

Children's wellbeing and schools bill, with the amendments agreed to date 12/3/26

**At this stage it is unlikely for much to
be changed.**

Children not in school

39 Local authority consent for withdrawal of certain children from school

(1) After section 434 of the Education Act 1996 insert—

“Local authority consent for withdrawal of certain children from school 30

434A Local authority consent for withdrawal of certain children from school

(1) A parent of a relevant child must obtain the consent of the relevant local authority to withdraw the child from school if the parent intends—

- (a) that the child should cease to attend the school at which the child is a registered pupil, and 35
- (b) to withdraw the child from school for the purpose of causing the child to receive education otherwise than at school.

(2) A child is a “relevant child” for the purposes of this section if—

- (a) the child is of compulsory school age,
 (b) the child is a registered pupil at a school, and
 (c) condition A or condition B is met in respect of the child.
- (3) Condition A is that the child became a registered pupil under arrangements made by a local authority at—
- (a) a special school within the meaning of section 337, or ⁵ **Special school consent**
 (b) an independent school within the meaning of section 463 which—
- (i) in the case of a school in England, is specially organised to make special educational provision for pupils with special educational needs; 10
- (ii) in the case of a school in Wales, is wholly or mainly concerned with providing full-time education to persons for whom an individual development plan is maintained. **IDP in Wales consent** 15
- (4) Condition B is that a local authority is—
- (a) conducting enquiries under section 47 of the Children Act 1989 (duty to investigate) in respect of the child,
 (b) taking action under section 47(8) of that Act to safeguard or promote the child's welfare, in a case where the enquiries mentioned in paragraph (a) have led the local authority to conclude that the child is suffering, or is likely to suffer, significant harm (within the meaning of section 31(9) and (10) of that Act), or has taken such action during the period of five years ending with the date on which an application is made under subsection (6), 20
- Consent to dereg if current SS enquiries. or Child protection plan or similar in the last 5 years.** 25
- (5) Where the proprietor of a school is notified by a parent of a child who is a registered pupil at the school that the parent intends to withdraw the child from school for the purpose of causing the child to receive education otherwise than at school, the proprietor must notify—
- (a) the local authority responsible for the area in which the school is located, and
 (b) the local authority responsible for the child, if different from the local authority mentioned in paragraph (a). 30
- (6) If a parent of a relevant child applies to the relevant local authority for consent to withdraw the child from school for the purpose of causing the child to receive education otherwise than at school, the authority— 35
- 40
- 45

LA should decide without undue delay, but how this plays out will be down to what each LA considers a suitable timeframe.

LA can overrule parent on what it thinks is in the child's best interests. IE must stay in school. (special school and SS involvement)

- (a) must decide without undue delay whether to grant consent, and
- (b) must refuse consent if the local authority considers—
 - (i) that it would be in the child's best interests to receive education by regular attendance at school, or
 - (ii) that no suitable arrangements have been made for the education of the child otherwise than at school,but otherwise must grant consent.

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School can make a request to dereg on behalf of the family when in special school or ss involvement.

- (7) An application mentioned in subsection (6) may also be made by the proprietor of a school at which the relevant child is a registered pupil, on behalf of the child's parent, and with the consent of the parent.

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- (8) The relevant local authority must serve notice of the decision under subsection (6) on—

- (a) the parent who made the application, or on whose behalf the application was made,
- (b) any other parent of the child, where contact details of that parent are known, unless exceptional circumstances apply, and
- (c) the proprietor of a school at which the relevant child is a registered pupil.

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- (9) Regulations under section 434—

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- (a) must provide that, where consent of the relevant local authority is required under subsection (1) in respect of a relevant child, the proprietor of a school must not allow the deletion from the school's register of the name of that child unless the proprietor receives notice that the relevant local authority has granted consent under this section in respect of that child, and

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- (b) may make provision to require the proprietor of a school to arrange to take, or not to take, any other steps specified in the regulations in relation to the registration of a registered pupil at the school where a relevant local authority has granted or refused consent under subsection (6).

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- (10) If a parent is aggrieved by a decision of the relevant local authority to grant consent under subsection (6)—

- (a) the parent may refer the question to—

- (i) the Secretary of State, in relation to a local authority in England, and

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- (ii) the Welsh Ministers, in relation to a local authority in Wales, and

- (b) the Secretary of State or the Welsh Ministers (as the case may be) may—

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- (i) uphold the decision of the local authority, or
- (ii) refer the question back to the local authority to determine.

- (11) If a parent is aggrieved by a decision of the relevant local authority to refuse consent under subsection (6)—
- (a) the parent may refer the question to—
 - (i) the Secretary of State, in relation to a local authority in England, and 5
 - (ii) the Welsh Ministers, in relation to a local authority in Wales, and
 - (b) the Secretary of State or the Welsh Ministers (as the case may be) may—
 - (i) give such direction determining the question as the Secretary of State considers, or the Welsh Ministers consider, appropriate, or 10
 - (ii) refer the question back to the local authority to determine.

