remains evident within contemporary practice. (Davies, 2015)

In analysing the corpus of literature within the field of EHE, the issue of parental rights is a recurring area of contention. Section 3.1.5 discussed the advocates endorsement of the inviolability of the parental right to privacy. The staunch belief in this concept has created an environment in which all forms of parental provision – suitable and unsuitable - are protected by leading advocates in an attempt to deflect LA intrusion into parental provision per se. The inability to accurately confirm the proportion of children educated at home is not disputed by advocates or professionals. As such the external landscape is known to comprise an invisible cohort whose provision is indeterminate. Furthermore, the public section of EHE is no longer a domain primarily inhabited by the elected or ideologically motivated; suitable provision cannot be taken for granted as it is far from commonplace. (DfE, 2019a) Professional interventions continue to escalate in an attempt to eradicate partial provision. As a corollary to this, advocates' efforts to divert LA scrutiny are increasingly evident. Operating in a disputatious climate, with an expanding proportion of children experiencing educational neglect, professionals endeavour to ensure decision-making is judicious. In spite of this, a number of lobbyists continue to implant expectations of professional misconduct amongst new home educators. Contrary to research undertaken by Lees and Nicholson (2017) professionals sought to remain within their remit and refrain from supposition. *"Obviously I need to be aware of [the guidelines] and when parents challenge something or say, 'you know we don't have to let you in', I have to say yeah you're absolutely right and that actually sometimes takes them aback […]. They're expecting a fight" (Brooke).* Instead, EHE officers actively utilized the entirety of regulatory support available to them.

### 7.1.3: Finding 2 – The Guidelines for Local Authorities is counterproductive to professional practice

The GLA is designed "to support local authorities in carrying out their statutory responsibilities and to encourage good practice by clearly setting out the legislative position" (DCSF, 2007/13, p. 3). Contrary to this mission statement GLA 2007/13 was broadly regarded as an impediment to effective practice. AEHEP's 2017 survey of EHE officers' views of GLA 2007/13 revealed an alarming level of dissatisfaction. (Appendix 7) 100% of EHE officers from 87 local authorities stated GLA 2007/13 was unfit for purpose. 90% maintained GLA 2007/13 did not assist the completion of the professional role. A further 98% stated GLA 2007/13 neither supported the process of identifying suitable provision nor provided clear information to parents regarding the characteristics of

suitable education. The narratives of the EHE officers contributing to this project were in keeping with these findings. When working with CoE's in the external landscape, GLA 2007/13 neither provided a clear point of reference for expectations nor was sufficiently robust to counter unethical behaviour. Consequently, the physical barriers to professional practice which GLA 2007/13 either created or upheld placed EHE officers in an untenable situation.

Narratives revealed the professional perception of GLA 2007/13 passed through four interconnected phases which were used to construct the model of decision-making in section 6.1.3. From the subsequent analysis and interpretation of data it emerged that the professional relationship with the GLA was fluid, fluctuating in response to different circumstances. This information was used to update the decision-making model as indicated in figure 10. At the beginning of their career professionals consulted the guidance with a view to finding practice procedures. As the minimalism of GLA 2007/13 did little to supplement officers' previous experience, the position of the GLA within personal horizons was tentative. At this stage the guidance played an ancillary role in the decision-making process. Realising *"there isn't anything in the guidance" (Evelyn),* professionals extracted what information they could to augment their experiential knowledge. As professionals began to engage with the external landscape their relationship with the GLA transferred from ancillary to problematic. *"The law isn't very helpful" (Annabelle)* and was ill-equipped to assist officers in their encounters with stakeholders. As *"the law's so fluid" (Annabelle)*, it is susceptible to manipulation. Professionals regularly observe the manner in which schools utilise EHE guidance to conceal off-rolling. Similarly, parents can employ the guidance to restrict access to their educational provision. In doing so, parents can *"get away with not doing very much if they don't want to because the law isn't behind you" (Brooke).* EHE had become *"one of the biggest loopholes ever" (Stan).*

In the third phase of the decision-making process the role of the guidance shifted from problematic to hostile. Professionals collided with the guidance as they attempted to fulfil the rudimentary aspects of their role. During this phase GLA 2007/13 actively impeded professional practice. The ability of officers to implement expectations regarding educational purpose or specify criteria was severely restricted. In effect, the state had no role here. *"For parents who flatly refuse a visit, it has the impact that I know I can't insist so […] I have to take it, but it does mean that I won't get to see that child [...] so I don't really know what's going on" (Brooke).* Activist literature confidently discussed the government's resolution to "leave well alone" (Lees & Nicholson, 2017, p. 315) in the face of opposition from EHE campaigners. The question as to whether the government is guilty of succumbing to parental pressure as opposed to inadvertent omission is worthy

of discussion. "Issues which affect similar numbers of children, for example, school exclusions, teenage pregnancies and the education of 'looked after' children, have attracted a vast amount of media, government and public attention" (Monk, 2004, pp. 569-570). In light of this, the political reluctance to intervene appears intentional and the subsequent issues with regulatory frameworks should have been anticipated. *"I mean the guidelines don't help us even remotely and they leave out so many things" (Toby).*

The oppositional relationship developed within the sphere of physical constraints initially appears irreparable. However, a re-examination of the fundamentals of the GLA facilitates a transition to a workable co-existence. As a result of this process professionals are able to reconcile their relationship with the guidance and decision-making is possible. As discussed in section 6.5.5, the GLA did not create the key directives which underpin its content. Instead, EHE policy serves to dispense dictates and criteria from education acts and case law. Professionals are able to resolve their relationship with the GLA by honing in on these foundations. In doing so, professionals are able to instil a level of functionality to EHE guidance which is not inherent.

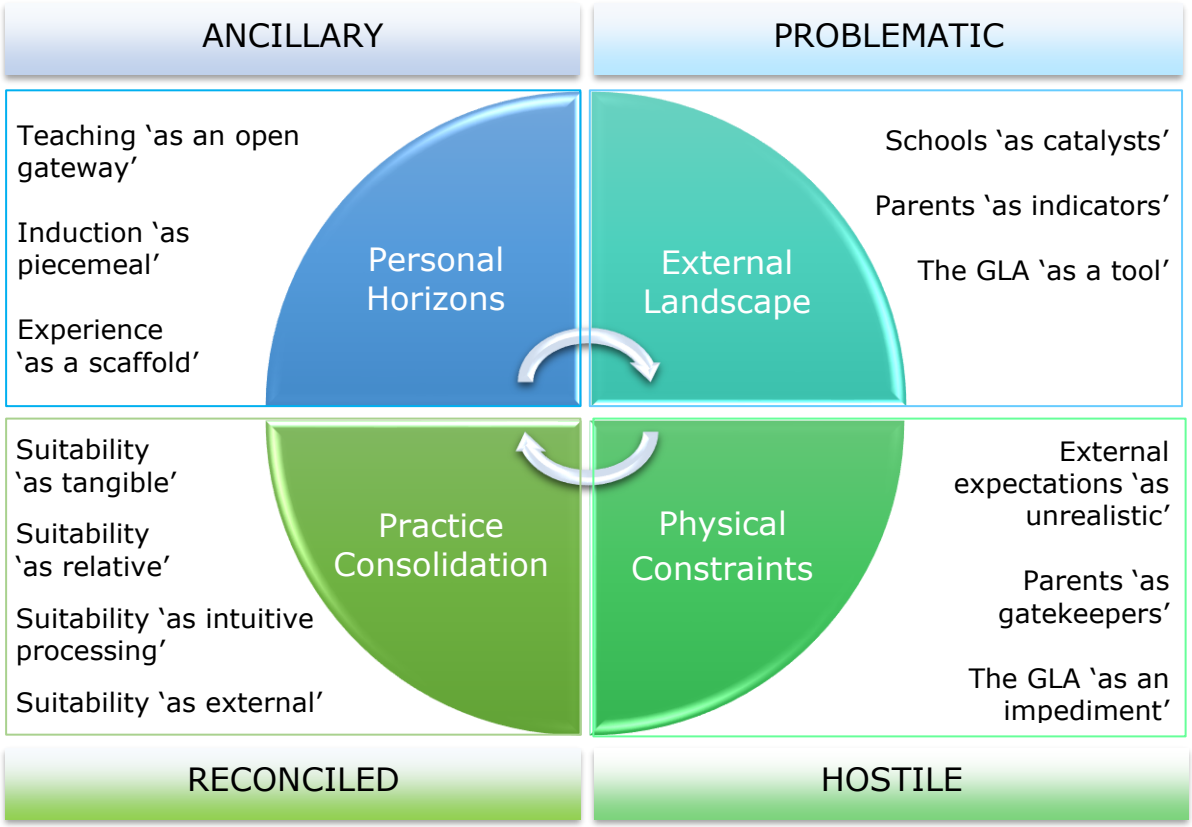


*Figure 10: Updated model of professionals' decision-making demonstrating professionals' relationship with the Guidelines for Local Authorities*

### 7.1.4: Finding 3 – Professional practice is embedded within Section 7 and case law

The professional community openly discussed the manner in which GLA 2007/13 problematized customary practice and relations with parents. As such, the narrative disseminated by advocates regarding professionals' willingness to flout EHE policy appears credible. Proponents maintained that "from the moment that national guidelines for England were published, local government officers consistently have come up with reasons for ignoring them" (Lees & Nicholson, 2017, p. 321). However, this perception was largely forged by EHE lobbyists without input from the officers it referred to. With limited research and literature regarding the rationale underpinning professional practice, evidence to counter these claims was not readily available. Rothermel (2011) contends the abundance of EHE research is now sufficient to dispel Morton's (2010) assertion of academic neglect; home education has discarded its shroud of secrecy and is no longer an unexplored or unexplained entity. However, Rothermel's positional gaze from the inner sanctums of the parental community neglects to consider the experiences of non-parental stakeholders. Maxwell et al's (2018) investigation of the relationship between EHE and SEND corroborate the absence of professional voices. The amount of contemporary literature is unquestionably sufficient in terms of depth; the experiences, motives, outcomes and aspirations of the parental community receive extensive coverage. Conversely, the breadth of research remains inadequate, perpetuating a parent-centric focus within the external landscape. As such, information regarding professional practice is rarely sourced from direct contact with professionals. The discovery that decision-making is not arbitrary discredits the advocacy theme of disregard for the GLA. Instead, this research indicates the extent to which professional disappointment in the GLA facilitated a hyper turning towards (Watts, 2018), rather than a rejection of, official policy.

The correlation between education and the economic and social progression of a country is widely recognised. (Koons, 2010) As such, government intervention within education has been non-negotiable since Forster's education act. By contrast, the role of the state within home education is refuted by broad sections of the parental community. (Després, 2013; Glanzer, 2013; Lees & Nicholson, 2017) Indeed, the political procrastination which preceded GLA 2007 appeared overly influenced by the protestations of EHE advocates. Government reluctance to either align EHE with regulations within mainstream provision or establish an alternative framework problematized the GLA from its inception. The inherent hesitancy of the guidelines is demonstrated by the manner in which it corroborates rather than constructs policy. Section 7 instituted definitive criteria for education irrespective of its location. The administration of Section 7 within mainstream

provision is facilitated via a catalogue of supplementary educational policy; schools are not expected to achieve their desired outcomes without additional support. Conversely Section 7's implementation within EHE did not receive further political backing. As such, EHE guidance for local authorities was pieced together from existing sources with negligible additional directions for parents or professionals.

In determining the suitability of provision, the professionals consulted for this research were unanimous in their reference to Section 7. The primary question occupying professional assessments refers to suitability in relation to the needs of the learner. *"We've got a duty to have our children educated full-time, suitable to their age, ability, aptitude, so let's just hold on to that idea" (Evelyn).* In attributing priority to the child and their educational progression as specified within education law, parental motives became a secondary concern. Merry & Howell (2009) considered the concept of intimacy, celebrating the manner in which EHE functions as an expression of familial love. Similar sentiments were echoed throughout the work of Thomas and Pattison (2013) and Rothermel (2011). From the viewpoint of advocates located at the autonomous edge of the EHE spectrum, home education reflects a particular perspective of family and society. The 'progression' of the child is indistinguishable from the evolution of the family unit. From the professional perspective, the nature of education borne from this approach is potentially beneficial. However, EHE officers could attest to situations in which the parental motive – well intended as it may be – was detrimental. Recognition by the parent of the significance of Section 7 is a powerful indicator of the potential suitability of provision. In particular, the commitment displayed within some families of children with SEND is worthy of note.

The professional hyper turning towards education law and Section 7 resulted in an emphasis on the provenance of the GLA as opposed to the GLA itself. The specificity of Section 7, condensed as it was, provided professionals with the fundamental principles for assessments. Four questions framed professional decision-making, three of which related directly to Section 7 namely - is provision full-time? Is provision efficient and suitable to the child's age, aptitude and ability? And is the provision suitable in terms of SEND? Professionals actively employ these criteria to establish whether provision is suitable to the child, taking into consideration a range of extenuating circumstances. As such, home education which is not full-time for valid reasons (including SEND) could be deemed suitable when other aspects are achieved. Alongside education law, the GLA also functioned as a vehicle for case law. Similar to Section 7, key sections from judgments relating to definitions of the terms 'suitable' and 'efficient' are endorsed by the GLA irrespective of their limitations. Contrary to accepted notions of educational purpose, "case law defends the rights of parents to provide a narrow and limited education […]

with the only proviso that they must also be able to adopt another life" (Davies, 2015, p. 18). Even so, the concept of 'preparation' is integral to professional assessments, forming the fourth of the core questions professionals consider when reviewing parental provision. Suitability is inextricably connected to the extent to which provision will prepare the child for their future. The expectation of preparation is significant in that it instils an essential purpose into EHE which is predominantly overlooked within the literature. Parents have been empowered to determine the approach and content of their programmes of learning with the proviso of Section 7. However, the autonomy of EHE is often misinterpreted as licence to establish personal objectives over and above societal purposes.

Within mainstream education, discussions concerning the purpose of education centre on the themes of socialisation, subjectification and qualification. (Biesta, 2009) Indeed, the perceived indoctrination of social and cultural norms alongside the drive for qualifications continues to motivate de-registration. (Carpenter & Gann, 2016) The search for an alternative often leads to an unstructured approach to education. However, contrary to the interpretation within advocacy literature, Judge Stevenson's ruling arguably revoked the option for EHE to operate as the formless non-provision described by Kraftl (2013) or Thomas and Pattison (2013). Whilst EHE remains undefined in terms of its content and delivery, it is not released from its commitment to an educational purpose. International literature has begun to consider EHE from the perspective of conventional themes, yet English advocacy theorists are yet to address this topic. (Neuman & Guterman, 2017c) Even so, the professional reliance upon these directives corroborates the regulatory basis of decision-making and introduces an area worthy of further research.

### 7.1.5: Finding 4 – Professional practice is consensual

In examining the practice of EHE professionals the objective was to identify the source of decision-making. Thus far the relationship between the regulatory and the experiential has been addressed yet a third question was posed; is there a consensus amongst professionals and what are the consequences of a positive or negative response to this query? GLA 2007/13 was decidedly deficient yet officers reconciled its position within their practice by harvesting its essential directives. Rather than specify criteria for which it could be held legally accountable, the government has tasked LA's with establishing local expectations. "The decision as to what constitutes 'suitable' or 'efficient' education for the purposes of s298 is committed by Parliament to the local education authority and is one of opinion and degree" (R v East Sussex County Council ex parte Tandy/In re T (A Minor) [1998] 2 WLR 884). In light of this, the potential for divergence between councils is substantial. Professionals testify to the solitary nature of their post and the varying

degrees of internal support. The search for clarity and corroboration led to the formation of regional professional networks. The communities of practice which ensued engendered consensus amongst professionals' understanding of their responsibilities and expectations. EHE officers aligned to networks are able to access a forum in which practice is debated and collectively defined. As a result of this and the reliance upon educational and case law, the tenets of suitability are consistent throughout professional narratives. Irrespective of parental approach, provision should be observable, relative to the child and achieve specific educational and social needs. Professionals are able to reconcile their relationship with the GLA and practice consolidation is achieved. Within this process the flaws of the GLA are ameliorated - as demonstrated by the contextual details which instil substance to the criteria for suitability. The extent to which officers discharge their duties in line with both EHE policy and other local authorities is not negated by lone practice or limited in-house support. As the intuitive processes which instigate decision-making emanate from a collective source, consensus is apparent. This is a significant finding in terms of the development of professional practice and future EHE policy. The full impact of this discovery is discussed in detail in the following chapter.

# Chapter 8: Conclusion

*I want to support children to learn forever, you know, to have it in their long-term memory and to be passionate about it because you never stop learning (Tom)*

## 8.1: Overview - Chapter 8

Chapter 8 concludes with a review of this project and its findings. This research discovered the key factors impacting upon professional decision-making emanate from official directives contained within Section 7 and elements of case law. Professional judgment is employed to transform these skeletal directives into working practice. Consensus amongst the thought processes of EHE officers is evident due to the general reliance upon official criteria as opposed to personal concepts. The requirements of Section 7 led professionals to determine provision should be tangible and relative to the needs of the child. Case law confirms these factors must consider the extent to which provision prepares a child for their future. The relationship between professionals and the GLA is not static, fluctuating throughout their career in response to differing experiences. Nevertheless, the GLA represents both the starting point and culmination of decision-making.

The questions and objectives which formed the basis of this research are reconsidered here in light of the new information this project reveals. Three questions were posed; what role does non-statutory guidance play in the decision-making process when reviewing parental provision? To what extent does professional interpretation and previous experience inform decision-making? And thirdly, is there a professional consensus regarding criteria for suitable education and what are the consequences of a positive or negative response to this question? The contribution to knowledge made by this project is highlighted via a discussion of these questions. Recommendations for further research and policy making are also provided.

### 8.1.2: Project outcomes

This project was motivated by the experiences of an insider and as such it addresses specific practice related issues. However, the significance of resolving the questions posed here extends beyond personal concerns. The predominate and most unexpected finding is the evidence which confirms professional consensus. The advocacy theme of

arbitrary practice has coloured the perceptions of both policy makers and EHE officers. As such, the level of uniformity underpinning professional decision-making is both reassuring and unanticipated. This project makes a significant contribution to EHE literature by identifying the factors which inform professional actions. The second key outcome of this research is its confirmation that the regulatory framework for EHE is insufficient. Whilst the clarifications of GLA 2019 are welcome, the issues presented here require comprehensive statutory intervention. Section 7 and case law have provided a basis for EHE policy which thus far has not been developed into an effective system. As a result of this, the concept of educational purpose requires further emphasis within EHE frameworks.

The availability of literature regarding home education is expanding. EHE advocates continue to provide extensive information concerning the motives, methods and beneficial outcomes of parental provision. (Neuman & Guterman, 2017c; Rothermel, 2011; Thomas & Pattison, 2013) Academic interest from researchers operating beyond the positionality of the parent provides an alternative and less evangelical perspective of EHE. (Lubienski & Brewer, 2015; Monk, 2004, 2015) The work of Eddis (2015) commenced the process of examining the professional role. Further work in this area is in short supply; the material that is becoming available often perpetuates the perceptions and agenda of EHE advocates. (Lees & Nicholson, 2017; Mukwamba-Sendall, 2019) The input of the professional is limited and information regarding the intricacies of their role is rare. This research fills this gap within EHE literature. The depth of information this project was able to access both challenges the claims of advocacy literature and provides additional insight to non-partisan researchers. The majority of literature discussing the administration of EHE services discusses professional practice in the abstract. In stark contrast to this, the research presented here provides a living portrayal of professional approaches. The drive for legislative change throughout the last few years required professionals to present a unified front. Conscious of the government's reluctance to respond to individual concerns, EHE professionals organised into a cohesive body. As a corollary of this the voices of individual officers were unintentionally muted. This project afforded an opportunity to explore the singular via a phenomenologically inspired qualitative investigation. The subsequent sections discuss the impact and relevance of this project's outcomes and findings in relation to the research questions.

### 8.1.3: What role does non-statutory guidance play in the decision-making process when determining the suitability of parental provision?

The process of identifying the factors impacting upon decision-making commenced with an exploration of the role of the GLA. Whether statutory or non-statutory, policies and

regulations are indicative of a government's wider purpose, reflecting the role and intentions of the state. As the sole example of dedicated EHE policy, the GLA forms the bedrock of the external landscape. However, the narratives of professionals revealed the severity of the fissures within this regulatory foundation. Indeed, Finding 2 demonstrated the extent to which GLA 2007/13 operated as an impediment due to its unassertiveness and discord with other policies. Despite this, the GLA is a constant presence, functioning as the connecting factor between all professionals' practice. In isolating the authority contained within the GLA, professionals are able to develop a practice grounded within official EHE precepts. Finding 1 verified professional practice is not arbitrary as the professional reliance upon the GLA is evident within the experiences and narratives of EHE officers. As a consequence of this, the GLA plays an extensive role in the decision-making process.

