



Department
for Education

Children not in school

**Annex to the government
consultation response**

February 2022

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Introduction

We have published this document alongside the more concise government response document. Contained within you will find a government response to each of the questions asked in the Children Not in School consultation (where answers provided are substantive).

The consultation received almost 5,000 responses, mostly online, and mostly from parents. However, a large proportion of LAs, in total, responded. There are 145 LA responses although a few LAs sent in more than one response. We have also had significant interest from a number of children's charities, who are strongly supportive of the proposals.

The responses have been analysed by CFE Consulting, a company chosen after competitive tender, using manual coding for a sample of responses and then software textual analysis. The company's report of the analysis forms the basis of the government response document insofar as that needs to set out factually what respondents said. We have then considered that analysis and drawn conclusions about the ways in which the proposals should be taken forward, having regard to the opinions expressed and, in particular, views about the ways in which the proposals could be implemented.

As this document is intended to supplement the main consultation response document, the government response is presented upfront with each proposal for ease. More detailed analysis then follows each of the proposals and government responses.

Annex to Proposal 1: Duty on LAs to maintain a register of children not registered at specified types of school

Government response

We agree with the proposal to place a duty on LAs to maintain a register of children of compulsory school age who are not registered at specified categories of schools (state or registered independent or Non-Maintained Special), with the register including some children educated under the Education Act (1996) s.19 arrangements (exceptional provision of education in pupil referral units or elsewhere), and those who are flexi-schooled. Both format and data items to be in the register would be prescribed by DfE, and the legislation would allow LAs to incorporate data gained from other sources. LAs would be empowered to share data from the register with specified agencies where necessary (e.g. a safeguarding concern). As hosts of the register, LAs would be open to inspection by specified agencies (for example, an inspectorate body such as Ofsted), and LAs would need to submit returns of anonymised data to DfE for statistical purposes.

Subject to the necessary time in parliament, we intend to legislate on the proposal to place a duty on LAs to maintain a register of children not in school. However, when we proceed to legislation we will take a decision on the likely range of data items so that the appropriate power to prescribe is contained in primary legislation.

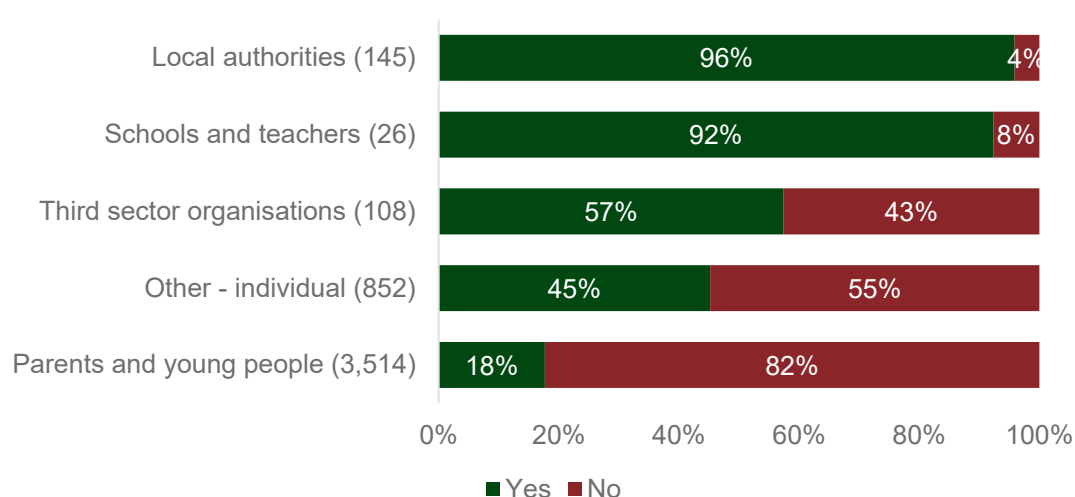
The proposal here is also subject to securing the necessary resources and, since this will create a new duty on LAs, completion of the new burdens process. Pursuing the proposition as outlined above is our intention.

Q1 Do you agree that local authorities should be obliged to maintain a register of children who are not registered at specified schools or being educated under s.19 arrangements?

As a reminder the specified schools include:

- a school maintained by a local authority;
- a non-maintained special school;
- an alternative provision academy; or
- a registered independent school¹.

Figure 1: Agreement with proposal for a register, by respondent capacity



Reasons for supporting a register

Respondents to the consultation provided a number of reasons explaining why they agreed or disagreed with the proposed register. Of the 1,237 consultees who supported the register, only 3% did not provide a reason. Table 1 summarises the reasons consultees provided, by the capacity in which they responded. Overall, there were 26 consultees categorised under

¹ Academies and free schools are in legal terms registered independent schools.

'schools / teachers'. Since the sample size is small², figures have either not been presented as percentages or excluded from tables to avoid misuse of a published percentage. Where a distinctive pattern emerged, analysis has been listed in the commentary.

Table 1: Reasons respondents supported the LA register

Reasons given (coded responses)	LAs (137) %	Third sector organisations (61) %	Parents and young people (596) %	Other – Individuals (373) %	Schools and teachers (24) n
For safeguarding purposes, to ensure all children are known.	46%	52%	55%	59%	20
To ensure children are in receipt of suitable education	47%	33%	40%	48%	10
To identify the number of home-educated children	28%	51%	29%	36%	9
A register would help provide support to children and families and improve education	18%	38%	24%	34%	4
To help LAs fulfil their statutory duties	21%	21%	4%	7%	1
To help LAs monitor off-rolling	1%	7%	2%	1%	1
To understand reasons why EHE is preferred	0%	2%	2%	1%	0
Supports a register but recognises it could be discriminatory for EHE families	1%	0%	1%	1%	0

Base: n=1,195³

Four main reasons for supporting the register across all groups were as follows:

² Please note this pattern has been followed for individual questions that had small sample sizes among the different sub-groups.

³ 4 respondents did not identify their capacity.

- i. By registering EHE children, it would enable the relevant authorities to safeguard appropriately. The majority of consultees suggested that under the current arrangements, a child not attending school is unknown and invisible to LAs and therefore potentially at risk of harm. A register would provide key information to ensure children do not 'slip through the net' in terms of their right to be kept safe from harm.
- ii. Related to that, the lack of information on EHE children was said to threaten the ability of LAs to ensure all the children in their local areas are being appropriately educated and helps illegal or unregistered provision operate. While many consultees acknowledged that the majority of EHE children are provided with suitable education, some received no education at all. Identifying EHE children would allow LAs to have oversight of education they receive.
- iii. A register would enable LAs to identify the number of EHE children and subsequently understand the reasons why EHE is preferred to better plan services to meet the needs of these families.
- iv. The register could be used as a tool to strengthen the relationship and improve communication between LAs, schools and home educating families. LAs could offer additional support to those families that require it, e.g. special education needs. In return, this would improve the quality of education EHE children receive.

Reasons not to support a register

- Of the 3,516 respondents that did not support the LA register, 10% did not provide an explanation. Table 2 illustrates the reasons consultees provided (they could provide more than one, so percentages exceed 100% in total).

Table 2: Reasons respondents did not support the LA register

Reason given (coded response)	LAs (5) n	Third sector organisations (44) %	Parents and young people (2,615) %	Other – Individuals (413) %
Parents are responsible for the choice of education	2	20%	47%	47%
Existing monitoring systems are already in place	2	32%	39%	25%
A register is not required and there is no evidence it would be effective	1	23%	40%	34%
A register discriminates against parents that home school	1	11%	41%	37%
A register is a waste of time, resource and money	1	18%	30%	30%
A register will not solve safeguarding, off-rolling or reporting issues	1	7%	23%	12%
LAs will regulate home education	0	18%	31%	4%
LAs do not understand EHE to support it	0	2%	26%	19%
A register is an intrusion into privacy	0	18%	26%	15%
LAs need to understand EHE and focus on failing school system	1	0%	3%	0%

Base: n=3,155⁴

The majority of parents and young people disagreed that there was a need to create a LA register (82%). Typically, parents and young people felt that the legal responsibility of a child's education rests with the parents, and any registration with the LA undermines and calls into question a parent's right to educate their child/children as they see fit. There were further concerns that a register discriminates against parents that home school since registers have a public connotation of being associated with offenders and criminalises the choice of home education.

⁴ 76 respondents did not identify their capacity.

Furthermore, parents and young people felt that a register would be utilised as a means for LAs to exert power and regulate home education.

Consequently, parents were anxious that a register would be an intrusion into privacy and infringe on freedom that is highly valued among parents who choose to home educate. That said, some parents stated if the reason behind registration was to target support and funding, they would be more likely to support the register. While some parents would welcome support from LAs, they were sceptical about the knowledge and understanding of EHE among LA representatives to have the capacity to adequately support these families.

Some third sector organisations, parents and young people and other individuals also indicated a number of other reasons that a register was not required, such as:

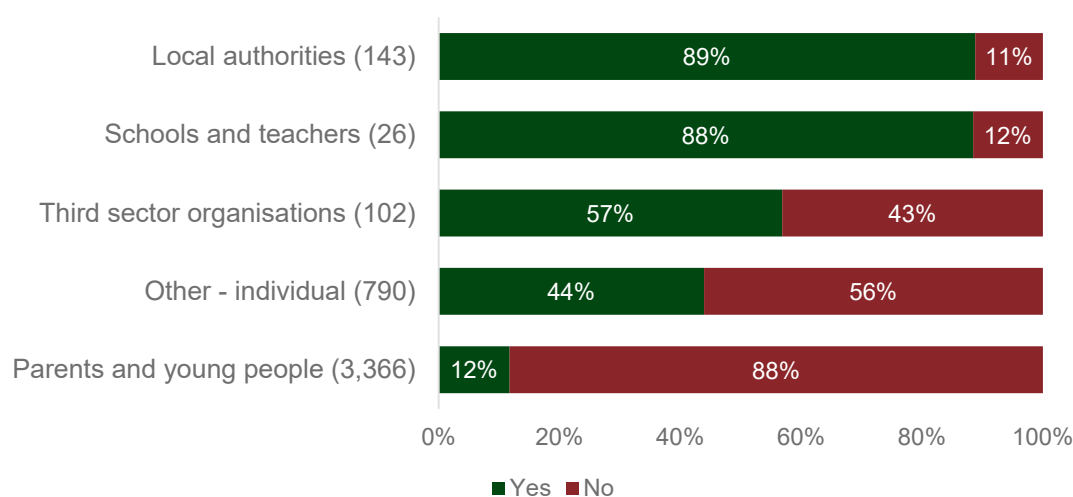
- Consultees stated that LAs currently have a statutory duty and power (under Section 436A of the Education Act 1996) to make arrangements to enable them to establish the identity of the children in their locale who may not be receiving 'suitable' education. The stipulations entitle them to make enquiries of parent home schooling their children and establish what education the children are being provided.
- There is also no evidence that home educated children are more at risk than children educated in school or that a mandatory register is necessary or would be effective.
- Therefore, the register would serve no purpose and be a very expensive bureaucratic process. Consultees felt that there are more effective ways of spending taxpayers' money and closer attention should be paid to schools where funding is said to be consistently cut.

Just 2 of 26 school / teacher consultees did not support a local register. Both felt that a register would not solve safeguarding, off-rolling or reporting issues and that choices regarding the education of children was the responsibility of parents.

Subject to appropriate time for legislation, and the availability of resources, **we believe we should impose the duty on LAs to maintain a register of children who are not registered at specified schools. The register will assist LAs in meeting their duty to establish whether there are children that may be missing education and will also mean that we will have authoritative data on the numbers of children in home education.**

Q2 And should such a register specify whether they are attending an educational setting (other than their own home) during school hours?

Figure 2: Whether register should specify other settings, by respondent capacity



There is a concern that some children deemed to be ‘home educated’, in reality, their education is provided mainly or entirely through attendance at settings such as unregistered independent schools, or at multiple part-time settings, which may or may not be providing suitable education. In total, 4,519 consultees responded to the question, of which 79% disagreed and 21% agreed.

Similar trends were found to the agreement of the LA register. Consultees providing an organisational response were more likely to agree with this proposal than individuals. A higher level of agreement was found from LAs

(89%) and schools and teachers (88%) compared to parents and young people, especially those taking part in EHE (12%).

Table 3 shows that seven in ten (71%) of all respondents did not support a register and disagreed with the register specifying other settings. However, almost one-tenth of respondents (8%) supported the proposal of a register but disagreed that it should specify other settings. 2% of respondents disagreed with the register but reported it should specify other settings. This could be an error of selection on the consultation form. Typically, the below findings are echoed in all consultation questions that consider technical proposals.

Table 3: Whether register should specify other settings, by support for LA register

Whether support proposal of LA register of EHE children	No	Yes
"No" to register specifying other settings	71%	8%
"Yes" to register specifying other settings	2%	19%

Base: = 4,519

Reasons why register should specify other settings

Of the 747 respondents that supported the register specifying other setting, 30% did not provide further comments. Table 4 provides a summary of the reasons put forward by respondents why the register should specify other settings.

Table 4: Why the register should specify other settings

Reason given (coded response)	LAs (92)	Third sector organisations (38)	Parents and young people (212)	Other – Individuals (168)
Documenting other settings will improve safeguarding	36%	50%	20%	15%
It will be an opportunity to identify unregistered provision	34%	24%	25%	37%
Identify and monitor children not in receipt of suitable education	29%	29%	29%	23%
Specifying other settings will help LAs fulfil their statutory duties	22%	8%	4%	3%
'Educational Settings' need to be defined	6%	14%	10%	6%
It will be difficult to keep register up-to-date	3%	5%	1%	0%

Base:
n=517⁵

Typically, those who supported the register identifying other educational settings reported three key reasons:

- There was widespread agreement that by documenting other settings, it would enable LAs to assess the appropriateness and safety of a setting that may be used during school hours. Some consultees raised concerns regarding current extremist religious education (relating to any religion or cult) and other organisations having the right qualification and checks (e.g. DBS) to appropriately educate children. By having an accurate record of all other settings, LAs will be able to fulfil their responsibility of safeguarding children.
- To effectively ensure that settings claiming to provide supplementary education to home-educated pupils are not, in fact, operating as illegal,

⁵ 1 respondent did not identify their capacity.

unregistered schools which provide all or most of the education EHE children receive.

- LAs could use the information to ensure that all EHE children are receiving suitable education that adequately meet their needs.

Some consultees across all four sub-groups felt the proposition was unclear. To remove ambiguity, consultees suggested that 'educational settings' needed defining. That said, respondents recognised this would be challenging, particularly because home educators use a diverse range of settings and events such as trips to the seaside or forest, or informal groups arranged by other home educators, exclusively for home educating families as occasions for learning.

Reasons why register should not specify other settings

Of the 3,565 respondents that felt the register should not specify other settings, 48% did not provide an explanation. Table 5 demonstrates the reasons consultees provided.

Table 5: Why register should not include other settings

Reason given (coded response)	LAs (5) n	Third sector organisations (26) %	Parents and young people (1,547) %	Other – Individuals (218) %
Specifying other settings would be Intrusive since education is parent's responsibility	1	35%	21%	21%
Definition of 'education setting' is unclear	2	23%	23%	15%
There are no set hours or place for home schooling	1	19%	26%	14%
Administrative burden for LAs	0	8%	10%	4%
Deters trust in and use of other services	0	8%	2%	1%
The register is unnecessary	1	35%	34%	44%

Many consultees felt that given parents are responsible for the choice of education, specifying other settings would be intrusive. As a means of executing that responsibility, parents make use of a range of provision and are held accountable for making decisions regarding the suitability and appropriateness of such services. As such, parents felt worried that by reporting the use of other services, they will be forced to relinquish their autonomy.

Some consultees (including 3 of the 24 school and teacher consultees who disagreed) felt that it would be inappropriate to ask EHE parents to specify other settings since home educating facilities tend to operate flexibly (non-timetabled), whereby activities vary week to week. Similarly, some consultees stressed that 'school hours' are meaningless to home educating families because home education is not restricted to or expected to be delivered within 'school hours'. Therefore, this requirement was regarded as inappropriate by some consultees.

A minority of third sector organisations and parents and young people reported that the requirement may deter parents from using events, tutorials, libraries, collaborative learning and home educating groups or such organisations providing for EHE families. This in turn would reduce the quality of home education for families who choose this approach.

The majority of consultees who disagreed with the register specifying other settings also disagreed with the LA register (71%). Therefore, many did not provide a reason and reiterated that they disagreed with the proposed register.

We believe a register should specify whether children are attending an educational setting (other than their own home) for the proportion of

⁶ 40 respondents did not identify their capacity.

their education during school hours. The exact settings in scope will need to be defined but the focus would be on those settings that provide a proportion of the education, and therefore would not include out-of-school settings which may be providing supplementary education or activities (e.g. sports clubs, educational visits, etc.). Having this information will assist LAs in reaching a view as to whether the education provided is suitable as they will be able to take into account not only the education provided at home but also the education provided in one or more of these settings. This will enable them to see the whole picture.

Q3 Should the register be widened still further to also include children who are being educated under s.19 arrangements?