(12) If a subsequent application is made in relation to a relevant child in respect of whom the relevant local authority has previously refused consent under subsection (6), the authority is only required to make a new decision under subsection (6)(a) if a period of 6 months has elapsed since the date of the previous application. 15

(13) In this section, a “relevant local authority”, in relation to a relevant child, means— 20

- (a) where the child is a relevant child as a result of condition A (but not condition B) being met in respect of the child, the local authority that made the arrangements mentioned in subsection (3); 25
- (b) where the child is a relevant child as a result of condition B (but not condition A) being met in respect of the child, the local authority conducting enquiries or taking action as mentioned in subsection (4);
- (c) where the child is a relevant child as a result of conditions A and B being met in respect of the child, the local authority conducting enquiries or taking action as mentioned in subsection (4). 30

434B Mandatory local authority meetings prior to withdrawal of child from school 35

- (1) The appropriate national authority must, by regulations made before the end of the relevant period, make a scheme (“a pilot scheme”) to provide—
- (a) that the parent of a child must attend and participate in a meeting with the local authority responsible for the child if the parent intends— 40
 - (i) that the child should cease to attend the school at which the child is a registered pupil, and

up to 30% of LAs to trial mandatory meetings upon dereg for ALL families.
LA must explain their duty (some already lie about that)
What parents must do (again they already lie about that)
Ask why you want to home ed (some use negative reasons against families).

Support needs of the child.
Safeguarding and welfare discussion
ANYTHING ELSE THE LA DEEM RELEVANT

There is no timescale for these meetings and the child must continue to attend school until the school is notified the meeting has happened.

- (ii) to withdraw the child from school for the purpose of causing the child to receive education otherwise than at a school,
- (b) that the local authority must ensure that the following matters are discussed with the parent during the meeting—
 - (i) the duty of parents under section 7 and how the parent plans to meet this duty; 5
 - (ii) the duties of the local authority, including the support duty under section 436G; 10
 - (iii) the parent's reasons for considering that the child should receive education otherwise than at school; 10
 - (iv) any support needs that the child may have and how those needs could be met;
 - (v) the safeguarding and welfare of the child;
 - (vi) anything else relevant to the decision to withdraw the child from school, 15

The child must attend the meeting unless exceptional circumstance.

- (c) that the child must attend the meeting unless exceptional circumstances apply,
- (d) that a representative of the school at which the child is a registered pupil must attend the meeting if the parent consents to the representative's attendance, 20
- (e) that the proprietor of a school must not allow the deletion from the school's register of the name of the child unless the proprietor receives notice from the local authority that the meeting has taken place in respect of the child, and 25
- (f) that the local authority must record the outcome of the meeting or whether the meeting was refused.

School must attend if parent consents

This infers you can refuse the meeting, but it will be recorded as such

- (2) The "relevant period" is the period of two years beginning with the day on which section 39 of the Children's Wellbeing and Schools Act 2026 comes fully into force. The regulations must also specify— 30
- (3)
 - (a) the local authorities in respect of which the pilot scheme will operate, and
 - (b) the period for which the scheme has effect.
- (4) The number of local authorities specified under subsection (3)(a) must not exceed 30 per cent of all local authorities in England or 30 per cent of all local authorities in Wales as the case may be. The period 35
- (5) specified under subsection (3)(b) must not be less than two years and must not exceed five years.
- (6) The regulations may provide for exemptions from the pilot scheme in respect of descriptions of children as specified in the regulations. 40
- (7) The regulations may make provision for, or in connection with, any arrangements that the appropriate national authority considers are required to ensure that the pilot scheme can operate.

- (8) The provision that may be made by virtue of subsection (7) includes—
- (a) provision modifying or amending the pilot scheme for the purpose of ensuring that the scheme can operate in relation to children falling within section 434A;
 - (b) provision modifying or amending section 434A for the purpose of ensuring that the pilot scheme can operate in relation to children falling within that section. 5
- (9) Subject to subsection (10), the appropriate national authority may by regulations—
- (a) make provision to end the pilot scheme; 10
 - (b) provide that the provisions mentioned in paragraphs (a) to (f) of subsection (1) have effect, after the expiry of the pilot scheme, in relation to all local authorities, subject to any exemptions for descriptions of children as specified in the regulations; 15
 - (c) amend section 434A for the purpose of ensuring that the grant of local authority consent to withdraw a child from school under that section is conditional on the parent of that child attending and participating in a meeting with the local authority responsible for the child, as described in paragraphs (a) to (f) of subsection (1), subject to any exemptions for descriptions of children as specified in the regulations; 20
 - (d) make provision for, or in connection with, any arrangements that the appropriate national authority considers are required to ensure that any provision made under paragraphs (a) to (c) can operate. 25
- (10) Regulations under subsection (9) may be made only after the pilot scheme has operated for a period of no less than two years.
- (11) Before making any regulations under this section, the appropriate national authority must consult such persons as the appropriate national authority considers appropriate. 30
- (12) In this section “appropriate national authority” means—
- (a) in relation to England, the Secretary of State;
 - (b) in relation to Wales, the Welsh Ministers.
- (13) If a draft of a statutory instrument containing regulations made by the Secretary of State under this section would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.” 35
- (2) In section 569(2A) of the Education Act 1996, after “section” insert “434B”. 40

40 Registration

- (1) The Education Act 1996 is amended as follows.