### 8.1.4: Question 1 - Implications and contribution to knowledge

This research contributes to the field of EHE literature by introducing an alternative perspective to counter the dominant narrative. The constructivist adage, "every view is *a* way of seeing, not *the* way of seeing" (Wolcott, 2008, p. 144) is particularly relevant here. Disparity remains between the self-portrayal of EHE officers and the parental perspective of the professional role. The political face of home education is largely constructed from a minority of politically astute parents and advocates. As a corollary of this, parental provision is promulgated as a nurturing and effective alternative to schools which requires no external oversight. This narrative, which prevailed throughout much of the modern era, justified political passivity and became 'the way of seeing' EHE. This project commences the process of addressing this selective viewpoint, providing a comprehensive examination of current parental provision and the rationale of professionals tasked with overseeing it. In demonstrating the reliance of EHE officers upon guidance, the inherent flaws within the structure of EHE are highlighted. It is evident that elective home education is far from operating as a stable, adequately regulated system.

### 8.1.5: To what extent does professional interpretation and previous experience inform decision-making?

Personal interpretations do not impact upon decision-making. However, professional judgment couched within the experiential is utilised to convert theoretical directives into working practice. The introduction of government guidance 137 years after the first Education Act was as necessary as it was destined to disappoint. The range of issues which had accumulated during the preceding decades of non-interventionism required

extensive regulatory attention. GLA 2007 was thoroughly ill-equipped to address the issues within the landscape it was intended to define. The presence of the state within EHE was perceptible following GLA 2007 yet it was un-defined, inconsistent with other policy and largely ineffectual. The decision-making model (section 7.1.3) created following the analysis of narratives maps the journey of professional responses to the GLA. Initially supplementing personal experience, the GLA becomes the primary source of factors underpinning professional actions. Misunderstandings regarding this process abound, obscuring the knowledge base of professional decisions. Advocacy literature maintains professional practice is arbitrary, un-related to EHE policy and infringes upon parental rights and freedoms. (Lees & Nicholson, 2017) The reverberations of this misconception are notable. The successful dissemination of this theme enabled EHE proponents to maintain the status quo. In focussing political attention upon the activities of professionals, issues regarding the quality and content of parental provision evaded debate for a considerable period of time. The inherent weakness of the GLA was downplayed as advocates maintained issues were a consequence of professionals' reluctance to implement the guidance. EHE frameworks were thus not in need of change and professionals did not require additional support. Politicians attending the AEHEP launch endorsed this perspective, stating professionals possessed sufficient powers to fulfil their role. Indeed, during the HoC review of EHE Graham Stuart concluded "nobody thinks there is a case for issuing new guidance from central government" (House of Commons Education Committee, 2012, Ev 2, Q6). This project's findings refute the validity of this narrative and the government's previously unquestioned acceptance of this perspective. Finding 3 demonstrated professional practice is embedded within the GLA; the guidance provides a starting point for all officers, informing their personal horizons and framing their activities in the external landscape. Sound knowledge of the GLA is essential as it is the initial 'tool' employed by parents, advocates and professionals to outline their position and their expectations of other stakeholders. As such, professionals take all measures to familiarise themselves with its contents.

The language used by some advocates is particularly unhelpful. In re-classifying professional judgment as personal opinion, decision-making is instantly diminished. Facione et al (1997) outlined the array of complex processes facilitating professional judgment. Bondi et al (2016) extended this discussion, outlining the expectation for professionals to demonstrate experiential wisdom and critical thinking. Unlike EHE, the application of these skills within other person-centred occupations is generally viewed positively. In line with other professions, the use of judgment by EHE officers is employed to make sense of, rather than supersede, regulations. In doing so, the intention of professionals is to enact the role of the state rather than further individual

agendas. Experience is a valuable component of practice within EHE and other occupations and should not be discounted.

### 8.1.6: Question 2 – Implications and contribution to knowledge

Finding 2's verification that the GLA was counterproductive to professional practice poses serious problems. The number of children receiving an education at home continues to increase. The educational well-being of this cohort - disproportionately complex and vulnerable – has been jeopardised by ill-considered guidance. Prior to this project the professional dissatisfaction with the GLA was known, yet there was no research directed towards identifying the rationale for disquiet or the processes professionals employed to rectify the situation. The findings here contribute to the external landscape by providing this supplemental information. Evidence regarding the validity of professional perspectives should encourage policy makers to engage with EHE officers. Professionals possess a substantial amount of knowledge regarding the external landscape of EHE and the practices of its stakeholders. Policy makers and researchers would benefit from revisiting narratives previously ignored or viewed as inconsequential. The implications of this are significant due to the pervasiveness of the previously accepted alternative narrative.

This research commenced under the shadow of, and in response to, GLA 2007/13. As the professional community continues its transition from GLA 2007/13 to GLA 2019 the themes raised here are particularly relevant. Having identified the grounds for professional concerns, these issues may now be employed to gauge the efficacy of GLA 2019. It remains to be seen whether GLA 2019 will have the capacity to resolve the problems discussed here. Whilst the revised framework successfully clarifies the professional role, it has done so without amending or increasing professional powers. As such, EHE officers have the same responsibilities to fulfil, with the same powers available to them under GLA 2007/13. Discussions with colleagues are encouraging yet it has emerged that GLA 2019 alters LA processes rather than professional perceptions of suitability. In some respects, GLA 2019 is a further indication of the governments' distance from personal provision. Overarching principles regarding the purpose of EHE remain absent. Furthermore, the characteristics of education generally perceived as essential within mainstream provision are relegated to suggestions or, as in the case of 'qualification', once again ignored. In stating within GLA 2019 that LA's should be active both in identifying unsuitable education and taking measures against it, the DfE continues to place an onus upon LA's. As such, the role of the state within EHE appears focussed on identifying the roles of others. In proposing the combined use of SAO's and education supervision orders (ESO), GLA 2019 requires professionals to embark

upon paths for which there is currently no precedent. Whilst the use of SAO's within EHE is not unusual, some LA's remain reluctant to embark upon legal processes. The DFE's endorsement of ESO's to ensure school attendance – even within LA's comfortable with the use of SAO's within EHE - has yet to be established. It is questionable whether ESO's will be considered as a pathway for unsuitable EHE despite its inclusion within GLA 2019 as a viable option. Contact with professionals during regional and national meetings indicates local authority high tier managers are not prepared to undertake ESO's; LA's lack the funding and/or personnel to venture into such action. The current issues with SAO processes are not discussed in length within this thesis, yet narratives point to the ineffectiveness of current systems.

### 8.1.7: Is there a professional consensus regarding criteria for suitable education and what are the consequences of a positive or negative response to this question?

This project provides an abundance of evidence to conclude professional practice is consensual. The outcomes of inductive research, particularly when couched within a phenomenological perspective, are difficult to foresee. As an active member of both a regional and national CoP, I had previously engaged in discussions regarding approaches to practice. However, limitations of time restricted the opportunity for extended discussion on the particulars of other LA procedures. Whilst casual conversations suggested consistency, the specifics of rationale and actions had not been explored. The results of this research affirm the presence of a consensus whilst also detailing the nature of this uniformity. Government directives regarding mainstream provision are clear and thus the issue of practice variations between teachers in different departments or schools is not an area of concern. The absence of similar instruction within EHE led advocates to insist professionals operated without reference to the GLA or each other. (House of Commons Education Committee, 2012) Findings 1 and 3 dispel this notion. To establish functionality, professionals amalgamate the GLA, Section 7 and case law. The rationale which underpins professional practice is uniform as EHE officers derive their purpose and positionality from these shared sources. The fulfilment of Section 7 requires an active engagement by parents which should be demonstrable. Whereas volume was a potential indicator of suitability, provision which is not related to the age, aptitude and ability of recipients is necessarily unsuitable. Decision-making took on an intuitive element as the complex processes involved in determining suitability occurred unconsciously. Whilst this is undoubtedly a strength, the misconceptions which surround professional practice continue to have an adverse impact upon perceptions of EHE officers' abilities.

### 8.1.8: Question 3 – Implications and contribution to knowledge

The opportunity to explore the inner workings of a private realm is in itself a contribution to the contemporary landscape of elective home education. However, the implications of this question are particularly significant. Debates within educational literature pertaining to purpose are fairly consistent. Theorists acknowledge the rationale for education and its impact upon the progression of the individual and society. Whilst EHE advocates dismiss the validity of state intrusion into provision at home, the government's role within education is widely accepted. (Spiegler, 2015) The categories of subjectification, qualification and socialisation are common themes within mainstream provision. EHE advocates maintain home provision is free from such concerns. In contrast to this, the findings of this research contribute to debates by highlighting the inherent purpose of EHE. Home education must prepare a child for life in their community and wider society. All professionals employed this concept as the starting point of their assessment, yet it is not appreciated as a purpose of EHE in its own right by parents or politicians. This lack of recognition has resigned EHE to a shadowy, undefined existence. Nonetheless, if the government were to validate this principal purpose, other concepts would necessarily emerge. An education designed to equip a child for life in their community and wider society must also define the term 'equip' and establish indicators for its fulfilment. In doing so, criteria and standards would emerge for both parents and professionals to consider.

Advocates and politicians maintain that the autonomy and diversity of parental provision actively discounts the possibility of establishing general requirements. However, this perspective emanates from the point of view of the home educator. In examining the characteristics of provision through the lens of the parent, the diversity can be overwhelming. Alternatively, by reconfiguring the frame of reference so as to observe parental provision from the outside in, a different picture emerges. This research contributes to knowledge by demonstrating the possibility of defining parental practice and its suitability. Whilst the sample size of this survey is small, 8 professionals with varying cohorts, operating in different authorities, are proceeding in a uniform manner. The professional consensus that suitable provision should be tangible, relative to the child and sufficient to prepare learners for society, represent initial markers for a model of practice. The findings of this research contradict the notion that it is not feasible to construct specific criteria for the delivery and oversight of home education. Political acknowledgement of these findings could transform the system of EHE. Embedded within and inspired by the experiences of professionals, such a model could acknowledge and maintain the diversity of parental practice whilst establishing a workable procedural framework. This model would provide transparency, clearly indicating educational

purpose and the expectations placed on parents and professionals. Consistency between the systems of EHE would also be improved as LA's worked towards clearly identified goals. Similarly, the occurrence of un-elected or partial provision could potentially be reduced. In defining a model for EHE, de-registration would no longer be a means of avoiding other issues by entering an unregulated system which does not require engagement with professionals. Families attempting to use home education as a means to merely validate 'being at home' would no longer be able to evade their responsibilities.

### 8.2: Recommendations, limitations and areas for development

Domestic education, common at the birth of mainstream provision, was transmuted to elective home education in response to the creation of universal school education. The limited political consideration afforded to EHE at that time laid the foundation for modern issues. The government's reluctance to strengthen the regulatory framework of EHE – which may have initially been the product of omission – became a conscious strategy. Recent interest has forced policymakers to revisit this position. Acknowledgement of the vulnerability of this cohort and the complexity of factors leading to parental provision has led to concern; home education, for a sizeable percentage of the cohort, is essentially unelected. Previous attempts by professionals to reveal this alternative face of EHE were effectively thwarted. This research provides further evidence of the obstacles within the current system of EHE whilst acknowledging the limitations of this projects size. The scale and interpretive nature of the findings here may be problematic for policymakers seeking large scale, positivistic results. Nonetheless, these findings warrant regulatory consideration. This research was possible due to the access afforded to an intimate insider. The process of gathering additional research in this area is problematic as professionals must consider the impact of their potential identification. Furthermore, LA's may be reluctant to formally acknowledge issues within their systems. Even so, the absence of data regarding EHE is no longer excusable. The work undertaken by the ADCS is starting to address this situation although there is a danger that the quantitative could overshadow the qualitative. Statistical data in this area is telling, yet its impact is limited if professionals are not called upon to answer the supplementary questions of 'why', 'how' and 'what can be done'.

The customary practice of EHE officers is a neglected subject. Integral to the structure of the external landscape, the impact of the professional is largely unconsidered. This project focussed on the nexus of professional practice - determining the suitability of parental provision. This though is merely one area of concern. EHE in England would benefit from a comprehensive investigation of its efficacy from perspectives beyond those of the parent. This research has commenced this process by replacing the abstract with

the actual. Professionals have disclosed their rationale and actions to counter the supposition upon which previous policies and narratives were based. This research will hopefully lead to further investigations into EHE. Whilst there are many directions future projects could take, this research has identified key areas for exploration.

1. The regulatory framework for EHE is untenable. The development of a practice model is feasible and would assist this issue. Research regarding the benefits, consequences and process of achieving an effective system of EHE is crucial. Recommendation: the DfE to consult professionals to gain practice specific data with a view to determining expectations.

2. The concept of educational purpose is evident yet not emphasised. Recommendation: Consultation with parents and professionals regarding the purpose of EHE to be followed with inclusion within the GLA or supplementary frameworks.

3. Pathways for managing unsuitable education. Recommendation: The creation of an alternative, timely system for the management of unsuitable parental provision independent of school-based models.

The growing incidents of un-elected home education cannot be addressed without intervention at a statutory level. Legislative change continues to elude professionals, yet the introduction of GLA 2019 appears to indicate a political willingness to engage with EHE officers as stakeholders. Professional decision-making is embedded within education law and case law, yet the system is weak and in need of regulatory scaffolding. EHE within England appears to be embarking upon a process of change yet further steps will be required to ensure children are consistently receiving the provision to which they are entitled. GLA 2019 has both started the process and revealed the level of institutional change required to effect real transformation.

> What is clear is that a careful reconsideration of home education policy and practice is required. There is sufficient evidence to conclude that as a society we are not providing adequately for home educated children
> (Forrester et al., 2017, p. 51)

> Society determines its own future in determining that of the young
> (Dewey, 1916, p. 49)

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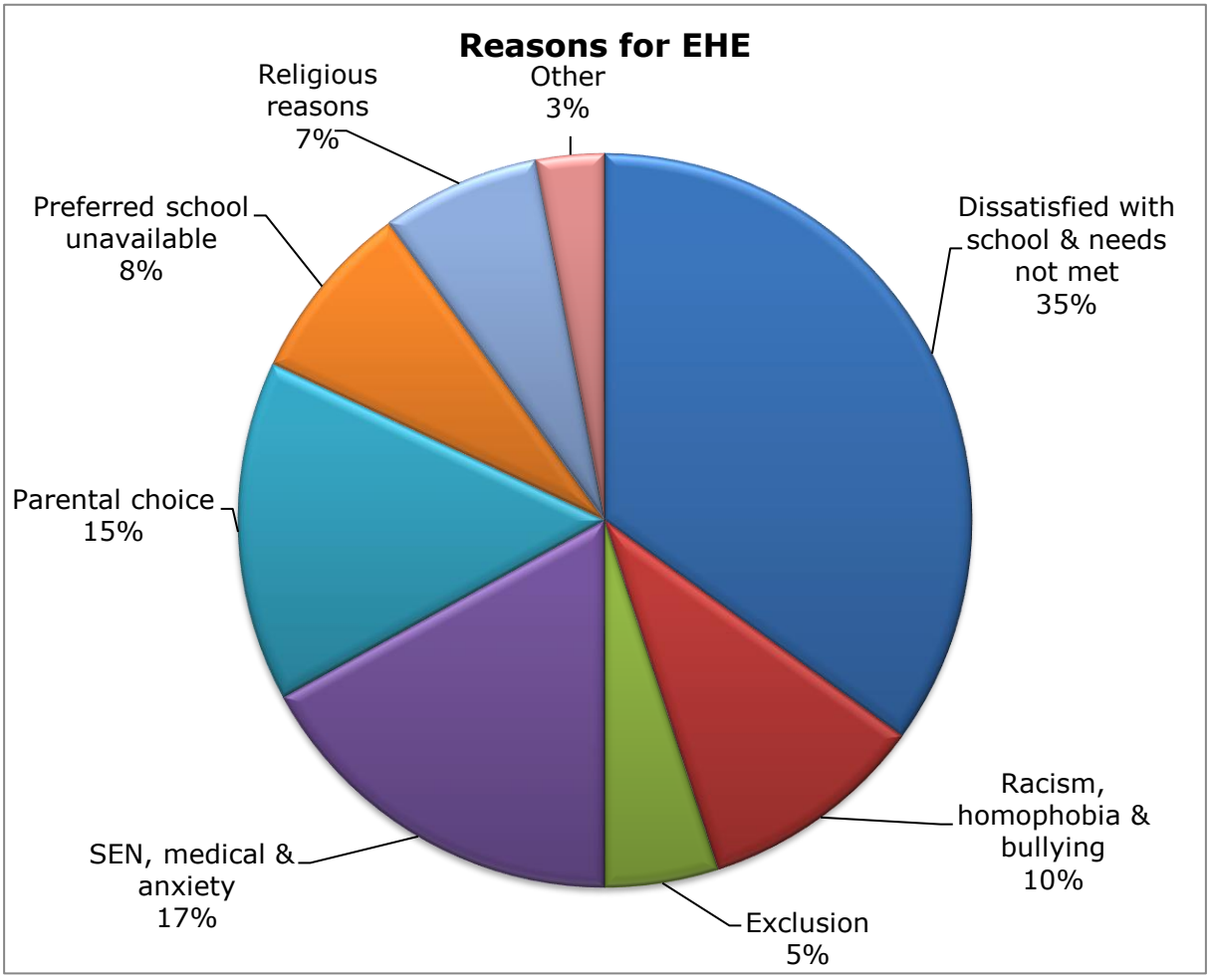
| | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 |
|---|---|---|---|---|---|
| Total no. registered at some point in the academic year | 417 | 411 | 534 | 624 | 708 |
| New starters | 169 | 137 | 218 | 237 | 292 |
| New starters - gender | | | | | |
| Female | 86 | 73 | 114 | 119 | 161 |
| Male | 83 | 64 | 104 | 118 | 131 |
| New starters – key stage | | | | | |
| Key stage 1 | 51 | 44 | 70 | 61 | 70 |
| Key stage 2 | 55 | 32 | 68 | 61 | 71 |
| Key stage 3 | 37 | 37 | 49 | 69 | 94 |
| Key stage 4 | 26 | 24 | 31 | 46 | 57 |
| Number of leavers | 149 | 108 | 161 | 211 | 169 |
| Leavers length of EHE | | | | | |
| < 1 month | 22 | 6 | 12 | 9 | 14 |
| 1-3 months | 29 | 8 | 21 | 28 | 26 |
| 3-6 months | 20 | 18 | 41 | 30 | 24 |
| 6-12 months | 28 | 30 | 31 | 54 | 40 |
| 1-3 years | 33 | 27 | 38 | 50 | 37 |
| 3-5 years | 9 | 14 | 12 | 27 | 14 |
| 5 years + | 8 | 5 | 6 | 13 | 14 |
| End of year total | 268 | 303 | 373 | 413 | 539 |
| Ethnicity | | | | | |
| ABAN | <5 | <5 | <5 | <5 | <5 |
| AIND | <5 | <5 | <5 | <5 | <5 |
| AOTH | <5 | <5 | 6 | 6 | <5 |
| APKN | 35 | 40 | 38 | 39 | 38 |
| BAOF | <5 | <5 | <5 | <5 | <5 |
| BCRB | <5 | <5 | <5 | <5 | 10 |
| BOTH | <5 | <5 | <5 | <5 | 7 |
| BSOM | 24 | 21 | 28 | 26 | 19 |
| CHNE | <5 | <5 | <5 | <5 | <5 |
| MOTH | 9 | 8 | 12 | 16 | 24 |
| MWAO | 6 | 8 | 8 | 6 | 18 |
| MWAP | <5 | <5 | 9 | 9 | 9 |
| MWBA | <5 | <5 | <5 | <5 | <5 |
| MWBC | 8 | 7 | 13 | 20 | 23 |
| NOBT | 75 | 71 | <5 | 110 | 102 |
| OOEG | 5 | 7 | 15 | 13 | 9 |
| OYEM | 5 | 7 | <5 | 6 | 9 |
| REFU | <5 | <5 | <5 | <5 | <5 |
| WBRI | 221 | 212 | 267 | 325 | 386 |
| WEEU | <5 | <5 | <5 | <5 | 6 |
| WIRI | <5 | <5 | <5 | <5 | <5 |
| WIRT | <5 | <5 | <5 | <5 | <5 |
| WMBC | <5 | <5 | <5 | <5 | <5 |
| WOTR | <5 | <5 | <5 | 6 | 6 |
| WOTH | <5 | <5 | <5 | <5 | <5 |
| WOTW | <5 | <5 | <5 | 7 | 5 |
| WROM | <5 | 9 | 10 | <5 | <5 |
| WROR | <5 | <5 | <5 | <5 | <5 |