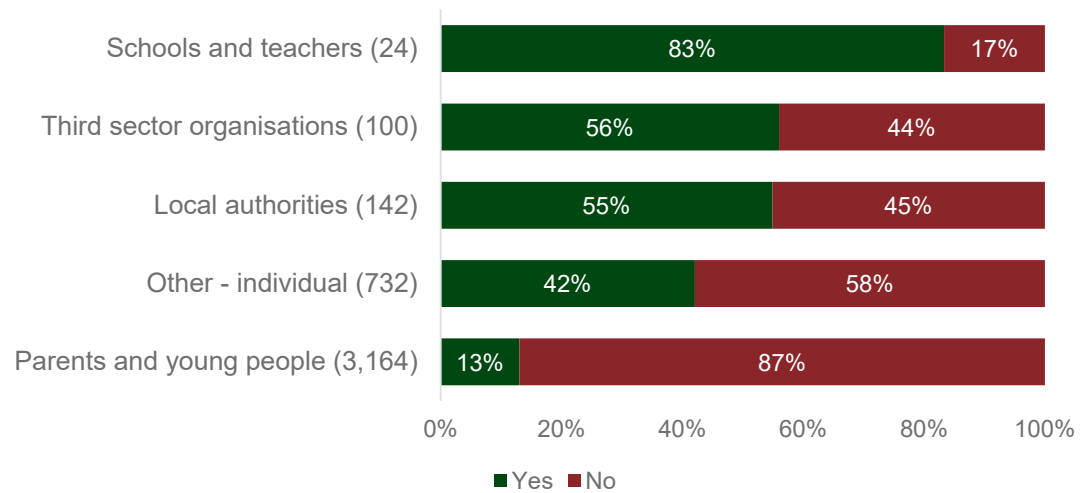
Under s.19 of the Education Act 1996, LAs must make arrangements for those children of compulsory school age who through illness or for other reasons are not receiving, or are in danger of not receiving, suitable education. The argument for including some of these children in the scope of this register is that unlike other s.19 children, they are not registered at pupil referral units, alternative provision academies, or registered independent schools, and in principle are in scope. The main argument against is that the LA should already be aware of them and what education they are receiving.

In total, 4,234 consultees responded to the question, of which 79% disagreed and 21% agreed.

While the overall agreement and disagreement to including children under s.19 arrangements is the same as the register specifying other settings, there were some differences among the sub-groups. As shown in Figure 3, over half of LAs (55%) agreed that the register should be widened to include children educated under s.19 arrangements, while 90% of LAs agreed to the register specifying other settings. There is no significant change among

parents and young people, with widespread disagreement of the register including children educated under s.19 arrangements (88%).

Figure 3: Whether register should be widened to include children educated under s.19 arrangements, by respondent capacity



Reasons register should be widened to include children educated under s.19 arrangements

Of the 877 respondents that supported the register being widened to include children educated under s.19 arrangements, 62% did not provide a reason. Table 6 provides a summary of comments.

Table 6: Register should be widened to include children educated under s.19 arrangements

Reason given (coded response)	LAs (36) n	Third sector organisations (29) n	Parents and young people (153) %	Other – Individuals (107) %
Including children under s.19 arrangements would ensure all children are monitored and data is consistent	18	13	51%	57%
Including children educated under s.19 arrangement would help LAs fulfil their safeguarding statutory duties	9	10	27%	25%
Registering children educated under s.19 arrangements who are often vulnerable would be referred to appropriate authorities	1	5	1%	1%
No reason provided	1	1	3%	5%
Respondents did not understand what was meant by s.19 arrangements or the relevance to EHE	0	1	5%	2%

Base: n=329⁷

Typically, respondents who felt the register should be widened to include children educated under s.19 arrangements stressed that all children who are of educational age and not being taught in mainstream or independent schools should be registered. This would ensure consistency across all LAs and in return limits the likelihood of children ‘slipping through the cracks’ between different types of provision.

In addition, some consultees stated by including children being educated under s.19 arrangements on the register, it would allow LAs to have better oversight of the providers in their area, enabling LAs to better identify safeguarding concerns or delivery of a poor standard of education. Children receiving EHE under section 19 could be particularly vulnerable and such families are likely to need additional support. For example, one consultee from

⁷ 4 respondents did not identify their capacity.

a third sector organisation, indicated that in their investigations of potential unregistered schools, they have found children being educated under s.19 arrangements in alternative provisions. Therefore, by including these children LAs will be in a position to oversee the education they receive and intervene should there be any safeguarding concerns.

A minority of consultees acknowledged that children educated under section 19 arrangements should already be known by LAs. However, some of these children tend to be out of education for long periods of time and the register could be used as a mechanism to speed up the referral process and subsequently improve their outcomes.

Reasons register should not be widened to include children educated under s.19 arrangements

Of the 3,357 respondents that felt the register should not be widened to include children educated under s.19 arrangements, 71% did not provide an explanation. Table 7 demonstrates the reasons consultees provided.

Table 7: Register should not be widened to include children educated under s.19 arrangements

Reason given (coded response)	LAs (37) n	Third sector organisations (21) n	Parents and young people (801) %	Other – Individuals (104) %
Children educated under s.19 arrangement are known by LAs	16	10	50%	35%
No reasons provided	4	7	16%	31%
s.19 children will be monitored by school or PRU	6	2	4%	6%
Unsure or clarity required about what s.19 arrangements mean	2	0	4%	7%
Children educated under s19 is different to EHE	2	0	4%	2%
The register is unnecessary	9	3	57%	40%

Base: n=972⁸

⁸ 40 respondents did not identify their capacity.

In the main, those who disagreed with including children educated under s.19 arrangements either disagreed with the proposed register and deemed the question inappropriate, or felt it was unnecessary since these children are already known by LAs. In addition, some parents and young people and other individuals argued that LAs are negligent if they do not currently have this information, which would imply that they should be given fewer powers not more. Therefore, further clarity is required as to why LAs do not have a record of this information.

Furthermore, some consultees also stated that the provision of education and safeguarding obligations for these children will be built into the support offered by the Pupil Referral Unit (PRU) or school out of which they were taken. Therefore, some respondents stressed that they will be registered and known to the relevant authorities and thus, do not need to be included in the EHE register. While others disagreed because children educated under s.19 arrangements is different to EHE and thus, these two components should not be conflated. For example, some consultees argued that EHE is a decision made by parents for their children.

Although the LA is likely to be aware, and indeed should be aware, of how children being educated under section 19 are receiving their education, we strongly prefer a register which includes all pupils being taught outside of school. This will provide an additional safety net that will stop such children slipping through the cracks between the various types of provision and make it less likely that they attend unregistered schools.

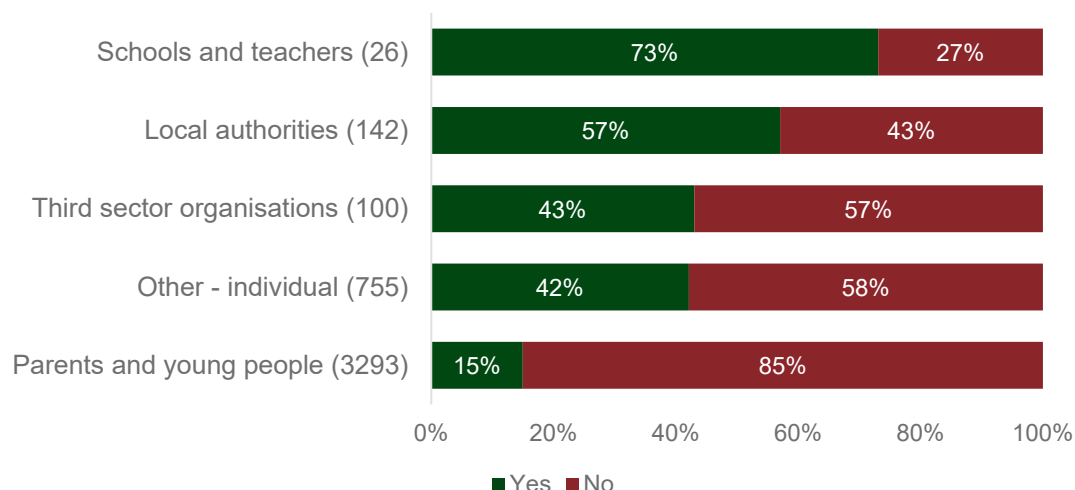
We think that this is sensible, and that **children educated under s.19 arrangements made by LAs but who are not attending schools out of the scope of the CNIS register should be included on the register.**

Q4 Should the register include flexi-schooled children (i.e. those who are educated at home or elsewhere for some of the week during school

hours but are also on the admission register of a state-funded or registered independent school)?

In total, 4,392 consultees responded to the question,⁹ of which 78% disagreed and 22% agreed.

Figure 4: Level of agreement with the register including flexi-schooled children, by capacity in which consultees responded



Reasons to include flexi-schooled children on the register

Of the 960 respondents who supported the register including flexi-schooled children, 61% of consultees did not provide an explanation to their response. Therefore, Table 8 summarises the reasons given by the other 39% of responding consultees (372). Percentages have been calculated, by using the capacity in which consultees responded to the question. For example, 57% of LAs (46 in this instance), agreed to the register including flexi-schooled children because it would help monitor education of all children.

⁹ Total number of consultees who provided an answer to question 11 & 2.

Table 8: Reasons to include flexi-schooled children on the register

Reason given (coded response)	LAs (46)	Third sector organisations (24)	Parents and young people (182)	Other – Individuals (115)
Registering flexi-schooled children supports the monitoring of education for all children	57%	63%	32%	32%
Registering flexi-schooled children helps LAs monitor children's safeguarding	15%	29%	11%	14%
A register covering all children ensures no gaps in information	4%	17%	16%	26%
Registering flexi-schooled children incentivises schools to admit flexi-EHE children	4%	0%	1%	0%
Provides statistics on flexi-schooled children which are not currently available	4%	8%	4%	1%
Registering flexi-schooled children should be voluntary	0%	0%	1%	0%

Base: = 372¹⁰

The majority of consultees across all roles (including 2 school and teacher consultees) reported a register of flexi-schooled children would help monitor education and safeguarding. There was an underlying perception that despite receiving some education at school, there was no evidence that children are necessarily receiving suitable or any education at home. Therefore, by registering these children LAs would be better able to oversee quality of all education and fulfil their statutory duties if appropriate education is not being provided. Additionally, there may be potential vulnerabilities among unknown children, making it challenging to intervene and safeguard these children. By having a complete register, the risk of unaccounted children is reduced and LAs can check on children for safeguarding purposes. Where there is any

¹⁰ 3 respondents did not identify their capacity.

cause for concern, LAs will have contact details to work with such settings to ensure children's' safety.

A minority of respondents suggested that registering flexi-schooled children should be voluntary, with no other explanation. Others cited that from a national perspective, it would be useful to have statistics of the number of children being flexi-schooled. Being able to identify trends in the future would be valuable information for planning policy. In particular if flexi-schooling continues to increase, further work can be done to understand why and if any interventions need to be made in the school environment to better meet needs.

Reasons to not include flexi-schooled children on the register

Of the 3,432 people that said no to the register including flexi-schooled children, 61% did not provide a reason. Table 9 outlines approximations of the reasons provided by consultees who disagreed with including flexi-schooled children on the register.

Table 9: Reasons to not include flexi-schooled children on the LA register

Reason given (coded response)	LAs (46)	Third sector organisations (31)	Parents and young people (1,101)	Other – Individuals (131)
Registering flexi-schooled children will cause duplication – registered elsewhere	46%	48%	59%	46%
Schools are responsible for flexi-schooled children	35%	13%	4%	4%
There should be no register of EHE	0%	3%	27%	21%
Registering flexi-school children depends on how much time a child spends at school	0%	0%	0%	2%
A register will not capture the complexity of flexi-schooling	2%	0%	0%	0%

Base: = 1,323¹¹

¹¹ 8 respondents did not identify their capacity.

The most prominent reason for opposing including flexi-schooled children on the proposed register was it would duplicate the school register. Therefore, the responsibility for safeguarding these children sits with their school. If the school suspects a child is not receiving suitable education or their safety is at risk, they should contact their LA to proceed with further monitoring. LAs also added that it would increase administrative burden, and accountability should sit with schools.

A few other individuals suggested that the decision to include flexi-schooled children on the register should depend on the amount of time children spend in school. Where the majority of time spent should indicate how that child is registered. For example, if they spend the majority of their time at home, the proposed EHE register should account for these children.

The exact number of flexi-schooled children is unknown and that in itself is one reason for including them in scope of the register even though such children will be registered at a school, and thus subject to oversight by teachers. Their names will not all be known to LAs; although those at state schools will, LAs have no automatic right at present to the names of those children attending independent schools. This could be brought into LA rights by amending the pupil registration regulations.

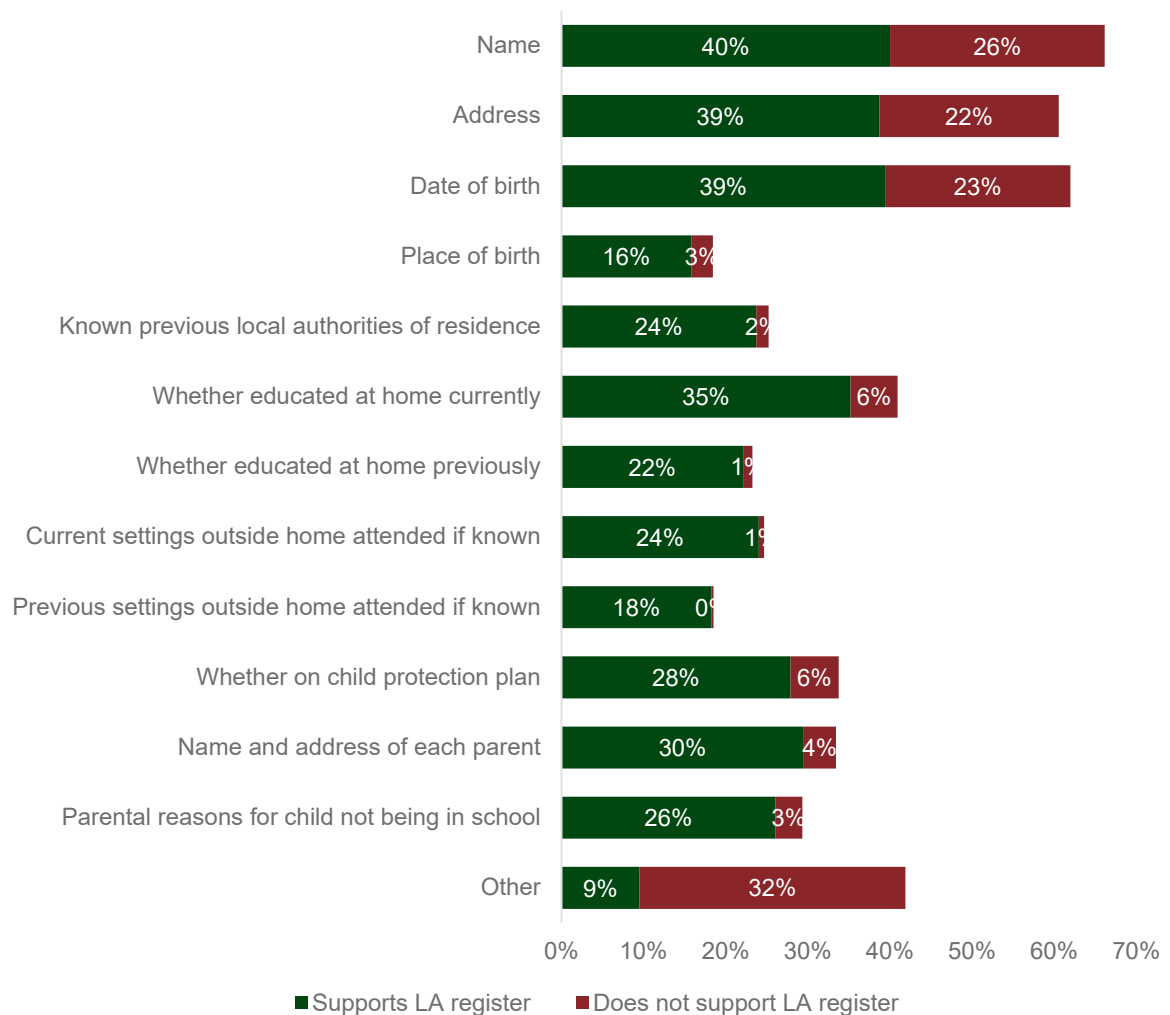
LAs are very divided on this point. Our view on flexi-schooling is that, although attendance even one day a week at school increases oversight, it certainly does not guarantee that overall, a child's education is suitable or full-time.

In our view, therefore, **flexi-schooled children should also be included in scope of the register**. This would mean that although the legislation creating the duty on LAs would generally carve out children who are registered at schools we had decided to not include in the scope of the register, that will need to be caveated so that those who are attending only part-time are not in the carve-out.

Q5 What information do you think the register should contain about each child and its parents?

Of the 4,753 consultees, 64% selected at least one component, and 36% selected none. The average number of answers selected by respondents was 5 (n = 3037). Figure 5 illustrates the types of information respondents selected. The four most popular types of information that consultees would like to have on the register were name (66%), date of birth (62%), address (61%) and whether the child is currently home educated (41%).

Figure 5: Which information should be included in the register, by support for LA register



Base: = 3,037

Between two-tenths and a quarter of those who wanted name, date of birth and address (22-26%), disagreed with the proposed register. Qualitative findings suggest that although these respondents did not support the proposed register, if such a register existed it should only contain minimum information (e.g. name, date of birth and address), which was deemed sufficient to clarify to the LA that the child does not fall in the scope of the LA. Many consultees felt that information like the parental reasons for not sending their children to school is not relevant and might be highly sensitive, forcing parents to reveal, for example, their religious beliefs or a child's history of being bullied.

Others felt that the data should be kept to a minimum to ensure it meets GDPR requirements and for data protection purposes. By including information beyond this, typically many parents felt it would be an invasion of privacy.

However, some LAs and organisations that support a register indicated that it would also be helpful if the register documented:

- Whether home schooling has been an active choice for parents and child, or if it has been a last resort due to school failures to meet the child's needs. This would ensure Ofsted could be informed about such provision and LAs could provide support that is required.
- SEND details, since there is a perception that many children who are withdrawn from school have SEND, but there is no accurate information. By having the information captured, it would ensure there are no data gaps and appropriate support (education and healthcare) is being made available to these families.

