

Attendance and children not in school

15 January 2025  Hayley O'Sullivan

This article is part of our series of briefings on [The Children's Wellbeing and Schools Bill](#).

The Children's Wellbeing and Schools Bill contains a number of proposed changes relating to school attendance and education delivered outside of school.

Once in force, and subject to any further changes, there will be new duties and responsibilities for schools, local authorities and parents when it comes to how and where children are educated in a bid to improve child safety. The Bill aims to stop vulnerable children falling through the cracks, recognising the protective environment that schools provide, but does it go far enough and will it make a difference?

The proposed key changes relating to attendance and out-of-school education include:

- A duty on schools to notify the local authority whenever a parent intends to remove their child from school in order to home-educate them. Schools cannot remove children who are subject to child protection investigations or action (a 'relevant child') from their roll unless the local authority has provided consent.
- A duty on local authorities to maintain a register to identify compulsory school-age children not in school and undertake strict checks on unregistered education providers.
- New provisions clarifying the process of making School Attendance Orders.

“Long overdue”

Many of the proposed changes within the Bill have been discussed over the course of successive governments and are long overdue.

The tragic case of 10-year-old Sara Sharif, who was murdered by her father after being withdrawn from school, has recently sparked further concern about the ability of parents of at-risk children to deregister their children from school when child protection issues are identified. In Sara's case this allowed abuse to persist unchecked. We know that there has been a steep rise in home-educated children over the past year.

New parental duty to obtain consent to home educate

Parents will no longer have a blanket right to home educate. Instead, parents of 'a relevant child' will need to obtain local authority consent before they can withdraw their child from school or stop their child attending. A 'relevant child' includes those who attend a special school as well as those who are the subject of local authority child protection investigations or safeguarding action.

New school duty to notify local authority of intended removal from roll

Schools will have a duty to notify the local authority when a parent intends to remove a child to educate them at home. If that child is a 'relevant child' the local authority must consider whether or not to grant consent to the parent for removal. The local authority can refuse if they believe it would be in the child's best interests to receive education by regular attendance at school, or if the proposed home education is inadequate. If either ground for refusal does not apply, the local authority must grant consent.

The local authority must serve notice of their decision on the parents and the school. There will also be an amendment to the School Attendance Regulations 2024 to make clear that schools cannot remove 'relevant children' from roll until they have received notice of consent from the local authority.

A new register of home-educated children

Local authorities will be required to maintain a register of compulsory school-age children who are home educated or who are registered at a school but are absent for all or part of the time when they would normally be expected to attend. Regulations will clarify who is to be regarded as eligible for registration.

This register itself is not a safeguarding 'silver bullet' but is part of the local authority's armoury to help check the education and welfare of those children not in school.

In many of the safeguarding reviews into the deaths of child abuse victims, problems were identified with information sharing and missed opportunities for intervention with parents able to successfully mislead and/or avoid contact with authorities.

Once a child is on the register

Once a child is on the register, parents must provide certain information to local authorities within strict time limits or face a School Attendance Order (see below).

Questions arise as to whether local authorities have the resource to check whether all those children on its register are receiving a suitable education. Will they instead have to prioritise on a risk-basis? And given the state of SEND provision (which is in desperate need of urgent reform), will we see even more children removed from school to be home educated thus placing an even greater burden on local authorities?

School Attendance Orders (SAOs)

The Bill enables local authorities to name academies in SAOs. This won't make a huge difference to the current status quo as local authorities have a right to seek a direction from the Secretary of State to an academy being named (under the terms of the funding agreement), but it makes the legislative framework clearer and the process more consistent.

Before a school is named in the SAO it must be consulted and the current exceptions to being named remain in place - if it would take a relevant year group over its planned admission number and prejudice the provision of efficient education or the efficient use of resources.

Being full in a relevant year does not however prevent a maintained school being named (if the local authority is the admissions authority), or for academies (if there is no other local maintained school or academy that could be named). This therefore will make it harder for academies to argue against being named.

“Parental non-compliance will be an offence”

As is the case now, the local authority must inform the school named who then has a duty to admit the child to the school. Parental non-compliance with an SAO will be an offence (which could result in a fine and imprisonment). Finally, there is also reference to new statutory guidance on children not in school and school attendance orders, which local authorities must have regard to.

Presumably this will contain more detail on the joined-up process with schools and parents that will need to be followed.

Things to be thinking about

For now, it's watch and wait. The additional safeguarding measures contained within the Bill are certainly a step in the right direction, but local authorities will need to be properly resourced if they are to take the proactive steps expected and properly discharge their proposed new duties. Good channels of communication with schools and parents will also be essential.

Being mindful of some of the proposed duties and thinking ahead as to how to implement those changes is sensible but we won't know exactly what will be expected of schools and local authorities until the Bill reaches later stages of its passage through parliament and what the contents of further guidance will be.

[Find out more about The Children's Wellbeing and Schools Bill](#) →

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