**Ethnicity codes**

| | | | |
|---|---|---|---|
| White British | WBRI | Pakistani | APKN |
| Eastern European | WEEU | Bangladeshi | ABAN |
| Irish | WIRI | Any other Asian background | AOTH |
| Traveller of Irish heritage | WIRT | Black or Black British Caribbean | BCRB |
| Any other White background | WOTW | Somali | BSOM |
| Gypsy/Roma | WROM | Other Black African | BAOF |
| White and Black Caribbean | MWBC | Any other Black background | BOTH |
| White and Black African | MWBA | Chinese | CHNE |
| White and Pakistani | MWAP | Yemeni | OYEM |
| White and any other Asian background | MWAO | Any other ethnic background | OOEG |
| Any other mixed background | MOTH | Refused | REFU |
| Indian | AIND | Information not obtained | NOBT |



# Appendix 7: Elective home education professionals' survey

1.The statutory guidance helps me to do my job

| | | |
|---|---|---|
| Strongly disagree | 76% | 66 |
| Disagree | 14% | 12 |
| Agree | 8% | 7 |
| Neutral | 2% | 2 |
| Grand Total | | 87 |

2. The statutory guidance helps me to know whether parents are providing a suitable education

| | | |
|---|---|---|
| Strongly disagree | 84% | 73 |
| Disagree | 14% | 12 |
| Strongly agree | 1% | 1 |
| Neutral | 1% | 1 |
| Grand Total | | 87 |

3. The statutory guidance clearly explains what a suitable education is in practice

| | | |
|---|---|---|
| Strongly disagree | 95% | 83 |
| Disagree | 5% | 4 |
| Grand Total | | 87 |

4. The statutory guidance clearly explains what parents should do to provide a suitable education

| | | |
|---|---|---|
| Strongly disagree | 88% | 76 |
| Disagree | 10% | 9 |
| Neutral | 1% | 1 |
| (blank) | 1% | 1 |
| Grand Total | | 87 |

5. The statutory guidance benefits children educated at home

| | | |
|---|---|---|
| Strongly disagree | 81% | 70 |
| Disagree | 10% | 9 |
| Neutral | 8% | 7 |
| Agree | 1% | 1 |
| Grand Total | | 87 |

6. The statutory guidance benefits parents

| | | |
|---|---|---|
| Strongly agree | 63% | 55 |
| Neutral | 15% | 13 |
| Agree | 11% | 10 |
| Disagree | 6% | 5 |
| Strongly disagree | 4% | 3 |
| (blank) | 1% | 1 |
| Grand Total | | 87 |

7. The statutory guidance benefits professionals

| | | |
|---|---|---|
| Strongly disagree | 85% | 74 |
| Disagree | 11% | 10 |
| Neutral | 4% | 3 |
| Grand Total | | 87 |

8. The statutory guidance helps to keep children safe

| | | |
|---|---|---|
| Strongly disagree | 92% | 80 |
| Disagree | 6% | 5 |
| Neutral | 2% | 2 |
| Grand Total | | 87 |

9. The statutory guidance is fit for purpose

| | | |
|---|---|---|
| Strongly disagree | 92% | 80 |
| Disagree | 8% | 7 |
| Grand Total | | 87 |

10. The statutory guidance should be reviewed

| | | |
|---|---|---|
| Strongly agree | 98% | 85 |
| Agree | 2% | 2 |
| Grand Total | | 87 |

# Elective Home Education

## Guidelines for Local Authorities

department for
children, schools and families

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# Ministerial Foreword

Education is a fundamental right for every child and we recognise that parents have the right to choose to educate their child at home rather than at school. These guidelines have been prepared to help local authorities manage their relationships with home educating parents.

Parents are responsible for ensuring that their children receive a suitable education. Where parents have chosen to home educate, we want the home educated child to have a positive experience. We believe this is best achieved where parents and local authorities recognise each other's rights and responsibilities, and work together. These guidelines aim to clarify the balance between the right of the parent to educate their child at home and the responsibilities of the local authority.

Jim Knight
Minister of State for Schools and Learners

Andrew Adonis
Parliamentary Under Secretary of State for Schools

# Part 1

## Introduction

**1.1** Elective home education is the term used by the Department for Children, Schools and Families (DCSF) to describe parents' decisions to provide education for their children at home instead of sending them to school. This is different to home tuition provided by a local authority or education provided by a local authority other than at a school. These guidelines are intended for use in relation to elective home education only. ***Throughout these guidelines, 'parents' should be taken to include all those with parental responsibility, including guardians and carers.***

**1.2** Children whose parents elect to educate them at home are not registered at mainstream schools, special schools, independent schools, academies, Pupil Referral Units (PRUs), colleges, children's homes with education facilities or education facilities provided by independent fostering agencies. Some parents may choose to engage private tutors or other adults to assist them in providing a suitable education, but there is no requirement for them to do so. Learning may take place in a variety of locations, not just in the family home.

**1.3** The purpose of these guidelines is to support local authorities in carrying out their ***statutory*** responsibilities and to encourage good practice by clearly setting out the legislative position, and the roles and responsibilities of local authorities and parents in relation to children who are educated at home.

## Reasons for elective home education

**1.4** Parents may choose home education for a variety of reasons. The local authority's primary interest should lie in the suitability of parents' education provision and not their reason for doing so. The following reasons for home educating are common, but by no means exhaustive:

distance or access to a local school

religious or cultural beliefs

philosophical or ideological views

dissatisfaction with the system

bullying

as a short term intervention for a particular reason a

child's unwillingness or inability to go to school

special educational needs

parents' desire for a closer relationship with their children.

# Part 2

## The law relating to elective home education

**2.1 The responsibility for a child's education rests with their parents.** In England, education is compulsory, but school is not.

**2.2** Article 2 of Protocol 1 of the European Convention on Human Rights states that:

> *"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions."*

Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that:

> *"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 by regular attendance at school or otherwise."*

**2.3** The responsibility for a child's education rests with his or her parents. An "efficient" and "suitable" education is not defined in the Education Act 1996 but "efficient" has been broadly described in case law[1] as an education that "achieves that which it sets out to achieve", and a "suitable" education is one that "primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so".

## Parental rights and responsibilities

**2.4** Parents may decide to exercise their right to home educate their child from a very early age and so the child may not have been previously enrolled at school. They may also elect to home educate at any other stage up to the end of compulsory school age. Parents are not required to register or seek approval from the local authority to educate their children at home. Parents who choose to educate their children at home must be prepared to assume full financial responsibility, including bearing the cost of any public examinations. However, local authorities are encouraged to provide support where resources permit - see section 5.

1 Mr Justice Woolf in the case of R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust (12 April 1985)

Parents must also ensure that their children receive suitable full-time education for as long as they are being educated at home.

## Local authorities' responsibilities

**2.5** The DCSF recommends that each local authority provides written information about elective home education that is clear, accurate and sets out the legal position, roles and responsibilities of both the local authority and parents. This information should be made available on local authority websites and in local community languages and alternative formats on request. Local authorities should recognise that there are many approaches to educational provision, not just a "school at home" model. What is suitable for one child may not be for another, but all children should be involved in a learning process.

**2.6** Local authorities have a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to enable them to establish the identities, so far as it is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision). The guidance issued makes it clear that the duty does not apply to children who are being educated at home.[2]

**2.7** Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis.

However, under Section 437(1) of the Education Act 1996, local authorities shall intervene **if it appears** that parents are not providing a suitable education. This section states that:

> *"If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education."*

Section 437(2) of the Act provides that the period shall not be less than 15 days beginning with the day on which the notice is served.

**2.8** Prior to serving a notice under section 437(1), local authorities are encouraged to address the situation informally. The most obvious course of action if the local authority has information that makes it appear that parents are not providing a suitable education, would be to ask parents for further information about the education they are providing. Such a request is not the same as a notice under section 437(1), and is not necessarily a precursor for formal procedures. Parents are under no duty to respond to such enquiries, but it would be sensible for them to do so[3].

2 *Statutory Guidance for Local Authorities in England to Identify Children not Receiving Education* available at http://www.everychildmatters.gov.uk/ete/childrenmissingeducation/.

3 Phillips v Brown (1980)

**2.9** Section 437(3) refers to the serving of school attendance orders:

*"If-*

*(a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local education authority, within the period specified in the notice, that the child is receiving suitable education, and*

*(b) in the opinion of the authority it is expedient that the child should attend school,*

*the authority shall serve on the parent an order (referred to in this Act as a "school attendance order"), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order."*

**2.10** A school attendance order should be served after all reasonable steps have been taken to try to resolve the situation. At any stage following the issue of the Order, parents may present evidence to the local authority that they are now providing an appropriate education and apply to have the Order revoked. If the local authority refuses to revoke the Order, parents can choose to refer the matter to the Secretary of State. If the local authority prosecutes the parents for not complying with the Order, then it will be for a court to decide whether or not the education being provided is suitable and efficient. The court can revoke the Order if it is satisfied that the parent is fulfilling his or her duty. It can also revoke the Order where it imposes an education supervision order. Detailed information about school attendance orders is contained in *Ensuring Regular School Attendance* paragraphs 6 to 16.[4]

**2.11** Where the authority imposes a time limit[5], every effort should be made to make sure that both the parents and the named senior officer with responsibility for elective home education in the local authority are available throughout this period. In particular the Department recommends that the time limit does not expire during or near to school holidays when there may be no appropriate point of contact for parents within the local authority.

**2.12** Local authorities also have a duty under section 175(1) of the Education Act 2002 to safeguard and promote the welfare of children. This section states:

*"A local education authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local education authority are exercised with a view to safeguarding and promoting the welfare of children."*

Section 175(1) does not extend local authorities' functions. It does not, for example, give local authorities powers to enter the homes of, or otherwise see, children for the purposes of monitoring the provision of elective home education.

4 Available at www.dcsf.gov.uk/schoolattendance/prosecutions/index.cfm From January 2008 the guidance will be entitled *Ensuring Children's Right to Education; Guidance on the Legal Measures available to Secure Regular School Attendance*

5 A notice given under s.437(1) must be a period of not less than 15 days. An Order continues in force as long as the child is of compulsory school age unless amended by the LA or revoked (s.437(4)).

**2.13** The Children Act 2004 ("the 2004 Act") provides the legislative framework for developing children's services as detailed in *Every Child Matters: Change for Children*. The background and aims of Every Child Matters can be found on its dedicated website[6]. Section 10 of the 2004 Act sets out a statutory framework for cooperation arrangements to be made by local authorities with a view to improving the well-being of children in their area.

**2.14** Section 11 of the 2004 Act sets out the arrangements to safeguard and promote the welfare of children. However, this section does not place any additional duties or responsibilities on local authorities over and above section 175(1) of the Education Act 2002. *Statutory Guidance on Making Arrangements to Safeguard and Promote the Welfare of Children under section 11 of the Children Act 2004* has been updated and published in April 2007[7].

**2.15** As outlined above, local authorities have general duties to make arrangements to safeguard and promote the welfare of children (section 175 Education Act 2002 in relation to their functions as a local authority and for other functions in sections 10 and 11 of the Children Act 2004). These powers allow local authorities to insist on seeing children in order to enquire about their welfare where there are grounds for concern (sections 17 and 47 of the Children Act 1989). However, such powers do not bestow on local authorities the ability to see and question children subject to elective home education in order to establish whether they are receiving a suitable education.

**2.16** Section 53 of the 2004 Act sets out the duty on local authorities to, where reasonably practicable, take into account the child's wishes and feelings with regard to the provision of services. Section 53 does not extend local authorities' functions. It does not, for example, place an obligation on local authorities to ascertain the child's wishes about elective home education as it is not a service provided by the local authority.

**2.17** Section 12 of the 2004 Act and the regulations, made under this section (which came into force on 1 August 2007), provide the legal framework for the operation and maintenance of ContactPoint, due for deployment, initially to the "Early Adopter" local authorities in the North-West of England in September/October 2008, and to all other local authorities and national partners between January and May 2009. ContactPoint will contain only basic demographic and contact information, including the place where the child is educated, on all children in England, which will enable local authorities to identify and contact one another easily and quickly, so they can, where appropriate, provide a coordinated response to a child's needs. Further information about ContactPoint is available on the Every Child Matters website[8].

6 Available at www.everychildmatters.gov.uk/
7 http://www.everychildmatters.gov.uk/resources-and-practice/IG00042/
8 Available at www.everychildmatters.gov.uk/contactpoint/

# Part 3

## Clear policies and procedures

**3.1** The DCSF recommends that each local authority should have a written policy statement on elective home education, and be willing and able to provide guidance for parents who request it. Local authorities should also provide clear details of their complaints procedure and deal with any complaints in a sensitive and timely manner. The DCSF also recommends that local authorities should regularly review their elective home education policies so that they reflect current law and are compatible with these guidelines. It is recommended that local authorities seek input from home educating families and home education organisations in developing their elective home education policies. Home education organisations' contact details may be found through an internet search Paragraphs 4.10 to 4.11 cover reviews of policies and procedures.

**3.2** All parties involved in elective home education should be aware of their roles, rights and responsibilities. Local authorities' policies should be clear, transparent and easily accessible. Any procedures for dealing with home educating parents and children should be fair, clear, consistent, non-intrusive and timely, in order to provide a good foundation for the development of trusting relationships.

**3.3** The DCSF recommends that each local authority should have a named senior officer with responsibility for elective home education policy and procedures. This officer should be familiar with home education law, policies and practices. Local authorities should organise training on the law and home education methods for all their officers who have contact with home educating families.

## Contact with parents and children

**3.4** Local authorities should acknowledge that learning takes place in a wide variety of environments and not only in the home. However, **if it appears** that a suitable education is not being provided, the local authority should seek to gather any relevant information that will assist them in reaching a properly informed judgement. This should include seeking from the parents any further information that they wish to provide which explains how they are providing a suitable education. Parents should be given the opportunity to address any specific concerns that the authority has. The child should also be given the opportunity, but not required, to attend any meeting that may be arranged or invited to express his or her views in some other way. Parents are under no duty to respond to such requests for information or a meeting, but it would be sensible for them to do so[9].

**3.5** If it appears to a local authority that a child is not receiving a suitable education it may wish to contact the parents to discuss their ongoing home education provision. Contact should normally be made in writing to the parents to request further information. A written report should be made after such contact and copied to the parents stating whether the authority has any concerns about the education provision and specifying what these are, to give the

9 Phillips v Brown (1980)

child's parents an opportunity to address them. Where concerns about the suitability of the education being provided for the child have been identified, more frequent contact may be required while those concerns are being addressed. Where concerns merit frequent contact, the authority should discuss them with the child's parents, with a view to helping them provide a suitable education that meets the best interests of the child.

**3.6** Some parents may welcome the opportunity to discuss the provision that they are making for the child's education during a home visit but parents are not legally required to give the local authority access to their home. They may choose to meet a local authority representative at a mutually convenient and neutral location instead, with or without the child being present, or choose not to meet at all. Where a parent elects not to allow access to their home or their child, this does not of itself constitute a ground for concern about the education provision being made. Where local authorities are not able to visit homes, they should, in the vast majority of cases, be able to discuss and evaluate the parents' educational provision by alternative means. If they choose not to meet, parents may be asked to provide evidence that they are providing a suitable education. If a local authority asks parents for information they are under no duty to comply although it would be sensible for them to do so.[10] Parents might prefer, for example, to write a report, provide samples of work, have their educational provision endorsed by a third party (such as an independent home tutor) or provide evidence in some other appropriate form.

## Withdrawal from school to elective home educate

**3.7** First contact between local authorities and home educators often occurs when parents decide to home educate and approach the school (at which the child is registered) and/ or the authority to seek guidance about withdrawing their child from school. It is important that this initial contact is constructive and positive, and local authorities should provide written information (see paragraph 2.5) and direct parents to a range of useful contacts such as those described in paragraph 5.1.

**3.8** The school must[11] delete the child's name from their admissions register upon receipt of written notification from the parents that the pupil is receiving education otherwise than at school. However, schools should not wait for parents to give written notification that they are withdrawing their child from school before advising their local authority. Schools must[12] make a return (giving the child's name, address and the ground upon which their name is to be deleted from the register) to the local authority as soon as the ground for deletion is met, and no later than deleting the pupil's name from the register. They should also copy parents into the notice to the local authority. Further information is available in *Keeping Pupil Registers*,[13] the Department's guidance on applying the regulations.

**3.9** If a child is registered at a school as a result of a school attendance order the parents must[14] get the order revoked by the local authority on the ground that arrangements have been made for the child to receive suitable education otherwise than at school, before the child can be deleted from the school's register and educated at home.

10 Phillips v Brown (1980)
11 Regulation 8(1)(a) of the Education (Pupil Registration) (England) Regulations 2006
12 Regulation 12(3) of the Education (Pupil Registration) England) Regulations 2006
13 http://www.dfes.gov.uk/schoolattendance/legislation/index.cfm
14 Regulation 8(1)(a) of the Education (Pupil Registration) (England) Regulations 2006 and section 442 of the Education Act

**3.10** Local authorities may encourage parents to inform them directly of the withdrawal of a child from school, but have no legal right to insist that parents do so. The only exception to this is where the child is attending a special school under arrangements made by the local authority, in which case additional permission is required from the authority before the child's name can be removed from the register[15].

**3.11** Local authorities should bear in mind that, in the early stages, parents' plans may not be detailed and they may not yet be in a position to demonstrate all the characteristics of an "efficient and suitable" educational provision. In such cases, a reasonable timescale should be agreed for the parents to develop their provision.

**3.12** Schools must not seek to persuade parents to educate their children at home as a way of avoiding an exclusion or because the child has a poor attendance record. In the case of exclusion, they must follow the statutory guidance. If the pupil has a poor attendance record, the school and local authority must address the issues behind the absenteeism and use the other remedies available to them.

## Providing a full-time education

**3.13** Parents are required to provide an efficient, full-time education suitable to the age, ability and aptitude of the child. There is currently no legal definition of "full-time". Children normally attend school for between 22 and 25 hours a week for 38 weeks of the year, but this measurement of "contact time" is not relevant to elective home education where there is often almost continuous one-to-one contact and education may take place outside normal "school hours". The type of educational activity can be varied and flexible. Home educating parents are not required to:

- teach the National Curriculum
- provide a broad and balanced education
- have a timetable
- have premises equipped to any particular standard
- set hours during which education will take place
- have any specific qualifications make
- detailed plans in advance
- observe school hours, days or terms
- give formal lessons
- mark work done by their child
- formally assess progress or set development objectives
- reproduce school type peer group socialisation
- match school-based, age-specific standards.

However, local authorities should offer advice and support to parents on these matters if requested.

15 Regulation 8(2) of the Education (Pupil Registration) (England) Regulations 2006

**3.14** It is important to recognise that there are many, equally valid, approaches to educational provision. Local authorities should, therefore, consider a wide range of information from home educating parents, in a range of formats. The information may be in the form of specific examples of learning e.g. pictures/paintings/models, diaries of educational activity, projects, assessments, samples of work, books, educational visits etc.

**3.15** In their consideration of parents' provision of education at home, local authorities may reasonably expect the provision to include the following characteristics:

consistent involvement of parents or other significant carers - it is expected that parents or significant carers would play a substantial role, although not necessarily constantly or actively involved in providing education

recognition of the child's needs, attitudes and aspirations

opportunities for the child to be stimulated by their learning experiences

access to resources/materials required to provide home education for the child - such as paper and pens, books and libraries, arts and crafts materials, physical activity, ICT and the opportunity for appropriate interaction with other children and other adults.

**3.16** If a local authority considers that a suitable education is not being provided, then a full written report of the findings should be made and copied to the parents promptly, specifying the grounds for concern and any reasons for concluding that provision is unsuitable. If the authority is not satisfied that a suitable education is being provided, and the parents, having been given a reasonable opportunity to address the identified concerns and report back to the authority have not done so, the authority should consider sending a formal notice to the parents under section 437 (see paragraph 2.7) before moving on, if needed, to the issuing of a school attendance order (section 437(1)). See paragraphs 2.9 - 2.11.

## Children with Special Educational Needs (SEN)

**3.17** Parents' right to educate their child at home applies equally where a child has SEN. This right is irrespective of whether the child has a statement of special educational needs or not. Where a child has a statement of SEN and is home educated, it remains the local authority's duty to ensure that the child's needs are met.

**3.18** Local authorities must have regard to the *Special Educational Needs Code of Practice*[16]. Although this document primarily covers special educational needs in the school and early years' settings, it does give information about SEN in relation to home education (paragraphs 8.91 - 8.96 of the Code). The Code of Practice emphasises the importance of local authorities and other providers working in partnership with parents. The Code of Practice is statutory guidance and schools, local authorities and others to whom it applies must have regard to it. This means that, apart from the references to the law, these bodies do not have to follow the Code to the letter but they must be able to justify any departure from its guidance. The foreword states that the Code is designed to help these bodies to "make effective decisions but it does not - and could not - tell them what to do in each individual case".

