

Department for Education Consultation

Children not in school: proposed legislation

Response from the Mayor of London

Introduction

- The Mayor of London welcomes the opportunity to respond to the Government's consultation on introducing legislation to ensure that children who don't attend a state or independent school are properly educated and protected.
- The current law makes it unacceptably difficult for local authorities to identify children who are not receiving a suitable education or who may be neglected or taught to hate and be intolerant. All children have the right to get a good education. Reliant numbers for home-schooled children are not currently available. Maintaining a register of relevant children is the bare minimum requirement for local authorities to ensure these children are receiving a suitable education in a safe and secure environment.
- The Mayor is focused on reducing violence across the city. In September last year, he set up the London Violence Reduction Unit (VRU) with partners to deliver a long-term, public health approach to tackling the causes of violent crime.
- The Mayor invested an initial £500,000 to set up the VRU and then a further £6.8m to be directed towards local services and programmes, making early interventions in a young person's life as part of a long-term strategy to help prevent the spread of violence. This is in addition to the £45m the Mayor has invested in a Young Londoners Fund as well as investment in early intervention programmes including knife crime seed funding through the Mayor's Office for Policing and Crime (MOPAC).
- The Mayor believes that it is impossible to reduce violent crime without ensuring that children who are educated outside of a school setting are given the proper support and safeguards, whether they are home schooled, at an unregulated independent school, at a Pupil Referral Unit (PRU) or not being educated at all.

School Exclusions and 'Off-rolling'

- Early intervention and prevention for those at risk of exclusion from school is crucial. The number of young people in London being excluded from secondary schools in London has gone up for the past three years. We know that there is a correlation between exclusions and violence or criminal activity. For example, a study of UK prisoners found that 63% had been temporarily excluded and 42% permanently excluded at school.¹ The Government's Serious Violence Strategy also identifies truancy and school exclusion as risk factors in serious violence.
- Moreover, in London, black boys and Gypsy / Roma children are consistently overrepresented in exclusion figures, as are those eligible for Free School Meals, pupils with special educational needs and Looked After Children. Data shows the disproportionate

¹ Ministry of Justice 2012

exclusion rates for these groups suggests schools are either failing to support some learners, or that their discipline techniques may inadvertently discriminate against some pupils.²

- The Mayor wrote to the Prime Minister in March 2019 to call for greater local authority powers and responsibilities over all school exclusions. The letter cited the lack of ‘accountability, coordination and action’ between schools and local authorities, and the variation between areas. This fragmentation means that responsibility for pupils and communication between statutory organisations is not always clear. Much more needs to be done to enable the sharing of data and information around exclusion processes. In particular, there is an issue with too many young people being excluded and “off-rolled” who then do not get the support they need to get their lives back on track. The Mayor urged the Prime Minister to end the practice of off-rolling completely.
- Funding pressures in schools are exacerbating these problems and services which support vulnerable young people have been cut. Schools must have the resources to deliver good interventions, support those at risk of exclusion and play their part in helping tackle serious youth violence where it occurs.
- The Mayor’s Education and Youth team is working closely with the Mayor’s Violence Reduction Unit to understand what more can be done to help schools and colleges to keep vulnerable children in mainstream schools. We will be conducting further consultation and research to understand what early intervention multi-agency action can be taken to reduce the number of children out of school.

Funding Issues

- The Mayor welcomes this consultation and in broad terms agrees with its proposals to:
 - a. create a duty on local authorities to maintain a register of children not registered at specified types of school;
 - b. create a duty on parents to register their child with a local authority if not registered at specified types of school;
 - c. create a duty on proprietors of certain education settings to respond to enquiries from local authorities.
- The introduction of a registration process is a welcome and long-overdue change to the current oversight of children ‘not in school’. However, this must be backed up by the necessary resources for local authorities given the children’s services funding gap of £3.1 billion by 2025 identified by the Local Government Association. It should be tied into an inspection and monitoring regime which has some rigour behind it.
- It will be impossible for local authorities and public agencies to carry out the extra administration associated with imposing duties on them and others without a massive increase in financial resources.
- In London:
 - Cuts have removed 46% of funding from councils’ youth services since 2011/12;

² <https://www.london.gov.uk/about-us/london-assembly/london-assembly-publications/preventing-secondary-school-exclusions>

- Youth centres have closed across the city, with 104 centres and projects shutting their doors;
 - Youth worker jobs have declined by 562;³
 - London’s schools faced £99m in real terms cuts in 2018-19 alone;
 - Core public health grant funding for services like health visitors, school nursing, and drug and alcohol treatment has fallen 25% per person since 2014/15.
- Until the Government starts to reverse the devastating funding cuts to London’s public services, the Mayor believes we will not be fully able to resolve the many issues with children not in school.

