

Home Visits



The issue of whether or not we as families should allow home visits is a regular topic for discussion within the home education UK community.

Home educating families hold a range of views regarding home visits from openly welcoming an opportunity to show off what they are doing through to being utterly opposed to home visits as an infringement of both their own and their child's rights as private individuals.

The Legal Position

In England and Wales the law is quite clear on the subject. While we must inform the school of our decision to withdraw a child from the register, there is no obligation for us to inform the LA or to allow them access to our homes. (The law in Scotland is slightly different, but not on the subject of home visits). Case law says:

"An education authority should not, as a matter of policy, insist on inspection in the home as the only method of satisfying themselves that children were receiving efficient full time education"

and also:

"the Act of 1944 (replaced by the 1996 education act) does not provide for or contemplate an intrusion of a parent's privacy by inspectors coming into the home and that it is quite wrong for a local authority to insist on such inspection."

Lord Parker of Waddington (REGINA v. SURREY QUARTER SESSIONS APPEALS COMMITTEE, ex parte TWEEDIE QUEEN'S BENCH DIVISION 61 LGR 464)

When the LA becomes aware that you are home educating they may informally ask about what provision you are making for your children's education. While we are under no obligation in law to reply, should we remain silent, the LA may conclude that we are making no provision and therefore, parents would be wise to make some kind of response to these enquiries. However, since the LA must look at any submission that a court would regard as reasonable and due to a legal principle known as "audi alterem partem" literally meaning "hear the other side". The LA may not therefore prescribe the form of submission it will accept by for example limiting it to, or insisting upon a home visit or indeed, anything else such as a *pro forma*.

If however, after considering a family's submission, the LA cannot conclude that a reasonable person would consider that 'there is no reason to think that the family is not providing an education', the LA may ask for more formal evidence of education.

A parent's right not to have a home visit

A parent's right not to have home visits is also protected by Article 8 of the European Convention on Human Rights (ECHR and The Human Rights Act) which protects our rights to a private family life. This right should normally prevent attempts by the LA to continue to insist upon access to our home after a parent has pointed out to them that this is unacceptable.

Section 175(1) of the Education Act 2002:

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Some LA's in England and Wales quote Section 175(1) of the Education Act 2002.:

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

They sometimes add that should a family refuse a visit then the LA will report the family to the social services department on welfare grounds.

However, for a referral to social services to be legitimate the LA are required to have grounds for believing that the child is at some form of risk. The fact that the child is home educated is not of itself evidence of risk. (Indeed several letters informing families of this policy have perversely stated that in their case they do not consider that there is a risk to the child so on what grounds they make such a referral is open to speculation).

There is clearly a degree of confusion regarding this section of the act however it is clear that it does not in fact confer any new powers upon the LA. It simply informs them of their responsibilities regarding existing duties and reminds them to carry them out, at all times, with "due regard" to the children's welfare. Therefore, if there is no evidence of any outstanding welfare issues then they have no legitimate grounds for a referral.

Thus a referral by an LA to Social Services, exclusively on the grounds that a child is being home educated, and the family are (quite legally) refusing a home visit could be regarded as a malicious referral and a breach of Article 8 of the human rights act.

Why might you not want a visit?

Putting aside the privacy issues families should be aware that when they are welcome an LA representative into their home, the primary purpose of the visit is to collect evidence of a failure to suitably educate a child in accordance with section 7 of the Education Act 1996. This evidence may at some point be presented to a court in support of a "School Attendance Order" should they decide that your provision is in some way unsuitable. The LA would consider their perception of everything they see and hear as evidence and present it as such to the court. By allowing an officer into their home a parent surrenders control of the evidence.

For example: if your house is tidy they could say that your "obsessively tidy" home exhibits a failure to allow sufficient opportunity for creative play. If it's untidy they can say that your home is chaotic and you fail to provide a sufficiently structured environment. As it's all down to interpretation, they can in fact say anything and once said it's difficult to repair the damage.

Sadly it has become apparent to me from reading accounts of a great many home visits over the years that some LAs use visits to justify decisions already made. Reports are sometimes singularly biased and are clearly intended to bully parents into returning their children to school. While many, if not most, visits and encounters with LA representatives work out well, it's hard to judge the LA's position beforehand. I have therefore come to the conclusion that it is unsafe to allow an LA representative into your home. If they're not allowed in your home they can't come to any conclusions about it.

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Why you might want a visit

Besides reasons of personal choice, some parents may choose to allow home visits for a variety of reasons such as:

Separation and divorce

It is our experience that in a significant number of cases ex-partners, even were they previously supportive of their children being home educated, become hostile to it continuing once they leave the family home. The reason for this change of heart appears to be a concern that if the partner with whom the children now live continues to home educate, they are likely not to work and will therefore expect a greater divorce settlement. It is understood that lawyers often advise the absent parent to object to home education so as to remove any obstacle to the resident parent from working.

In these circumstances a good relationship with your LA with some affirmative reports could help to swing the court away from forcing the resident parent into registering the children in school. A home visit might be seen as a necessary compromise in achieving this.