16 SEN Code of Practice is available at: http://www.teachernet.gov.uk/docbank/index.cfm?id=3724

**3.19** If the parents' attempt to educate the child at home results in provision that falls short of meeting the child's needs, then the parents are not making "suitable arrangements", and the authority could not conclude that they were absolved of their responsibility to arrange the provision in the statement. Parents need only provide an efficient, full-time education suitable to the age, ability and aptitude and to any special educational needs the child may have as defined in Section 7 of the Education Act 1996. It is the authority's duty to arrange the provision specified in the statement, unless the child's parent has made suitable provision, for as long as a statement is maintained. In some cases a combination of provision by parents and LA may best meet the child's needs. Local authorities should consider, for example, providing access to additional resources or treatments where appropriate.[17]

**3.20** Even if the local authority is satisfied that parents are making suitable arrangements, it remains under a duty to maintain the statement and review it annually, following procedures set out in chapter 9 of the SEN Code of Practice. In some circumstances the child's special educational needs identified in the statement will have been related to the school setting and the child's needs may readily be met at home by the parents without LA supervision. It may be appropriate, once it is established that a child's special needs are being met without any additional support from the LA, to consider ceasing to maintain the statement. This may be done at the annual review or at any other time. Where the statement is reviewed it should be made clear to parents that they are welcome to attend, but they are not obliged to do so.

**3.21** Where the authority is satisfied that the child's parents have made suitable arrangements it does not have to name a school in part 4 of the child's statement. There should be discussion between the authority and the parents and rather than the name of the school, part 4 of the statement should mention the type of school the LA considers appropriate and that "parents have made their own arrangements under section 7 of the Education Act 1996".

**3.22** The statement should also specify any provision that the local authority has agreed to make under section 319 of the Education Act 1996 to help parents to provide suitable education for their child at home. If the child who is to be withdrawn from the school is a pupil at a special school, the school must inform the local authority before the child's name can be deleted from the school roll and the authority will need to consider whether the elective home education is suitable before amending part 4 of the child's statement.

**3.23** A parent who is educating their child at home may ask the local authority to carry out a statutory assessment or reassessment of their child's special educational needs and the local authority must consider the request within the same statutory timescales and in the same way as for all other requests. Local authorities should provide information to home educators detailing the process of assessment and both local authorities' and home educators' responsibilities with regard to provision should the child be given a statement. The views of the designated medical officer for SEN should be sought by the local authority where a child with a statement is educated at home because of difficulties related to health needs or a disability.

17 Section 319 of the Education Act 1996

# Part 4

## Developing relationships

**4.1** As noted in the Introduction to these guidelines, the central aim of this document is to assist local authorities in carrying out their statutory responsibilities with respect to elective home educated children. The DCSF hopes that this will enable local authorities to build effective relationships with home educators that function to safeguard the educational interests of children and young people: relationships that are rooted in mutual understanding, trust and respect. The guidelines outline a number of recommendations that are geared towards the promotion of such relationships.

**4.2** Whilst there is no legal obligation on local authorities or home educators to develop such relationships, doing so will often provide parents with access to any support that is available and allow authorities to better understand parents' educational provision and preferences. A positive relationship will also provide a sound basis if the authority is required to investigate assertions from any source that an efficient and suitable education is not being provided.

## Acknowledging diversity

**4.3** Parents' education provision will reflect a diversity of approaches and interests. Some parents may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to school hours and terms. Other parents may decide to make more informal provision that is responsive to the developing interests of their child. One approach is not necessarily any more efficient or effective than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, local authorities should not specify a curriculum or approach which parents must follow.

**4.4** Children learn in different ways and at different times and speeds. It should be appreciated that parents and their children might require a period of adjustment before finding their preferred mode of learning and that families may change their approach over time. Parents are not required to have any qualifications or training to provide their children with a suitable education. It should be noted that parents of all educational, social, racial, religious and ethnic backgrounds successfully educate children outside the school setting and these factors should not in themselves raise a concern about the suitability of the education being provided.

## Providing information for parents

**4.5** The provision of clear information has an important role to play in the promotion of positive relationships. Local authorities should provide written information and website links for prospective and existing electively home educating parents that are clear and accurate and which set out the legal position, and roles and responsibilities, in an unambiguous way. We also recommend that contact details for home education support organisations should be provided. Home education organisations' contact details may be found through an internet search. All written information should be made available to parents in local community

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languages and alternative formats on request. From April 2008 local authorities will have a legal duty[18] to broaden the information they make available to parents to support their children.

**4.6** As noted in paragraph 3.3 we recommend that local authorities should, if the parents wish, provide them with a named contact within the authority who is familiar with elective home education policy and practice and has an understanding of a range of educational philosophies. If the authority invites parents to meet the named contact (see paragraph 3.6), any such meeting should take place at a mutually acceptable location and the child concerned should also be given the opportunity, but not be required, to attend that meeting, or otherwise to express his or her views. Either during such a meeting, or otherwise, the parents and the authority should consider and agree what future contact there will be between them, recognising that in many instances such contact might be beneficial but is not legally required.

## Safeguarding

**4.7** The welfare and protection of all children, both those who attend school and those who are educated at home, are of paramount concern and the responsibility of the whole community. *Working Together to Safeguard Children 2006*[19] states that all agencies and individuals should aim proactively to safeguard and promote the welfare of children. As with school educated children, child protection issues may arise in relation to home educated children. If any child protection concerns come to light in the course of engagement with children and families, or otherwise, these concerns should immediately be referred to the appropriate authorities using established protocols.[20]

**4.8** Parents may choose to employ other people to educate their child, though they themselves will continue to be responsible for the education provided. They will also be responsible for ensuring that those whom they engage are suitable to have access to children. Parents will therefore wish to satisfy themselves by taking up appropriate references and local authorities should encourage them to do this. A small number of local authorities choose to assist home-educating parents in this task by undertaking Criminal Records Bureau (CRB) checks free of charge on independent home tutors and the DCSF endorses this helpful practice. Tutors employed by a local authority or an agency may also undertake work for home educating parents, in which case CRB checks ought to have been made already.

**4.9** Paragraph 2.12 to 2.15 details local authorities' duties to make arrangements to safeguard and promote the welfare of children.

18 Section 12 of the Childcare Act 2006

19 *Working Together to Safeguard Children, 2006* is available at: http://www.everychildmatters.gov.uk/resources-and-practice/IG00060/

20 *Working Together to Safeguard Children 2006*

## Reviewing policies and procedures

**4.10** Local authorities should review all of their procedures and practices in relation to elective home education on a regular basis to see if improvements can be made to further develop relationships and meet the needs of children and parents. Home education organisations and home educating parents should be involved in this process of review. Effective reviews, together with the sensitive handling of any complaints, will help to secure effective partnership.

**4.11** Local authorities should bear in mind that Ofsted report on the way local authorities cater for elective home educating families within their areas. Local authorities should keep home educators and home education support organisations informed of the policies and procedures of Ofsted reviews and any input they will have.

# Part 5

## Support and resources

**5.1** When parents choose to electively home educate their children they assume financial responsibility for their children's education.

**5.2** Local authorities do not receive funding to support home educating families, and the level and type of support will therefore vary between one local authority and another. However, we recommend that all local authorities should adopt a consistent, reasonable and flexible approach in this respect, particularly where there are minimal resource implications. As a minimum, local authorities should provide written information (which is also available through the internet) on elective home education that is clear and accurate and which sets out the legal position (see paragraphs 4.5 - 4.6). Some local authorities may be able to offer additional support to home educating parents, but this will vary depending on their resources. Examples of additional support include:

- provision of a reading or lending library with resources for use with the home educated children
- free, or discounted, admission into community programmes (including local authority owned community and sports facilities)
- access to resource centres (including local school resources where feasible)
- National Curriculum materials and curricula offered by other educational institutions
- information about educational visits and work experience
- providing assistance with identifying exam centres willing to accept external candidates.

## The National Curriculum

**5.3** Although home educated children are not required to follow the National Curriculum a number do. National Curriculum tests and assessment arrangements are developed and administered by the Qualifications and Curriculum Authority (QCA) on behalf of the Secretary of State. Information to support these arrangements is provided both electronically and in hard copy through the QCA's website at www.qca.org.uk or by telephoning their publications office on 08700 606015.

**5.4** In addition, the DCSF's website at www.dcsf.gov.uk will allow access to the National Curriculum and associated schemes of work, aimed at setting standards across all schools. Some documents are also distributed via Departmental publications which can be accessed through links on the Stationery Office site at www.tso.co.uk/ or by telephoning 0845 602 2260.

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## Connexions Service

**5.5** The Connexions Service is an England only service. Its purpose is to provide support to all 13 to 19 year olds and to young people who have not yet reached 25 years if they have a learning difficulty, in order to encourage, enable or assist their effective participation in education or training. The Connexions Service also assists young people to obtain suitable employment and related training and education. Its services and responsibilities cover children and young people who are being educated at home. From April 2008 each local authority will be funded and have responsibility for the provision of Connexions services in its area. The local Connexions Service is responsible for maintaining an overview of the learning and work status of all young people that are covered by its remit and seeks to ensure that none fall between the responsibilities and remit of different agencies and thus become marginalized or lost to the system. Sections 117, 119 and 120 of the Learning and Skills Act 2000 make provision about the supply of information to Connexions providers, subject to normal data protection principles.

## Flexi-schooling

**5.6** This paragraph has been removed (March 2013). See main web page on Elective Home Education guidelines.

## Local authorities' role in supporting work experience

**5.7** Work experience is not a statutory requirement. However, the Government's objective is for all Key Stage 4 pupils to undertake work experience in the last two years of compulsory schooling. Over 95% of Key Stage 4 pupils go on placements each year. The law relating to the employment of children generally places statutory restrictions and prohibitions on employers in this respect. Where the employment is in accordance with arrangements made by a local authority or a governing body, with a view to providing pupils with work experience as part of their education in their last two years of compulsory schooling, these restrictions will generally not apply.[22]

**5.8** Children educated at home have no entitlement to participate in work experience under arrangements made by a local authority but we encourage local authorities to assist the parents of home educated children who wish to pursue work experience through such arrangements. Where home educated children do participate in such schemes, consideration should be given to the extent to which such children are covered by, for example, the health and safety, child protection and insurance provision made on behalf of school children, often by intermediary bodies, which are necessary to safeguard the child.

22 see section 560 of the Education Act 1996, as amended by section 112 of the School Standards and Framework Act 1998

## Education Maintenance Allowance

**5.9** Education Maintenance Allowance is an income tested weekly allowance available to learners over the age of 16 as an incentive to stay on in education at school or college after GCSEs. It is not available to learners whose parents elect to home educate them after the age of 16.

## Truancy sweeps

**5.10** When planning and running truancy sweeps, LAs should refer to the DCSF's *School Attendance and Exclusions Sweeps Effective Practice*[23]. This includes a section on children who are educated outside the school system. Those taking part in the sweeps, including police officers, police community support officers, local authority staff and anyone else taking part in the sweep should be fully familiar with this guidance, act in accordance with it and be aware that there is a range of valid reasons why compulsory school-age children may be out of school.

## Gypsy, Roma and Traveller Children

**5.11** Local authorities should have an understanding of and be sensitive to, the distinct ethos and needs of Gypsy, Roma and Traveller communities. It is important that these families who are electively home educating are treated in the same way as any other families. Home education should not necessarily be regarded as less appropriate than in other communities. When a Gypsy, Roma and Traveller family with children of school age move into an area, they are strongly encouraged to contact the local Traveller Education Support Service for advice and help to access local educational settings. Most LAs provide such a service. Further guidance can be obtained from the DCSF's Guide to Good Practice on the education of Gypsy, Roma and Traveller children - *Aiming High: Raising the Achievement of Gypsy Traveller Pupils* which can be obtained from DCSF Publications (reference DfES/0443/2003). Another (external) source of information is www.gypsy-traveller.org/education/.

## Gifted and talented children

**5.12** Although the Department does not have hard data, anecdotal evidence suggests that many home educated children would be identified as gifted and talented were they to attend a school. Some home educated children are likely to be exceptionally able; others will have additional educational needs.

**5.13** Local authority support for home educated children should take into account whether they might be gifted and talented. Through the lead officers for gifted and talented education, these children may be able to access local and regional learning opportunities alongside pupils from local schools. Authorities are encouraged to draw parents' attention to Young Gifted and Talented (YG&T), the Learner Academy for gifted and talented children and young people aged 4-19. YG&T is available to home-educated learners as well as to those in schools. They can access free and priced opportunities advertised in its Learner Catalogue, use its discussion forums and benefit from other resources and support as they become available. Electively home educated children and their parents can register with YG&T at www.dcsf.gov.uk/ygt.

23 Available at www.dcsf.gov.uk/schoolattendance/truancysweeps

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department for
children, schools and families

Department for Education

# Elective home education

## Departmental guidance for local authorities

April 2019

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# Summary

## About this departmental guidance

This is departmental guidance from the Department for Education. It is non-statutory, and has been produced to help local authorities understand their role in relation to elective home education.

## Expiry or review date

This guidance will next be reviewed by December 2020.

## Who is this guidance for?

This guidance is for:

- Local authorities
- Schools
- Organisations concerned with elective home education
- Parents, although a separate and parallel document for parents is published alongside this one

# Introduction

The government's aim is to ensure all young people receive world-class education which allows them to reach their potential and live a more fulfilled life, regardless of background. That education should be provided in a safe environment, whether at school or at home.

Parents have a right to educate their children at home, and the government wants the many parents who do it well to be supported. They devote time, financial resources and dedication to the education of their children. Most parents who take up the weighty responsibility of home education do a great job, and many children benefit from being educated at home.

Educating children at home works well when it is a positive, informed and dedicated choice. However, the past few years have seen a very significant increase in the number of children being educated at home, and there is considerable evidence that many of these children are not receiving a suitable education. There is a less well evidenced but increasing concern that some children educated at home may not be in safe environments.

The department believes that although the primary responsibility for ensuring that children are properly educated belongs to parents, a local authority has a moral and social obligation to ensure that a child is safe and being suitably educated. If it is not clear that that is the case, the authority should act to remedy the position.

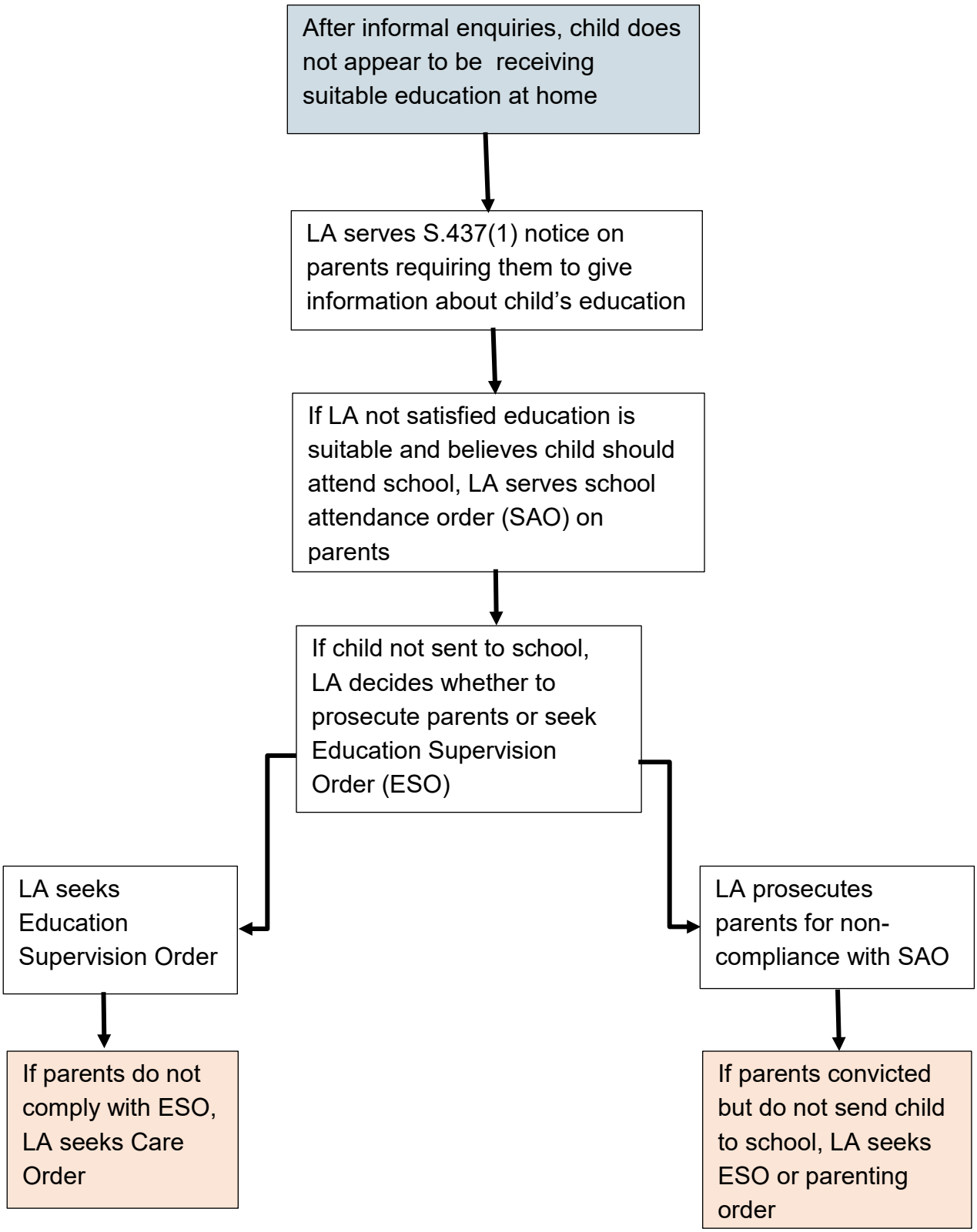
This guidance is intended to help local authorities understand their existing powers, and their duties in relation to children who are being educated at home, and how those relate to the obligations of parents. It aims to enable local authorities to identify children not receiving a suitable education, and do something about it. The end result should be that every child is receiving a suitable education in a safe and appropriate setting, whether at home or in school.

**Where necessary - because it is evident that a child is simply not receiving suitable education at home and the use of school attendance powers is not achieving a change in that situation - the local authority should be ready to use its safeguarding powers as explained in this guidance. The overriding objective in these cases is to ensure that the child's development is protected from significant harm.**

Our initial step is to ensure that LAs understand the powers at their disposal and when they can be used to intervene if it appears that a child is not receiving an adequate, safe, or appropriate education. However, where it is clear that parents are educating a child well at home, the need for contact should be minimal and not made more onerous than is required by the parents' own needs.

## Summary flow chart

*This chart summarises the more detailed flow charts inserted at the end of this guidance document by showing the main features of the legal options open to a local authority if it is satisfied that a child is not receiving a suitable education at home*



# 1. What is elective home education?

1.1 Elective home education is a term used to describe a choice by parents to provide education for their children at home - or at home and in some other way which they choose - instead of sending them to school full-time. This is different to education provided by a local authority otherwise than at a school - for example, tuition for children who are too ill to attend school. Throughout this guidance, 'parents' should be taken to include all those with parental responsibility, including guardians (and foster carers, although in this case the local authority may be the corporate parent).

1.2 Educating a child (or children) full-time at home is a rewarding but challenging task. Parents may choose to engage private tutors or other adults to assist in providing a suitable education, but there is no requirement to do so. There are other settings which may be used, for example parental support groups which offer tuition, and companies which give part-time tuition. This can also include provision made at further education colleges for children aged 14 and over.

1.3 Although children being home-educated are not normally registered at any school, parents sometimes choose to make arrangements for a child to receive part of the total provision at a school - the purpose of this will often be to provide education in specific subjects more easily than is possible at home. Such arrangements are sometimes known as ‘flexi-schooling’. Schools are under no obligation to agree to such arrangements, but some are happy to do so. When a child is flexi-schooled, the parents must still ensure that the child receives a suitable full-time education but the element received at school must be taken into account in considering whether that duty is met, just as it should be when a child attends other settings on a part-time basis as described above. Bearing that in mind, this guidance applies as much to children who are flexi-schooled as it does to others who are educated at home.

1.4 Parents who choose to educate a child in these ways rather than sending the child to school full-time take on financial responsibility for the cost of doing so, including the cost of any external assistance used such as tutors, parent groups or part-time alternative provision. If the child attends state-funded school or FE college for part of the week, that will have no cost to the parents. Examination costs are also the responsibility of parents if a child does not attend school full-time, although some schools or colleges attended part-time may meet the costs, or the local authority may have a policy of assisting with such costs for children educated at home.