Emerging here is tension between parents and young people and LAs regarding the purpose of the register and having the right information to fulfil the aims. Those parents and young people who disagree with the proposed register, fear their freedom will be jeopardised with prescriptive demands from LAs. However, LAs reported having the right information on the register was

important to ensure they had enough detail to provide support where required and fulfil safeguarding duties. Therefore, there is a need to ensure there is enough clarity in communication of the choices and design of the register, in particular transparency regarding the technical details.

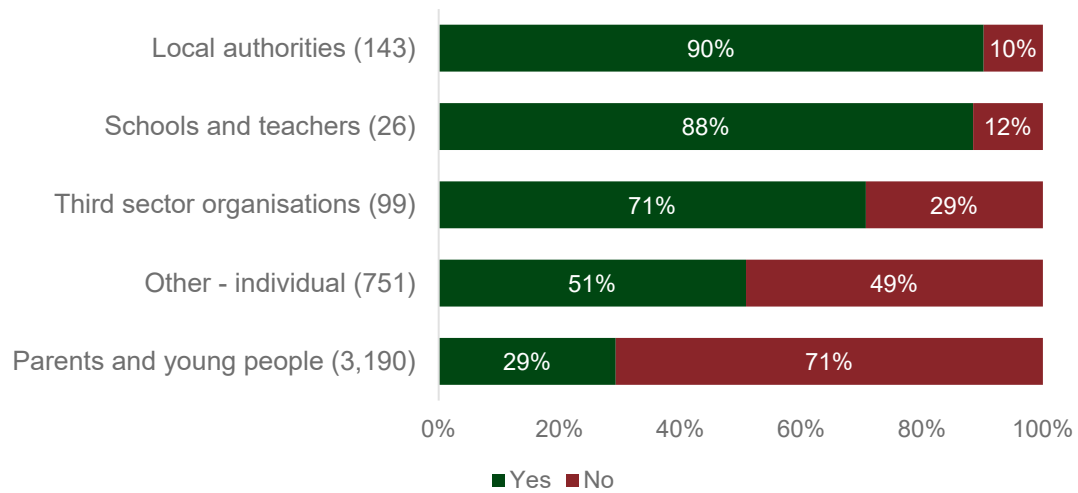
Our initial view is that it would be better if the register contained a wider range of information as set out in the consultation. This would assist LAs in their duties to identify children who may be missing education. It also must be acknowledged that if the data items were kept to a minimum then LAs would be likely to keep a fuller version, including the data which they need but which was not part of the 'official' register. It is better that this is properly regulated.

Q6 Do you think that the DfE should prescribe a national format for a register?

In total, 4279 consultees responded to the question, of which 64% disagreed and 36% agreed.

Similar to previous technical details, as shown in Figure 6 those representing organisations were more like to agree, LAs (90%), schools and teachers (88%) and third sector organisations (71%). However, while on average, 13% of parents and young people agreed to the register specifying other details, widening to include children educated under s.19 arrangements and flexi-schooled children, double (29%) agreed that DfE should prescribe a national format for LAs.

Figure 6: Whether DfE should prescribe the register in a national format, by respondent capacity



Reasons for supporting a national format

Of the 1,551 respondents who agreed the department should prescribe a national format, 44% did not provide an explanation as to why. Table 10 provides an overview of the reasons given (coded responses).

Table 10: The register should have a national format

Reason given (coded response)	LAs (90)	Third sector organisations (50)	Parents and young people (549)	Other – Individuals (161)
A national format ensures data collected is consistent across all LAs.	72%	60%	67%	53%
A national format will facilitate data sharing	20%	16%	7%	18%
Enables LAs to monitor whereabouts of children more easily	9%	8%	2%	7%
A national format ensures appropriate and accurate information is collected	1%	2%	7%	11%
The national format template should be developed in consultation with parents	2%	6%	1%	1%
A national format alone will not guarantee compliance	0%	4%	0%	1%
A national format will save resources for LAs	0%	0%	1%	2%
Clarification needed	0%	0%	1%	1%

Base: n=865¹²

Regardless of capacity, the majority of consultees who agreed to DfE prescribing a national format across reported that this would ensure data captured is both accurate and consistent across the country. This would reduce anomalies in data collection and guarantee a collective understanding of the purpose of the register. Without a national format, LAs can interpret guidelines, and the information will vary by authority, making it difficult to share data between LAs if a child moves.

Additionally, some consultees felt a national format would also make it easier for parents if they move. They are not required to learn about varying standards or procedures and aids both sharing and continuity of data. This will

¹² 10 respondents did not identify their capacity.

ensure there is a mutual understanding between both parties regarding the purpose of the register.

Conversely, a minority of those who supported the national format, suggested that it alone was not enough to ensure illegal schools do not operate and monitor the suitability of EHE. A few third sector organisations felt that the government should introduce:

- A statutory threshold for ‘full-time’ education, which recognises that a setting providing a child’s main source of education – a home, a school, or an ostensibly ‘part-time setting’ – should be subject to registration.
- A statutory definition of ‘suitable’ education. This should include, at the very least, minimum expectations for literacy and numeracy, and the promotion of British values.
- Enhanced powers for Ofsted to inspect and seize evidence from settings suspected of operating as illegal schools, as well as out of school and other settings that provide a substantial proportion of their pupils’ education (over a certain minimum time threshold).

Others who disagreed with the proposed register but agreed to a national format indicated that if a register were imposed, it would be essential to consult closely with home educating families during development. These respondents felt that this would limit LAs who try to exert power or overstep their boundaries.

Reasons not to support a national format

Of the 3,075 respondents who disagreed the department should prescribe a national format of the register, 75% did not provide an explanation. Table 11 provides an overview of the reasons given (coded responses).

Table 11: The register should not have a national format

Reason given (coded response)	LAs (6) n	Third sector organisations (10) n	Parents and young people (668) %	Other – Individuals (88) %
A national format is not required to collect basic contact information	1	2	1%	6%
Guidelines for LAs should be published to allow for local adaptations	1	0	2%	3%
A register is intrusive to private family life	0	0	7%	14%
A register would be unnecessary bureaucracy	0	1	4%	5%
The government should focus on the addressing problems with the school system	1	0	4%	3%
Clarification needed	1	1	1%	5%
The proposed register is unnecessary	0	4	62%	40%

Base: n=783¹³

Typically, those who disagreed to the department prescribing a national format for the register, did not provide a valid reason and simply stated they disagreed with the proposed register and deemed the question inappropriate. Some consultees felt that a national format was not required, since the register was perceived as a database that would collect basic and minimum information e.g. name, date of birth and address.

A minority of consultees reported that rather than enforcing a national format, guidelines should be published that allow LAs to create their own register based on local needs. This view was expressed by some parents, young people and individuals rather than LA representatives. Such consultees stated that different LAs may need different questions depending upon the dynamics of the area and the specific problems within that area. Conversely, a few felt

¹³ 4 respondents did not identify their capacity.

that the government did not have the right local knowledge or expertise on EHE to create a suitable format.

Some consultees reinforced their view that the proposed register would be intrusive to private family life. The freedom of home-schooling is preferred, and parents value the diversity of teaching their children in diverse formats.

Furthermore, some respondents stressed that the government should not use time and resources to develop a national format, but rather focus their efforts to work with schools and improve the failing comprehensive education.

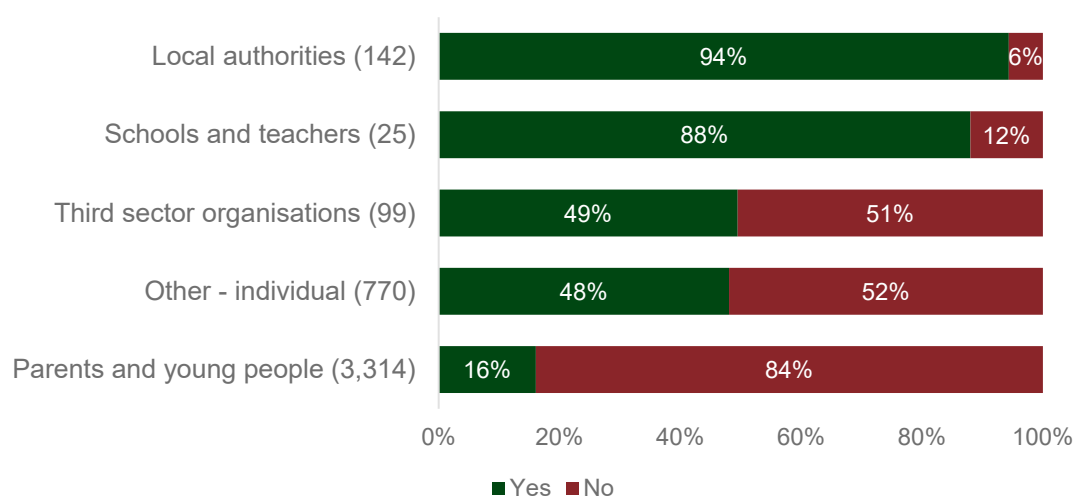
Prescribing a national format would ensure that a registration system worked better. Regulations that implemented the registration system would set out the data items to be recorded and the format of the register. It would be more efficient for LAs if a standard format were prescribed. **Therefore, we believe DfE should prescribe a national format for the register.**

Q7 What views do you have on the sharing of data on an authority's register with other local authorities and other agencies?

In total, 4,434 consultees responded to the question, of which three-quarters (75%) disagreed, and a quarter agreed (25%).

As shown in Figure 7, almost all LAs (94%) and the majority of teacher consultees (88%) agreed to this technical detail. Similar to previous sub-questions under one-fifth of parents and young people (16%) agreed to data being shared with other LAs.

Figure 7: Whether LAs should share the register, by respondent capacity



Reasons to share register information

Of the 1,116 respondents who agreed LAs should share the information with other agencies, 43% did not provide an explanation. Table 12 provides an overview of the reasons given (coded responses).

Table 12: LAs should be allowed to share the register information

Reason given (coded response)	LAs (106) %	Third sector organisations (38) n	Parents and young people (299) %	Other – Individuals (183) %
Sharing information will help LAs fulfil their safeguarding duties	45%	19	65%	55%
Sharing data will help organisations monitor movement	42%	16	26%	37%
Data sharing processes in accordance with GDPR	28%	8	16%	18%
Clarity needed	2%	0	0%	1%
The decision to share data should be dependent on the individual case	0%	0	1%	0%

Base: n=640¹⁴

¹⁴ 4 respondents did not identify their capacity.

Two main reasons were provided for supporting data sharing (including the 22 of 25 teachers):

- To ensure children are safeguarded – as a means to monitor the situation of vulnerable children who are moved from place to place.
- If children and young people are moved from one LA to another it is important that information follows the child. This is necessary to keep children safe and to maintain continuity of SEN or disability support.

Whilst a quarter of respondents agreed to data being shared, many stressed that data needed to be shared in accordance with GDPR. The data should not be shared with agencies who may exploit the data but should be shared for the interest and well-being of the child. Thus, the information shared should be relevant, necessary and proportionate.

Reasons to not share register information

Of the 3,318 respondents who did not support LAs having the freedom to share information with other agencies, 55% did not provide an explanation. Table 13 provides an overview of the reasons given (coded responses).

Table 13: LAs should not be allowed to share register information

Reason given (coded response)	LAs (3) n	Third sector organisations (27) n	Parents and young people (1,274) %	Other – Individuals (161) %
Sharing data is Intrusive and not compliant with GDPR	0	18	73%	78%
Data should only be shared if there is a safeguarding issue	0	5	9%	10%
Clarity needed	0	1	1%	3%
There is no rationale to share data	0	1	1%	1%
Register is unnecessary	2	8	38%	42%

Base: n=1,496¹⁵

¹⁵ 26 respondents did not identify their capacity.

The qualitative findings echo responses for other technical details. The most prominent reason provided by consultees (including the 2 teacher representatives who disagreed) was that in their view sharing of data without consent is contrary to privacy rights and breaches GDPR. Some respondents stated that data should only be shared in cases of child protection issues.

Other consultees suggested that they were not able to provide a response since further information and clarity is required with what is meant by other authorities and agencies.

A key issue for the overall usefulness of the register is whether LAs should be able to share information from it with other agencies. These would include other LAs (especially for children who had moved) but also health agencies and police.

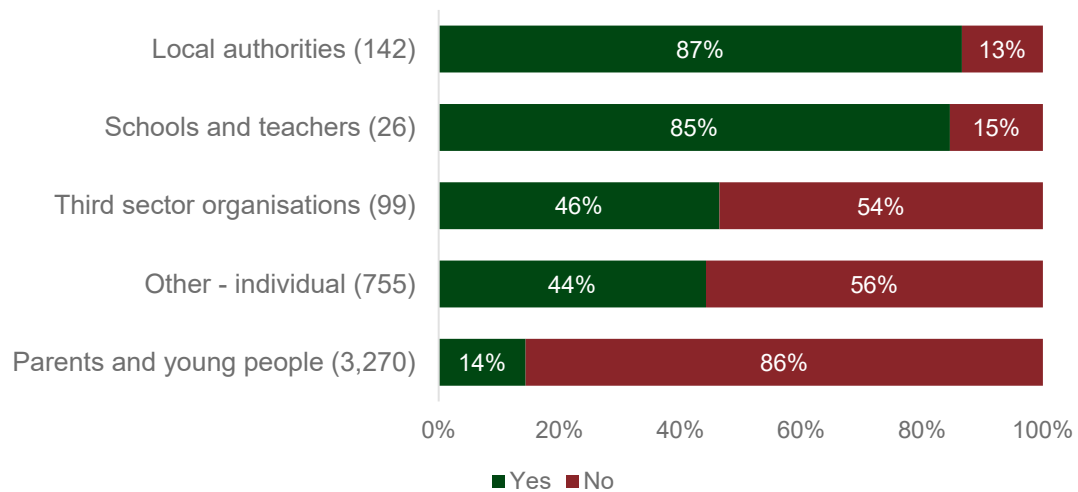
The split in opinion is not surprising. LAs generally felt that sharing information with other authorities and agencies would help safeguarding and tracking of children; those opposed to sharing claimed it would be obtrusive and not compliant with GDPR. This is not true, as the legislation can be drawn to make data sharing compliant. It is also difficult to see why data on school pupils who move LAs can be shared with other LAs (as is currently the case) but that this should not be the case for other children. In our view therefore, **the legislation should include provision for LAs to share the content of the register with other agencies** – the categories of these to be specified in regulations.

Q8 Do you think that a local authority should include any information about a child on its register which has been legally obtained from other agencies?

In total, 4,377 consultees responded to the question, of which over three-quarters (77%) disagreed, and under a quarter agreed (23 %)

As shown in Figure 8, the majority of LAs (87%) and teacher consultees (85%) agreed to this technical detail. Similar to previous sub-questions, under one-fifth of parents and young people (14%) agreed to the register including information from other agencies.

Figure 8: Whether LA register should include info from other agencies, by respondent capacity



Reasons the register should include information from other agencies

Of the 999 respondents who agreed the register should include information from other agencies, 57% did not provide an explanation. Table 14 provides an overview of the reasons given (coded responses).

Table 14: LAs should include information from other agencies

Reason given (coded response)	LAs (90) %	Third sector organisations (30) n	Parents and young people (177) %	Other – Individuals (128) %
Including information from other agencies will Improve safeguarding	29%	13	52%	43%
Only if it meets data protection requirements	9%	0	8%	9%
Only minimum information is required from other agencies	0	0	8%	15%
Information must be relevant to education	4%	0	8%	10%
Cross-sectoral information sharing	4%	1	6%	5%
More clarity needed	0%	1	4%	5%
Including information from other agencies ensures the register has a complete picture about child	0%	0	2%	3%

Base: n=431¹⁶

Similar to the previous technical detail of sharing information with other agencies, those who supported sharing register information from other agencies felt it would improve the opportunity to safeguard children. Some respondents felt it is vital that all the agencies within a LA should have access to information that will help to protect any vulnerable children or children at risk of abuse by their parents, religious entities or schools. Respondents also raised concerns about GDPR and suggested the register should only include information that has been legally obtained and has the consent of parents.

Some consultees argued that information only relevant to a child's education from other agencies should be included on the register e.g. a medical condition that may impinge on that child's ability to perform certain educational activities, or to its general welfare. This information would be appropriate for

¹⁶ 1 Respondents did not identify their capacity.

the purpose of safeguarding and monitoring education, anything that exceeds this would be intrusive.

Reasons the register should not include information from other agencies

Of the 3,378 respondents who did not support the register including information from other agencies, 64%% did not provide an explanation. Table 15 provides an overview of the reasons given (coded responses).

Table 15: LAs should not include information from other agencies

Reason given (coded response)	LAs (11) n	Third sector organisations (25) n	Parents and young people (1,022) %	Other – Individuals (135) %
More clarity is required about the type of information and from what other agencies information will be included	0	2	20%	23%
Gaining data from other agencies is not compliant with GDPR and intrusive	0	4	21%	15%
The purpose of the register is to identify EHE children, not to share further information from other agencies	1	1	19%	22%
Agencies will require parent’s consent to be able to share data with LAs	0	3	4%	4%
Data should only be included from other agencies if it is a safeguarding issue	1	1	10%	8%
If information is shared, only a minimum is required	0	0	5%	13%
Consultees disagree with the register	0	1	34%	25%

Base: n=1,223¹⁷

Typically, similar reasons were provided among those who felt the register should not include information from other agencies:

¹⁷ 27 respondents did not identify their capacity.

- Respondents disagreed with the register and felt they were unable to comment on the technical detail;
- Clarity is required on the purpose of information, and specifically what is meant by 'information';
- Sharing information from other agencies would not be compliant with GDPR and not be possible without the consent of parents;
- If the purpose of the register is to be a database of EHE children, there is no need to share information from other agencies;
- That said, some respondents agreed if the issue were relevant to safeguarding, since it would be to protect a child at risk of significant harm.

The other data issue which exercises many of the EHE lobby is the use by LAs of data from other agencies to increase the completeness of the CNIS register. The consultation question was about adding third-party information to the register to make it complete and more accurate. It would be of considerable help to LAs if it were clear that the use of such information in compiling the register was lawful, as would be the case if specific provision was made for it within the legislation.

