



## EDUCATION OTHER THAN AT SCHOOL (OTHERWISE)

### POSITION PAPER

#### Introduction

While the law establishes the right of parents to education their children otherwise than at school (Education Act 1996) and for pupils to be educated in accordance with the wishes of their parents (Education Act 1996), the law also requires LEAs to act if 'it appears' that any child is not receiving suitable education.

#### The Law and Case Law

*Education Act 1996, Section 7 - Duty of parents to secure the Education of their Children* 'It shall be the duty of every parent and every child of compulsory school age to cause him to receive efficient full-time education suitable to his age, ability and aptitude and to any special educational needs that he may have wither by regular attendance at school or otherwise.'

*Education Act 1996, Section 437 – School Attendance Orders.* If it appears to a Local Education Authority that a child of compulsory school age in their areas 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'

*Harrison v Stevenson* (unreported, Worcester Crown Court) (1981). The Judge in this case gave the following definitions:

- EDUCATION = 'The development of mental powers and character and the acquisition of knowledge through the imparting of skills and learning by systematic instruction'
- EFFICIENT = 'Achieve that which it set out to achieve'
- SUITABLE = 'It prepares children for life in a modern civilised society and enables them to achieve their full potential.'

*R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Haddass School Trust* (The Times, 12 April 1985). It was held by Woolf, J, that 'education is suitable' if it 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 the later years to adopt some other form of life is he wishes to do so.'

*Phillips v Brown* (unreported, Divisional court, 20 June 1980). This case established that the LEA is entitled to ask the parents for information as a basis for making the decision as to whether the education they are providing is efficient, etc. If the parent fails to provide information it could be concluded *prima facie* that the parents are in breach of their duty.

*Bevan v Shears* (1911, 2KB 936). The education being provided does not have to conform to any hypothetical standard set by a school or LEA. By extension this may be interpreted to include the requirements of the National Curriculum.

*R v Gwent County Council, ex parte Perry* (CA 737, 1985). Held that the LEA should give the parents 'a fair opportunity to satisfy that proper education is being provided, having first allowed (the parents) a sufficient time to set in motion (their) arrangements for home education.'

### **Child Not Registered at School**

Some parents will exercise their rights when their children reach compulsory school age. They will prefer to education their children outside the school system. They are not obliged to inform anyone of this choice.

Provided the child is not a registered pupil at a school, the parent is not required to provide any particular type of education, and is under no obligation to:

- Have premises equipped to any particular standard
- Have any specific qualifications
- Cover the same syllabus as any school
- Adopt the National Curriculum
- Make detailed plans in advance
- Observe school hours, days or terms
- Have a fixed timetable
- Give formal lessons
- Reproduce school type peer group socialisation
- Match school, age-specific standards
- Seek permission to education 'otherwise'
- Take the initiative in informing the LEA
- Have regular contact with the LEA

However, if it comes to the attention of the LEA that a child is being education 'otherwise than at school' they are obliged to seek to satisfy themselves that the arrangements are suitable.

### **De-Registration from School**

The situation most likely to come to the attention of the LEA is when a parent decides to withdraw the child from school with the intention of education him or her at home. It is important to investigate the reasons for the decision, it may be established that there are problems that can be resolved or alleviated, enabling the child to continue at school. However, when a parent de-registered the child from school, the LEA must be satisfied that the alternative arrangements are suitable.

The Pupil Registration Regulations, 1995, provide for a pupil's name to be deleted from the admission register if the parent has informed the school that the child is to be education outside the school system. Parents should write to the school to say that they wish the child's name removed from the admission Register so that he or she may be education in another way. The school must then inform the LEA (even if it is an independent or GM school) of this, within ten days. The school must remove the child's name from the roll. In the case of a request of removal of a child's name from the roll of a Special School permission of the LEA is required.

The parents must give the LEA an opportunity to satisfy itself that arrangements have been made for the child to be properly educated at home. There is no prescribed way in

which the LEA should proceed. The LEA is most likely to ask for an inspection by a suitable qualified person. Although inspection is not a legal requirement, it would always be seen as a positive experience intended to protect the child's right to a proper education and to support the parents in what can be a difficult process. However, 'LEAs have no automatic right of access to the parent's home. Parents may refuse a meeting in the home, if they can offer an alternative way of demonstrating that they are providing a suitable education, for example, through showing examples of work and agreeing to a meeting at another venue.' (DfEE (1988) leaflet 'Education Children at Home, England and Wales')

Parents might, for example

- Write a report
- Provide samples of work
- Invite an inspector to their home, with or without the child being present
- Meet an inspector elsewhere, with or without the child
- Have the educational provision endorsed by a recognised third party
- Provide evidence in any other appropriate form

### **Monitoring Arrangements**

Monitoring of pupils takes a number of forms:

- A yearly meeting with an officer of the LEA, most likely in the parental home
- Monitoring through telephone contact, in particular to confirm whereabouts and ascertain information from parents
- Through meetings with education at home organised groups e.g. Education Otherwise; Isle of Wight Learning Zone

Where there is a particular cause for concern or where the child has a Special Educational Need the LEA will, when necessary, offer additional visits to offer support to the parent or to be satisfied that appropriate arrangements are being made for the child's Psychologist will be sought to clarify any particular matter or to meet with parents.

As of September 2000 the responsibility for monitoring Education at Home will be undertaken by qualified teaching staff appointed to the Tuition Support centres who have, between them, experience across all phases of education.

The LEA seeks to work co-operatively with parents who choose to education their children at home and to facilitate access to resources and ideas through the tuition support centres whenever possible.