## 2. Reasons for elective home education - why do parents choose to provide it?

2.1 Home education is not the only alternative to school attendance - in any circumstances where a child cannot attend school the local authority should be offering alternative provision to reduce the likelihood that a child will end up without suitable education. Notwithstanding that, there are many reasons why parents do choose to educate children at home, including those set out below:

- Ideological or philosophical views which favour home education, or wishing to provide education which has a different basis to that normally found in schools
- Religious or cultural beliefs, and a wish to ensure that the child's education is aligned with these
- Dissatisfaction with the school system, or the school(s) at which a place is available
- Bullying of the child at school
- Health reasons, particularly mental health of the child
- As a short term intervention for a particular reason
- A child's unwillingness or inability to go to school, including school phobia
- Special educational needs, or a perceived lack of suitable provision in the school system for those needs
- Disputes with a school over the education, special needs or behaviour of the child, in some cases resulting in 'off-rolling'[1] or exclusion
- Familial reasons which have nothing to do with schools or education (eg using older children educated at home as carers)
- As a stop-gap whilst awaiting a place at a school other than the one allocated

2.2 These various reasons for undertaking home education are not mutually exclusive. For some children, several of these factors might apply. When local authorities engage with home-educating families they should take into account the context of individual situations. Often home education will be undertaken as a positive choice which is expected to lead to a better outcome. However in some cases home education may be attempted as a last resort. This appears to be occurring more frequently, and is likely to have implications for the quality of home education provided. Such families may require more support and guidance.

[1] Used in this document to refer to instances where a child is withdrawn from a school by the parent as a result of pressure from the school rather than it being a purely voluntary decision.

2.3 Local authorities should bear in mind that whatever the reasons, in the majority of cases parents have undertaken home education in what they perceive as the best interests of the child even if they require additional support to undertake home education properly. However, it may be the case that if the local authority discusses home education with parents, the reason initially given for adopting it may not reflect what parents actually do by way of making provision. Whenever possible, local authorities should encourage parents to discuss an intention to home educate children before putting it into effect. They should offer support and advice based on the individual family's motivations, for example by explaining the very substantial time commitments involved in delivering home education properly and suggesting potential alternatives to home education. This is likely to reduce the number of children who receive unsuitable education at home. Many parents considering the prospect of home education may not understand the extent of the time commitment involved or the costs, such as exam fees.

2.4 There are no specific legal requirements as to the content of home education, provided the parents are meeting their duty in s.7 of the Education Act 1996. This means that education does not need to include any particular subjects, and does not need to have any reference to the National Curriculum; and there is no requirement to enter children for public examinations. There is no obligation to follow the 'school day' or have holidays which mirror those observed by schools. Many home educating families do follow a clear academic and time structure but it should not be assumed that a different approach which rejects conventional schooling and its patterns is unsatisfactory, or constitutes 'unsuitable' education. Approaches such as autonomous and self-directed learning, undertaken with a very flexible stance as to when education is taking place, should be judged by outcomes, not on the basis that a different way of educating children must be wrong.

2.5 The local authority should also consider trends in home education in a wider strategic context, for example in identifying shortcomings in local school provision and alternative provision settings, or failures by schools to manage attendance and behaviour properly.

# 3. The starting point for local authorities

## When is a child of concern?

3.1 If a local authority is aware that a child of compulsory school age is not attending a state or registered independent school full-time, and it is unclear how that child's education is being provided, a local authority should consider the possibility that the child is being educated at home by its parents (possibly in combination with part-time attendance at another setting). In such a case, the local authority's task is to find out how he or she is being educated and whether that education satisfies legal requirements.

3.2 Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that:

> *"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 by regular attendance at school or otherwise."*

3.3 **This means that the responsibility for children's education rests with their parents.** In England, education is compulsory, but – despite the phrase 'child of compulsory school age' quoted above – going to school is not. State-funded education is made available for all children of compulsory school age whose parents request it, and every child should be in school or receiving alternative provision made by the local authority or the child's school, unless parents themselves can make suitable arrangements. If parents do educate children at home, section 7 means that the child should be getting an efficient, suitable full-time education.

3.4 In the case of some children who are home educated, this means that they have never attended school. More commonly, however, perhaps in around 80-90% of the total in most local authority areas[2], children who are being educated at home have attended school at some previous point.

3.5 The current legal framework is not a system for regulating home education *per se* or forcing parents to educate their children in any particular way. Instead, it is a system for

[2] See survey report by Association of Directors of Children's Services (ADCS) at ADCS survey

identifying and dealing with children who, for any reason and in any circumstances, are not receiving an efficient suitable full-time education. If a child is not attending school full-time, the law does not assume that child is not being suitably educated. It does require the local authority to enquire what education is being provided and local authorities have these responsibilities for all children of compulsory school age. Local authorities should ensure that their enquiries are timely and effective. Depending on the results of those enquiries, the law may require further action by the local authority and the department believes that this is the case for an increasing number of children. Local authorities must take such action where it is required, within the constraints of the law. Local authorities have the same safeguarding responsibilities for children educated at home as for other children. They should be ready to use safeguarding powers appropriately, when warranted. This flows from the general responsibilities which local authorities have for the well-being of all children living in their area.

3.6 Because of this, the department recommends that each local authority should, as a minimum:

- have a written policy statement on elective home education which is clear, transparent and easily accessible by using different formats as necessary, is consistent with the current legal framework and preferably drawn up in consultation with local families who educate children at home so that it can reflect both the challenges and rewards of educating children in this way. It should take into account local circumstances and set out how the authority will seek to engage and communicate with parents;

- set aside the resources necessary to implement its policy effectively and consistently. This is not always easy at a time of constrained resources; but effective implementation in conjunction with work in related areas such as education welfare, children missing education and admissions, can reduce spend in the longer term on families where engagement is difficult;

- consider their organisational structures for dealing with home education and the related areas mentioned above. Although parents who educate their children at home sometimes say that home education should be dealt with in isolation, the reality is that it needs a holistic approach to issues of suitability, attendance, welfare and safeguarding. All of these factors need to be in place to ensure a good education outcome;

- seek to offer guidance to all known home-educating families in their area about their rights and obligations, and also provide advice on good practice and available resources for parents who request it;

- make it clear in all documentation that the local authority sees its role in relation to home education as part of its wider responsibilities, including safeguarding, for all children living in its area;

- regularly review its elective home education policies so that they reflect current law and local circumstances, and are compatible with this guidance document;

- provide clear details of their complaints procedure and deal with all complaints in a sensitive and timely manner.

3.7 Local authorities may often choose to go further than this - for example by operating voluntary registration schemes so that support can be given more readily to those who wish to receive it, and by providing more information on home educated children in their locality. Such schemes can also help authorities discharge the responsibilities which they have under ss. 436A and 437 of the 1996 Act (see below) and the department would encourage those authorities which do not operate voluntary registration to consider doing so. However, registration is currently not a legal obligation for either parents or authorities.

3.8 Local authorities should bear in mind that when Ofsted carries out inspections of local authorities[3], it reports on the way in which local authorities deal with vulnerable children in their areas. Home-educated children are NOT automatically 'vulnerable'; but some children educated at home do fall into that category, and evidence from many local authorities is that the proportion who do is increasing. Unless a local authority uses all the powers at its disposal at an early stage, it is likely that many of these children will need more drastic – and more expensive – intervention later on.

3.9 Therefore Ofsted will look at the way each local authority deals with this issue, in particular the ways in which it identifies children who are not receiving suitable education and what steps the local authority takes to deal with that. Local authorities should keep known home educators and local home education support organisations informed of forthcoming Ofsted inspections and any input they can have, as well as outcomes of inspections – although reports on these are available on the Ofsted website. Ofsted has no responsibility for inspecting the provision of home education, only the way local authorities deal with it in the context of their statutory responsibilities.

[3] Under s.136 of the Education and Inspections Act 2006.

# 4. How do local authorities know that a child is being educated at home?

## Children who have never attended school

4.1 One of the most significant issues for local authorities in maintaining adequate oversight is the initial identification of children who are being educated at home. There is no legal duty on parents to inform the local authority that a child is being home educated. If a child never attends school, an authority may be unaware that he or she is being home educated.

4.2 Identification of children who have never attended school and may be home educated forms a significant element of fulfilling an authority's statutory duty under s.436A of the Education Act 1996 - to make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children in its area who are not receiving a suitable education. The duty applies in relation to children of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than at school (for example, at home, or in alternative provision). Until a local authority is satisfied that a home-educated child is receiving a suitable full-time education, then a child being educated at home is potentially in scope of this duty. The department's children missing education statutory guidance for local authorities applies. However, this should not be taken as implying that it is the responsibility of parents under s.436A to 'prove' that education at home is suitable. A proportionate approach needs to be taken.

4.3 It should be noted that the caveat in s.436A 'so far as it is possible to do so' should not be interpreted as meaning 'so far as the authority finds it convenient or practical to do so'. It means what it says, and the authority should do whatever is actually possible. If the department receives a complaint that a local authority is not doing enough to meet its duty under s.436A, it will consider whether there is sufficient basis for making a direction under s.496 or s.497 of the Education Act 1996 so that outcomes for children in that local authority's area can be improved.

4.4 In particular, local authorities should explore the scope for using agreements with health bodies, general practitioners and other agencies, to increase their knowledge of children who are not attending school. Some local authorities already actively encourage referrals from doctors and hospitals of children whom there is reason to think may be home educated. Under s.10 of the Children Act 2004, local authorities should have arrangements in place to promote co-operation between the authority and its partners who deal with children, and under section 11, arrangements should be in place to ensure that functions are discharged with regard to the need to safeguard and promote the welfare of children. These arrangements should include information sharing protocols and it is possible for these to allow sharing of data on children who appear to be home educated and about whom there is a concern as to the suitability of that education which amounts to possible neglect causing significant harm. The Data Protection Act 2018 allows for such sharing of data in principle, but local authorities and their partners will of

course need to ensure that their particular arrangements are fully compliant with data protection legislation under the Act, the GDPR and Article 8 of the ECHR[4]. Subject to that caveat, any local authority which does not have such arrangements in place already should consider doing so and seek advice on good practice from other authorities and relevant associations.

## Children who have attended school

4.5 In some respects, fulfilling the s.436A duty in relation to children who may be home educated is easier for local authorities when a child has previously attended a school, but it is not necessarily the case that such children will automatically become known to the local authority.

4.6 Although most local authorities encourage parents who withdraw a child from school for home education to notify the school and/or the authority, (and DfE guidance to parents also encourages this) there is no legal obligation on parents to provide such notification, either in writing or otherwise, or indeed to provide any reason for withdrawal. The only exceptions to this are (a) that a child may not be removed from the roll of a special school without the consent of the local authority if enrolled there under arrangements made by the local authority[5], and (b) in cases where a child is enrolled at a school in accordance with a school attendance order, when the authority must revoke the order (or amend it to replace the school with a different school) before the child can be removed from the roll[6]. However, it should be noted that until a child is removed from the school roll (which can only be when one of the trigger points specified in the Education (Pupil Registration) (England) Regulations 2006 as amended is reached), the parent is at risk of prosecution for not securing attendance at the school even if suitable home education is being provided. This means that it is in a parent's interests to notify the school in writing of withdrawal for home education.

4.7 It was formerly the case that schools were obliged by the 2006 Pupil Registration Regulations to notify the local authority that a child had been withdrawn for home education only when the school had been notified of this in writing by the parents. From September 2016 the regulations were amended so that the local authority must now be informed of all deletions from the admission register when this takes place at a non-standard transition time. Local authorities should also consider using their power to require schools (including independent schools) to provide information, under

[4] It is likely to be lawful for a LA to process (i.e. record and/or use) such information, on the basis that the processing would be necessary for the performance of a public task within the meaning of the GDPR and the Data Protection Act 2018; specifically, necessary for 'the exercise of a function conferred on a person by an enactment or rule of law'. The function in question could for example be one of, or a combination of, sections 436A and 437 of the Education Act 1996, section 175 of the Education Act 2002, section 47 of the Children Act 1989, and section 22 of the Children and Families Act 2014. Where the data is 'special category' data within the meaning of the GDPR then the LA will also need to check that a relevant exception applies.

[5] Regulation 8(2), Education (Pupil Registration) (England) Regulations 2006.

[6] Regulation 8(1)(a) of the same regulations

arrangements set out by the authority concerned, about children who leave at the school's standard transition times, to help ensure that there is knowledge at local authority level of a child's schooling status. Ofsted is likely to ask local authorities about withdrawal rates at schools and whether action has been taken to identify patterns and a suitable strategic response. Local authorities are entitled to ask schools whether there is any further information available which would suggest that a child may be now home educated, but a school may genuinely not know the reason for withdrawal. A state-funded school must respond reasonably to any request from the local authority for any information it has about the reasons for withdrawal.

4.8 As set out in the statutory guidance on Children Missing Education referenced above, local authorities should also be working with each other to identify children, and share data about those who have left a school in one local authority area but have moved to another.

4.9 These changes mean that a local authority should be more readily able to identify and record children in its area who are being home educated or may be home educated and for whom the suitability of education being provided has not yet been firmly established or is due for review. LAs should use all sources of information available to them, such as that supplied by NHS sources and their own social services departments, to compile and maintain records of all children of compulsory school age who are not registered at schools. They can then find out, and keep under review, whether each of those children is being suitably educated or not. Such a record need not be based wholly or even partly on parental registration of such children, although it must of course be compliant with the GDPR and the Data Protection Act 2018 (see footnote above).

# 5. Local authorities' responsibilities for children who are, or appear to be, educated at home

5.1 The duty under s.436A dealt with above means that local authorities must make arrangements to find out so far as possible whether home educated children are receiving suitable full-time education.

5.2 Discussion of local authority responsibilities in relation to home education tends to centre on those families where the education is unsatisfactory - or at least potentially so - and an authority's home education policies need to be clear about the processes used in such cases - which as noted previously, are increasing in number. However, local authorities' policies should also make clear how the authority interacts with those families where a suitable full-time education is being provided and both parties wish to maintain a suitable level of contact and assurance. Children in these families where children do receive a suitable education at home form a large part of the total number of home educated children in England. It is important that the authority's arrangements are proportionate and do not seek to exert more oversight than is actually needed where parents are successfully taking on this task. Often, having in place a system which is based on a presumption that it will be parents who initiate contact with the authority if necessary will yield good results when the parents are known to be providing good education. However, it is also necessary that the local authority is able to act in the interests of the child, particularly if a change in his or her circumstances occurs. Local authorities should be clear that maintaining such oversight is a legitimate part of their overall responsibilities towards the children living in their area (for example as set out in s.13A of the Education Act 1996 shown below) and act accordingly:

> A local authority in England must ensure that their relevant education functions and their relevant training functions are (so far as they are capable of being so exercised) exercised by the authority with a view to—
>
> (a)promoting high standards,
>
> (b)ensuring fair access to opportunity for education and training, and
>
> (c)promoting the fulfilment of learning potential by every person to whom this subsection applies.

In this context, relevant education functions include those under sections 436A to 447 of the Education Act 1996 and the authority should act accordingly.

5.3 There are no detailed legal requirements as to how such a system of oversight should work, and it is for each local authority to decide what it sees as necessary and proportionate to assure itself that every child is receiving a suitable education, or action is being taken to secure that outcome. Establishing a positive relationship between the local authority and the home-educating parent – where that is possible - will allow authorities to better understand parents' educational provision and preferences and offer them appropriate support. A positive relationship will also provide a sound basis for investigation if the authority receives information that a suitable education is not being

provided.

5.4 In any event, the department recommends that each local authority:

- should provide parents with a named contact who is familiar with home education policy and practice and has an understanding of a range of educational philosophies;

- ordinarily makes contact with home educated parents on at least an annual basis so the authority may reasonably inform itself of the current suitability of the education provided. In cases where there were no previous concerns about the education provided and no reason to think that has changed because the parents are continuing to do a good job, such contact would often be very brief;

- has a named senior officer with responsibility for elective home education policy and procedures, and the interaction with other work on issues such as children missing education, unregistered settings, vulnerable children, and welfare;

- organises training on the law and the diversity of home education methods for all officers who have contact with home-educating families, possibly in conjunction with other authorities;

- ensures that those LA staff who may be the first point of contact for a potential home-educating parent understand the right of the parent to choose home education. It is very important that parents are provided with accurate information from the outset to establish a positive foundation for the relationship. However, parents are under no obligation to accept support or advice from a local authority, and refusal to do so is not in itself evidence that the education provided is unsuitable;

- works co-operatively with other relevant agencies such as health services to identify and support children who are being home educated, within the boundaries established by data protection and other legislation.

# 6. What should local authorities do when it is not clear that home education is suitable?

6.1 Questions as to the suitability of home education provision most often arise either when a child is first being home educated, or alternatively when there is a change in the circumstances of a child whose education was previously satisfactory. In the latter case, this change may not be a specific event; it can simply be that as a child grows older, the provision of education is becoming beyond the resources of the parents.

6.2 Families beginning home education sometimes state that they are entitled to a period during which the home education provided for the child may not meet the requirements in s.7 because they are still, as it were, building up the provision to a satisfactory level. Some parents may go further and describe this period as being necessary for 'de-schooling'. There is no legal basis for such a position. Any statement along these lines could be an indication that the child is not being properly educated. It is not unreasonable that good home education develops with experience as a child becomes used to being in a different learning environment and parents 'find their feet', and it would be unrealistic to make a judgement about the suitability of home education provision only a few days after it is started. However, families should be aiming to offer satisfactory home education from the outset, and to have made preparations with that aim in view, as time lost in educating a child is difficult to recover. In such cases, a reasonable timescale should be agreed for the parents to develop their provision; it is easier to do this if the parents are engaging constructively with the local authority but in any event, there should be no significant period in which a child is not receiving suitable education, other than reasonable holiday periods at appropriate points.

6.3. This section of the guidance deals with the sequence of action which may have to be undertaken when educational provision for a child of compulsory school age appears to be unsuitable.

6.4 The department's advice is that in all cases where it is not clear as to whether home education is suitable (including situations where there is no information available at all), the authority should initially attempt to resolve those doubts through informal contact and enquiries. This is likely to be the most productive initial approach even when a child is not being suitably educated. An authority's s.436A duty (and that under s.437, see below) forms sufficient basis for informal enquiries. Furthermore, s.436A creates a duty to adopt a system for making such enquiries. Local authorities should be in no doubt about the necessity for doing this in order to make an early move to formal procedures under s.437 if necessary, thus avoiding delay in securing a suitable education when it is not being provided.

6.5 The most obvious course of action is to ask parents for detailed information about the education they are providing. Parents are under no duty to respond to such enquiries, but if a parent does not respond, or responds without providing any information about the child's education, then it will normally be justifiable for the authority to conclude that the child does not appear to be receiving suitable education and it should not hesitate to do

so and take the necessary consequent steps. This is confirmed by relevant case law.[7] In many cases, making such informal enquiries will allow the situation to be resolved, either by evidence being provided that the home education is suitable or by agreement on alternative approaches to educating the child based on the local authority's initial assessment (for example, by catering for special needs in a different way).

6.6 Informal enquiries can include a request to see the child, either in the home or in another location. But the parent is under no legal obligation to agree to this simply in order to satisfy the local authority as to the suitability of home education, although a refusal to allow a visit can in some circumstances justify service of a notice under s.437(1).[8] The question of access to the child in relation to safeguarding powers is dealt with in a later section of this guidance.

6.7 It should be borne in mind that there are alternatives which fulfil the parents' s.7 duty other than full-time education at home: these include flexi-schooling, which is described in a later section.

6.8 If informal contacts do not resolve the position, then the 1996 Act provides a framework for formal action to ensure that a child does receive suitable education.

6.9 Under s.437(1) of the Education Act 1996, local authorities must act if it appears that parents are not providing a suitable education. This section states that:

> *"**If it appears** to a local authority that a child of compulsory school age in their area is not receiving suitable[9] education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education."*

Section 437(2) of the Act provides that the period specified for a response shall not be less than 15 days beginning with the day on which the notice is served.

6.10 Local authorities considering whether they should serve a s.437(1) notice in a specific case should note that current case law means that a refusal by parents to provide any information in response to informal enquiries will in most cases mean that the authority has a duty to serve a notice under s.437(1). This is because where no other information suggests that the child is being suitably educated, and where the parents have refused to answer, the only conclusion which an authority can reasonably come to, if it has no information about the home education provision being made, is that the home education does not appear to be suitable. Local authorities should take care to ensure that the family has received any enquiries, and is not simply absent.

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[7] *Phillips v Brown* [1980] Lexis Citation 1003

[8] *Tweedie v Pritchard* [1963] Crim LR 270; *R v Surrey Quarter Sessions Appeals Committee ex parte Tweedie* [1963] Crim LR 639.