SEN's and Disabilities

Many home educated children have a complex number complex SEN's and Disabilities which require complex technical assistance from the LA. Under these circumstances it seems to be common sense that home visits are allowed so as to enable all the agencies involved to correctly assess the children's needs in the environment in which s/he is.

Past issues with social services

Some home educating families have had concerns raised by social services. These may have been discharged as having been groundless or may have been fully dealt with. Nonetheless, the authorities may well have these issues on record. While, strictly speaking, there is no legal reason for the authorities to insist upon a home visit it might be considered prudent to allow them so as to reduce the probability of social services becoming interested in your family. Similar arguments might be put where residents of the home (either family members or their partners) have a criminal record or previous record of involvement with social services whether or not it had anything to do with children or not.

How then to present evidence?

I would suggest that at least one face to face meeting could take place on neutral ground, a library or cafe, even a McDonald's. This meeting should help put a face to the names and establish a relationship between yourselves and the LA representative. Ideally you should take a friend, by preference an experienced home educator and possibly your partner (should you have one - if s/he works its worth a day off) but not your children - who should be left with supportive, trusted friends or family.

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It is important that you remain calm and present a professional attitude at all times, even in the face of provocation, intimidation or downright lies concerning the law and home education.

Take as much documentation as you are happy to offer, in particular if you haven't already produced one, you should prepare an educational philosophy. According to article 2 of the first protocol of the ECHR authorities must respect the parent's philosophy with respect to education and your educational philosophy outlines this. The home education UK website has a number of example documents in its legal section to help you construct your own. (www.home-education.org.uk)

You should not forget a notebook in which you can record anything of importance that is said to you. Indeed, in extreme circumstances, parents have been known to record meetings on tape and even on video.

You should write down any decisions made and action to be taken. If the officer makes any categorical statements you should also write these down as well as any promises you make (I would advise you not to make *any* promises especially "on the hoof" say rather that you will come back to them on this once you have had a chance to consider the idea).

After the meeting you should write a letter to the officer you met confirming anything important in your notes, particularly points of agreement, actions to be taken and issues outstanding. It is then up to the LA to deny that your account of the meeting is correct.

All communication should be in writing. Any unavoidable phone calls should be logged and again confirmed in writing including any important verbal messages. This ensures that in the unlikely event that it came to court action, an accurate written record is available.

If you still want to have a visit

If you still think a home visit is best for you, you may want to consider the following suggestions.

- While tidying your home is probably a good idea, try not to make it look too sterile and child unfriendly.
- You should always have a note pad and pencil with you to make notes of anything important that is said or agreed.
- Where the visit is going ahead against your wishes or where you have reason to believe the inspector may be antagonistic, you might want to consider recording the meeting. While this is a rare and perhaps extreme measure, it can be useful where inspectors make prejudicial or legally incorrect statements during the meeting. Sadly it's been our experience that some inspectors are either ill-informed of the law or make deliberately misleading statements and or make demands upon families that are not sustainable in law.
- Many EHE inspectors are retired head teachers who have had little if no training in the law as it applies to home educators, consequentially they make errors in its application. Having a record of these breaches can be extremely useful should meetings lead to legal action.

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- Try not to agree to anything, your failure to meet such agreements could form part of later complaints regarding your provision or lack of cooperation with the LA. It's reasonable for you to take a note of any request and say that you cannot agree to anything right now as you would prefer to discuss these things with your child and partner together as a family.
- Have an experienced home educating friend with you, this person could help offer support should the visit not go well. They can also witness what is said and possibly take notes of anything important that is said. They can also make tea etc. during the visit so that you never have to leave the room, this is particularly important if it means leaving a child alone with the EHE representative.
- Consider not having the children present, there is no legal requirement for them to normally see or speak to the children.
- Not to allow the inspector to speak to the child alone. We have reports of EHE inspectors asking children if they like being home educated using loaded phraseology intended to elicit a negative response. Remember, they would never offer school children the option of home education.
- Expect to be asked for your children's work. You do not have to show your children's work if you or your child decide not to. This is something you may want to discuss with your child and partner prior to the meeting.
- Just because you are dealing with the inspection via a meeting doesn't mean that you cannot prepare an educational philosophy and related documents to give to them. So have multiple copies available for you to discuss with the EHE officer.
- They may be likely to have forms for you to fill out. You should read these carefully as they could become legally important should the LA decide to issue an SAO. If you are unhappy about any aspect of them you are entitled to refuse to fill them out or set them aside and say you want to complete them at a later date with your partner. Even if the LA has a policy expecting you to complete such forms, there is no legal obligation for you to comply.
- When the meeting is over it is worth while looking at your notes of the meeting and writing up your own account of it, particularly noting down anything you agreed to or any statements that were made either by yourself or the inspector. A copy of this could then be sent to the inspector as your account of the meeting. If anything negative is said by the inspector you should include any refutation of their comments (help is available from various sources, such as forums, in doing this).
- Consider how you will answer certain questions that are likely to arise, for example:
 - How do you expect to continue to home educate over the next few months?
 - How do you deal with the issue of socialisation?
 - Who else has access to your children and do you employ tutors?
 - Will you name any tutors and may we contact them about your child's education?
 - What about work experience?
 - What about exams?

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- How do you propose to prepare your child for further or higher education?