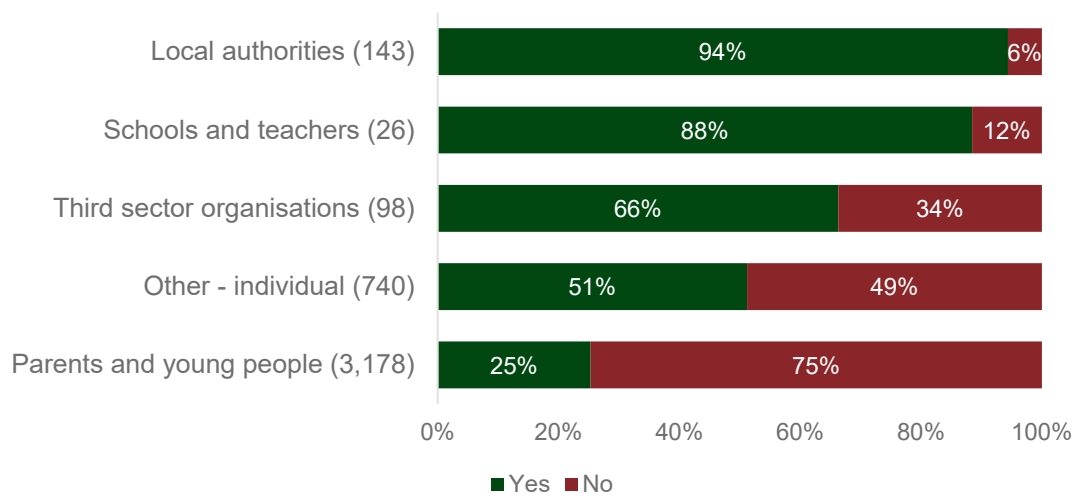
We therefore consider that the legislation should provide for the addition of appropriate data from other agencies in the register.

Q9 Do you agree that a register held by a local authority should be open to inspection by other bodies as prescribed by the Secretary of State, in order to check whether the local authority is carrying out its obligations to maintain the register?

In total, 4,255 consultees responded to the question, of which 67% disagreed and a third (33%) agreed.

Figure 9 highlights, the differences between the sub-groups were similar to that of the other technical details in proposal one. Nearly all LAs (94%) and the majority of teaching consultees (885) supported the register being open to inspection. Similar to the question on the national format, more parents and young people (25%) agreed to the register being open to inspection as opposed to an average of 13% for the other technical details.

Figure 9: Whether register should be open to inspection, by respondent capacity



Reasons to support register inspection

Of the 1,412 respondents who agreed the register should be inspected, 62% did not provide an explanation. Table 16 provides an overview of the reasons given (coded responses).

Table 16: The register should be inspected

Reason given (coded response)	LAs (65) %	Third sector organisations (37) n	Parents and young people (321) %	Other – Individuals (97) %
Inspection would ensure LAs are held accountable for their duties	37%	12	40%	40%
Inspection will enable quality assurance checks	8%	4	13%	18%
Inspection will ensure all registers are consistent	22%	4	1%	1%
Suggested inspecting organisations	12%	7	2%	6%
As long as inspectors observe data protection laws	5%	2	7%	11%
Organisations need to inspect the support provided to EHE parents	2%	0	2%	1%

Base: n=531¹⁸

Those who felt the register should be inspected suggested it was an essential process that would ensure LAs were held accountable for how they have set up and maintain the register, overseeing whether LAs are working within the guidelines. In return, this would help build confidence among parents by providing reassurance that the collected data is not being misused or abused.

Furthermore, consultees also felt that the inspection should be carried out by specific bodies, namely Ofsted, the Department for Education, or an independent provider. Scrutinising and quality assuring registers would allow organisations to meet their roles of ensuring children receive suitable education. It would also ensure legal and consistent activities are being practiced among LAs.

A minority of consultees raised that alongside inspecting the nature of data collected, inspection should be carried out on intervention, namely to

¹⁸ 5 respondents did not identify their capacity.

investigate whether LAs have adequately supported EHE families that require additional assistance. This will allow authorities to determine whether LAs have appropriately undertaken their statutory duties of ensuring children receive suitable education.

Reasons not to support register inspection

Of the 2,843 respondents who felt the register should not be inspected, 68% did not provide an explanation. Table 17 provides an overview of the reasons given (coded responses).

Table 17: The register should not be inspected

Reason given (coded response)	LAs (3) n	Third sector organisations (14) n	Parents and young people (773) %	Other – Individuals (96) %
Inspection would be resource intensive and intrusive	1	2	10%	21%
Data may be misused by inspecting organisations	1	1	4%	4%
More information is required about the inspection	0	1	3%	3%
The process will be bureaucratic and costly	0	0	2%	2%
Providing inspectors to observe data protection laws	0	0	4%	1%
Inspection should only occur if child is at risk	0	0	1%	0%
Disagree with the proposed register	0	5	61%	59%

Base: n=901¹⁹

Generally, consultees who disagreed with the proposed register, reiterated similar reasons for all the technical details. As such, an explanation will be offered here of any that have not yet been discussed in this proposal. For instance, some consultees argued that by inspecting registers, data would be

¹⁹ 11 respondents did not identify their capacity.

available to other organisations and inherently would increase the possibility of mistreatment.

Additionally, some consultees raised questions about how an inspecting body will know if the register was incomplete, or missing EHE children.

We have asked for views about each LA's register being open to inspection. The main purpose of this would be to have external assurance that the authority was carrying out its legal obligations in a proper fashion.

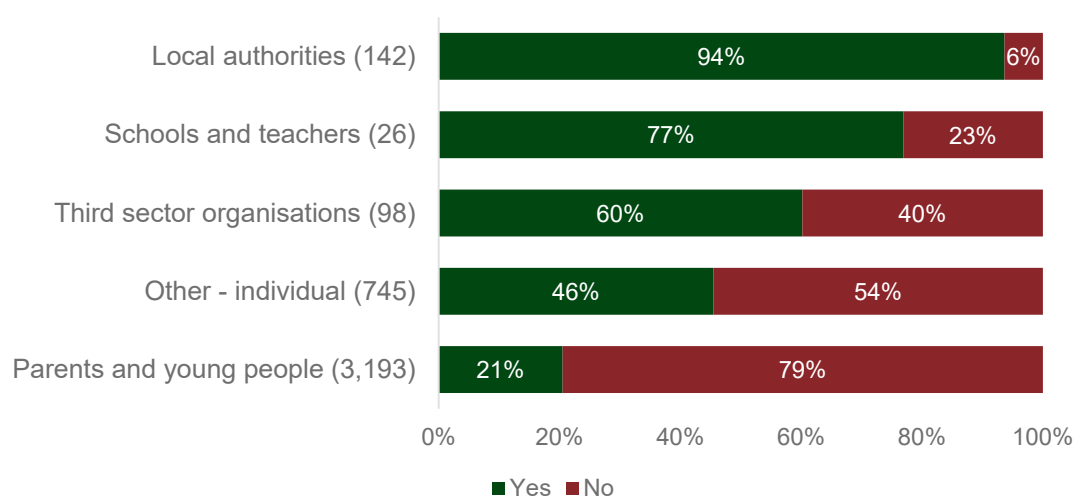
Ofsted in its own response agreed that the register held by LAs should be open to inspection, although the response made no assumption that it would be the body responsible. There is a synergy however with Ofsted's wider responsibilities for education and inspection of LA children's services. **We will consider this further but propose that the legislation should provide either for Ofsted to be the inspecting authority, or for regulations to allow the Secretary of State to authorise a body to inspect.**

Q10 Do you agree that local authorities should have to make annual returns of collated data from the register to DfE for statistical purposes?

In total 4,272 consultees responded to the question, of which 72% disagreed and 28% agreed.

Figure 10 highlights, the differences between the sub-groups were similar to that of the other technical details in proposal one. Nearly all LAs (94%) and the majority of teaching consultees (77%) supported the register being open to inspection compared to parents and young people (21%).

Figure 10: Whether LAs should make annual returns, by respondent capacity



Reasons to support LAs making annual returns

Of the 1,209 respondents who agreed LAs should make annual returns, 68% did not provide an explanation. Table 18 provides an overview of the reasons given (coded responses).

Table 18: LAs should make annual returns

Reason given (coded response)	LAs (71) %	Third sector organisations (31) n	Parents and young people (202) %	Other – Individuals (84) %
Annual returns would provide an accurate picture of local and national EHE trends	68%	17	38%	50%
A national format of the register will make processing annual returns manageable	18%	6	20%	20%
Annual returns should be publicly available for transparency	3%	4	4%	5%
Clarity of purpose	15%	1	4%	1%

Base: n=390

Some respondents across all sub-groups (including teaching consultees) reported that by LAs making annual returns the government will have accurate statistical information to develop both a local and nationwide overview of EHE. This is vital for the development of future policies on

government funding of education. For example, as the quote below highlights if certain areas have high proportions of EHE, DfE can monitor education provision, understand why this has been the case and in return make appropriate intervention that is evidence based.

In addition, some consultees stressed that by imposing a national format, it would not be difficult for LAs to make annual returns. This would reduce resource burden and make the process manageable.

Reasons not to support LAs making annual returns

Of the 3,063 respondents who reported LAs should not make annual returns, 73% did not provide an explanation. Table 19 provides an overview of the reasons given (coded responses).

Table 19: LAs should not make annual returns

Reason given (coded response)	LAs (3) n	Third sector organisations (16) n	Parents and young people (738) %	Other – Individuals (97) %
Respondents disagree with the proposed register	1	7	64%	51%
Making annual returns would overburden LAs and is costly	1	1	7%	22%
Further clarity if required on how the data will be utilised	0	1	7%	7%
Making annual returns, risks data being misinterpreted and misused	1	4	8%	5%

Base: n=864²⁰

Qualitative findings echo other questions regarding data sharing (e.g. including information from other agencies and sharing information with other authorities). The majority of consultees who disagreed with the question did not provide a reason. Some expressed frustration that questions regarding technical details were being asked, despite disagreeing with the register in principle. Some reiterated that in their view the register was deemed

²⁰ 6 respondents did not identify their capacity.

unnecessary, and that EHE does not need monitoring and funding would be better spent on improving school education. Concerns were raised among all sub-groups (including teaching consultees), that asking questions about the technical details gave the impression that the decision to create a register had already been decided and the consultation was merely a tick box exercise.

This is an incorrect view. The proposals set out in this consultation are indicative of government intentions, should the proposals be taken forward. Including questions on technical detail is appropriate for understanding the practical aspects of delivery.

The government takes the view that we should have as clear a picture as possible as to how many children are not in school. It supports our duty to safeguard every child, especially those most vulnerable and those at risk of harms.

There is no clarity about how many other children there are who are neither home educated nor attending schools, and are either receiving little, or no education at all.

We therefore think that **anonymised data returns should be required from LAs**, although the Department may wish to request returns more frequently than annually (e.g. termly) to get an improved data picture across the year.

Q 11 What does the local authority believe would be the approximate additional annual cost of maintaining a register for its area? This should, so far as possible, include any costs already incurred on voluntary registration, but exclude other costs incurred by the authority in relation to home education and children missing education. It would be helpful to set out the basis for the estimates.

This question was intended for LAs only, but of the 251 responses gained, many were from consultees responding in other capacities. Most of these responses were from parents who expressed opposition to the proposed

register and did not provide estimated costs for LAs. Only the 62 responses from LAs that quantified the cost per annum were included in the analysis.

The mean cost to LAs is £76,906 per annum and the median is £50,000. The minimum estimated cost is £2,544 and the maximum is £420,000.

Q 12 Do you have any other comments on either the principle of registration or practical issues related to registration on the basis proposed?

No further responses were provided under this question.

Annex to Proposal 2: Duty on parents to register their child with local authority if not registered at specified types of school

Government response

We agree with the proposal that parents should be under a legal duty to provide information to a register when their child is not in mainstream education. Specifications as to what data should be provided will be outlined in legislation, together with clear consequences when information is not supplied when requested by the LA.

We believe the legislation should be drawn up in a form that allows for prescription in regulations as to what data parents would be under a duty to provide. Whilst mindful not to be onerous or intrude on a parents right to home educate, our initial view is that most of the data items listed in the consultation document should be required if a comprehensive picture is to be obtained, and that should certainly include other settings (despite the definitional difficulties over that which are considered under Proposal 3: Duty on

proprietors to supply information), as well as information necessary to for the purposes of the register in relation to safeguarding.

Establishing a duty on parents to register their child to a register when they are not in mainstream education does not mean that parents need state approval to educate their own children. Nor is it the Government's intention to establish a legal mechanism that will in future be used to withhold approval for EHE by imposing conditions for entry onto the register.

Q 13 Do you agree that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement?

Similar to the first proposal, of the 4,751 consultees that responded, 77% disagreed and 23% agreed.

The disparities in the sub-groups were broadly similar to proposal one, with those responding from organisations more likely to agree; LAs (96%) and teaching consultees (88%) as opposed to parents and young people (15%).

Figure 11: Agreement with proposal 2, by respondent capacity

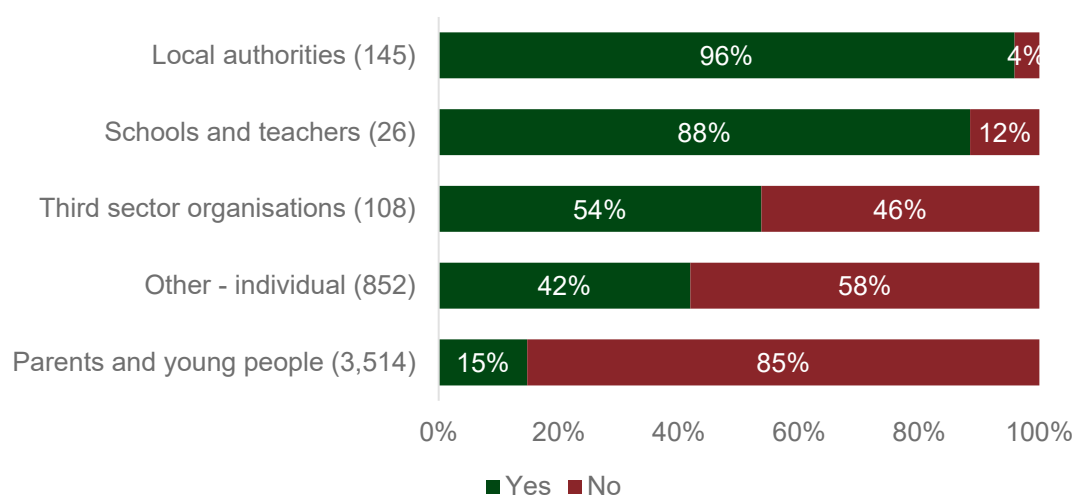


Table 20 shows nearly a quarter (73%) of all respondents did not support the register and disagreed with a legal duty on parents to provide information.

One-fifth (22%) of respondents supported both the register and the legal duty on parents to provide information.

Table 20: Whether parents should be under a legal duty to provide supply information, by support for LA register

Whether support proposal of LA register of EHE children	Yes	No
"Yes" to legal duty on parents to provide info	22%	1%
"No" to legal duty on parents to provide info	4%	73%

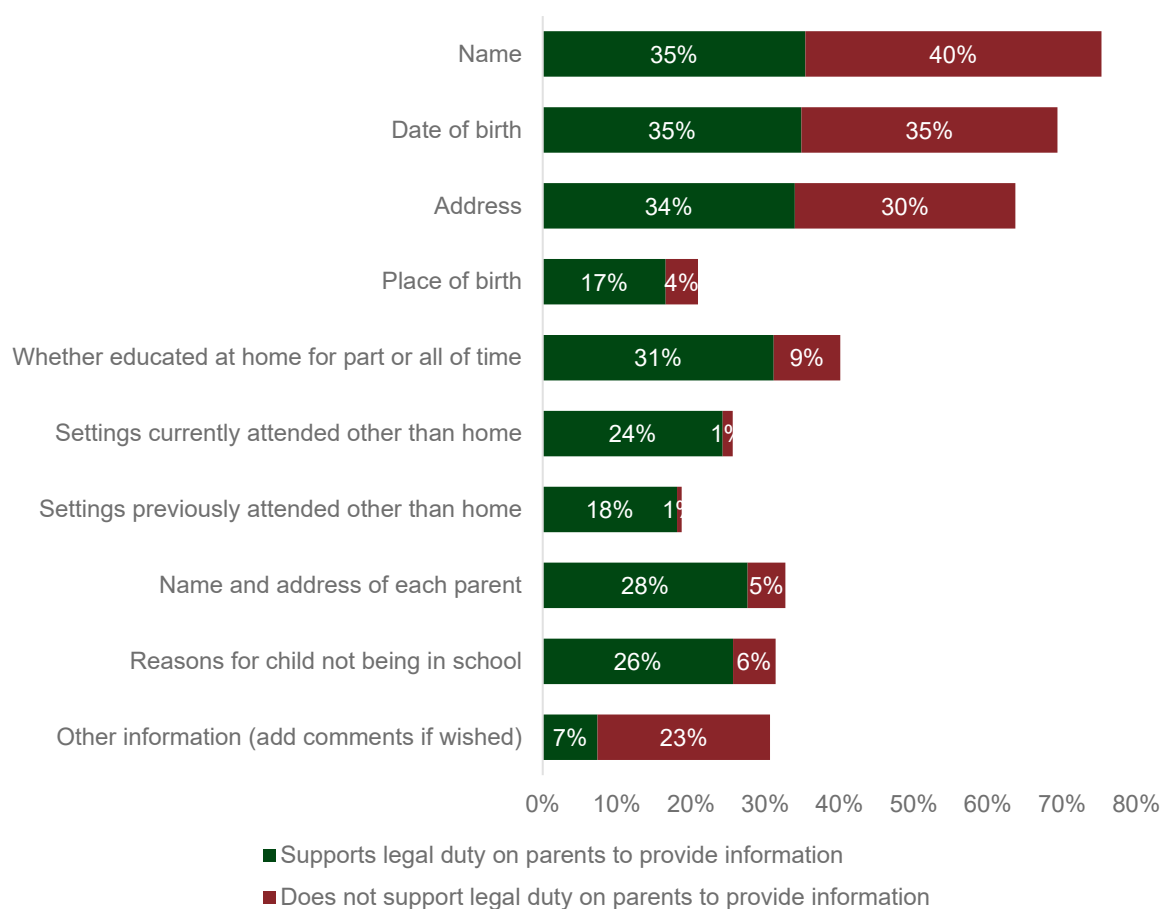
Base: = 4,751

Q 14 Whether or not you agree with the imposition of a legal duty, if one was created what data should parents have to provide about their child?