(2) After section 436A insert—

“Children not in school

436B Duty to register children not in school

(1) A local authority must maintain a register of children who are eligible to be registered by the authority under this section. 5

A child is eligible to be registered by a local authority under this section if conditions A to C are met.

(2) Condition A is that the child lives in the authority’s area.

(3) Condition B is that the child is of compulsory school age.

(4) Condition C is that— 10

(a) the child is not a registered pupil or a student registered at a relevant school,

(b) the child is a registered pupil or a student registered at a relevant school but the proprietor of the school has arranged or agreed that— 15

(i) the child will receive education otherwise than at that or any other relevant school, and

(ii) the child will be absent for some or all of the time when a child receiving full-time education at a relevant school would normally be expected to attend, or 20

(c) the child is a student registered at a relevant school falling within subsection (7)(d) but attends that school on a part-time basis, and is not also a registered pupil or a student registered at a different relevant school.

(5) Regulations may make provision— 25

(a) for cases where a child is to be regarded as falling or not falling within subsection (5)(b) or (c);

(b) for cases where a child falling within subsection (5)(b) or (c) is not to be regarded as eligible for registration under this section. 30

(6) In this section “relevant school” means—

(a) a school maintained by a local authority,

(b) a non-maintained special school (within the meaning given by section 337A),

(c) an Academy school or alternative provision Academy, 35

(d) an institution within the further education sector that provides secondary education suitable to the requirements of children who have attained the age of 14 years,

(e) an independent educational institution within the meaning of section 92(1) of the Education and Skills Act 2008, that is 40

Within 15 days of registering a child they MUST consider where the child lives.	registered under section 95 of that Act (register of independent educational institutions),	(f) a school that is included in the register of independent schools in Wales (kept under section 158 of the Education Act 2002), or	5
May request to see the child in the home.	(g) a school within the meaning of section 135(1) of the Education (Scotland) Act 1980.	(8) Before the end of the period of 15 days beginning with the day on which the local authority registers a child under this section, the local authority—	10
If you refuse the visit LA must consider if it is a reason to start School Attendance proceeding.	(a) must consider where the child lives, and (b) may request the child's parent to allow the local authority to visit the child inside any of the homes in which the child lives.	(9) If a request under subsection (8)(b) is refused by the person to whom it is made, the local authority must consider that to be a relevant factor in determining whether to serve a preliminary notice under section 436H.	15
Must also consider the settings the child is being educated in (ie other parent, groups, classes, etc).	(10) Before the end of the period of 15 days beginning with the day on which the local authority includes in the register the information mentioned in section 436C(1)(g) in respect of a child, the local authority must consider the settings where the child is being educated that the local authority knows about.		20

436C Content and maintenance of registers

Register will contain: Child's name, dob, address, additional addresses, name and address of each parent, name of parents providing education, estimated overall time receiving education from parents, estimate of time receiving education elsewhere.	(1) A register under section 436B must contain the following information in respect of a child registered in it—	(a) the child's name, date of birth and home address, and if the child has lived at their current address for less than 12 months, their previous address;	25
Details of providers that educate over a set number of hours (yet to be declared).	(b) any additional address if the child lives at more than one address;	(c) the name and home address of each parent of the child;	30
	(d) the name of each parent who is providing education to that child;	(e) an estimate of the overall total amount of time that the child spends receiving education from parents of the child;	35
	(f) an estimate of the overall total amount of time that the child spends receiving education from persons other than parents of the child;	(g) a particular provider other than the child's parent is providing education to the child for more than the prescribed amount of time—	40
	(i) the name and address of the provider;	(ii) a description of the type of provider that it is;	

	(iii) the postal address of each place where that education is provided (where different from the address in subparagraph (i)) or the website or email address of the provider if that education is provided virtually;	
Time the child receives education without parent actively involved.	(iv) an estimate of the total amount of time that the child spends receiving that education and an estimate of the amount of time the child spends receiving that education without any parent of the child being actively involved in the tuition or supervision of the child.	5
	(2) To the extent that the local authority has the information or can reasonably obtain it, a register under section 436B must also contain such information about, or in connection with, the following matters in respect of a child registered in it as may be prescribed—	10
register will also include child's protected characteristics, such as race, religion, gender,	(a) the child's protected characteristics (within the meaning of the Equality Act 2010);	15
	(b) in the case of a child who is in the area of a local authority in England, whether the child has any special educational needs, including whether the local authority maintains an EHC plan for the child;	
	(c) in the case of a child who is in the area of a local authority in Wales, whether the child has any additional learning needs, including whether an individual development plan is maintained for the child;	20
plus sen, EHCP/IDP	(d) any enquiries being made or that have been made by a local authority under section 47 of the Children Act 1989 (local authority's duty to investigate) and any actions that are being taken or have been taken by the authority or any other local authority following, or in connection with, enquiries under that section;	25
Whether any previous SS investigations or CIN or CP.	(e) whether the child is or has ever been a child in need for the purposes of Part 3 of the Children Act 1989 (see section 17(10) of that Act) and, if so, any actions that a local authority is taking or has taken in relation to the child under that Part and any services that a local authority is providing or has provided to the child in the exercise of functions conferred on the authority by section 17 of that Act;	30
	(f) whether the child has ever been assessed as having needs for care and support for the purposes of Part 4 of the Social Services and Well-being (Wales) Act 2014 (anaw 4) (see section 32(1) of that Act) and, if so, any actions that a local authority is taking or has taken in relation to the child under that Part (or Part 4 or 5 of the Children Act 1989) and any services that a local authority is providing or has provided to the child in the exercise of functions conferred on the authority by or under that Part (or Part 4 or 5 of the Children Act 1989);	40
	(g) whether the child is or has ever been looked after by a local authority in England (within the meaning of section 22 of the	45