[9] 'suitable' means efficient, full-time, and suitable to the child's age, ability, and aptitude, and to any special educational needs they may have (section 436A(3 of Education Act 1996))

6.11 The local authority must consider any response made by the parent to the s.437(1) notice, in the light of s.437(3). Section 437(3) refers to the serving of school attendance orders:

> *"If –*
>
> > *(a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local authority, within the period specified in the notice, that the child is receiving suitable education,* ***and***
> >
> > *(b) in the opinion of the authority it is expedient that the child should attend school,*
>
> *the authority shall serve on the parent an order (referred to in this Act as a "school attendance order"), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order."*
>
> Nb. If the school in question is an academy, the authority should seek its agreement to that school being named in the order. If an academy is then named in an order which is made, and the academy does not agree with this, a direction may be sought from the Secretary of State.

6.12 In considering whether it is satisfied by the parent's response to the s.437(1) notice, it is open to the authority to consider any other relevant information available to it – not only through its own contacts with the family, but also information provided by other agencies and other sources and the child's former school (if any), as to the child's circumstances and needs. The authority should make arrangements to gather and record as much information as possible from these alternative sources. Of course, the local authority should give reasonable weight to information provided by parents, on its own merits. For example, an authority should not dismiss information provided by parents simply because it is not in a particular form preferred by the authority (eg, a report by a qualified teacher). On the other hand the information provided by parents should demonstrate that the education actually being provided is suitable and address issues such as progression expected and (unless the home education has only just started) achieved. It should <u>not</u> be simply a statement of intent about what will be provided, or a description of the pedagogical approach taken – this would not enable the authority to reach a legitimate conclusion that a suitable education is actually being provided. This is often a key point in separating out families which are genuinely providing a suitable education at home from those who are not, because the latter often cannot demonstrate satisfactory content or measurement of progress.

6.13 The information needed to satisfy the test in s.437(3)(a) depends on the facts of the case and the judgement of the local authority. However, if the parent refuses to make <u>any</u> substantive response to a notice served under s.437(1) that refusal in itself is likely to satisfy the test in s.437(3)(a) - and such a parent should expect to be served with a school attendance order.

6.14 The other limb of s.437(3) relates to whether the authority considers that it is expedient for the child to attend school. If the home education is not suitable in terms of s.7, then normally it would be expedient[10]. However, there are cases in which the authority might reasonably take the view that it is not expedient. Examples where this position could be justified are:

a. if the child is within a few weeks of ceasing to be of compulsory school age (especially as there may be a delay in enforcement through the courts);

b. if the child has physical, medical or educational needs leading to extreme vulnerability in a school setting - and the local authority should then consider alternatives such as tuition provided by the authority itself;

c. the parent is actively working with the authority to improve the home education and seems likely to achieve suitability within a very short time.

## After a school attendance order is served

6.15 At any stage following the issue of the order, parents may present evidence to the local authority that they have now made satisfactory arrangements for the child's education and apply to have the order revoked. This evidence must be considered, and the order must be revoked unless the authority is of the opinion, having considered that evidence, that the parents have not made satisfactory arrangements.

6.16 If the local authority refuses to revoke the order, parents can choose to refer the matter to the Secretary of State, who may give a direction to the local authority which either requires revocation of the order, or confirms it (s.442 of the Education Act 1996).

6.17 Whether or not the parents have sought revocation and intervention by the Secretary of State, if they do not cause the child to be registered at a school, and regularly attend it, then the authority should consider prosecution, and should proceed with this unless there is very good reason not to do so. An example of that might be because the circumstances point to seeking an Education Supervision Order instead of prosecution (see following section on safeguarding). Under s.447(1) of the 1996 Act, a local authority considering prosecuting a parent for non-compliance with a school attendance order must in any case consider, either as an alternative to prosecution or as well as prosecution, making an application for an Education Supervision Order.

6.18 If the local authority does prosecute the parents for not complying with the school attendance order, then it will be for a court to decide whether or not the education being provided is suitable, full-time and efficient. The court can direct that the order shall cease to be in force if it is satisfied that the parent is fulfilling his or her duty.

6.19 The department is aware that some local authorities have been reluctant to

[10] In *Phillips v Brown*, 'expedient' was defined as 'advantageous, fit, proper or suitable to the circumstances of the case'

prosecute for non-compliance with a school attendance order, for reasons connected with costs, and the behaviour of some parents who deliberately withhold information about home education provision but are then able to easily satisfy the court that the home education is suitable. This is an understandable concern, but local authorities must bear in mind their public responsibilities as prosecutors; in such cases they may wish to seek legal advice about the prospect of obtaining a costs order against a successful defendant on the basis that the prosecution would have been unnecessary if not for the defendants' unreasonable conduct.

6.20 It should be noted that the offence of not complying with a specific school attendance order is only committed once. Therefore if a parent is convicted and fined, but still does not send the child to school, the process of serving a notice under s.437(1) and if necessary, serving a further order under s.437(3) must be undertaken again. This means that a parent willing and able to be fined repeatedly can continue the unsatisfactory provision of home education indefinitely, if the local authority relies on education law alone. The implication of this is that in such cases the local authority will need to consider using other powers - see the following section on safeguarding.

6.21 Under section 8 of the Crime and Disorder Act 1998, when a person is found guilty of breaching a school attendance order, the court can make a parenting order. A parenting order requires the parent to attend up to three months of a counselling or guidance (which can be specified by the local authority). The court can add other requirements intended to prevent the parent committing the offence again. Such an order can only be made if there is provision for such counselling or guidance. A breach of the order can result in a substantial fine. Local authorities should consider whether there is scope for seeking such an order in appropriate cases.

6.22 The department will be happy to support local authorities to test the boundaries of current case law through discussion with them of potentially difficult home education cases which they are contemplating bringing before the courts, on the basis that the public interest means that local authorities should take this approach in suitable circumstances.

# 7. Safeguarding: the interface with home education

7.1 A situation in which a child is not receiving a suitable full-time education requires action by a local authority under education law, as described above. But it is important to bear in mind that unsuitable or inadequate education can also impair a child's intellectual, emotional, social or behavioural development, and may therefore bring child protection duties into play. This will depend on the facts of the case, but local authorities should consider whether they ought to take action under safeguarding law, especially where the steps described above have not been, or seem unlikely to be, sufficient to address a risk to a child's welfare

7.2 Sections 10 and 11 of the Children Act 2004 give local authorities general duties for promoting the well-being and (in relation to their non-education functions) safeguarding and promoting the welfare of children in their areas. This includes children educated at home as well as those attending school. Section 175 of the Education Act 2002 requires authorities to make arrangements for ensuring that their education functions are exercised with a view to safeguarding and promoting children's welfare. Therefore the general duties of local authorities in relation to safeguarding are the same for all children, however they are educated. Social services teams in local authorities and those dealing with home education should take steps to ensure that relevant information on individual children is shared.

7.3 There is no proven correlation between home education and safeguarding risk. In some serious cases of neglect or abuse in recent years, the child concerned has been home educated but that has not usually been a causative factor and the child has normally been known anyway to the relevant local authority. However, a child being educated at home is not necessarily being seen on a regular basis by professionals such as teachers and this logically increases the chances that any parents who set out to use home education to avoid independent oversight may be more successful by doing so. Several recent Serious Case Reviews have illustrated this. However, safeguarding is not simply a matter which arises in relation to the family. Some parents who educate at home believe that by doing so, they are safeguarding the child from risk in the school system (eg through serious bullying).

7.4 Local authorities should approach all cases where the suitability of home education is in doubt using their powers in the Education Act 1996, but they should also be ready, if a lack of suitable education appears likely to impair a child's development, to fully exercise their safeguarding powers and duties to protect the child's well-being, which includes their suitable education. In the light of this, local authorities should also ensure that their published home education policies, and their staff, clearly state the circumstances where safeguarding action is likely to be appropriate in cases where a child is not or may not be receiving suitable education. Such clarity will also reduce the likelihood of disputes with parents caused by ambiguity over the powers which local authorities have, and how they can be applied to home educated children in certain circumstances.

7.5 A failure to provide suitable education is capable of satisfying the threshold requirement contained in s.31 of the Children Act 1989 that the child is suffering or is likely to suffer significant harm. 'Harm' can include the impairment of health or development, which means physical, intellectual, emotional, social or behavioural development, so the provision of unsuitable education clearly can amount to this. The causing of significant harm need not be intentional or deliberate, but case law[11] indicates that it must be 'considerable, noteworthy or important'. This is a key point for local authorities in considering whether the use of safeguarding powers is appropriate in a case relating to the home education of a specific child. However, local authority staff should be clear that when the use of safeguarding powers is justified, they should be used.

7.6 Whether the provision of unsuitable education does amount to significant harm must always depend on the particular circumstances of the child, and whether those circumstances mean that the child's intellectual and social development are being, or are likely to be, significantly impaired. Case law does provide examples where lack of suitable education has amounted to significant harm.[12] Although some cases will be relatively clear-cut (for example if a child was being provided with no education at all for months), in other cases a local authority may need expert advice from teachers or educational psychologists, preferably those with some familiarity with educational approaches which are wider than conventional schooling.

7.7 Sometimes the local authority may not have been able to obtain sufficient information to determine whether the significant harm threshold is met and the authority should consider employing its powers under Part 5 of the Children Act 1989.

7.8 The starting point for this would normally be an investigation under s.47 of the 1989 Act, which requires an authority to make enquiries to enable it to decide whether action should be taken to protect the child's welfare, if it has reasonable cause to suspect that the 'significant harm' threshold referred to above is met. Reasonable cause can include the lack of any substantive information about a child's education, so if the 'if it appears' test in s.437(1) is satisfied, then there will usually be reasonable cause in terms of s.47. These enquiries can include taking steps to gain access to the child.

7.9 Such enquiries may yield enough information. If they do not, and in particular because the parents refuse access to the child then the authority has a number of options available. It can apply to a court for a child assessment order under s.43 of the 1989 Act. For such an order to be made there must be reasonable cause to suspect that the significant harm threshold is met, the assessment must be necessary to determine whether the threshold is met, and it must be unlikely that an assessment would be satisfactorily made without such an order.

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[11] *In re B (A Child)(Care proceedings: Threshold Criteria)[2013] 1 WLR 1911*

[12] *Re S(A Minor) (Care Order: Education) [1978] QB 120* and *Re O (A Minor) (Care Proceedings: Education) [1992] 1 WLR 912*

## Education Supervision Orders

7.10 In many cases the use of an education supervision order (ESO) under s.36 of the 1989 Act will in any case be appropriate and sufficient. These orders are made under s.36 of the Children Act 1989 and give local authorities a formal supervisory role in the education of children who are subject to them. The High Court or the Family Court can make an order if satisfied that a child of compulsory school age is not receiving efficient full-time education suitable to the child's age, ability and aptitude and to any special educational needs they may have. Where a school attendance order is in force for the child but has not been complied with, there is a presumption that the child is not receiving a suitable education unless the contrary is demonstrated. The advantage of an education supervision order is that it continues to be in force so long as determined by the court (which may extend it beyond the initial one-year term); it is not a 'one-off' like prosecution for non-compliance with a school attendance order.

7.11 As noted previously, the use of an ESO should in any case be considered as an alternative to, or as well as, prosecution for non-compliance with a school attendance order. Use of an Education Supervision Order does not depend on the 'significant harm' threshold being met, and under s.36(5) of the 1989 Act, unless it is proved that a child who is currently subject to a school attendance order is being properly educated, then it is assumed that he or she is not, for the purposes of deciding whether an ESO should be made. Applying for an ESO will often be the proportionate response when parents are not complying with a school attendance order.

7.12 The local authority is under a duty, if an ESO is made, to give 'due consideration' to the 'wishes and feelings' of the child and the parent(s); and this might result in improved home education. However, an ESO imposes a duty on parents to allow the supervisor (the authority) reasonable contact with the child, though this need not necessarily be at the child's home - unless the court imposes a visit at home as a specific condition of the order (paragraph 16 of Schedule 3 to the 1989 Act). Persistent failure to comply with direction given under an ESO is an offence unless the parent can show that he has taken all reasonable steps to comply, or that the direction is unreasonable. But in such cases the authority should be prepared to first make clear to the parents that the result of this may be an application to the court for a care order under s.31 of the Children Act 1989. This makes ESOs potentially very useful in ensuring that a child is suitably educated if one is appropriate.

## Care orders

7.13 Whether or not an ESO is made, if it is concluded that the significant harm threshold is met but the parents continue to refuse to remedy the situation, it is highly unlikely that circumstances would make it appropriate to seek an emergency protection order under s.44 of the 1989 Act. However, it may be necessary in certain cases to apply for a care order under s.31. The effect of such an order is that the local authority is given parental responsibility for the child and has him or her in its care while the order remains in force.

The authority also has power to determine the extent to which a parent may meet his or her parental responsibility for the child. It is not necessarily the case that the child is removed from the parental home; the care plan filed with the court by the local authority would set out where it was proposed the child would live and it is for the court to approve that, or not. If the child did live at home but the parents did not comply by causing the child to attend school - assuming the authority has decided he or she should - then the child could be removed from the home into the local authority's direct care. The use of such an order is of course a last resort, and should only be necessary in a very small minority of cases. But the key point for local authorities to bear in mind – and make clear to parents – is that this could be the end result of continued failure to provide suitable education and a continued obstruction of an authority's efforts to ensure that the child receives suitable education.

7.14 It must be emphasised that resorting to the use of care orders should only arise very rarely, in the most egregious cases of a failure to provide a suitable education, and a persistent refusal by parents to co-operate with the local authority. By demonstrating a determination to use last resort powers when necessary, the likelihood of having to deploy them is generally greatly reduced.

7.15 Statutory guidance on these provisions of the 1989 Act and ss.10 and 11 of the 2004 Act, among other child safeguarding and welfare matters, is set out in Working Together to Safeguard Children.

# 8. Home-educated children with special educational needs (SEN)

8.1 The parents' right to educate their child at home applies equally where a child has SEN. This right is irrespective of whether the child has a statement of special educational needs or an Education, Health and Care Plan (EHC plan), or neither. References hereafter to ‘EHC plans’ include statements of SEN unless otherwise stated. It can, of course, be the case that a local authority has no knowledge of a child’s special educational needs if the family has not sought assessment or support. However, local authorities have a duty under s.22 of the Children and Families Act 2014 to try to identify all children in their areas who have SEN. This includes home-educated children.

8.2 Local authorities must have regard to the statutory guidance in the Special Educational Needs Code of Practice when carrying out SEN functions. The Code provides information about SEN in relation to home education (paragraphs 10.30 – 10.38). The Code emphasises the importance of local authorities and other providers working in partnership with parents. They must fulfil their statutory duties towards children and young people with SEN or disabilities in the light of the guidance set out in it.

8.3 Some parents educate, or attempt to educate, children at home because of dissatisfaction with local SEN provision. However, educating at home a child who has special needs is often more difficult than for other children. Local authorities should do their best to ensure that when children with special educational needs are being educated at home, the full range of powers available are used to ensure that the education is suitable and remains so; and that their assessment of this is properly linked with the process of keeping special needs provision under review.

8.4 When a child has a EHC plan, it is the local authority's duty to ensure that the educational provision specified in the plan is made available to the child - but only if the child’s parents have not arranged for the child to receive a suitable education in some other way. Therefore if the home education is suitable, the local authority has no duty to arrange any special educational provision for the child; the plan should simply set out the type of special educational provision that the authority thinks the child requires but it should state in a suitable place that parents have made their own arrangements under s.7 of the Education Act 1996. The authority will of course continue to check the suitability of the home education as required by sections 436A and 437 of the 1996 Act, and if at any point it considers that the home education is no longer suitable, it must ensure that the special educational provision specified in the EHC plan is made available.

8.5 Under s.19 of the Children and Families Act 2014, a local authority must have regard to the views, wishes and feelings of the child and parents when exercising its SEN functions. Where parents feel strongly that their child with SEN (with or without an EHC plan) should be educated at home but cannot undertake this themselves, and the local authority agrees that it would be inappropriate for the child to receive the necessary special educational provision in a school, post-16 institution, or state-funded early years setting, the authority has the power, under s.61 of the 2014 Act, to arrange for the special

educational provision that the child requires to be made in the child's home. If a local authority does this for a child with an EHC plan, the plan should clearly explain the arrangements, and the authority will have a duty under s.42(2) to ensure that the education specified in the plan is provided. It is important to distinguish between a situation like this, in which a local authority itself arranges special educational provision in a child's home because it considers education in a school or other institution inappropriate, and a situation in which a child's parents arrange their own home education as described in the paragraph above. The former is not 'elective home education'.

8.6 If a school already attended by a child is a special school and the child is attending it under arrangements made by the local authority, the local authority's consent[13] is necessary for the child's name to be removed from the admission register, but this should not be a lengthy or complex process and consent must not be withheld unreasonably. If the child is to be withdrawn to be educated at home then the local authority, in deciding whether to give consent, should consider whether the home education to be provided would meet the special educational needs of the child, and if it would, should give consent. However, that consideration should take into account the additional difficulties of providing education at home to a child whose special educational needs are significant enough to warrant a place at a special school. There is no equivalent requirement for children with an EHC Plan who attend a mainstream school; the parents of a child may withdraw him or her without the local authority's consent, although they should be encouraged to engage with the authority before doing so, whenever possible.

8.7 As with other children educated at home, local authorities do not have a right of entry to the family home to check that the provision being made by the parents for a child with special educational needs is appropriate, and may only enter the home at the invitation of the parents. However, parents should be encouraged to see a process of engagement with the child as part of the authority's overall approach to home education of pupils with SEN, including the provision of appropriate support, rather than an attempt to undermine the parents' right to home educate. Local authorities should not assume that because the provision being made by parents is different from that which was being made or would have been made in school, the provision is necessarily unsuitable.

8.8 Although local authorities have power under s.61 of the Children and Families Act 2014 (as described above) to arrange to make the special educational provision that they consider necessary for a child with special educational needs in the form of education provided at home (eg through tutors), that is not the same as parents deciding to educate the child at home. The latter is not a matter for a local authority to 'arrange'. If a local authority offers the special education provision that it considers necessary and appropriate for a child (whether at a school or other education setting or at home) but the child's parents choose to make their own arrangements rather than taking up that offer, the local authority has no duty to then assist the parents with the costs they incur, and many local authorities do not. However, even if a local authority's general policy is not to

[13] Regulation 8(2) of the Education (Pupil Registration) (England) Regulations 2006

provide such support, it must give reasonable consideration to any request for assistance - including considering whether it has any legal power to comply with the request and whether in the circumstances it ought to do so. The high needs block of the Dedicated Schools Grant is intended to fund provision for all relevant children and young people in the authority's area, including home-educated children, although the majority of the high needs block will inevitably be devoted to the cost of school placements. Direct support to the parents, if given at all, should relate only to costs incurred by parents as a result of the special needs of the child, insofar as these can reasonably be identified. Costs which would be incurred anyway by the parents in providing home education even if there were no special needs (for example the cost of day-time heating), should not be funded, in line with the general position that parents who choose to educate children at home bear the financial responsibility for doing so, since a state school place (or state-funded place) is available for the child.

8.9 In some cases a local authority will conclude that the home education provision that is being made for a child with a EHC plan is not suitable. In such cases the procedure to be followed in s.437 of the Education Act 1996 is the same as for other children who are educated at home but are not receiving a suitable education, although the consideration of suitability may well be more complex and need to draw on a wider variety of information, for example educational psychologist reports. Furthermore, the naming of a school in the order must conform with the provisions of s.441. Parents who have withdrawn a child from a setting they regarded as unsatisfactory may co-operate more willingly with this process if the authority is willing to explore options which are different in nature from the previous setting.

8.10 When a home-educated child's EHC plan names a school, some local authorities instruct the school to add the child's name to its admission register without the parent's agreement, with the result that the parent is committing an offence if the child does not attend the school. It is not lawful for a school to do this, and local authorities should ensure that both schools and their own staff know that. It is up to the child's parent whether to arrange for the child to be registered as a pupil at the school, and if the parent does not, the local authority should then consider whether a s.437(1) notice, and in due course a school attendance order, should be issued.

8.11 Information about the right to request an EHC needs assessment and the right to appeal should be available to all parents including those who are considering home education because they feel that the special educational support being provided in the school is insufficient to meet the child's needs. The authority should be ready to help explore with parents and the school the extent to which additional support can be put in place at the school even if initial efforts to secure this have not worked.

8.12 Even if the parent is making suitable alternative arrangements by the provision of home education the local authority is still under an obligation to conduct an annual review of the EHC plan, and that should provide an opportunity for parents to seek additional support or discuss alternatives to home education.

8.13 Young people may also be educated at home in order to meet the requirements to participate in education or training until the age of 18. Local authorities should involve parents, as appropriate, in the reviews of EHC plans of home educated young people who are over compulsory school age.