The multi-choice question comprised of 10 different types of information, where respondents could select as many options as they wanted. Of the 4,753 consultees, 64% selected at least one component, and 36% selected none. The average number of answers selected by respondents was 4 (n=3049). Similar to proposal one, the three most popular types of information consultees would like to see parents provide was name (75%), date of birth (70%) and address (64%).

Figure 12 illustrates, those who did not support the legal duty also tended to choose name (40%), date of birth (35%) and address (30%) since if a register was created, they would prefer to have minimum information collected.

Figure 12: Which types of information parents should be under a legal duty to provide, by support for a legal duty on parents to provide information



Base: = 3,049

What this shows overall is that even opponents of the register were often prepared to concede that if it existed, parents should at least have to supply basic details such as name and date of birth; but they were less happy with the idea that other types of information should be supplied, though the higher percentage for the last category suggests that there was support for some form of 'write-in' data item at the parent's discretion.

2,033 consultees provided further comments to which types of information parents should be under a legal duty to provide. Table 21 provides an overview of the coded responses.

Table 21: Further comments for information that parents should provide

Reason given (coded response)	LAs (80)	Third sector organisations (54)	Parents and young people (1551)	Other – Individuals (302)
The register is not required and no information should be shared	3%	17%	74%	56%
Parents should provide educational information about their children (curriculum, why educated at home etc.)	74%	39%	3%	3%
Parents should share safeguarding and health-related information	63%	4%	2%	9%
Parents should only share minimum data about their child	25%	17%	9%	7%
Parents should share demographics	43%	4%	0%	1%
Specific response	0%	7%	7%	7%
Parents should not share any information, education is their responsibility	0%	4%	9%	2%

Base: n=2,033²¹

Qualitative findings supported the quantitative data. Many consultees indicated any information that exceeds name, date of birth and address would no longer constitute a register but should be viewed as a database which was intrusive to private family life. Consultees felt this information was sufficient to identify EHE children. Some parents and young people were apprehensive about sharing reasons, since this would require the revelation of sensitive information (e.g. religious beliefs) and risks them being discriminated against. As such some other individuals and third sector organisations indicated for the register to be successful, it would be reliant upon parents to provide information. A lengthy list would discourage parents and consequently requiring minimum information would be paramount for agreement.

²¹ 33 respondents did not identify their capacity.

Since LAs, teaching consultees, third sector organisations and other individuals, were more likely than parents and young people to support the proposal, they also wanted parents to provide more information as follows:

- Educational: why child is being educated at home, curriculum of other settings, where education currently occurs and background information from previous schools.
- Safeguarding and health related information: SEND status, Education health and care plan (EHCP), GP information, if a child is on a child protection register and involvement from social services.
- Demographics: gender and ethnicity.

These consultees felt that the additional information would help LAs determine whether a child was receiving adequate education and if additional support were required. Limiting the register to only name, date of birth and address would not provide enough information to LAs to safeguard those children at risk since the information would not be known.

Others who disagreed with the question, reiterated no data should be shared since they oppose the proposal. These consultees indicated that imposing a duty on parents to provide information is intrusive since parents are responsible for making decisions regarding their child's educational provision.

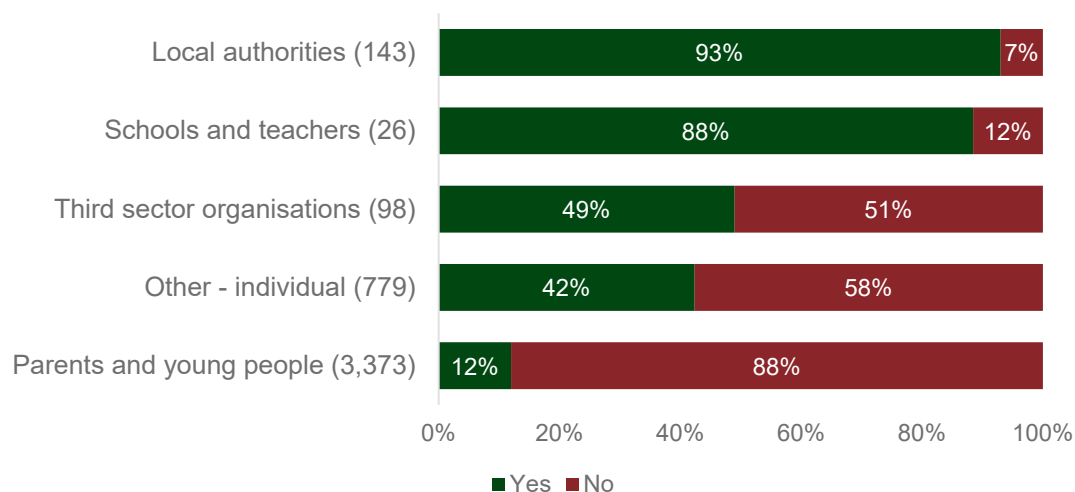
We believe that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement. Regulations will specify the information to be provided but as a minimum is likely to include identifying data of the child, and what education setting(s) they attend.

Q 15 Do you agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration?

In total, there were 4,509 responses, of which 79% disagreed that there should and 21% agreed.

Consultees who provided an organisational response were more likely to agree to this proposal than individuals; LAs (93%) and schools and teachers (88%) compared with parents and young people (12%).

Figure 13: Whether support consequences for not registering, by respondent capacity



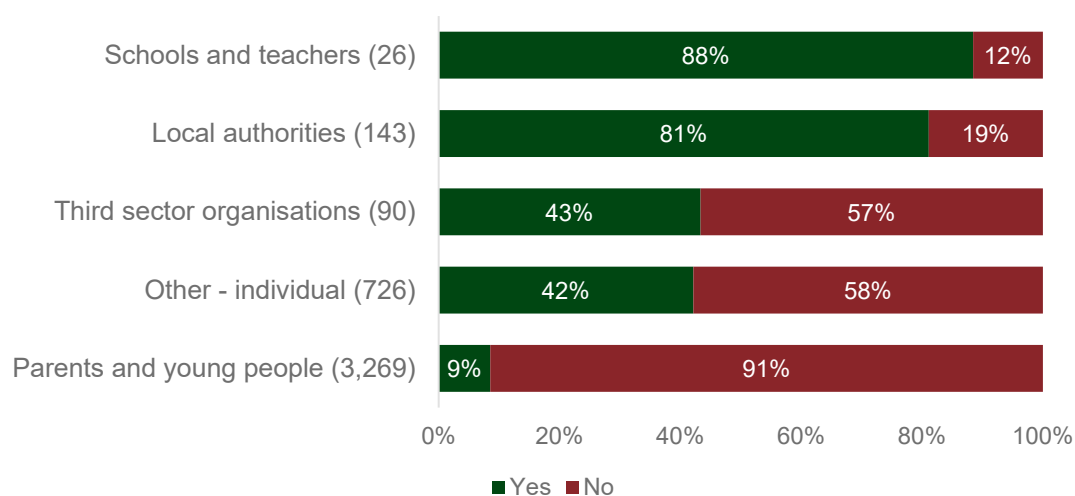
It is a basic legal principle that a legal duty should not be created unless there is a remedy for non-compliance; otherwise the duty is largely pointless except perhaps as a device for encouragement.

We agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration

Q 16 Whether or not your response to 15 was ‘yes’, do you think that the most effective consequence for non-compliance with the registration process is that it authorises the local authority to begin the school attendance order process by serving a s.437(1) notice on the parents, which begins the formal process of considering suitability of education and whether a child should attend school?

Of the 4,328 consultees who responded, 82% disagreed and 18% agreed.

Figure 14: Whether most effective consequence for not registering is SAO, by respondent capacity



Consultees who responded on behalf of their organisation tended to agree with serving an SAO for non-compliance. Schools and teachers had the highest proportion with 88% of their consultees agreeing, and a further 81% of consultees from LAs similarly tended to agree. The highest proportion of consultees disagreeing came from parents and young people, where 91% were not in favour.

We agree that the most effective consequence for non-compliance with the registration process would be that the LA was thereby authorised to proceed with the school attendance order process (in other words, non-compliance would be treated as being equivalent to a situation where it appears that the child is not receiving suitable education and a s.437(1) notice requiring the parent to respond is served).

Q 17 If your answer to 16 was ‘no’, what alternative would you favour for a consequence of non-compliance (whether or not your answer to 15 was ‘yes’)?

Table 22 shows a range of alternative consequences that were proposed by consultees.

Table 22: Alternative consequences to SAO

Reason given (coded response)	LAs (109)	Third sector organisations (69)	Parents and young people (2,097)	Other – Individuals (370)	Schools and teachers (12)
Financial sanctions	28%	12%	7%	10%	1
Authorities build a relationship and engage with parents	14%	14%	8%	5%	0
Advice and support	8%	6%	10%	10%	2
Secure compliance not needed and offensive	2%	9%	18%	9%	2
Prosecution	0%	0%	9%	8%	1
Warnings before SAO process	3%	7%	3%	0%	0
No consequences to non-compliance	0%	3%	1%	0%	0
MASH enquiry	2%	0%	1%	0%	3
Improve current safeguarding measures	1%	0%	1%	1%	0

Base: n=2,683²²

The five most commonly noted alternative consequences by consultees were as follows:

- i. Financial sanctions were seen as the most appropriate alternative to non compliance. The majority of consultees, particularly those identified as LAs perceived fines as the most effective punishment as they suggested that similar action is taken against parents for unauthorised absence in a conventional school setting. Though, there were some concerns among consultees that fines could have an indirect impact on the child and may not possibly resolve the issue of whether the child is receiving suitable education.
- ii. Consultees repeatedly referred to a lack of collaboration between LAs and parents who choose to home educate their children. There was a

²² 26 respondents did not identify their capacity.

consensus across all groups that building relationships and engaging parents into the process would help support compliance from parents. This was perceived as an approach which would help LAs understand why the child was not registered and help them tailor the provision needed to support the parents.

- iii. Similarly to previous point mentioned, consultees were concerned with the lack of procedures in place to engage parents. Some perceived sanctions as a last resort and felt that appropriate advice and guidance should be initially provided to encourage compliance. For example, some consultees suggested that LAs could offer workshops, learning resources, and access to professional advisers to help engage parents.
- iv. Some consultees said that securing compliance is not needed and offensive. No compliance should have to be 'secured' by threat of sanctions. Some felt parents should be left to make their own choices regarding the education of their children without control and coercion.
- v. Others indicated that if a LA knows enough about a child not on the register to serve an SAO then they know enough to add them to the register. Therefore, enforcing an SAO would cease non-compliance, since enough information is gained to enforce children's attendance at school.

Overall, however, **our view is that legislation should be worked up on the basis that refusal to supply details of a child should lead only to the SAO process starting.**

Q 18 Do you have any other comments about the concept of a legal duty on parents to supply information for the purposes of the proposed register?

Consultees were asked to provide any further comments about the concept of a legal duty on parents to supply information for the purposes of the proposed register. Largely comments for proposal two mirrored those of proposal one.

Table 23: Other comments on legal duty of parents to supply information for the proposed register

Reason given (coded response)	LAs (85)	Third sector organisations (65)	Parents and young people (1,917)	Other – Individuals (396)
Negative comments				
Unnecessary - against parents' rights and state intrusion	2%	20%	44%	38%
Not welcomed - education is parent's responsibility	6%	17%	29%	28%
Against - no reasons given	6%	9%	9%	10%
More work for LAs - DfE should focus on failing school system	2%	6%	5%	3%
Further deteriorate relationship with EHE parents and LAs	0%	6%	2%	1%
No other inspections or interference	1%	0%	1%	1%
Positive comments				
In favour of the register being a legal requirement	39%	18%	3%	15%
Information from parents is required for safeguarding	13%	14%	5%	7%
Parents should share information since it provides evidence of suitable education	16%	3%	0%	0%
Need to have clear communication and process of providing information for parents	2%	3%	0%	1%

Base: n=2,529²³

Reasons for not supporting legal duty on parents to supply information

Findings here echoed those of the first proposal. The reasons are centred on consultees disagreeing with the register since it is an intrusion on private family life. Among these consultees, choice of education was deemed to be parents' legal and moral duty, right and responsibility. As such, a duty of registration was perceived as a sign of increasing state interference in family life which is not consistent with a free democracy.

²³ 61 respondents did not identify their capacity.

Furthermore, some consultees argued that there was no need to register EHE children and that it would more effective if efforts were placed on the failing school system. For example, issues stated were bullying which force students to leave school, special needs children not being able to cope in one size fits all system, off-rolling or illegal schools.

Other consultees felt that the duty would only further worsen the relationship between EHE parents and LAs. As discussed under proposal 1, EHE parents report mistrust of LAs and their capabilities to adequately support their families. By having a duty on parents to supply information, it could discourage engagement with LAs and cause further resentment.

The overarching perception among these consultees was to ensure there was no interference from the state. Parents who home educate typically value the freedom to make decisions and educate their children flexibly.

Reasons for supporting legal duty on parents to supply information

Typically, those respondents who supported the register also supported the duty on parents to supply information. These respondents acknowledge that the register will not be accurate or reliable without having a duty on parents to supply information.

Some consultees felt that this duty was required for safeguarding. If there are cases in which children are at risk or not receiving suitable education, the government can intervene. In the responses received it was suggested it would be an opportunity for LAs to check if EHE was not a forced decision and children are safe and receiving high quality education.

In addition, consultees said that to ensure parents comply with the duty clear communication materials would need to be published and a simple process for providing information for parents should be implemented.

Annex to Proposal 3: Duty on proprietors of certain education settings to respond to enquiries from local authorities

Government response

We intend for there to be a duty imposed on proprietors of specified settings providing a substantial amount of education to EHE children or children missing education within school hours to supply data to the register. The exact requirements of which settings fall in and out of scope is to be worked up, but we intend for the scope to be narrower than originally consulted on and only include those settings which are in effect operating as illegal schools, by offering provision to the same children for a *significant proportion* of the school day and offering provision to children without their parents supervision. This duty on certain proprietors would help recognise and respond to instances where children are receiving their education in illegal schools.

The duty would not extend to: part-time supplementary schools or other out-of-school settings which may be offering provision outside of normal school hours (such as Sunday schools, Madrassas, private language schools, or open-access youth providers); extra curricular settings (such as sports clubs, dance classes, instrumental music tuition, or drama classes); settings which provide supplementary teaching (such as science, drama, or other subjects) to home educated children but where no child attends for more than a small number of hours a week; groups of parents who come together to home educate their children in a casual, temporary or informal arrangement; museums and other settings where educational visits may take place; and where children attend a setting but are also registered at a state-funded or registered independent school. We agree there should also be sanctions for non-compliance, again the specifics of which are to be worked through.

Some children who are in law deemed to be home educated attend settings outside the home for part, or all, of the week. Most of these settings are legitimate – for example companies that provide tuition in specific subjects to

children who are educated at home for the rest of the week – but they can be unregulated, and in a few cases some may be operating illegally. This duty would not amount to a scheme for regulating these settings, it would only impose requirements as to the provision of information about specific children.

The scope of this duty would be outlined in primary legislation and would need to:

- a. make clear settings not in scope (for example, those which did not provide a significant proportion of a child's education, such as supplementary education settings)
- b. specify the format and contents of a register to be kept by the setting for the purpose of recording information, which might be required by a LA;
- c. specify the information that the proprietor would be obliged to provide to the LA when asked (this might or might not be identical to that required under (b) – it might, for example, include the hours normally attended by the child in question);
- d. specify the sanctions should a proprietor not comply to sharing information to the LA when asked.

The consultation on regulating independent educational institutions closed on 27 November 2020. One of the proposals consulted on is to expand the categories of full-time institutions that will be regulated in the same way that independent schools are currently regulated. The purpose is to extend the registration requirement to settings that operate full time for children of compulsory school age, but escape the registration requirement under the current law because of the restricted curriculum they offer. However, the consultation makes it clear that this registration requirement would not apply to parents providing home education to their children and we are happy to repeat that commitment here.

Q 19 Do you agree with the general approach that the proprietors of settings providing education in school hours - other than specified types of school – should be under a duty to supply information to local authorities about any child in scope of the proposed register?

In total, 4752 consultees responded of which 76% disagreed and 24% agreed.

Similar to proposal 1 and 2, LAs (93%), schools and teachers (26%) and third sector organisations (54%) were more likely to agree compared to parents and young people (16%).