Children Act 1989) or in Wales (within the meaning of section 74 of the Social Services and Well-being (Wales) Act 2014);

(h) the reasons why the child meets condition C in section 436B, including any information provided by a parent of the child as to those reasons or, in a case where a parent has not provided that information, the fact that they have not done so; 5

(i) whether, under arrangements made under section 436A, the child has been identified as a child who is of compulsory school age but who is not a registered pupil at a school and is not receiving suitable education otherwise than at a school; 10

~~the~~ school or institution or the type of school or institution (if any) that the child attends or has attended in the past; ~~whether~~ support is being provided in relation to the child under section 436G and, if so, the nature of the support being provided; 15

~~any~~ actions that have been taken by a local authority in relation to the child under sections 436I to 436Q (school attendance orders);

(m) whether the child is a young carer within the meaning of section 17ZA(3) of the Children Act 1989, as qualified by section 17ZB(3) of that Act; 20

~~whether~~ the local authority exercised any of its functions under section 436B(8), (9) or (10), 436H(8) or (9), or 436I(3) in relation to the child and the outcomes of any consideration of home and education settings or home visits conducted under those provisions; 25

(o) any other information about the child's characteristics, circumstances, needs or interactions with a local authority or educational institutions that the Secretary of State considers, or the Welsh Ministers consider (as the case may be), should be included in the register for the purposes of promoting or safeguarding the education or welfare of children. 30

ANYTHING THE LA WANTS can also be part of the register. (3) A register under section 436B may also contain any other information the local authority considers appropriate. (4) Regulations may, in relation to a register under section 436B, make 35

provision about—
(a) how a local authority must maintain the register, including provision relating to—
(i) how the register is to be kept up-to-date; 40
(ii) the making of changes to the register;

(b) the form of the register;

(c) publication of the register;

(d) registration forms;

(e) how amounts of time and estimates of amounts of time are to be calculated and recorded for the purposes of subsection (1)(e), 45

(f) and (g)(iv);

(f) publicising the register and duties of persons in relation to the register.

(5) No information from a register under section 436B may be published, or made accessible to the public, in a form—

(a) which includes the name or address of a child who is eligible to be registered under that section or of a parent of such a child, or 5

(b) from which the identity of such a child or parent can be deduced, whether from the information itself or from that information taken together with any other published information. 10

(6) In subsection (1)(g), “prescribed amount of time” means an amount of time prescribed—

(a) by reference to a number of hours in, or a proportion of, a week or other period; 15

(b) by reference to a proportion of the time a child spends receiving education;

(c) in any other way.

436D Provision of information to local authorities: parents

(1) A parent of a child who is eligible to be registered by a local authority under section 436B must— 20

(a) inform the local authority that the child is eligible for registration, and

(b) provide the authority with any of the information referred to in section 436C(1) that the parent has. 25

(2) A parent of a child who is registered by a local authority under section 436B must—

(a) provide the authority, on request, with any of the information referred to in section 436C(1) that the parent has, 30

(b) inform the authority of a change, of which the parent is aware, to any of the information required to be included in the register under section 436C(1)(a) to (d),

(c) inform the authority, on request, if there have been any changes, of which the parent is aware, to any of the information mentioned in section 436C(1)(e), (f) or (g) since the information was last provided to the authority, and provide the authority with information about those changes, or confirm that there have been no changes, and 35

(d) inform the authority if the child ceases to be eligible to be registered by that authority under section 436B as a result of no longer meeting Condition A (see subsection (3) of that section) or Condition C (see subsection (5) of that section). 40

(3) A local authority—

Parent is responsible for registering within 15 days of being home ed or the register being law.

LA to ask parents for register info once a year. but can do it as often as every 3 months. This is for the register info, NOT THE SPECIFICS OF THE LEARNING - that will be in the new EHE guidance when it is released

If asked for register update, you must reply within 15 days.

