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Deregistration – A right in law?

by Louisa Haywood-Samuel

Anita has been home-educating her eleven year old son, Matthew, for almost ten weeks. Yet Matthew's former teacher still calls out his name when she takes the register each day in class and, technically, Anita could face prosecution for truancy. The head teacher refused to remove Matthew's name from the register because Anita and Matthew live in local authority housing in a deprived area and the head felt the child should not be spending his time in "that environment".

John cannot get his daughter into her local school, even though there is an empty place. The head-teacher insists that the place must remain open for Mark, a home-educated child who ceased to attend five weeks ago and who will not be returning. In this case the head refused to deregister the child because he was concerned about the lack of a male role model in the family – both of Mark's main carers are female.

According to current regulations in England and Wales¹, these head-teachers and the many others who refuse to remove home-educated children from the register, are quite simply breaking the law and could face a fine of up to £1,000. Yet the writer has not been able to locate a single case of a head-teacher ever having been fined for such a breach. Indeed, the DfES has made it clear that whilst it is aware such breaches occur, it has no intention of taking enforcing action or instructing LEAs to do so. In fact, rather the reverse. The DfES has recently concluded a public consultation on the review of regulations governing the registration of pupils at school. Part of this consultation document appears to have been specifically and carefully worded precisely in order to give the DfES a mandate to introduce an element of discretion into the currently mandatory deregistration of a home-educated child.

At first glance the review appears to propose no change to the current situation, which is that schools must deregister when a child has ceased to attend the school and the parent has notified the school in writing that the child is being home-educated. "Schools need to be able to delete pupils in these circumstances" says Section 28 "and we are proposing no change."

The real fancy footwork is to be found in section 59. Section 59 lists the situations in which schools currently do NOT have to notify the LEA about the removal of a child from the register. Top of the list in this section – when a child has been withdrawn to be home-educated. Like me, you might wonder why home-education appears in this section at all given that under current regulations, a school must notify their LEA within 10 school days when it deletes a home-educated child from the register.

The question which corresponds to this section asks innocently enough, "Do you agree that schools should notify LEAs about such deletions?" A question to which I assume the answer, when the results are collated, will be almost unanimously in the affirmative. If you didn't know

that schools currently have to notify the LEA it would undoubtedly seem reasonable that they should be required to do so and so you would answer “yes” to this question. If you were aware that schools currently have to notify the LEA, it would undoubtedly seem to you that a “yes” response simply affirms the current position.

You would, however, be examining of the what DfES actually schools are required to the child's name from the

...remove mandatory deregistration for home-educated children.

quite wrong. A very careful wording of section 59 reveals that proposes is to change the law so that notify the LEA *BEFORE* they delete register. But for some reason or other,

the question doesn't quite make this clear. Call me cynical if you like, but I cannot conceive of any logical reason why such a change should be proposed unless it is intended that the school must notify the LEA and then await the agreement or consent of the LEA before completing the deregistration. It is my belief that section 59 and the question which accompanies it have been deliberately worded in order both to obscure the nature of the change being proposed and to ensure a high proportion of positive responses. This will enable the DfES to be able to claim that they have a public mandate for effectively removing our right to deregister our children on demand. It's certainly an interesting insight into the ‘democratic’ process.

Under current regulations schools must complete the deregistration process within ten school days. Under the new proposals there will be no time limit for completing the deregistration. Children are likely to remain on the register indefinitely if the head-teacher has “doubts” about the parents or perhaps if the LEA doesn't approve of the family's approach to education. I am assured by the DfES however, that parents with pending deregistrations for their children need not worry about truancy prosecutions since the child will be regarded as having “authorised absence” during this period. Pretty convenient for the school who will continue to be eligible for funding for the child, but pretty inconvenient for parents who want those school places for their children but instead are paying through their taxes to keep them open for children who don't want them!

According to Dave Fletcher of the DfES school attendance team, the review of the regulations has arisen, at least in part, as a result of pressure from Local Education Authorities to remove mandatory deregistration for home-educated children. LEAs want head-teachers to be able to exercise discretion about keeping school places open for home-educated children where they have “concerns” about the parents' suitability to home-educate. Presumably single parents and low-income families, among others, need not apply.

The parents' motivation for choosing home-education is also likely to come under scrutiny – mention bullying, school anxiety, lack of school provision and you are likely to be told that these aren't regarded as reasons for which it would be in the child's interests to be withdrawn. Again, the head-teacher would be able to keep the child's name on the roll.

Finally, no attack on the right of parents to withdraw their children from school and educate them from home would be complete without alleging that significant numbers of us withdraw our children from school in order to subject them to abuse and harm. According to Dave Fletcher, LEAs are reporting home-educated as a result of having and that this also regulations. When I Freedom of the number of cases educating parents

LEAs are reporting that “significant numbers” of home-educated children are coming to harm as a result of having been withdrawn from school

that “significant numbers” of children are coming to harm been withdrawn from school prompted the review of the submitted a request under the Information Act for details of of child abuse by home-which have been notified to

the DfES by LEAs, Mr Fletcher replied that the DfES does not collate any data or keep any records of cases alleged by LEAs. That does seem rather inexplicable given the magnitude of the changes DfES seem to want to make on the basis of these un-collated and unsubstantiated claims by LEAs.

LEAs already have robust powers to take action in those rare cases where parents fail to provide an education or where a child is genuinely at risk of harm. A sleight of hand change from mandatory to discretionary deregistration will not make much difference to such cases. It will, however, impact hugely on every loving, responsible parent who, for reasons of gender, race, socio-economic circumstances, marital status, lifestyle or any one of numerous subjective value judgements, does not fit the template that the head-teacher or LEA official has in mind for a home-educating parent.

Notes

1 Under Regulation 9(1)(c) of the Education (Pupil Registration) Regulations, 1995 the name of a school-age pupil is to be deleted from the admission register if he has ceased to attend the school and the proprietor has received written notification from the parent that the pupil is receiving education otherwise than at school.

A person who contravenes or fails to comply with any requirement imposed on him by regulations under this section is guilty of an offence and liable on summary conviction to a fine not exceeding level 1 on the standard scale.
Section 434(6) Education Act 1996

The examples in this article are genuine and have been used with the relevant families' permission though the names have been changed to protect the identity of the children.