

LA's Disclosure of Option to Home Educate



Many people when they first encounter home education complain that they did not know that it was legal to do so.

Some say that despite their children having had problems with the education authorities due to attendance issues, were not told about their right to home educate. Indeed there is some evidence that Local Education Authorities have policies to hide the parental right to do so.

It may seem unlikely to many of us that anyone can as yet be unaware of their right to home educate but as many home educators will tell you it came as something of a surprise that such a right existed. This is reinforced by government and local authorities who persistently run campaigns asserting the legal necessity for children to attend school despite the DfES having given repeated assurances to "Education Otherwise" and other home education support groups that they would highlight this right in future publications.

It has often been argued by home educators that LEA's have, at least a moral duty and perhaps a legal duty to inform the public about parental rights to home educate and it seems the government agrees.

The Department of Education & Skills have produced a document with the snappy title: "Ensuring Regular School Attendance - Guidance on the Legal Measures available to Secure Regular School Attendance" which was produced in consultation with a long list of prestigious organisations and authorities including:

- Magistrates Association
- Justices' Clerks' Society
- Lord Chancellor's Department
- Judicial Studies Board
- Youth Justice Board
- Home Office
- National Children's Bureau
- Confederation of Education Service Managers
- Local Government Association
- Secondary Heads Association
- Association of Chief Police Officers
- The Association for Education Welfare Management
- The National Association of Social Workers in Education
- Representatives of Local Education Authorities

The purpose of the document is stated as being to:

"provide information on the measures that are available under the law for ensuring regular school attendance in England. It is intended for Local Education Authorities, Schools, Magistrates, Justices Clerks and all other organisations that might be

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involved in ensuring, through enforcement measures, children's regular attendance at school"

and explains:

"The roles and responsibilities of parents, schools and the Local Education Authority in ensuring children's regular school attendance. The law relating to school attendance. The range of intervention strategies available to the LEA to enforce school attendance. The procedure for bringing a prosecution against a parent who has failed to ensure their child's regular school attendance"

Of particular interest to us is paragraph's 8 and 9 which deal with Educational Supervision Orders and Statutory Attendance Orders. Which identifies the procedures involved in issuing them:

8: "If it is not possible to persuade the parent to make arrangements for their child's education, then the parent should be served with a notice stating that they are failing in their duty to provide their child with education and informing them that they must satisfy the LEA that they are providing education at school or otherwise within a specified time period (but not less than 14 days)."

9:"Upon expiry of the notice, the LEA should write to the parent, referring them to the notice and informing them of the LEAs intention to serve a SAO. The LEA should inform the parent of schools that are suitable for the child to attend and should also inform the parent that they have the right to educate their child at home if they choose to. The parent should be told that they have 15 days in which to take action or the LEA will proceed to make a SAO."

Clearly many local education Authorities are failing to do just this. Indeed from the evidence of home educators it seems that a number of LEA's intentionally hide this right. Even where the right is stated it is often made to seem too difficult for them to undertake.

It seems fair to conclude from this that parents are needlessly being prosecuted for their child's failure to attend school following their children having difficulties in attending school.

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