- (a) must make a request mentioned in subsection (2)(c) in relation to each child registered by the local authority under section 436B at least once a year, but
- (b) may not make such a request more frequently than once every three months. 5
- (4) A person must comply with a duty under subsection (1) or (2) before the end of the relevant period.
- (5) In subsection (4) “relevant period” means—
- (a) in the case of the duty in subsection (1)(a) or (b), the period of 15 days beginning with the date on which the child becomes eligible for registration by the local authority; 10
- (b) in the case of the duty in subsection (2)(a), such period of not less than 15 days as the local authority specify in the request;
- (c) in the case of the duty in subsection (2)(b), the period of 15 days beginning with the date on which the parent becomes aware of the change; 15
- (d) in the case of the duty in subsection (2)(c), such period of not less than 15 days as the local authority specify in the request;
- (e) in the case of the duty in subsection (2)(d), the period of 15 days beginning with the date on which the child ceases to be eligible to be registered by the local authority under section 436B. 20
- (6) The duties in subsections (1) and (2) do not apply where the child is receiving full-time education by the following means—
- (a) arrangements made by the local authority under section 19 (in England) or section 19A (in Wales); 25
- (b) arrangements made by the proprietor of a relevant school at which the child is a registered pupil;
- (c) where the local authority is a local authority in England, arrangements made by the local authority under section 61 of the Children and Families Act 2014 (special educational provision otherwise than in schools, post-16 institutions etc); 30
- (d) where the local authority is a local authority in Wales, arrangements made by the local authority under section 53 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2) (additional learning provision otherwise than in schools); 35
- (e) any combination of the arrangements mentioned in paragraphs (a) to (d);
- (f) any one or more of the arrangements mentioned in paragraphs (a) to (d) and attendance at a relevant school. 40
- (7) In this section “relevant school” has the same meaning as in section 436B.

436E Provision of information to local authorities: education providers

(1) This section applies where a local authority reasonably believes that—
a person (a) is providing out-of-school education to a child for more than the prescribed amount of time without any parent of the child being actively involved in the tuition or supervision of the child, and
the child (b) is, or is eligible to be, registered by the authority under section 436B. 5

(2) In this section—
(a) “out-of-school education” means any programme or course of education, or any other kind of structured education, that is provided otherwise than as part of the education provided by a relevant school (within the meaning of section 436B); 10
(b) “prescribed amount of time” means an amount of time prescribed— 15
(i) by reference to a number of hours in, or a proportion of, a week or other period;
(ii) by reference to a proportion of the time a child spends receiving education; 20
(iii) in any other way. 20

(3) The authority may by notice require the person—
(a) to confirm whether or not the person is providing out-of-school education as mentioned in subsection (1)(a) to any child living in England or Wales (whether or not that child lives in the authority’s area) or has provided such education at any time during the period of three months ending with the date of the notice, and 25
(b) to provide the authority with the following information in relation to any child living in England or Wales (whether or not that child lives in the authority’s area) to whom they are providing such education, or to whom they have provided such education during that three month period— 30
(i) the child’s name, date of birth and home address,
(ii) the total amount of time that they provide such education to the child, and 35
(iii) the amount of time that they provide such education to the child without any parent of the child being actively involved in the tuition or supervision of the child.

(4) A notice under subsection (3) is served if it is sent to or left at the place where the out-of-school education is provided (as well as in the circumstances referred to in section 572(1)). 40

Online schools/religious based providers etc, will be required to confirm your child ‘attends’, how much time they’re educated for, etc.

This is partly to identify illegal schools. And parents who are not actively involved in the child’s education.

- (5) Before the end of the specified period, the person on whom a notice under subsection (3) is served must comply with the requirement in the notice.
- (6) The “specified period” is the period, specified in the notice that—
- (a) is at least 15 days, and 5
 - (b) begins with the day on which the notice is served.
- (7) Regulations may provide for exceptions to the duty in subsection (5).
- (8) Where a local authority is satisfied that a person on whom a notice under subsection (3) is served has—
- (a) failed to comply with their duty under subsection (5), or 10
 - (b) provided incorrect information in response to the notice,
- the authority may require the person to pay a monetary penalty to the authority in accordance with Schedule 31A.
- (9) The amount of the monetary penalty is to be the prescribed amount.
- (10) Subsection (8) does not apply in relation to a notice under subsection (3) that is served during the period of three months beginning with the day on which section 40 of the Children’s Wellbeing and Schools Act 2026 comes into force. 15

436F Use of information in the register

- (1) A local authority must, if the Secretary of State so directs in relation to a local authority in England, or the Welsh Ministers so direct in relation to a local authority in Wales, provide the Secretary of State or the Welsh Ministers (as the case may be) with information of a prescribed description from their register under section 436B (whether that is information relating to an individual child or aggregated information). 20 25
- (2) The Secretary of State or the Welsh Ministers may provide information received under subsection (1) to a prescribed person if the Secretary of State considers or the Welsh Ministers consider (as the case may be) it appropriate to do so for the purposes of promoting or safeguarding the education or welfare of— 30
- (a) the child to whom the information relates, or
 - (b) any other person under the age of 18.
- (3) A local authority may provide information from their register under section 436B which relates to a child, to a person mentioned in subsection (4) if the authority considers it appropriate to do so for the purposes of promoting or safeguarding the education or welfare of— 35
- (a) the child, or
 - (b) any other person under the age of 18.
- (4) For the purposes of subsection (3), the persons are— 40