# 9. What do the s.7 requirements mean?

9.1 Section 7 of the 1996 Act requires parents to provide an efficient, full time education suitable to the age, ability and aptitude of the child and any special educational needs which the child may have.

## 'Suitable'

9.2 Article 2 of Protocol 1 of the European Convention on Human Rights states that:

> *"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions."*

9.3 This means that the wishes of parents are relevant. However, it does not mean that parents are the sole arbiters of what constitutes a suitable education. There is no definition of a 'suitable' education in English statute law. A court will reach a view of suitability based on the particular circumstances of each child and the education provided.

9.4 However, clearly a local authority must have a basis on which to reach the decisions called for in s.437 of the Education Act 1996 as to whether or not the education being provided is suitable. The term 'suitable' should be seen in the following light:

a. it should enable a child to participate fully in life in the UK by including sufficient secular education. This means that even if the home education is primarily designed to equip a child for life within a smaller community within this country it should not foreclose the child's options in later life to adopt some other mode of living, and to be capable of living on an autonomous basis so far as he or she chooses to do so. This view is compatible with the small amount of potentially relevant case law;[14]

b. notwithstanding (a), the home education provision does not need to follow specific examples such as the National Curriculum, or the requirement in academy funding agreements for a 'broad and balanced' curriculum, nor the independent school standards prescribed by the Secretary of State[15]. Conversely, however, if the home education does consist of one or more of those, then that would constitute strong evidence that it was 'suitable' in terms of s.7;

c. local authorities should interpret 'suitable' in the light of their general duties, especially that in s.13 of the Education Act 1996 relating to the development of their community, and that in s.175 of the Education Act 2002 requiring that

[14] Eg *Harrison & Harrison v Stevenson* (Appeal, 1981, Worcester Crown Court, unreported) and *R v Secretary of State for Education and Science ex parte Talmud Torah Machzikei Hadass School Trust* (April 1985, unreported)

[15] In regulations made under s.94 of the Education and Skills Act 2008

education functions are exercised with a view to safeguarding and promoting the welfare of children. Whilst these duties are very broadly drawn, it will be evident that if home education provided by a family taught children values or behaviour which was in conflict with 'Fundamental British Values' as defined in government guidance[16] (for example by seeking to promote terrorism, or advocating violence towards people on the basis of their race, religion or sex), then it would not be in accordance with the authority's general duties to regard that education as being 'suitable'. However, there is no requirement on parents to actively promote the Fundamental British Values in the same way as there is for schools;

d. the first sentence of ECHR Article 2 of Protocol 1 quoted above confers the fundamental right to an effective education, and relevant case law[17] also confers very broad discretion on the state in how this is to be implemented. For example, a local authority may specify requirements as to effectiveness in such matters as literacy and numeracy, in deciding whether education is suitable, whilst accepting that these must be applied in relation to the individual child's ability and aptitudes;

e. although it may well be a good starting point in assessing suitability to assess whether the curriculum and teaching have produced attainment in line with the national norms for children' of the same age, it must be borne in mind that the s.7 requirement is that the education is suitable to the child's ability and aptitude. If a child's ability is significantly above or below what might be regarded as 'average' then allowances must be made for that; and similarly the home education may legitimately cater specifically for particular aptitudes which a child has, even if that means reducing other content;

f. factors such as very marked isolation from a child's peers can indicate possible unsuitability. Suitable education is not simply a matter of academic learning but should also involve socialisation;

g. any assessment of suitability should take into account the environment in which home education is being provided. Most obviously, home accommodation which is noisy and/or cramped is likely to make it very difficult for a child to learn and make satisfactory progress. Environmental factors such as these may therefore prevent a child receiving suitable education and should be taken into account in assessing suitability in a specific case if present on a significant scale. They may also affect consideration as to whether the education is 'efficient' and indeed whether it is being 'received' at all in s.7 terms. Local authorities should also be alert to any evidence that the home in which education is being provided has defects which, whilst not affecting the education directly, suggest that the child is at risk of harm - for instance because of fire hazards in the home. Any such evidence may be relevant in considering the use of safeguarding powers;

[16] Fundamental British Values Government Guidance

[17] Eg *Konrad v Germany* (2006) European Court of Human Rights app. 35504/03

h. local authorities should not set rigid criteria for suitability which have the effect of forcing parents to undertake education in particular ways, for example in terms of the pattern of a typical day, subjects to be followed and so on. Some parents may decide that a very formal approach is necessary; others may decide to make a more informal provision that is more appropriate to the particular child. Whatever the views of the parents, the key focus for the authority should be on suitability for the child in question.

9.5 The department does not believe that it is in the interests of home educated children, parents or local authorities for there to be detailed centralised guidance on what constitutes suitability. This issue should be viewed on a spectrum, and although there will be clear conclusions to be drawn at either end of that spectrum, each case must rest on a balance of relevant factors depending on the circumstances of each child.

9.6 Local authorities should nonetheless attempt to make clear in their home education policies what overall factors they will take into account and how they will go about assessing suitability.

## 'Efficient'

9.7 An efficient education, within the meaning of s.7, is one which achieves what it sets out to achieve. It is important this concept is not confused with suitability. A wholly unsuitable education can be efficiently delivered – but would still be unsuitable.

## 'Full-time'

9.8 The starting point is that there is currently no legal definition of what constitutes 'full-time' education, either at school or in the home. Although there is no need for home education to replicate school timetables, it may nonetheless be useful for it to be borne in mind that in state schools, children of compulsory school age normally receive around 4.5-5.0 hours of education a day, for about 190 days a year. The department's registration guidance for independent schools sets 18 hours of operation a week as the baseline for registration of the school. However, in home education there is often continual one-to-one contact; education may take place outside normal 'school hours' and term time, and the type of educational activity can be varied and flexible.

9.9 Despite this greater flexibility inherent in home education, local authorities should be enabled by parents to assess the overall time devoted to home education of a child on the basis of the number of hours per week, and weeks per year so that this information can be set alongside that relating to suitability to ensure that the home education meets the requirements of section 7. As with suitability, the issue as to whether education is 'full-time' should be viewed on a spectrum but education which manifestly is not occupying a significant proportion of a child's life (making due allowance for holiday periods) will probably not meet the s.7 requirement.

# Further information

## Children's rights and views

10.1 The United Kingdom has ratified the United Nations Convention on the Rights of the Child (UNCRC). Article 12 of the UNCRC requires states to provide a right for children to express their views and for due weight to be given to those views, in accordance with the age and maturity of the child. This does not give children authority over parents, and a decision to educate a child at home is a matter for parents, in the same way as a decision to send a child to school. If information and views provided by the child cast doubt on whether the education provided is actually suitable in terms of the s.7 criteria (for example, the child indicates that the parent is not providing education suitable to his or her age because the parent does not sufficiently understand the subjects in question) then that opinion might be part of the information leading to a conclusion by the authority that the education is not suitable. However, if the child's attitude to home education is only negative for reasons which are not directly relevant to the s.7 criteria (for example, a child's preference for a change from the home environment during the school day) then it should not bear on the authority's conclusions as to suitability. Nonetheless, if it is clear to the local authority that a child does not wish to be educated at home although the education provided meets the s.7 requirement and there are no safeguarding concerns, it should seek to discuss the reasons for this with the parents and encourage them to consider whether home education is ultimately likely to be successful if their child is unhappy to be educated in this way.

10.2 Section 17(4A) of the Children Act 1989 puts a duty on local authorities to, so far as reasonably practicable, take into account a child's wishes and feelings with regard to the provision of services for a child in need. However, s.17(4A) does not extend local authorities' functions. It does not, for example, place an obligation on local authorities to ascertain the child's wishes about elective home education, as that is not a service provided by the local authority. If a young person has an EHC plan, however, then there is a duty on the local authority to consult with the young person about his or her wishes as to education, including any home education currently provided.

## Disputes between parents

10.3 In some cases two parents (usually divorced or separated, but both having parental responsibility) may disagree as to whether home education is desirable, or at least is being provided properly. The local authority should do its best to obtain full details of who has parental responsibility in such cases. The parent with whom the child lives for most of the time, is normally in effective control of the education provided and whether the child attends school. However that can be subject to a specific issue order made by the Family Court. If the local authority believes that the education being provided in the home in these circumstances is not suitable, it should take action and keep both parents

informed of what is happening, unless there is a specific reason (usually arising from safeguarding considerations) to limit this information for one parent.

10.4 If there is no relevant order by the Family Court, the parent who does not agree with the provision of home education may succeed in getting a child's name entered onto the register of a school. If the child then does not attend that school, both parents may be committing an offence. This situation can arise because the law of education generally assumes that parents will agree on the education of their child. Clearly however it is desirable for matters to be resolved without recourse to the courts and local authorities should attempt to help parents reach a common view on what is in their child's best interests, drawing on support from those who know the child - such as staff at any school that he or she attends or has previously attended - although such mediation may not always be possible

## Pressure exerted by schools on parents

10.5 Schools should not seek to persuade parents to educate their children at home as a way of avoiding an exclusion or because the child has a poor attendance record. In the case of exclusion, they must follow the relevant legislation and have regard to the statutory guidance. If the pupil has a poor attendance record, the school and, if appropriate, local authority should seek to address the issues behind the absenteeism and use the other remedies available to them.

10.6 The practice of 'off-rolling' pupils through pressure on parents to withdraw them for home education is thought to be a significant contributor to the increase in numbers of home educated children, particularly those aged 14-16, although information on the practice is difficult to obtain. In such cases it is possible that the parent will be unable to provide proper home education, even if willing to attempt this. Local authorities should seek to reach agreements through schools forums which discourage pressure on parents to educate children at home, and address this issue directly in discussion with relevant schools. Local authorities should also consider informing Ofsted of schools where off-rolling appears to be happening on a significant scale so that this can be looked into at the school's next inspection.

## Flexi-schooling, and college attendance

10.7 Although most children educated at home have all the provision made at home, or alternatively partly at home and partly in other ways such as attendance at privately-run part-time tuition settings, it is not essential that this be so. Some children who are educated at home most of the time are also registered at school and attend school for part of the week – perhaps one day a week. The purpose of this is usually to ensure the provision in specific subjects is satisfactory, although it can also help in other ways such as socialisation. If a child is of compulsory school age he or she must, overall, be receiving full-time education even if components of it are part-time.

10.8 Schools are not obliged to accept such arrangements if requested by parents. If they do, then time spent by children being educated at home should be authorised as absence in the usual way and marked in attendance registers accordingly. It is not appropriate to mark this time as 'approved off-site activity' as the school has no supervisory role in the child's education at such times and also has no responsibility for the welfare of the child while he or she is at home. The department does not propose to institute a new attendance code specific to flexi-schooling. Some schools have expressed concern that such absence may have a detrimental effect for the purpose of Ofsted inspection, but this is not the case; some schools with significant flexi-schooling numbers have had good outcomes from Ofsted inspections. Schools which have flexi-schooled pupils should be ready to discuss with Ofsted inspectors the arrangements they have in place to deal with the requirements caused by such pupils. Schools are held to account through inspection for the performance of pupils, and that will include any who attend the school as part of a programme of flexi-schooling.

10.9 Another form of provision available to home educated children aged 14-16 is part-time attendance at further education colleges, sixth form colleges and 16-19 academies or free schools. Again, this is normally to help with specific subjects and/or socialisation. When children who are educated at home attend such college settings part-time then the provision made should be taken into account by the local authority in deciding whether the education provided as a whole for the child meets the s.7 requirement.

## Unregistered settings

10.10 Local authorities may encounter children who are said to be educated at home but in practice spend large amounts of time at various types of unregistered settings. These are distinct from the part-time settings mentioned previously which are genuinely supplementary to home education; the unregistered settings normally provide most if not all the education received by the child. Such settings fall into two main groups:

a. unregistered independent schools. These settings often serve specific communities, whose members may not always understand the legal obligations of parents to ensure a full time suitable education for their children, although in other cases the settings form a type of alternative provision. As unregistered independent schools meeting the criteria for registration, such settings are operating illegally. The department works with Ofsted and local authorities to have them shut down whenever they are found and, where necessary or appropriate, to bring prosecutions. If investigations into home education of children suggest the existence of an unregistered independent school, the department would be grateful to receive relevant information. It is not illegal for parents to send their children to such settings simply because the setting itself is operating unlawfully; but such a setting may not be meeting the educational standards required of registered independent schools and so by sending the child there, a parent may be failing to ensure the child is receiving a suitable education. The local authority

must consider whether the education received by the child taken as a whole, at the setting and at home, is suitable, and take action as required. The authority may also need to consider whether any safeguarding issues arise from the child's attendance at the setting if it is not safe;

b. yeshivas, which provide religious education to males, some of them still of compulsory school age, in certain Jewish communities. These settings are not regulated, although the department has recently announced its intention to consult on a requirement that all settings providing a full-time education to children of compulsory school age must register, and that would encompass these settings. The boys aged 13-16 attending yeshivas are normally said to be educated at home for secular subjects. When a local authority is considering whether home education provided is suitable, it should take into consideration the education provided both at home and at the yeshiva, and also the hours attended at the yeshiva.

10.11 Home educated children sometimes attend settings which operate part-time with a specific purpose. An example of these would be madrassahs, which teach children Arabic and about the Koran; but this category of setting would also encompass sports clubs and dance/drama schools. Parents may say that such attendance constitutes part of the child's overall home education package; and in assessing whether education is suitable and full-time, local authorities should be prepared to take account of such attendance - although if the attendance is for only a short period each week and is of a specialised nature, it may in practice be marginal to the conclusion as to whether the child's education meets the s.7 requirement.

## Safeguarding – use of tutors by parents providing home education

10.12 Parents may choose to employ other people to educate their child, though they themselves will continue to be responsible for the education provided. As in all situations where parents themselves employ tutors, the suitability of those tutors in terms of access to children is for the parents to ascertain. Parents should be advised to satisfy themselves on this point by taking up appropriate references and ensuring that the tutor has a reasonably recent Disclosure and Barring Service (DBS) disclosure certificate. A small number of local authorities choose to assist home-educating parents in this task by undertaking DBS checks free of charge on independent home tutors, and the DfE endorses this helpful practice while recognising that for many local authorities with large numbers of home-educated children living in their areas, it may not be practicable to do this.

10.13 Tutors employed by a local authority, a school, or an agency may also undertake work for home-educating parents, in which case DBS checks ought to have been made already and parents should confirm whether this is so with the body supplying the tutor.

## Acknowledging diversity

10.14 Parents' education provision will reflect a diversity of approaches and interests. Some parents may wish to provide education in a formal and structured manner, following a traditional curriculum and using a fixed timetable that keeps to school hours and terms. Other parents may decide to make more informal provision that is responsive to the developing interests of their child. One approach is not necessarily any more efficient or effective than another. Although some parents may welcome general advice and suggestions about resources, methods and materials, local authorities should not specify a curriculum or approach which parents must follow.

10.15 Children learn in different ways and at different times and speeds. It should be appreciated that parents and their children may require a period of adjustment before finding their preferred mode of learning and that families may change their approach over time. Parents are not required to have any qualifications or training to provide their children with a suitable education. It should be noted that parents from all educational, social, linguistic, religious and ethnic backgrounds successfully educate children outside the school setting and these factors should not in themselves raise a concern about the suitability of the education being provided.

10.16 In discharging their responsibilities in relation to home education, local authorities should bear in mind that they are subject to the Public Sector Equality Duty contained in s.149 of the Equality Act 2010, and should ensure that their policy and practice in relation to home education is consistent with that duty. For example, a local authority should not assume that home education is any less likely to be successful when carried out by people with a particular protected characteristic; but equally the fact that a family has particular protected characteristics should not deter the local authority from taking action to secure a suitable education for a child who is not receiving suitable education at home.

## Support for home educators

10.17 When parents choose to home educate their children they assume financial responsibility for their children's education. This, and the time involved in educating a child properly at home, form an onerous challenge for many parents.

10.18 Local authorities do not receive funding to support home-educating families (except in relation to high needs SEN as described above), and the level and type of support will therefore vary between one local authority and another. However, DfE recommends that all local authorities should adopt a consistent, reasonable and flexible approach in this respect, particularly where there are minimal resource implications. As a minimum, local authorities should provide written information (which is also available through the internet) on elective home education that is clear and accurate and which sets out the legal position. Some local authorities may be able to offer additional support to home-educating parents, but this will vary depending on their resources. Examples of additional support include:

- provision of a reading or lending library with resources for use with home educated children
- free, or discounted, admission into community programmes (including local authority owned community and sports facilities)
- access to resource centres (including local school resources where feasible)
- National Curriculum materials and curricula offered by other educational institutions
- information about educational visits and work experience
- providing assistance with identifying exam centres willing to accept external candidates

## National Careers Service

10.19 The National Careers Service is a free careers service for adults and young people aged 13 and over in England. Advice and guidance can be accessed via the telephone and online. The National Careers Service provides confidential advice and guidance to help children make decisions on learning, training and work opportunities.

## Work experience

10.20 Work experience is not a statutory requirement for children. If a work experience placement is secured for a home educated child via arrangements made by the local authority, the employer should contact the local authority's education department or education welfare service to find out if a child permit is required.

## 16 to 19 bursary fund

10.21 The 16 to 19 bursary fund is not payable to young people whose parents elect to home educate them after the age of 16.

## Gypsy, Roma and Traveller Children

10.22 Local authorities should have an understanding of and be sensitive to the distinct ethos and needs of Gypsy, Roma and Traveller communities. It is important that these families who are educating their children at home are treated in the same way as any other families in that position. Home education should not be regarded as less appropriate than in other communities. When a Gypsy, Roma and Traveller family with children of school age move into an area, they should be strongly encouraged to contact the local Traveller Education Support Service for advice if one is in place, or the

authority's admissions team for help to access local educational settings if school places are desired.  Further guidance can be obtained from the DfE's report: Improving the outcomes for Gypsy, Roma and Traveller's pupils. The Advisory Council for the Education of Romany and other Travellers is another source of information.

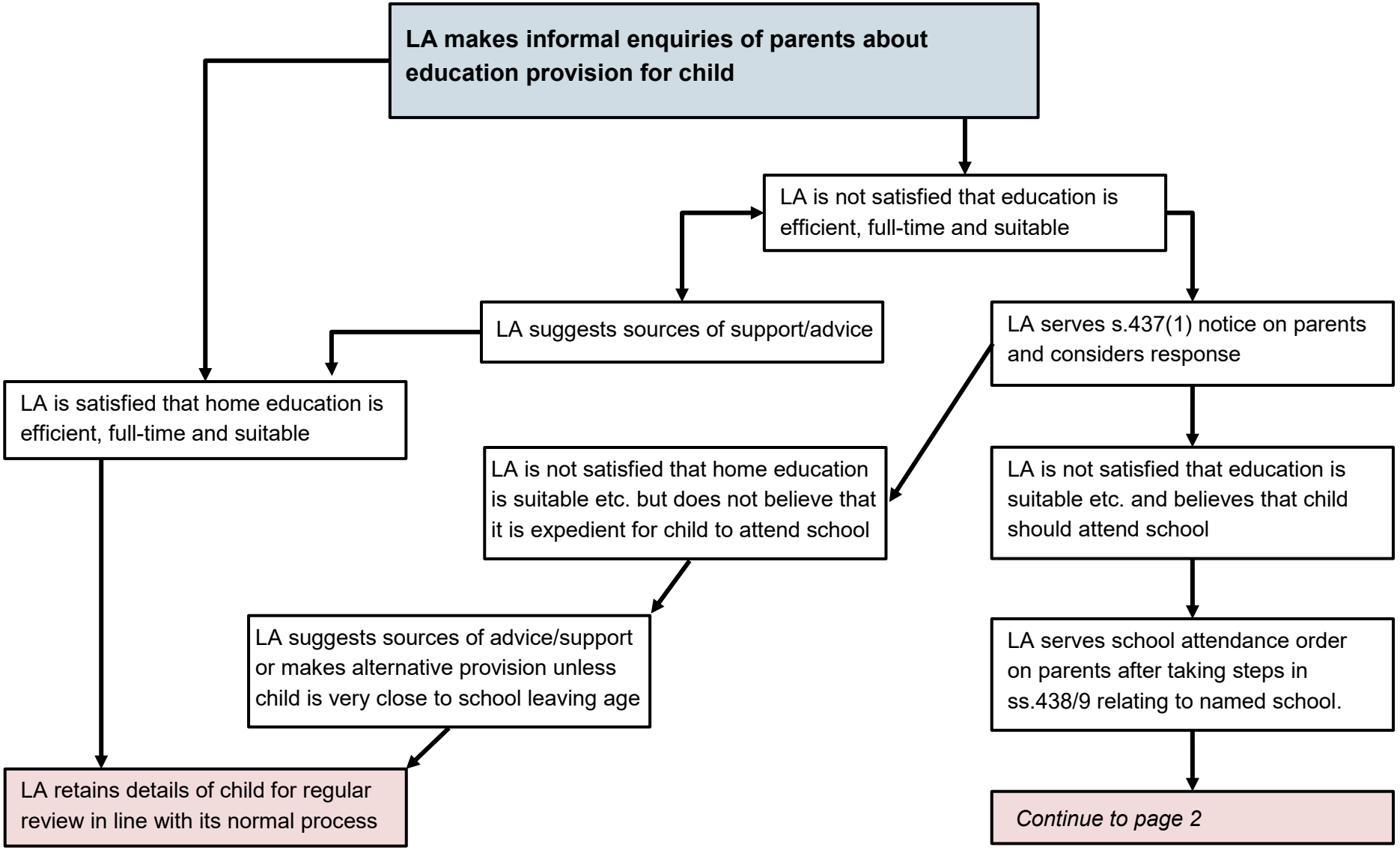
## Looked-after children

10.23 Local authorities acting as corporate parents of looked-after children should bear in mind that they assume the duties of parents under s.7 of the 1996 Education Act to ensure that the child receives a suitable full-time education; and local authorities in whose areas such children are placed by other authorities should take the same steps to ensure that the child is not missing education as they would for any other child resident in their area. It is legally possible for a looked-after child to be educated at home (for example by foster carers) if the local authority as corporate parent decides this is appropriate after discussion with the carers.