Figure 15: Agreement to proprietors of settings providing information, by capacity

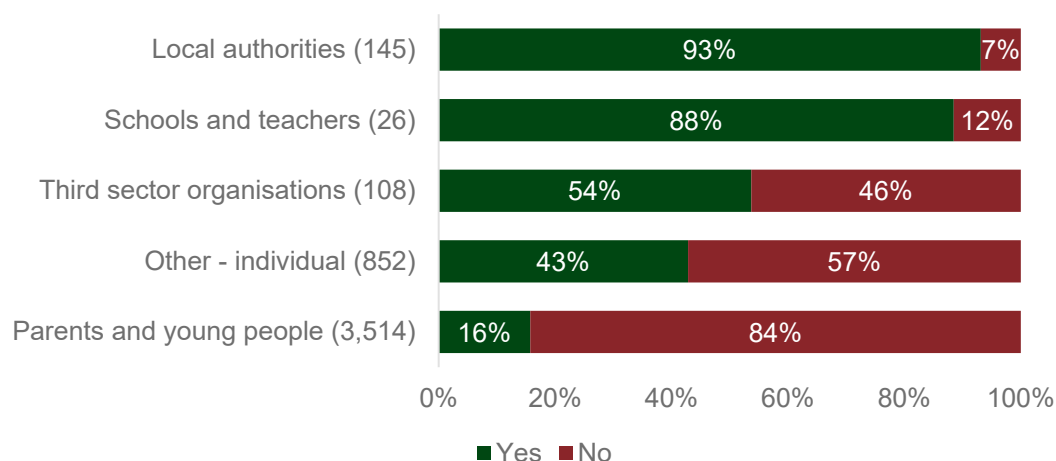


Table 24 shows nearly seven in ten (69%) of all respondents did not support the register and disagreed with a legal duty on proprietors to provide information. Nearly one-fifth (19%) of respondents supported both the register and the legal duty on proprietors. However, 7% of consultees agreed with the register and disagreed that education proprietors should provide information.

Table 24: Whether agree with education proprietors providing information by support for LA register

Whether support proposal for LA register		Yes	No
Whether agree with education proprietors providing information	Yes	19%	5%
	No	7%	69%

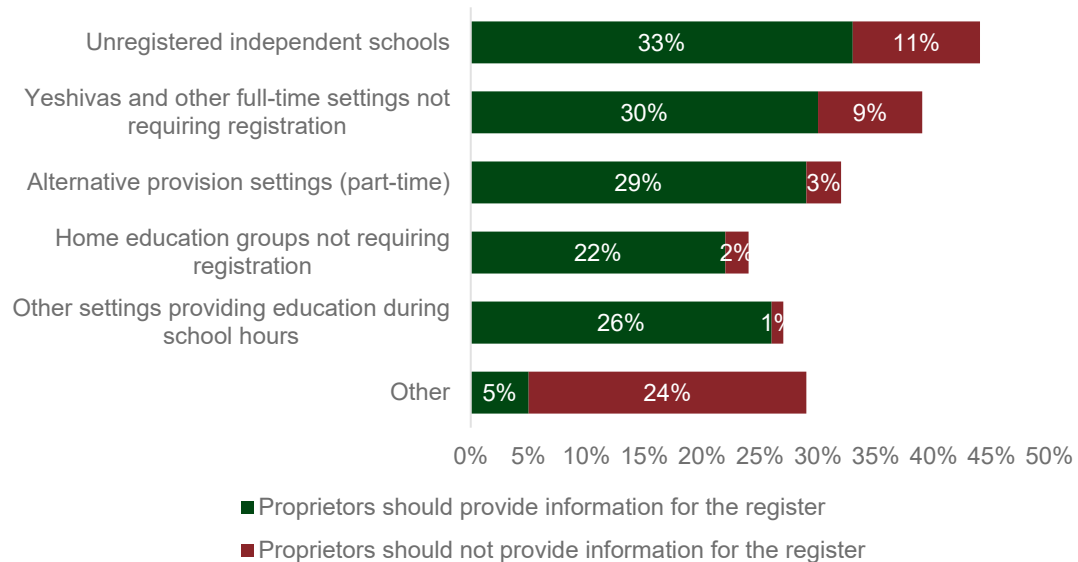
Base: = 4,752

We agree that proprietors of certain specified settings providing a substantial proportion of a child’s education without a parent/carer present - other than specified types of school – should be under a duty to supply information to LAs about any child in scope of the proposed register.

Q 20 Which settings do you think should be included in the scope of the duty?

The multi-choice question comprised of 5 settings, where respondents could select as many options as they wanted. Of the 4,753 consultees, 66% selected at least one component, and 34% selected none. Under half of consultees (44%) selected unregistered independent schools and 39% yeshivas and other full-time settings not requiring registration should be in scope of the register. However, 27% felt other settings providing education during school hours should be in scope of the register.

Figure 16: Which educational settings should be in scope of the register, by support for proposal of duty on proprietors to provide information for the register



Base: = 3,154

Consultees were asked to provide any further comments about the setting in scope of the proprietor duty of the 4,753 consultees, 1,990 consultees provided a comment and Table 25 illustrates the coded responses.

Table 25: Settings to be included in the scope of duty

Reason given (coded response)	LAs (67)	Third sector organisations (52)	Parents and young people (1,550)	Other – Individuals (291)
Positive				
All settings that provide education	73%	29%	8%	19%
Tuition and learning centres	24%	8%	3%	1%
Religious education providers	12%	8%	3%	7%
Negative				
No settings	1%	23%	64%	41%
The proposal should define setting, proprietors and normal school hours.	3%	19%	9%	22%
None - parents' rights and discriminatory	0%	6%	3%	4%
Unregistered provision/ illegal provision should be dealt with separately	6%	8%	5%	3%
EHE does not occur in school hours and incorporates many short-term activities	1%	4%	4%	2%

Base: n=1,990²⁴

Consultees, namely LAs, teaching staff and some third sector organisations who supported proposal three, suggested that all settings that provide an education should be under a legal duty to supply information. These consultees felt that settings that provide a substantial part of any child's education should be under a duty to provide information, regardless of the times education is offered. This avoids any loophole whereby a child not registered at a school may be receiving some or all of their education at a

²⁴ 26 respondents did not identify their capacity.

setting in evenings or at weekends, but that setting would be exempt from the duty. In return, the data will enable LAs to obtain more complete information about where a child's education takes place and monitor alternative provision used.

Other consultees, namely LAs and third sector organisations suggested two key settings that should be in the scope of the duty:

- **Tuition and learning centres:** there is a concern that some private providers who offer tuition may not have the right skills or checks (e.g. DBS) to provide education.
- **Religious education providers:** these providers typically operate unregulated and are not monitored. This could risk children being exposed to extremist ideologies.

By including these settings in scope of the duty, there is a likelihood that unregistered provision can be monitored and thus, reduces the number of children at risk.

Conversely, the majority of the comments were negative. Almost two-thirds of parents and young people (64%) stressed that no settings should be in scope of the duty, since they disagreed with the proposal. Many consultees stated that the proposal should also define settings, proprietors and normal school hours. It is here that difficulties could arise, since EHE occurs in a wide range of settings. Learning occurs all day, at home before and after school hours, in a public gym with after-school club coaches, in the supermarket and library, in the community hall. Failing to properly define these terms could inadvertently land certain faith groups and church organisations in trouble with both the state and local council. These would see it as the state legislation intrusion on their religious liberty.

Other consultees felt no settings should be in scope, since education is the responsibility of parents. To have such a duty would be discriminatory for EHE families. Consequently, this will result in home educating families being less willing to use such support e.g. home education groups, sports activities and

social events which are the backbone of home educating communities and the way in which home educated children partake in a rounded education.

While some consultees acknowledged other settings were utilised by EHE families they felt the technical detail was aimed at monitoring unregistered and illegal provision. As such, this should be dealt with separately from home education.

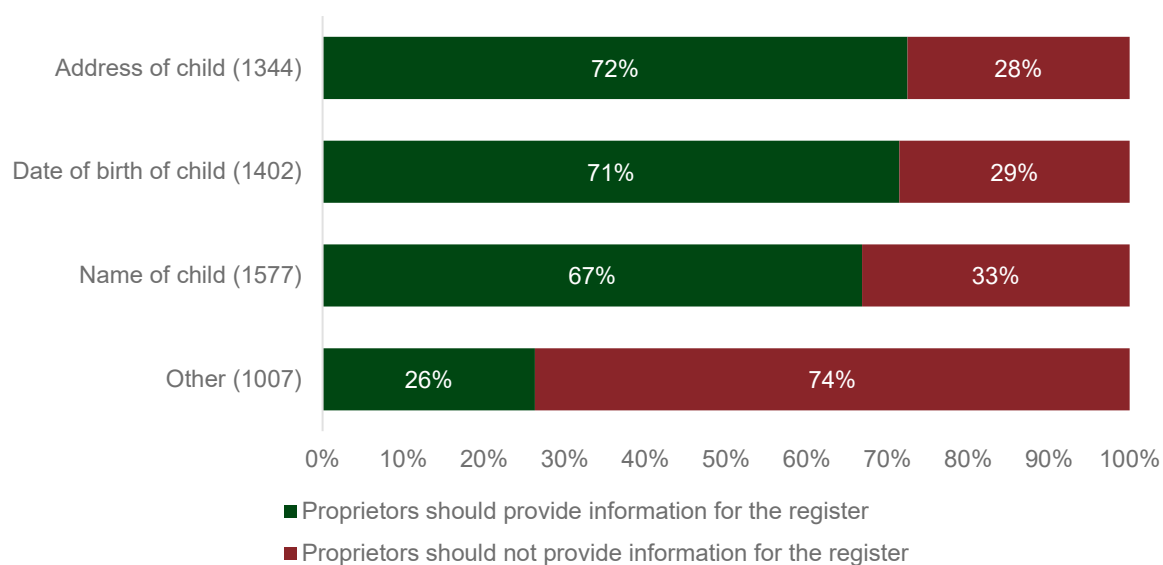
We think that the efficacy of the register would still be considerably improved if the duty applied to a narrow definition of settings of scope, which would largely be those institutions that provide the proportion of a child's education, during school hours, without a parent/carer present.

This would not extend to: part-time supplementary schools or other out-of-school settings which may offer provision outside of school hours; extracurricular settings, casual and informal arrangements between home educators, and museums and other settings where educational visits may take place. We shall consider whether there should be a minimum hours threshold.

Q 21 Which information should proprietors of the settings in scope be required to (a) keep in the setting's own register and (b) supply on request to the local authority about a child in scope of the registration requirement?

49% of consultees selected at least one type of information and 51% selected none. As per the previous information questions in the other proposals, name of child (67%), address (58%) and date of birth (60%) are commonly selected.

Figure 17: Which information educational providers should supply, by support for proposal of duty on proprietors to provide information for the register (2333)



Base: = 2,333

Consultees were asked to provide any further comments about the information proprietors should be required to provide, 1,771 consultees provided a comment and Table 26 illustrates the coded responses.

Table 26: Information proprietors should be required to provide

Reason given (coded response)	LAs (99)	Third sector organisations (51)	Parents and young people (1,343)	Other – Individuals (250)
Proprietor details and curriculum overview	41%	24%	9%	18%
Pupil enrolled information	51%	49%	9%	22%
SEN status / safeguarding concerns	17%	8%	3%	10%
None	1%	29%	73%	42%
Clarity required	1%	4%	2%	3%
Consent is required from parents	0%	0%	1%	0%

Base: n=1,771²⁵

²⁵ 18 respondents did not identify their capacity.

Typically, respondents (including teaching consultees) selected three types of information that proprietors should provide:

- **Proprietor details and curriculum overview:** types of education being provided, number of hours of attendance of individual attendance and who is providing the education and what their qualifications are.
- **Pupil enrolled information:** the number of children enrolled to the service, assessment of attainment and progress, name, address and contact details.
- **SEN status/safeguarding concerns:** any SEN issues or support required, whether they have ECHP or any safeguarding concerns.

This information combined will ensure LAs are able to meet their statutory duties of assessing whether the education children receive by these organisations is suitable and children are safe.

Apart from clear details of the proprietor, we believe the **focus should be on basic details of the child and, likely, the hours attended by that child.**

This might include SEN status.

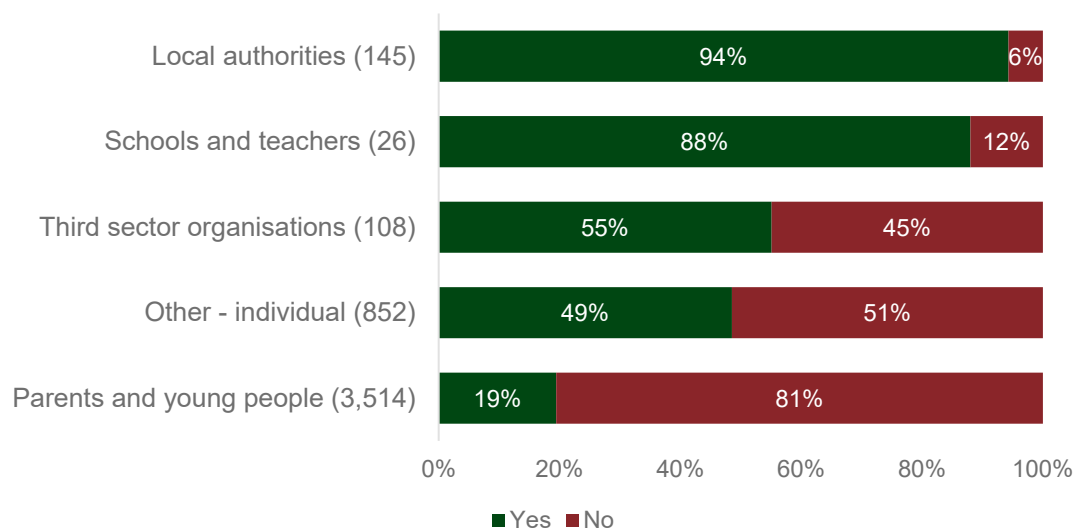
We do not however think that there should be a duty on settings to provide curriculum details. The obligation to demonstrate suitability of education, if there is doubt, remains with the parents and if necessary, they should obtain evidence from the setting.

Q 22 Do you agree that there should be a sanction on the proprietor for non-compliance with a duty to supply information about a child in scope of the registration requirement?

In total, 4082 consultees responded to the question, of which 72% disagreed and 28% agreed.

Nearly all LAs (94%) and the majority of schools and teachers supported sanctions on educational proprietors.

Figure 18: Whether there should be sanctions on educational proprietors for non-compliance, by respondent capacity

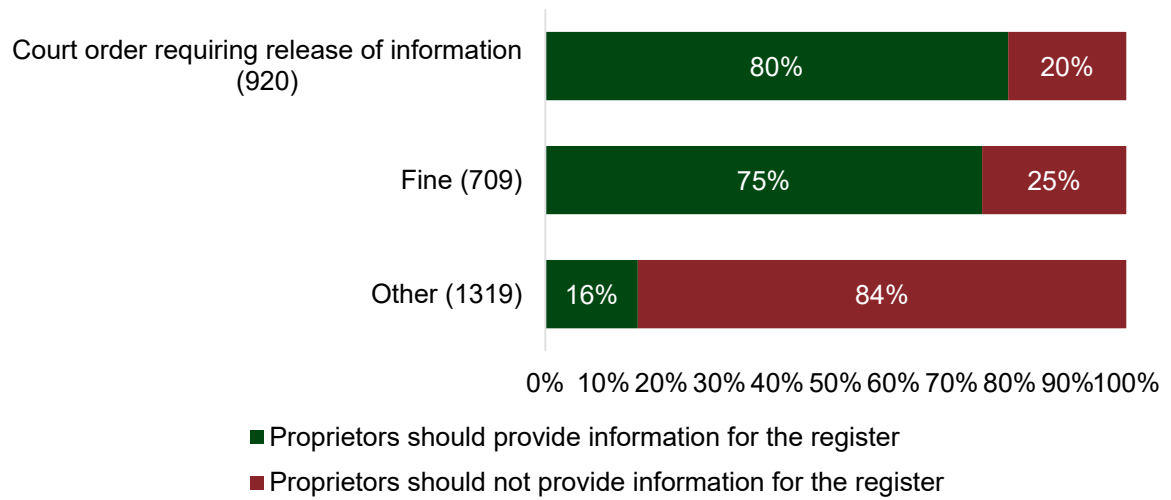


This showed a significant support amongst LAs for an incremental system of warnings, fines and prosecution. Given that the success of the register would be considerably enhanced by a duty on proprietors, and there would also be benefits in terms of tracking potentially illegal provision, **we consider that sanctions are necessary**, and that the legislation should incorporate an incremental system on these lines.

Q 23 If your answer to 22 was 'yes', which type of sanction would you favour? For example, should there be an offence which carries a fine, or should enforcement be via a court order requiring release of information?

Of the 4,753 consultees, 52% selected at least one component, and 48% selected none. 38% of consultees selected a court order requiring release of information, while 29% selected a fine.

Figure 19: Which sanction on educational proprietors for non-compliance, by proprietor duty (Base: = 2,469)



Base: = 2,469

Consultees that selected other, were asked to provide comments on sanctions for non-compliance. 1,985 consultees provided a comment and Table 27 illustrates the coded responses.

Table 27: Types of sanctions

Reason given (coded response)	LAs (70)	Third sector organisations (57)	Parents and young people (1,543)	Other – Individuals (292)
Negative				
No Sanctions	3%	25%	65%	45%
Regulation is counter-productive	3%	0%	1%	0%
Difficulties and challenges enforcing sanctions	1%	4%	1%	2%
Warning notices	0%	4%	1%	1%
Positive				
Gradual sanction warning, fines and then court action	53%	21%	3%	11%
Inspection or Ofsted notification	17%	7%	2%	2%
Proprietor closure or suspension	10%	9%	4%	13%
Public notice of non-compliance	1%	2%	0%	1%
Tailored depending on context	0%	2%	0%	0%

Base: n=1,985²⁶

Those consultees who were opposed to proposal three, typically gave four key further comments:

- The majority reiterated that no sanctions should be enforced since they felt the register was unnecessary. Additionally, many suggested that it is not appropriate or in line with current GDPR for settings to comply with requests for sharing personal data and therefore, no sanctions should be introduced.
- Some consultees stated that sanctions would be counterproductive. In particular fines and court orders are too directly punitive, and this kind of sanction is not active or supportive and may only serve to punish rather than to restore and co-operate. Thus, some argued it would be

²⁶ 20 respondents did not identify their capacity.

more effective to work with both proprietors and EHE families to build positive relationships. Instigating sanctions, may force settings to close and restrict opportunities for home educated families.