- (a) a person listed in section 11(1) or 28(1) of the Children Act 2004 (arrangements to safeguard and promote welfare);
- (b) Ofsted, meaning—
 - (i) the Office for Standards in Education, Children's Services and Skills, and 5
 - (ii) His Majesty's Chief Inspector of Education, Children's Services and Skills;
- (c) His Majesty's Chief Inspector of Education and Training in Wales;
- (d) the Welsh Ministers. 10

(5) Where a local authority becomes aware that a child registered in their register under section 436B will move, or has moved, to the area of another local authority, the local authority—

If you move,
your LA will
forward all their
info to the new
LA.

- (a) must provide the other local authority with any information relating to the child which is contained in the register under or by virtue of section 436C(1) or (2), and 15
- (b) may provide the other local authority with any other information relating to the child which is contained in the register under or by virtue of section 436C(3).

(6) Where a local authority in Scotland or Northern Ireland makes a request for information from a register under section 436B held by a local authority in England or Wales, the local authority receiving the request may provide the information if that authority considers it appropriate to do so for the purposes of promoting or safeguarding the education or welfare of— 20

- (a) the child to whom the information relates,
- (b) any other person under the age of 18. 25

(7) A local authority in Scotland means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

(8) A local authority in Northern Ireland means a Health and Social Care Trust or the Education Authority established under the Education Act (Northern Ireland) 2014. 30

Parents can request support from their LA, and they MUST provide it. This relates to advice and information.

436G Support

(1) If a parent of a child registered by a local authority under section 436B so requests, the local authority must provide support to the parent by securing the provision of advice and information relating to the education of the child. 35

(2) The advice and information to be provided is whatever the local authority considers fit having regard to the parent's request and may include— 40

- (a) advice about the education of the child,
- (b) information about sources of assistance for the education of the child, and

However, the LA can decide what is suitable to provide, ie it can be school based, or not fully correct or appropriate.

LA to offer a twice yearly forum to discuss how the cahnges are going.

- (c) information about access to examinations for the General Certificate of Secondary Education.
- (3) A local authority in England must offer parents of children registered by the authority under section 436B the opportunity to attend a forum to discuss the operation of sections 436B to 436P. 5
- (4) The offer must be made twice per year and if it is accepted by at least one person to whom it is made, the local authority must arrange for the forum to take place.
- (5) The duties in subsections (1), (3) and (4) do not apply in relation to a child where— 10
- (a) the child is a registered pupil at a relevant school (within the meaning of section 436B),
- (b) the local authority is required to make arrangements for the education of the child under section 19 or 19A of this Act,
- (c) the local authority is required to secure special educational provision for the child under section 42(2) of the Children and Families Act 2014, or 15
- (d) the local authority is required to secure additional learning provision or other provision for the child under section 14(10) or 19(7) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.” 20
- (3) In section 569(2A)—
- (a) after “section” insert “436B(6), 436C(1)(g), 436C(2), 436C(4), 436E(1)(a), 436E(7), 436E(9), 436F(1), 436F(2),”;
- (b) after “550ZC(7)” insert “, or under paragraph 5 of Schedule 31A”. 25
- (4) In section 569(2B)—
- (a) omit “A statutory instrument containing”;
- (b) after “397” insert “, 436I(6)”;
- (c) for the words after “the Welsh Ministers” substitute “are subject to the Senedd annulment procedure (see section 37E of the Legislation (Wales) Act 2019 (anaw 4)).” 30
- (5) In section 569(2BA)—
- (a) omit the words from the beginning to “provision”;
- (b) the words after “2018” substitute “are subject to the Senedd approval procedure (see section 37C of the Legislation (Wales) Act 2019).” 35
- (6) In section 569(2BB)—
- (a) omit the words from the beginning to “provision”;
- (b) after “section” insert “436B(6), 436C(1)(g), 436C(2), 436C(4), 436E(1)(a), 436E(7), 436E(9), 436F(1), 436F(2) or”;
- (c) after “579(3C)” insert “, or under paragraph 5 of Schedule 31A”; 40

- (d) for the words after “579(3C)” substitute “are subject to the Senedd approval procedure (see section 37C of the Legislation (Wales) Act 2019).”

(7) After Schedule 31 insert—

Section 436E “SCHEDULE 31A 5
FAILURE TO PROVIDE INFORMATION UNDER SECTION 436E: MONETARY PENALTIES

Warning notice

1 (1) Where a local authority proposes to require a person to pay a monetary penalty under section 436E(8), the authority must serve a notice on the person of what is proposed (a “warning notice”). 10

(2) The warning notice must include information as to—

- (a) the grounds for the proposal to require payment of the monetary penalty,
(b) the amount of the penalty, and
(c) the person’s right to make representations. 15

Representations

2 The person on whom the warning notice is served may make written representations to the local authority in relation to the proposed requirement to pay a monetary penalty—
(a) before the end of the period of 14 days beginning with the day on which the notice is served, or 20
(b) if within that period the person gives written notice of their intention to make representations, before the end of the period of 28 days beginning with that day.