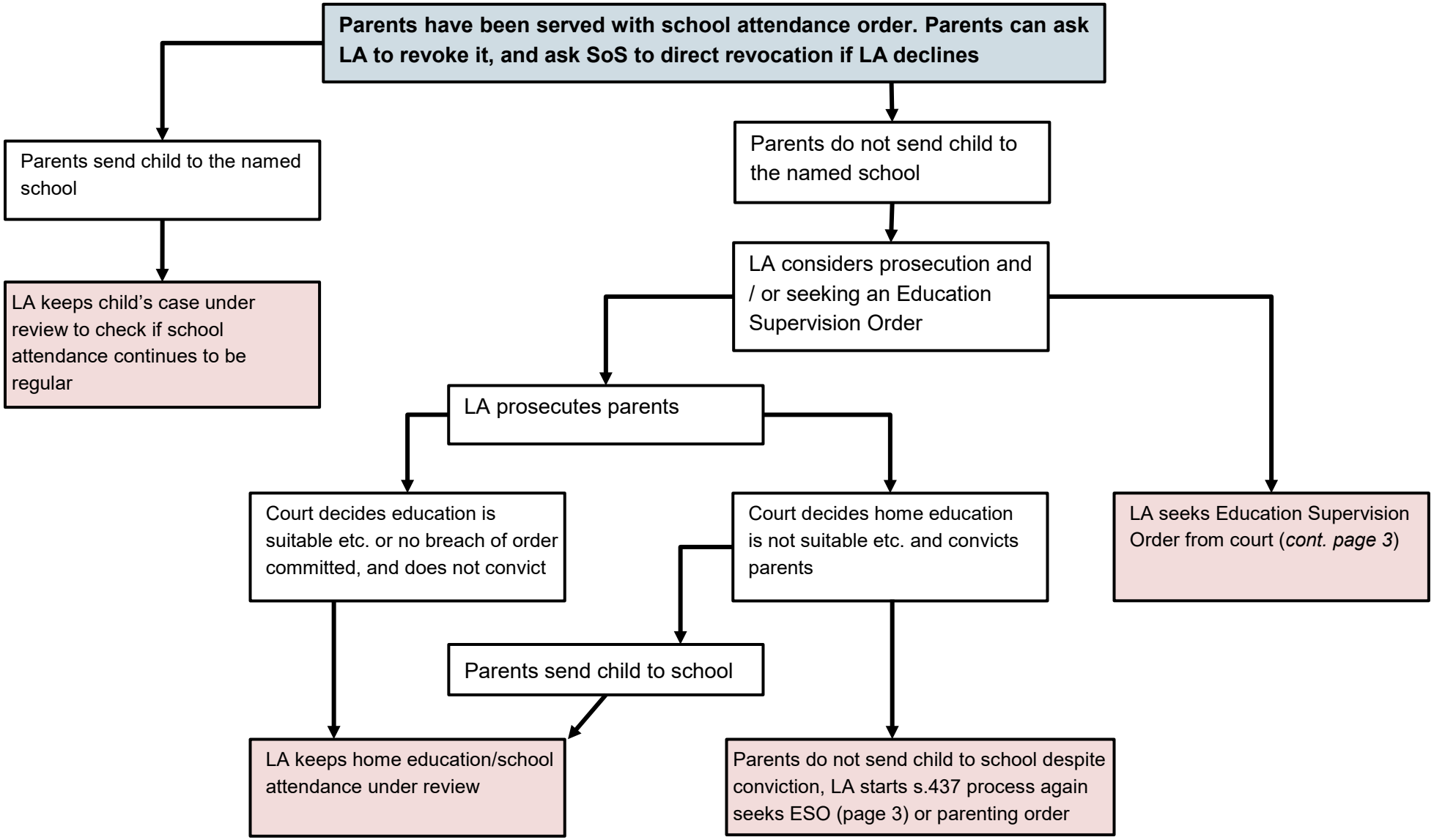
# Flow Charts

The flow charts on the following three pages are intended to show in diagrammatic form the main steps which can be taken once it is apparent that there is a question as to whether a child is receiving suitable home education. Not all the steps shown will be applicable in all cases.

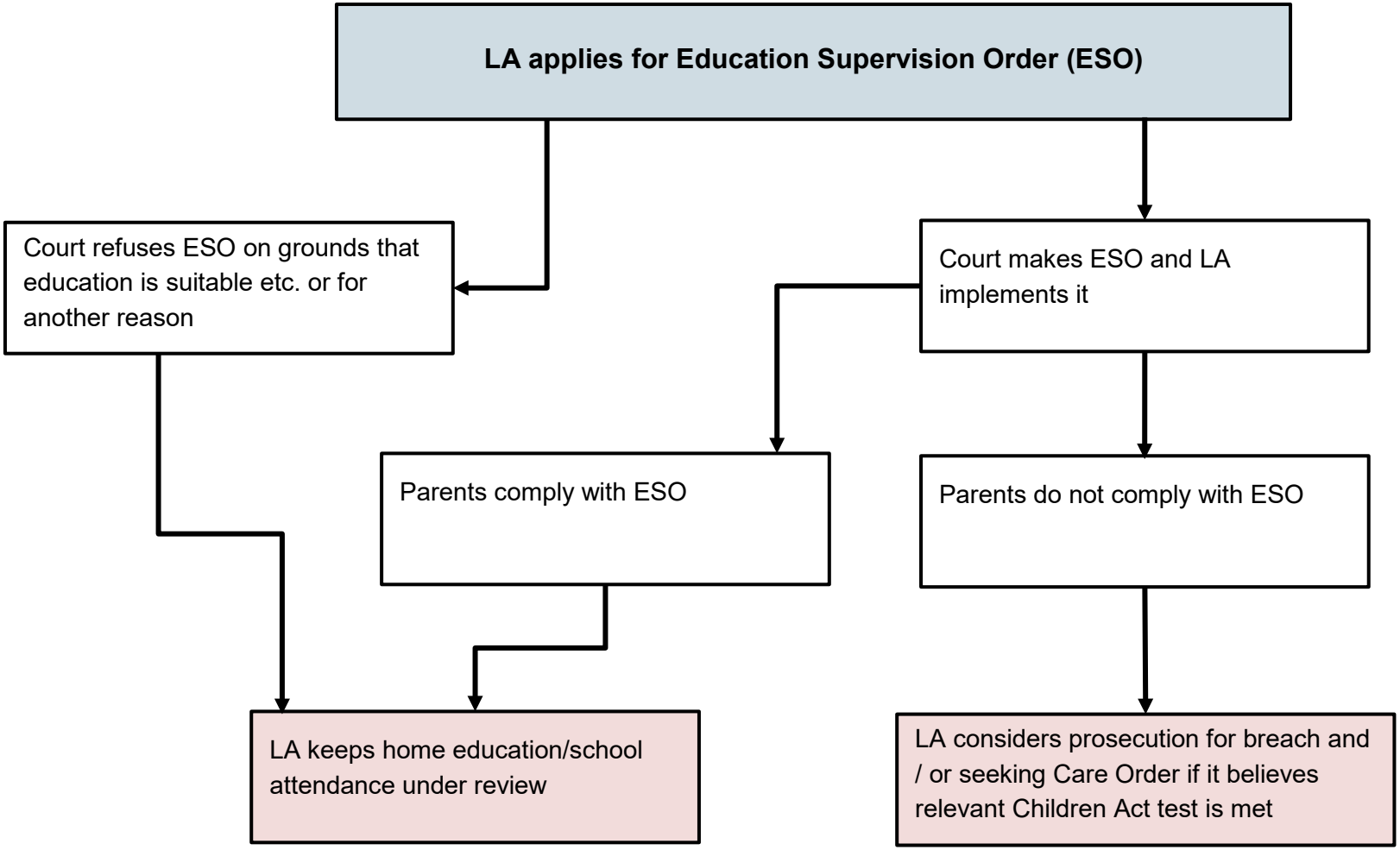
## Flow chart 1


LA makes informal enquiries of parents about education provision for child
LA is not satisfied that education is efficient, full-time and suitable
LA suggests sources of support/advice
LA is satisfied that home education is efficient, full-time and suitable
LA serves s.437(1) notice on parents and considers response
LA is not satisfied that home education is suitable etc. but does not believe that it is expedient for child to attend school
LA is not satisfied that education is suitable etc. and believes that child should attend school
LA suggests sources of advice/support or makes alternative provision unless child is very close to school leaving age
LA serves school attendance order on parents after taking steps in ss.438/9 relating to named school.
LA retains details of child for regular review in line with its normal process
Continue to page 2

## Flow chart 2


Parents have been served with school attendance order. Parents can ask LA to revoke it, and ask SoS to direct revocation if LA declines
Parents send child to the named school
LA keeps child's case under review to check if school attendance continues to be regular
Parents do not send child to the named school
LA considers prosecution and / or seeking an Education Supervision Order
LA prosecutes parents
Court decides education is suitable etc. or no breach of order committed, and does not convict
LA keeps home education/school attendance under review
Court decides home education is not suitable etc. and convicts parents
Parents send child to school
Parents do not send child to school despite conviction, LA starts s.437 process again seeks ESO (page 3) or parenting order
LA seeks Education Supervision Order from court (*cont. page 3*)

## Flow chart 3


LA applies for Education Supervision Order (ESO)
Court refuses ESO on grounds that education is suitable etc. or for another reason
Court makes ESO and LA implements it
Parents comply with ESO
Parents do not comply with ESO
LA keeps home education/school attendance under review
LA considers prosecution for breach and / or seeking Care Order if it believes relevant Children Act test is met

## Other relevant departmental advice and statutory guidance

1. Children Missing Education: DfE guidance - this is available at:

Children Missing Education DfE Guidance

2. School attendance: DfE guidance for schools

School Attendance DfE Guidance

Parental Responsibility and Behaviour and attendance DfE Guidance

3. Education Act 1996:

Education Act 1996

4. Pupil Registration Regulations

These can be found at:

Pupil Registration Regulations 2006

The regulations have been amended several times - see especially:

Pupil Registration Regulations 2016 amendments

*Examples of local authority guidance on home education at March 2019*

Norfolk LA home education guidance

Lancashire LA home education guidance

Darlington LA home education guidance

North Yorkshire LA home education guidance

*Enquiries to DfE about home education matters can be sent by email to:*

*Registration.enquiries@education.gov.uk*

*Please put 'home education' in the title line of the email*

Department for Education

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| | Appendix 4 : Criteria for parental provision within the Eurydice network (amended) (Eyurydice, 2018, p. 6) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Belgium (French) | Belgium (German) | Belgium (Flemish) | Bulgaria | Czech Republic | Denmark | Germany | Estonia | Ireland | Greece | Spain | France | Croatia | Italy | Cyprus | Latvia | Lithuania | Luxembourg | Hungary | Malta | Netherlands | Austria | Poland | Portugal | Romania | Slovenia | Slovakia | Finland | Sweden | England | Wales | Northern Ireland | Scotland | Albania | Bosnia & Herzegovina | Switzerland | Iceland | Liechtenstein | Montenegro | Norway | Serbia | Former Yugoslav Republic of Macedonia | Turkey |
| Authorisation: top level | ■ | ■ | ■ | ■ | | | ■ | | ■ | | ■ | | ■ | | ■ | | | | | | | ■ | | | ■ | | | | | | | | | ■ | | ■ | | ■ | | | | | ■ |
| Authorisation: local level | | | | | ■ | ■ | | ■ | | ■ | | | | ■ | | ■ | ■ | ■ | ■ | ■ | | | ■ | ■ | | | ■ | ■ | ■ | | | | | | | | ■ | | ■ | ■ | | | |
| Formal teaching qualification | | | | | | | ■ | | | ■ | ■ | | ■ | | ■ | | ■ | | | ■ | | | | | ■ | | ■ | | | | | | | ■ | | ■ | ■ | ■ | ■ | | | | ■ |
| Minimum level of education | | | | | ■ | | | | | | | | | ■ | | | | | | | | | | | | | | | | | | | | | | | | | | ■ | | | | |
| Educational supervision and assessment of progress | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | | | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | | |
| Students must pass exams/tests | ■ | ■ | ■ | ■ | ■ | | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | ■ | | | ■ | ■ | | ■ | ■ | ■ | ■ | ■ | ■ | | | | | | | ■ | | | ■ | | ■ | | ■ | | |
| Only allowed in exceptional cases | | | | | | | ■ | | | ■ | ■ | | ■ | | ■ | | ■ | | | ■ | ■ | | | | ■ | | | | ■ | | | | | ■ | | | | | ■ | | | | ■ |
| Unauthorised | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | ■ | | | | | | | ■ | |

| Appendix 5: Status of elective hom | | | |
|---|---|---|---|
| **Country** | **EHE legal** | **EHE legal with stipulations** | **EHE Illegal** |
| Albania | | | * |
| Antigua & Barbuda | | * | |
| Argentina | | | |
| Aruba | | * | |
| Australia | | * | |
| Austria | | * | |
| Azerbaijan | | * | |
| Bahamas | * | | |
| Barbados | | * | |
| Belarus | | | * |
| Belgium Fl | | * | |
| Belgium Fr | | * | |
| Belgium G | | * | |
| Belize | * | | |
| Bolivia | | | |
| Bosnia-Herzegovina | | | * |
| Botswana | * | | |
| Brazil | | | * |
| Brunei | | | * |
| Bulgaria | | | * |
| Canada | | * | |
| Cayman Islands | | * | |
| Chile | * | | |
| China | | | * |
| Colombia | * | | |
| Costa Rica | | | |
| Croatia | | | * |
| Cuba | | | * |
| Curacao | | | |
| Cyprus | | | * |
| Czech Republic | | * | |
| Denmark | | * | |
| Dominican Republic | * | | |
| Ecuador | | * | |
| Egypt | | | |
| England | | * | |
| Estonia | | * | |
| Finland | | * | |
| Former Yugoslav Republic of Macedonia | | | * |
| France | | * | |
| Georgia | | * | |
| Germany | | | * |
| Ghana | | | |
| Greece | | | * |

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| Guatemala | | | |
| Hong Kong | | | * |
| Hungary | | * | |
| Iceland | | * | |
| India | | | * |
| Indonesia | | * | |
| Israel | | * | |
| Italy | | * | |
| Jamaica | | * | |
| Japan | | | |
| Kenya | | | * |
| Kosovo | | | |
| Kuwait | | | |
| Latvia | | * | |
| Liechtenstein | | * | |
| Lithuania | | | * |
| Luxembourg | | * | |
| Malaysia | | * | |
| Malta | | | * |
| Mexico | | | |
| Moldova | * | | |
| Montenegro | | | * |
| Netherlands | | | * |
| New Zealand | | * | |
| Nicaragua | | | |
| Northern Ireland | | * | |
| Norway | | * | |
| Pakistan | | | |
| Panama | | | |
| Peru | | | |
| Philippines | | * | |
| Poland | | * | |
| Portugal | | * | |
| Qatar | | * | |
| Romania | | | |
| Russia | * | | |
| Scotland | * | | |
| Serbia | | * | |
| Singapore | | * | |
| Slovakia | | * | |
| Slovenia | * | | |
| South Africa | | * | |
| South Korea | | | |
| Southern Ireland | | * | |
| Spain | | | * |
| St Kitts and Nevis | | * | |
| Sweden | | | * |
| Switzerland | | * | |

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|---|---|---|---|
| Taiwan | | * | |
| Thailand | | * | |
| Trinidad and Tobago | | | |
| Turkey | | | * |
| Uganda | | | |
| Ukraine | | | |
| United Arab Emirates | | * | |
| Uruguay | | | |
| Venezuela | | | * |
| Wales | | * | |
| Total | 10 | 47 | 24 |

## e education in 102 countries

| EHE not mentioned or undefined in education law | Status of EHE disputed | EHE illegal except for special circumstances (medical or SEND) |
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| 16 | 5 | 11 |

| Country | EHE conditional | Equivalent to school education | Specific standard or curriculum required |
|---|---|---|---|
| Albania | | | |
| Antigua & Barbuda | | | |
| Argentina | | | |
| Aruba | | | |
| Australia | | | |
| Austria | | * | |
| Azerbaijan | | * | |
| Bahamas | | | |
| Barbados | | | * |
| Belarus | | * | |
| Belgium Fl | | | * |
| Belgium Fr | | | |
| Belgium G | | | * |
| Belize | | | |
| Bolivia | | | |
| Bosnia-Herzegovina | | | |
| Botswana | | | |
| Brazil | | | |
| Brunei | | | |
| Bulgaria | | | |
| Canada | | * | |
| Cayman Islands | | | * |
| Chile | | | |
| China | | | |
| Colombia | | | |
| Costa Rica | | | |
| Croatia | | | |
| Cuba | | | |
| Curacao | | | |
| Cyprus | | | |
| Czech Republic | | | * |
| Denmark | | * | |
| Dominican Republic | | | |
| Ecuador | | | |
| Egypt | | | |
| England | * | | |
| Estonia | | | |
| Finland | | | |
| Former Yugoslav Republic of Macedonia | | | |
| France | | | |
| Georgia | | | |

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| Germany | | | |
| Ghana | | | |
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| Guatemala | | | |
| Hong Kong | | | |
| Hungary | | | |
| Iceland | | | |
| India | | | |
| Indonesia | | | |
| Israel | | | |
| Italy | | | |
| Jamaica | | | * |
| Japan | | | |
| Kenya | | | |
| Kosovo | | | |
| Kuwait | | | |
| Latvia | | | |
| Leichtenstein | | * | |
| Lithuania | | | |
| Luxembourg | | | |
| Malaysia | | | |
| Malta | | | |
| Mexico | | | |
| Moldova | | | |
| Montenegro | | | |
| Netherlands | | | |
| New Zealand | | * | |
| Nicaragua | | | |
| Northern Ireland | * | | |
| Norway | | * | |
| Pakistan | | | |
| Panama | | | |
| Peru | | | |
| Philippines | | | |
| Poland | | | |
| Portugal | | | |
| Qatar | | | |
| Romania | | | |
| Russia | | | |
| Scotland | * | | |
| Serbia | | | |
| Singapore | | | |
| Slovakia | | | |
| Slovenia | | | |
| South Africa | | | |
| South Korea | | | |
| Southern Ireland | | | * |
| Spain | | | |
| St Kitts and Nevis | | | |
| Sweden | | | |

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| Switzerland | | | * |
| Taiwan | | | |
| Thailand | | | |
| Trinidad and Tobago | | | |
| Turkey | | | |
| Uganda | | | |
| Ukraine | | | |
| United Arab Emirates | | | |
| Uruguay | | | |
| Venezuela | | | |
| Wales | * | | |
| **Total** | **4** | **8** | **8** |

## Appendix 6: Criteria for parental provision in 102 countri

| Plan of provision required | Progress assessed | Testing/exams required | Monitoring | EHE based on school curriculum |
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| Registration and/or declaration required | Qualifications/ minimum level of education required by parent or educator | Capacity of parent assessed | Suitability of/access to resources assessed | Permission, exemption or permit required |
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| **16** | **10** | **3** | **2** | **24** |

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| **Notification required** |
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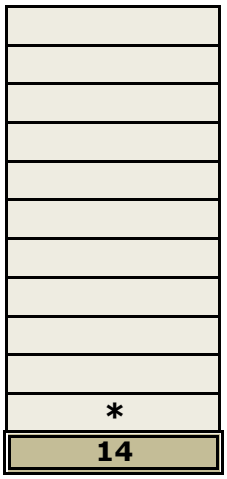
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