- Some consultees also raised that it would be difficult to enforce sanctions. Some small, unregistered provision would be unable to pay fines. Whilst other organisations do not hold any identifying information about children who attend events. All that sanctions would be effective in doing is shutting down all settings which provide education but do not keep identity records of the children using them.
- Others felt that if sanctions were to be introduced it should only be a warning notice, since it will give organisations an opportunity to comply.

Those who supported sanctions listed five other possibilities that could be utilised:

- Gradual sanctions were favoured mostly by LAs: warning, fines and then court action, this will ensure that organisations or businesses provide the relevant information.
- Inspection or Ofsted notification: others argued that Ofsted should be responsible for unregistered schools and thus should do an inspection to determine practicalities of operating. This will ensure safeguarding needs are met.
- Proprietor closure or suspension: some consultees argued that if necessary continued non-compliance should result in closure.
- Public notice of non-compliance: a minority said that public condemnation would ensure compliance.
- Tailored sanction depending on the context: some felt any punishments placed on the proprietor will have a chilling effect on both parental rights and the number of such proprietors entering the sphere of education. Therefore, sanctions should be as narrowly tailored as possible.

As stated above, **we consider that sanctions are necessary**. Further work will be done on this prior to introduction of legislation.

Q 24 Do you have any other comments about the concept of a duty on the proprietors of settings to provide information about children who attend their setting and fall within scope of the registration requirement?

Consultees were asked to provide any further comments about the concept of a legal duty on proprietors to supply information for the purposes of the proposed register. Table 28 provides a summary of the coded responses.

Table 28: Proprietor’s duty to provide information

Reason given (coded response)	LAs (71)	Third sector organisations (49)	Parents and young people (1,330)	Other – Individuals (301)
Positive				
Safeguarding, SEN and suitable education	44%	14%	5%	11%
Helps identify EHE children	4%	18%	1%	0%
Settings should be registered not children monitor unregistered	10%	8%	6%	1%
Parent's responsibility – only they should report	3%	6%	3%	3%
Negative				
Disagree with duty no information should be provided	14%	29%	53%	49%
Clarity is required	8%	22%	11%	19%
Burdensome for proprietors and parents	7%	12%	4%	1%
Discriminatory and limits opportunities, lack use of services	1%	14%	18%	5%

Base: n=1,793²⁷

²⁷ 38 respondents did not identify their capacity.

Reasons for supporting proprietor duty

Those who supported the legal duty on proprietors to supply information felt it was essential for four key reasons:

- **Safeguarding:** Organisations should show that they comply with safeguarding regulations for working with children.
- **SEN:** Oversee whether settings are providing adequate SEN support.
- **Suitable education:** the information will enable LAs to gain information about educational purpose, scope of setting and consequently have oversight of education quality.
- **Helps identify EHE children:** This duty will help LAs to identify which children are being home educated, where and how they are being educated.

However, some consultees also said that since parents are responsible for children that are home educated, only they should be asked to report information about their children. This will avoid data protection breaches and the potential fear of organisations turning away home educated children to use their services.

Reasons for not supporting proprietor duty

Similar to other technical details, the majority of consultees who disagreed with proposal three stressed that no information should be provided because they do not support the proposed register. In particular, consultees felt the duty was targeted at the issue of illegal and unregistered provision, which is different to EHE and consequently should be dealt with separately.

Additionally, some consultees also stated that it would be discriminatory for EHE families. By having a duty on proprietors to supply information, it may deter home educating families to use such services and consequently reduce the quality of education they receive.

Alternatively, organisations may restrict their services and exclude EHE families which will alienate home education. Primarily, since supplying

information about children will be a burdensome task that will have cost and resourcing implications. Inherently, this would be unfeasible for some voluntary based organisations that run activities for their local communities.

Nevertheless, others indicated that if the duty is concerned about unregistered and illegal provision, data provided should not be on children but about the setting itself (e.g. qualifications, DBS checks, curriculums and hours education is provided).

Annex to Proposal 4: Duty on local authorities to provide support to parents who educate children at home

Government response

We think that, subject to the availability of resources, we should include in the proposed legislation a duty on LAs to provide support to home educators if requested by the family. Having some form of statutory duty would signal to parents that home education as an approach to education is recognised as legitimate and supported by Government. How closely the duty should be defined will need to be fully considered on the basis of both need and affordability.

We agree to place a duty on LAs to provide support for families who educate their children at home. Our intention is to create the duty with scope for LAs to provide support as they see appropriate but could include, for instance, offering advice to home educators, examination support, or support for home education groups. This would be subject to further consideration and assessment of need, how it could be achieved and the costs involved. The duty on authorities would apply only in relation to children who are on the CNIS register.

Q 25 Do you agree that there should be a statutory duty on local authorities to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations?

In total, 4,751 consultees responded, of which 45% disagreed and 55% agreed.

Compared with the other three proposals, this one had a higher percentage of consultees agreeing to the proposal. However, only about two-thirds (68%) of LAs agreed to this proposal – this on average was 27% less than the other three proposals. In contrast, many more parents and young people (by between around 30 to 40 percentage points) agreed with this proposal.

Figure 20: Agreement with proposal for duty on LAs to provide support for EHE, by respondent capacity

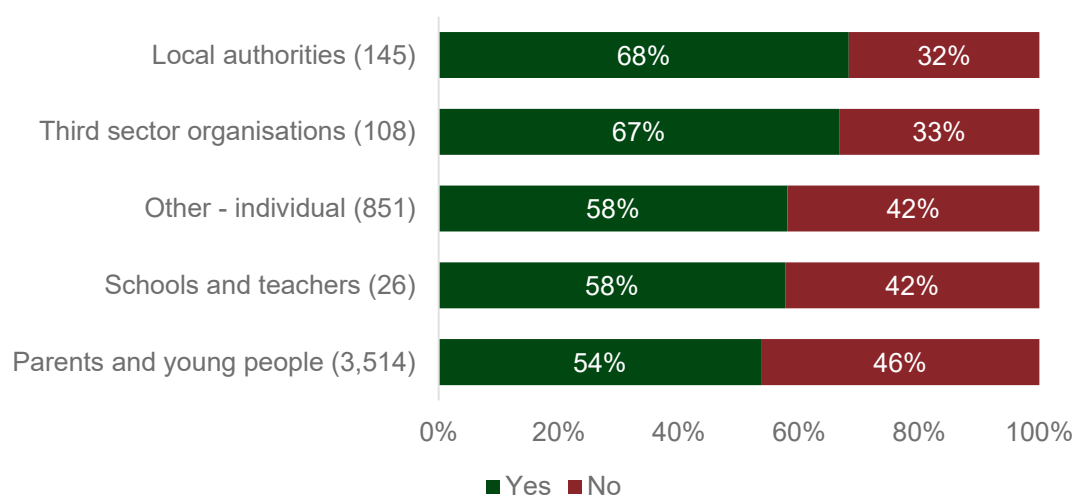


Table 29 shows that fewer consultees compared to other three proposals disagreed with both the register and the duty to provide support (39%) compared to 69% for proposal three. Over one-third of consultees disagreed with the LA register but agreed that there should be a duty on LAs to support EHE families.

Table 29: Whether agree with proposal for duty on LAs to support EHE, by support for LA register

Whether agree with duty on LAs to support EHE	Support proposal for LA register	Do not support proposal for LA register
Yes	20%	35%
No	6%	39%

Base: = 4,751

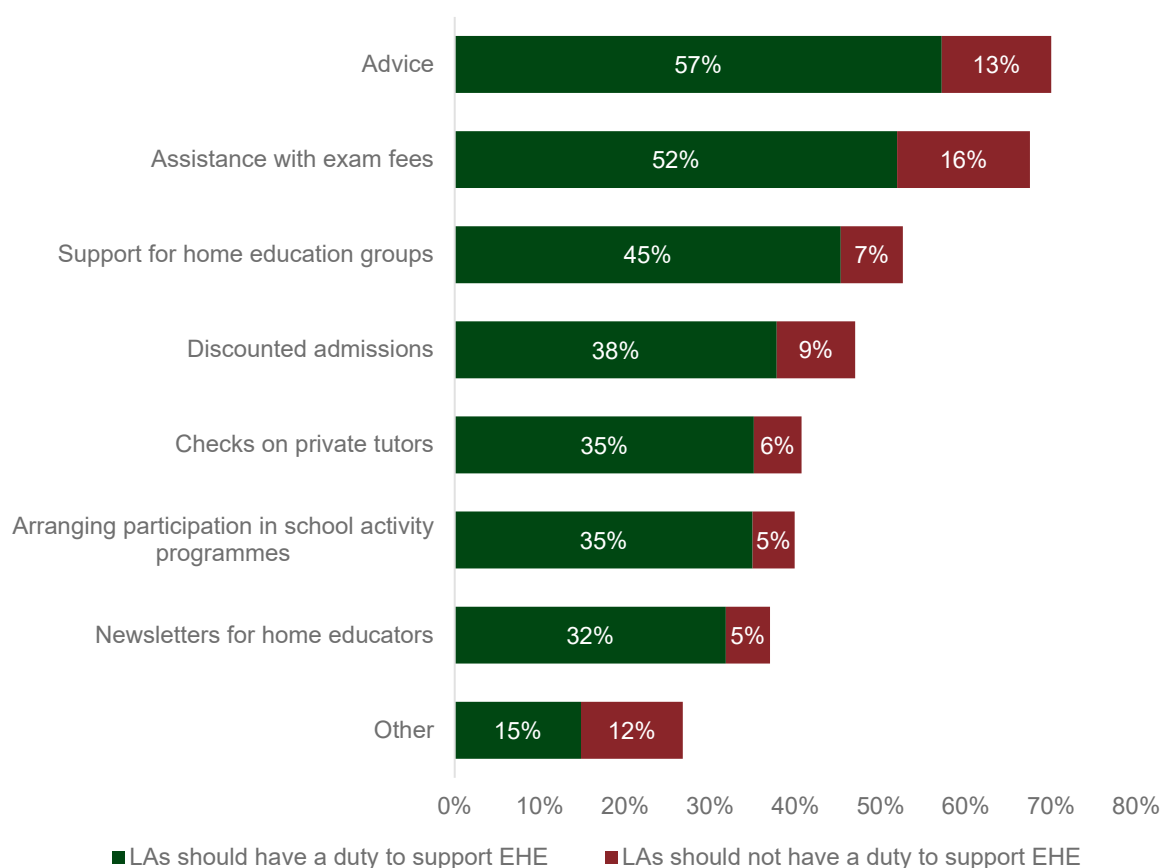
We agree there should be a statutory duty on LAs to provide support on request to parents who educate children at home. The types and flexibilities around the support covered by the duty would be set out in regulations or guidance.

Q 26 If such a duty were to be created, which of the following should it encompass:

- a. **advice on home education and sources of support - whether provided directly by the authority or available elsewhere;**
- b. **assistance with the cost of examination fees incurred by private entrants (possibly with specified minimum levels);**
- c. **local authority support for local home education groups and forums which would provide both collective and individual help to families;**
- d. **negotiation of free or discounted admission for home educated children to facilities and other destinations which school children attend on an organised basis;**
- e. **Carrying out, and publicising the results of, checks on private tutors;**
- f. **providing regular information and contacts for home educating families through newsletters; and**
- g. **making local arrangements for home educated children to participate in programmes normally conducted through schools, e.g. immunisation, sight and hearing tests, etc**

Of the 4,753 consultees, 79% selected at least one component, and 21% selected none. Figure 21 shows the three most popular forms of support were advice (70%), assistance with exam fees (68%) and support for home education groups (52%).

Figure 21: What should be included in LAs' duty to support EHE, by support for proposal for duty on LAs to provide support for EHE



Base: = 3,759

Support from local authorities is an area in which a high proportion of home educators believe themselves to be disadvantaged. There is a high degree of support for advice about home education, followed by assistance with examination fees and support for home education groups, as can be seen from the graph above. The difficulties raised by respondents on this front were two-fold: gaining access to a suitable centre, which varies geographically; and cost, which can be very significant especially if there are subjects which have a practical element. Respondents felt this contrasted with the position of

pupils at state schools where entries are made automatically and normally without costs to the pupil's family. Arguments were made that simply in terms of equity, home educated children should have exam costs for GCSEs met by the state. Respondents felt that this would have spin-off benefits such as helping to ensure that home educated children have qualifications.

Consultees were asked to provide comments on what should be included in LAs duty to support EHE. 2,067 consultees provided a comment and Table 30 illustrates the coded responses.

Table 30: What LA duty to support should encompass

Reason given (coded response)	LAs (83)	Third sector organisations (57)	Parents and young people (1,597)	Other – Individuals (291)
Financial support for exams or exam centres	19%	16%	24%	13%
Careers and Education advice	28%	7%	6%	10%
Support from LA at discretion of parent	2%	11%	24%	19%
No support	4%	11%	13%	3%
Signposting to online support	7%	9%	1%	2%
SEND support	0%	9%	4%	1%
Health information	6%	2%	1%	0%
LA already offer support or not qualified to provide other support	6%	7%	1%	1%
Organisation access and local activities	4%	5%	3%	1%
Equivalent to children in school	4%	2%	0%	0%
Routes back into state education	0%	5%	0%	0%

Base: n=2,067²⁸

Respondents to the consultation suggested that there could be a number of responsibilities that LAs could perform if a duty to register EHE child were introduced. These tended to relate to financial support with teaching and

²⁸ 34 respondents did not identify their capacity.

assessment, and also support with advice and guidance to parents and young people. For example, signposting to relevant services or local groups that run events. One LA representative stated that providing support would be difficult given the tight resources available and as such, support should be in the form of advice. Many parents and young people also acknowledged advice and guidance would be preferred, since it is not prescriptive and intrusive.

One suggestion that received moderate support from different consultees (in particular parents and young people) was about LAs providing financial support for exams or exam centres. Parents and young people stressed difficulty with finding state schools in the local area that permit private candidates to sit their exams, and consequently are forced to travel far. Therefore, consultees suggested it would be highly valued among EHE families if LAs could assist in either supporting schools to host external candidates, setting up exam centres or provide funding.

Some individual consultees expressed their preference for parents to be allowed to choose whether they wanted to access support from LAs. This was deemed vital to ensure that LA support was not imposed on EHE families but rather provided when required.

Other support that was listed included:

- SEND support: effective access to SEND assessments and services and meeting the needs of families that have children with SEND.
- Health support: arranging for EHE children to have access to vaccination sessions, hearing and sight tests and mental health support.
- Access to local organisations and activities: access to local informal EHE support group and networks, access to local events and subsidised leisure facilities.

Some consultees expressed opposition to the LAs taking on any responsibilities. 13% of consultees who were parents and young people said there should be no support, and a further 11% were third sector organisations.

Typically, this was because they disagreed with the register and had a lack of trust among LAs to have suitable expertise and knowledge to provide adequate support.

We agree to further explore what support for home educated learners is needed, and undertake the necessary assessment of how this could be achieved. We agree flexibility should be built into regulations for LAs to provide support as appropriate to their area.

Q 27 What are the potential difficulties in ensuring that such a duty is properly discharged by a local authority?

Consultees were asked what the potential difficulties would be in ensuring such a duty is properly discharged by LAs. 2,384 consultees provided a comment and Table 31 illustrates the coded responses.

Table 31: Potential difficulties in ensuring that a duty is properly discharged by a LA

Reason given (coded response)	LAs (114)	Third sector organisations (69)	Parents and young people (1,771)	Other – Individuals (390)
Cost and resourcing	53%	35%	18%	29%
Parent trust or engagement in LAs	21%	20%	33%	12%
Perceived enforcement	2%	13%	11%	11%
LAs lack understanding of EHE	1%	12%	11%	5%
Practical reasons – Administration, time, language	4%	6%	5%	6%
Availability/monitoring of quality support	4%	6%	4%	7%
Children may be unknown or inaccessible to LA or DfE / parental compliance	4%	7%	4%	9%
Personalised support and meeting diverse needs	4%	1%	5%	2%
Support may not be effective (because EHE families oppose registration)	4%	4%	2%	1%
Define scope of support	3%	3%	1%	0%
No difficulties	0%	4%	4%	4%
LA accountability	0%	3%	0%	1%

Base: 2,344

Consultees reported four key challenges in ensuring that the duty is properly discharged by LAs:

- Cost and resourcing: LAs will find providing support challenging due to the cost and resourcing commitments, in the current climate of constrained funding.
- Parents do not trust or engage with LAs: There is a huge gulf of mistrust between LAs and families, which creates barriers to cooperation.
- Support will be enforced and undermine parents: There is a fear among parents that LAs will exert power and enforce control of education.

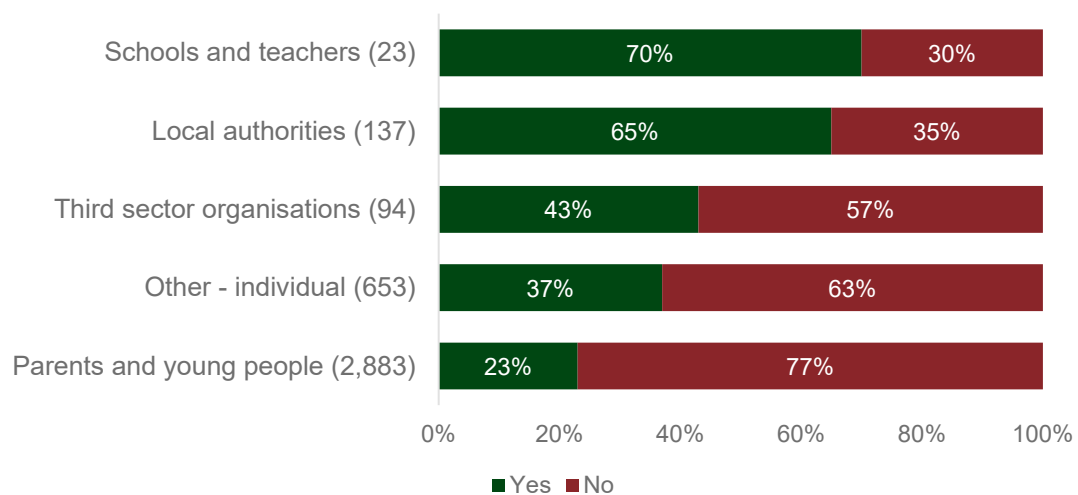
- Lack of understanding: Some consultees felt that LAs do not thoroughly understand EHE which limits their capabilities of providing meaningful support.