Imposition of penalty 25

3 (1) Where a person has made representations in response to a warning notice, or the time for doing so has elapsed, the local authority must decide whether to require the person to pay the monetary penalty.

(2) The local authority may not require the person to pay a monetary penalty if the authority is no longer satisfied as mentioned in section 436E(8). 30

If the local authority decide not to require the person to pay the penalty, the authority must inform the person of that fact.

Penalty notice

4 (1) A requirement to pay a monetary penalty is imposed by a notice served on the person by the local authority (a “penalty notice”). 35

(2) A penalty notice must include information as to—

- (a) the grounds for requiring payment of the monetary penalty,

- (b) the amount of the penalty,
- (c) how payment may be made,
- (d) the period within which payment is to be made (which must be at least 28 days beginning with the day on which the notice is served),
- (e) the consequences of late payment (see paragraph 5), and
- (f) rights of appeal.

(3) A penalty notice may be withdrawn at any time by the local authority that gave it.

Consequences of late payment 10

- 5 If the person on whom a penalty notice is served fails to pay the monetary penalty within the period specified in the notice, the amount of the penalty is increased by the prescribed percentage.

Appeals

- 6 (1) A person on whom a penalty notice is served may appeal to the First-tier Tribunal on any of the grounds mentioned in sub-paragraph (2). 15

(2) The grounds are that—

- (a) the decision to require payment of the penalty was based on an error of fact; 20
- (b) the decision was wrong in law;
- (c) the decision was unreasonable.

(3) On an appeal under this paragraph the First-tier Tribunal may—

- (a) quash the penalty notice,
- (b) confirm the penalty notice, or 25
- (c) vary the penalty notice by reducing the amount of the monetary penalty.

(4) Where an appeal under this paragraph is made, the requirement to pay the monetary penalty is suspended pending the final determination or withdrawal of the appeal. 30

Enforcement

- 7 If a person does not pay the whole or any part of a monetary penalty which the person is required to pay under this Schedule within the time specified in the penalty notice, the penalty or part of the penalty is recoverable as if it were payable under an order of the county court.” 35

41 School attendance orders

(1) The Education Act 1996 is amended as follows.

(2) After section 436G (as inserted by section 40) insert—

“School attendance orders

436H Preliminary notice for school attendance order

(1) A local authority must serve a preliminary notice on a child’s parent in relation to a child for whom the authority is responsible if it appears to the authority that— 5

NEW SAO process

- (a) the child is of compulsory school age, and
- (b) either condition A or condition B is met.

preliminary notice to be served if SS get involved or education deemed not suitable.

(2) A local authority may serve a preliminary notice on a child’s parent if it appears to the authority that either condition C or condition D is met. 10

OR if the LA decide it would be in the child’s best interests to attend school

(3) A “preliminary notice” means a notice requiring the child’s parent on whom the notice is served to satisfy the local authority that— 15

- (a) the child is receiving suitable education, where condition A, C or D is relied on to serve the notice;
- (b) the child is receiving education that is in their best interests, where condition B is relied on to serve the notice.

or if you didn’t respond to enquiries or refuse to register.

(4) Condition A is that the child is not receiving suitable education, either by regular attendance at school or otherwise.

(5) Condition B is that— 20

- (a) the local authority or another local authority is—
 - (i) conducting enquiries in respect of the child under section 47 of the Children Act 1989 (duty to investigate), or
 - (ii) taking action under section 47(8) of that Act to safeguard or promote the child’s welfare, in a case where the enquiries mentioned in sub-paragraph (i) have led the local authority to conclude that the child is suffering, or is likely to suffer, significant harm (within the meaning of section 31(9) and (10) of that Act), or has taken such action during the period of five years ending with the date on which a preliminary notice is to be served under subsection (1),

Notice is telling parents to explain suitable education and how it is in the child’s best interests

- (b) the child is not regularly attending school, and
- (c) it would be in the child’s best interests to receive education by regular attendance at school. 35

(6) Condition C is that—

- (a) the child is eligible to be registered by the local authority under section 436B,
- (b) the authority has asked the child’s parent for information under section 436D(1), and 40

(c) the child's parent has not provided that information before the end of the relevant period (as defined in section 436D(5)(a)), or has provided incorrect information.

- (7) Condition D is that the child's parent is under a duty to provide information to the local authority under section 436D(2)(a), (b) or (c) in relation to the child and—
- (a) has not provided the information before the end of the relevant period (as defined in section 436D(5)), or
 - (b) has provided incorrect information.

- (8) For the purpose of determining whether a preliminary notice must or may be served under this section in respect of a child, the local authority—

- (a) must consider the settings where the child is being educated that the local authority knows about and where the child lives, and
- (b) may request the child's parent on whom the preliminary notice would be served to allow the local authority to visit the child inside any of the homes in which the child lives.