Detailed Comments on Proposals

Proposal A – creation of a duty on local authorities to maintain a register of children not registered at specified types of school

- As mentioned above, a duty on local authorities to maintain a register, will help with the wider issue of bearing down on children missing education. In the Mayor’s joint letter with the Police and Crime Commissioners to the Prime Minister in March, he called on the government to take urgent action on exclusions and end the practice of off-rolling to help tackle serious youth violence.
- It is positive that Ofsted’s new inspection framework cites that “inspectors will ask schools to provide records and analysis of exclusions, pupils taken off roll, incidents of poor behaviour and any use of internal isolation”. The Mayor believes that we should encourage schools and others to ‘call out’ off-rolling and that the identification of off-rolling must influence Ofsted’s inspection outcomes.
- It is important there are no gaps or exemptions in information as there currently are, which may be exploited in the future to frustrate registration. Registration should include where the child is educated and by whom, in sufficient detail to locate the child and the organiser of the child’s education. This information should contain basic demographic information about the child. It should also include a reason why the child is not in a registered school, to aid in understanding any unwanted trends such as ‘off-rolling’ which may occur in an area.
- There are opportunities to improve safeguarding if information was shared amongst agencies, as long as there was a strong regime of data protection in place.
- For a duty to maintain a register to work properly though, the legislation has to be backed up by the necessary resources. The consequences of not doing this could lead to local authorities not being able to update and maintain registers which could hinder the outcomes we are trying to achieve by implementing a duty.

Proposal B – creation of a duty on parents to register their child with local authority if not registered at specified types of school

³ https://www.london.gov.uk/sites/default/files/sian_berry_am_london_youth_services_2019.pdf

- A system of voluntary registration leaves a potentially dangerous gap which could be exploited by a small minority of parents to keep abused and vulnerable children isolated from society and out of sight from statutory agencies. A legal duty to provide registration information will close this gap and provide opportunities to catch children at risk of unsuitable education or exploitation. Local authorities have a duty to identify children in their area who are not receiving a suitable education, but their practical ability to do this is hampered by the current lack of legislative backing.
- The minimum data required should include demographic information on the child and a reason why the parent is making alternative arrangements to state or independent schooling, including an opportunity to include whether they have been pressured to leave the school, refused in-year admission, or decided to take up home education. This will assist local authorities with identifying trends to improve future service provision. It will also help to understand where practices like managed moves between schools are supportive or concerning in their impact on children vulnerable to being missing from education. The Mayor believes that data on managed moves should be made public.
- The registration process should be straight forward, standardised, and required only once, or each time the child is removed from school or moves local authority area.
- There should be consequences for parents who do not comply with the duty otherwise it will be toothless. Parents who pose a risk to their children may be more likely to refuse to register, and therefore this duty must be back up by meaningful but proportionate sanctions.

Proposal C: creation of a duty on proprietors of certain education settings to respond to enquiries from local authorities

- A duty on proprietors to respond to enquiries from local authorities is welcome but this information should also be shared with Ofsted. It will help to take forward the recommendation of the Timpson Review Report that local authorities become “advocates for vulnerable children” by hosting forums for all schools to help ensure early prevention for children at risk of exclusion at their destination. The Mayor will be working to establish a practice programme that embeds effective partnership working between local authorities, schools, alternative provision and other partners. It will have the aim to better equip schools to intervene early for children at risk of exclusion and to ensure that the most effective provision is put in place for those who are excluded.
- In general, these should be any education settings which operate fully or partially during normal school hours. The proprietors should, at a minimum, keep and provide details of the individual locations used for the education setting, the start date of a child, the locations attended by each child, and the hours of attendance.

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