Q 28 Should the duty to provide support on request be limited to children whose details are included on the proposed register?

In total, 3,846 consultees responded, of which 28% agreed and 72% disagreed.

Figure 22 shows that 70% of teaching consultees and 65% of LAs agreed that support should be restricted, compared to 23% of parents and young people.

Figure 22: Whether LA support should be limited to registered children, by respondent capacity



Reasons support should be restricted to registered children

Of the 1,077 respondents who agreed support should be restricted to registered children, 84% of consultees did not provide an explanation to their

response. Table 32 summarises the reasons given by the other 16%²⁹ of responding consultees.

Table 32: Support should be restricted to registered children

Reason given (coded response)	LAs (17) n	Third sector organisations (14) n	Parents and young people (106) %	Other – Individuals (29) n
Incentivise parents to register their child	8	2	26%	5
Agree – support should be limited	2	2	17%	1
Would be difficult to provide support if not registered	2	1	10%	2
System could be abused without restricting support	1	1	4%	1

Base: n=169³⁰

Some consultees said that by restricting support to registered children, it would provide EHE parents an incentive to register their child. This would encourage parents to register their child and provide LAs accurate and comprehensive information about the nature of EHE. Whilst others indicated, practically it would be challenging for LAs to provide support to EHE families that are not registered since the LA will have no contact details of such families.

Some consultees felt that support should be limited because it would limit the extent to which the system could be abused. For example, if neighbouring authorities were not providing as much support, then there would be nothing stopping a parent contacting different authorities for advice, guidance and resources.

Reasons support should not be restricted to registered children

Of the 2,220 respondents who reported that support should not be restricted to registered children, 75% of consultees did not provide an explanation to

²⁹ The low response rate could be because Q65 did not have an open-ended response option.

³⁰ 1 respondent did not identify their capacity.

their response. Table 33 summarises the reasons given by the other 25%³¹ of responding consultees.

Table 33: Support should not be restricted to registered children

Reason given (coded response)	LAs (23) n	Third sector organisations (21) n	Parents and young people (442) %	Other – Individuals (68) %
All EHE families should be able to access support	14	7	47%	17%
It would marginalise the most vulnerable pupils	2	0	3%	0%
More effective to encourage registration but need added value	0	0	5%	0
The register is unnecessary	0	2	21%	5%

Base: n=561³²

Some consultees across all sub-groups said that all EHE families should be able to access support. There should be no restrictions because no child is less entitled to education because their name does not appear on a register. Furthermore, provision of support should be available to all families and children, whatever their circumstances, to ensure that no child can ‘fall through the net’.

Additionally, it would marginalise home educating families. At present if a home educating parent requires help or advice regarding their child, they can contact their LA. By only allowing children whose names are registered to receive support on request means that many children whose parents feel vulnerable and judged for home educating are not going to be getting the help they need, so in the long term their children’s education will suffer.

Other consultees argued that rather than depriving children of education and support, the government should focus on introducing other effective ways to encourage registration. Perhaps, by building positive relationships with EHE

³¹ The low response rate could be because Q65 did not have an open-ended response option.

³² 7 respondents did not identify their capacity.

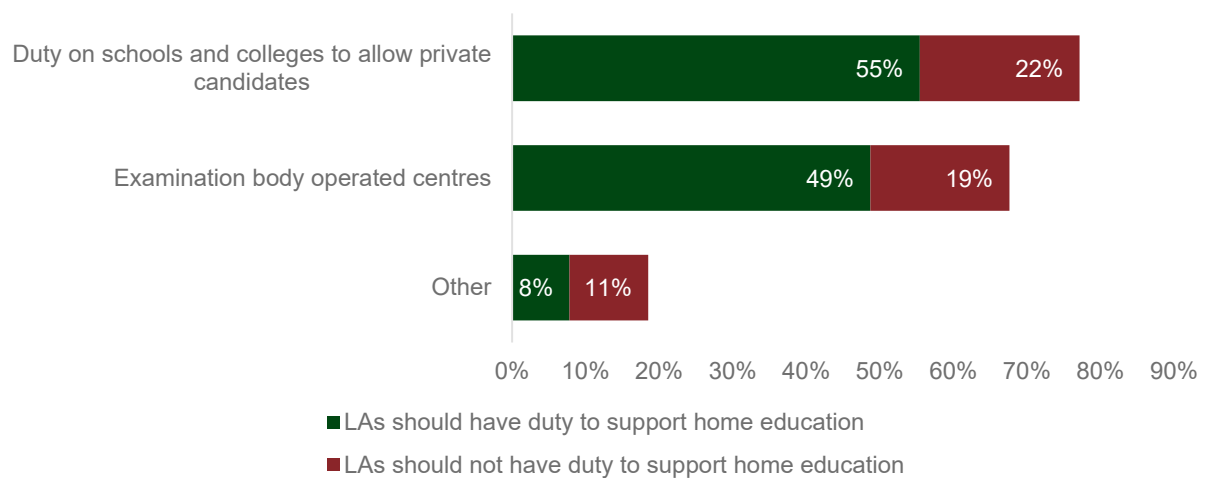
families, it would remove some hostility and parents would be more open to registering their child.

We feel that it is necessary that the duty for local authorities to support home educating families should only apply to those children who are on the CNIS register. Should there be a duty on parents to submit information to the register, it would be illogical for those parents who do not submit information to be able to benefit from the support provided by the local authority.

Q 29 Should other mechanisms be explored for enhancing access to public examinations for children educated at home, and if so, what?

Consultees were asked if other mechanisms should be explored for enhancing access to public examinations for children educated at home. 81% of consultees selected at least one option and 19% selected none. Despite one-fifth disagreeing with the duty to support they suggested there should be a duty on schools and colleges to allow private candidates (22%) and that there should be examination body operated centres (19%).

Figure 23: Which mechanisms should be explored for enhancing access to public exams by LA duty to support



Base: = 3,834

Consultees were asked to comment on what other mechanisms should be explored for enhancing access to public examinations for children education at home. 1,220 consultees provided a comment and Table 34 illustrates the coded responses.

Table 34: What enhanced access should include

Reason given (coded response)	LAs (55)	Third sector organisations (40)	Parents and young people (956)	Other – Individuals (147)
Exam centres	13%	20%	28%	25%
Schools and colleges should have a duty to allow EHE ('private') entry to exams	27%	20%	17%	6%
No or low cost for exams	11%	18%	19%	10%
Parent's responsibility for exams	11%	0%	5%	5%
Travel assistance	4%	3%	1%	0%
Funding for core subjects	0%	5%	1%	0%
Duty on schools may be difficult	4%	3%	0%	1%
Access to learning support	2%	0%	2%	0%
Register not needed	0%	3%	9%	5%

Base: n=1,220³³

Respondents suggested two key ways of enhancing access to public examinations:

Firstly, the majority of consultees across all sub-groups suggested that LA exam centres would be an effective way to enhance access to public examinations. Respondents said that, at present, EHE families have to travel far which could be costly. Others suggested that it should become mandatory for schools and colleges to allow EHE children to sit exams. Respondents felt that schools and colleges had removed access as they do not receive funding and it is too difficult to administer, and as such, intervention is required.

Secondly, consultees suggested financial support for examinations would help EHE families, where there was either no or low cost. Consultees felt that

³³ 18 respondents did not identify their capacity.

public examinations should be available free to all children regardless of where they are educated, and examination centres should be required to accept external candidates. Respondents said that not all home educating families can afford exam fees, and this could hinder the education experience these children receive.

As context, it is important to note that this consultation was undertaken prior to the pandemic. Since then, the department has worked closely with the sector to support student in accessing centres in which to sit their exams, including tuition centres as well as schools and colleges. The Joint Council of Qualifications published a list of available centres to assist students in 2021 and will do so again for summer 2022, which enables home educated pupils to find local exam centres where they can sit exams. **We will consider if any further measures are needed for enhancing access to public examinations for children educated at home.**

Q 30 What expenditure does the authority already incur on support for home educated families, what types of support does this cover and approximately how many children are in scope of the support?

The analysis excluded responses not from LAs and analysed 145 responses from LAs. Open text responses were coded to create a new numeric variable (58 responses provided). The mean of current LA expenditure on support is £87,053 and the median is £54,700.

Q 31 Do you have any further comments on the issue of local authority support for home-educating families?

Consultees were asked to provide any further comments about the concept of a legal duty on LAs to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations. Table 35 provides a summary of the coded responses.

Table 35: LA support for home educating families

Reason given (coded response)	LAs (82)	Third sector organisations (58)	Parents and young people (1,375)	Other – Individuals (243)
LA support for EHE should be optional and unconditional	2%	16%	33%	33%
Ensure consistent and quality support from LAs	6%	9%	20%	6%
Ensure parents, schools and LAs understand their responsibilities	11%	6%	13%	1%
LA support for EHE should be compulsory and conditional	1%	2%	1%	2%
No need for LA support	44%	17%	21%	22%
Support may increase EHE	21%	0%	0%	1%
LAs already offer support	1%	0%	2%	0%
More detail required	4%	2%	0%	0%
Off-rolled children may need support	0%	2%	1%	1%

Base: n=1,793³⁴

Typically, consultees who were opposed to the register felt that there was no need for support. Interestingly, this was not because parents felt they did not need the support, but they reported distrust and felt LAs would exert control and consequently undermine their rights and responsibilities. There was additional concern that LAs do not adequately understand EHE to be able to appropriately support families. This could possibly explain why home educated families do not seek support from LAs who do offer support at present.

Other consultees were unable to answer the question since further clarity was required on what the support would be, would it be consistent across the country and will the support upon request by parents who opt for home education be conditional.

Conversely, other consultees suggested that the duty would ensure there was consistent and quality support from LAs. LAs should have a duty to provide

³⁴ 30 respondents did not identify their capacity.

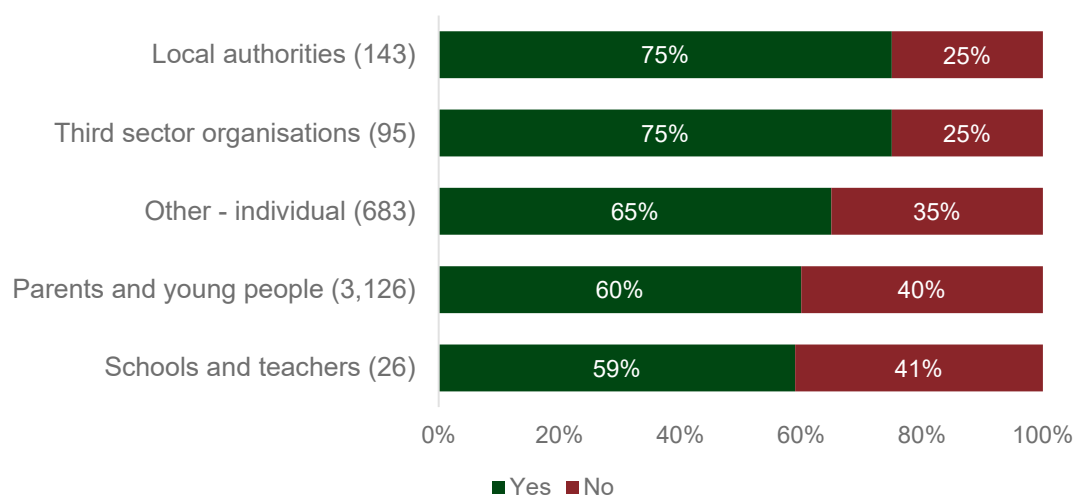
advice and guidance to home educating families. If done effectively, it will create a positive foundation for working relationships between LAs and home educating families. Clear, concise guidance provided by the DfE on what the baseline expectations should be of a LA will ensure that a consistent approach is taken across the country.

Some consultees stressed that it is important parents, schools and LAs understand their responsibilities. This will ensure when support is provided, a positive relationship is fostered between EHE families and LAs.

Q 32 Do you consider that support for home-educating parents should be provided by the Department for Education?

Consultees were asked whether support for home-educating parents should be provided by the DfE. In total, 4130 consultees responded to the question, of which 60% agreed and 40% disagreed.

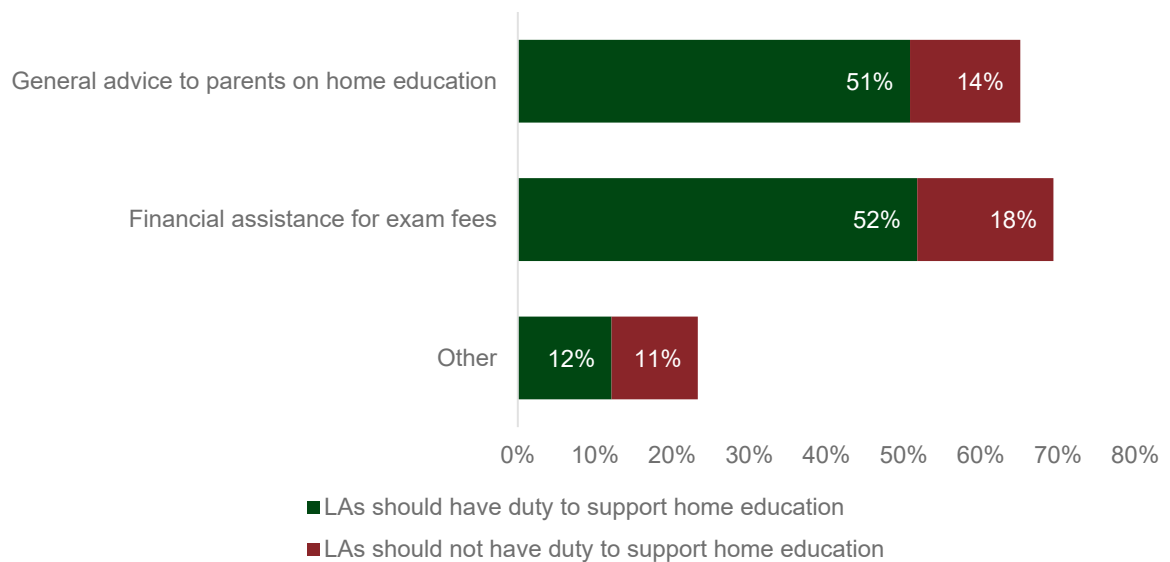
Figure 24: Whether support for EHE should be provided by the DfE, by respondent capacity



Q 33 If your answer to 32 was ‘yes’, what forms of support do you believe are particularly suited to being provided on a national rather than local basis?

Consultees were asked what forms of support they felt were particularly suited to being provided on a national rather than local basis. Figure 25 shows that of the 3,444 consultees who selected at least one option, nearly seven in ten (70%) felt financial assistance for exams would be suited to national delivery. 65% felt general advice to parents on home education would also be suited.

Figure 25: Which forms of EHE support are suited to national delivery



Base: = 3,444

Consultees also had the opportunity to provide other forms of support that they felt were suited to a national delivery. 1,356 consultees provided a comment and Table 36 presents the coded responses.

Table 36: Forms of support suited to national delivery

Reason given (coded response)	LAs (61)	Third sector organisations (49)	Parents and young people (1,056)	Other – Individuals (169)
Direct financial support to home-schooled children	3%	14%	17%	7%
National curriculum resources	25%	12%	10%	8%
DfE to monitor LAs	0%	14%	10%	6%
Guidance and national frameworks for EHE	11%	12%	6%	0%
Free access to exam centres	20%	0%	8%	0%
Support should be personal and localised	2%	6%	3%	1%
Funding for colleges and LAs	2%	4%	1%	0%
Accessible list of support groups and exam centres	3%	2%	7%	1%
Advice to parents to prevent off-rolling	0%	2%	0%	0%
None (no forms of support are suitable for national delivery)	0%	4%	12%	12%
Government intervention not wanted or necessary	0%	8%	9%	1%

Base: n=1,356³⁵

The overall picture suggests that resources, financial support, and guidance and national frameworks are forms of support that consultees agree could be delivered nationally.

One particular form of support that most consultees suggested was provision of national curriculum resources. Most consultees who agreed with this were from LAs and schools. Further agreement came from consultees of third sector organisations, parents and young people, and other individuals. Suggestions were similarly made by most consultees about direct financial support to home-schooled children. Of those consultees who agreed, most

³⁵ 17 respondents did not identify their capacity.

were either from schools, from third sector organisations, or were parents and young people. A very small proportion who agreed with this were from LAs.

Another request from respondents for nationally delivered support related to free access to exam centres. Most consultees who agreed with this were from LAs. Some consultees who were parents and young people also agreed.

There was a significant proportion of consultees who did not agree that any support should be delivered nationally. Consultees tended to say it was not suitable for any support to be delivered from a central body. The largest proportion of opponents were schools and teachers, followed by parents and young people, and other individuals.

We believe the department should explore what support is available through national delivery and freely available on the web. This should have a particular focus on curriculum resources, including those linked to the national curriculum but bear in mind that, as per the current guidance, there is no expectation for home educating families to follow the national curriculum.

We have seen just how useful a nationally rolled-out resource, such as that used during the height of the pandemic, Oak Academy, can be used to support children who are home-educated.