- (9) If a request under subsection (8)(b) is refused by the person to whom it is made, the local authority must consider that to be a relevant factor in determining whether to serve a preliminary notice.

- (10) A preliminary notice must—
- (a) state which of conditions A to D are relied on to serve the notice,
 - (b) be served without delay, and in any event before the end of the period of five days beginning with the day on which it appears to the local authority that the requirements of subsection (1) or (2) are met, and
 - (c) specify the period within which the person must respond to the notice, which must be not less than 15 days beginning with the day on which the notice is served.

436I School attendance orders

- (1) A local authority must serve an order under this section on a child's parent if—
- (a) the authority has served a preliminary notice on the child's parent under section 436H,
 - (b) the child's parent fails to satisfy the local authority, within the period specified in the notice, that—
 - (i) the child is receiving suitable education, in a case where condition A, C or D is cited in the notice,
 - (ii) it is in the best interests of the child to receive education otherwise than by regular attendance at school, in a case where condition B is cited in the notice, and

Setting where child is education and lives to be considered when deciding if to serve a preliminary notice.

May request a visit to see the child in the home(s)

If visit is refused the LA may use this as a concerns about the education and child.

SAO

served if fail to reply to prel. notice, or if LA decides it's in child's best interests to attend school.

Or the OPINION of LA that child should attend school.

SS alone
is not
enough to
serve an
SAO

May request to see
child in the home
AGAIN

- (c) in the opinion of the authority it is expedient that the child should attend school.
 - (2) But a local authority must not serve an order under this section on a child's parent if—
 - (a) either—
 - (i) condition B was the only condition cited in the preliminary notice served under section 436H in relation to the child, or
 - (ii) condition B and another condition were cited in that preliminary notice, but the child's parent has satisfied the local authority that the child is receiving suitable education,
 - (b) the local authority is no longer conducting enquiries or taking action in respect of the child as mentioned in section 436H(5)(a), and
 - (c) the local authority is not aware of any other enquiries being made under section 47 of the Children Act 1989 or of any other action being taken under section 47(8) of that Act, or which has been taken during the period of five years ending with the date that the order would be made, in respect of the child.
 - (3) For the purpose of determining whether an order must be served under this section in respect of a child, the local authority—
 - (a) must consider the settings where the child is being educated that the local authority knows about and where the child lives,
 - (b) must consider how the child is being educated and what the child is learning, so far as is relevant in the particular case, and
 - (c) may request the child's parent on whom the preliminary notice has been served under section 436H to allow the local authority to visit the child inside any of the homes in which the child lives.
 - (4) If a request under subsection (3)(c) is refused by the person to whom it is made, the local authority must consider that to be a relevant factor in deciding whether the child's parent has failed to satisfy the local authority as mentioned in subsection (1)(b)(i) or (ii).
 - (5) An order under this section (a "school attendance order") is an order requiring the person on whom it is served to cause the child to become a registered pupil at a school named in the order. A school attendance
 - (6) order under this section—
 - (a) must be served without delay, and in any event before the end of the period of five days beginning with the day on which the authority determines which school is to be named in the order, and
 - (b) must be in the prescribed form.

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- (7) A school attendance order under this section continues in force (subject to any amendment made by the local authority) for so long as the child is of compulsory school age, unless—
- (a) it is revoked by the authority, or
 - (b) a direction is made in respect of it under section 436Q(6) or 447(5). 5
- (8) Where a maintained school is named in a school attendance order under this section—
- (a) the local authority must without delay, and in any event before the end of the period of five days referred to in subsection (6)(a) inform the governing body and the head teacher, and 10
 - (b) the governing body and the local authority must admit the child to the school.
- (9) Where an Academy school or alternative provision Academy is named in a school attendance order under this section— 15
- (a) the local authority must without delay, and in any event before the end of the period of five days referred to in subsection (6)(a) inform the proprietor and the principal, and
 - (b) the proprietor must admit the child to the school.
- (10) Subsections (8) and (9) do not affect any power to exclude from a school a pupil who is already a registered pupil there. 20

436J School attendance order for child with EHC plan (England)

- (1) Subsections (2) and (3) apply where a local authority in England is required to serve a school attendance order under section 436I in respect of a child for whom the authority maintains an EHC plan. 25
- (2) Where the EHC plan specifies the name of a school, that school must be named in the order.
- (3) Where the EHC plan does not specify the name of a school—
- (a) the authority must amend the plan so that it specifies the name of a school, and 30
 - (b) that school must then be named in the order.
- (4) An amendment to an EHC plan required to be made under subsection (3)(a) is to be treated as if it were an amendment made following a review under section 44 of the Children and Families Act 2014, and that section and regulations made under it apply accordingly. 35
- (5) Where—
- (a) a school attendance order is in force in respect of a child for whom the local authority maintain an EHC plan, and
 - (b) the name of the school specified in the plan is changed, 40
- the local authority must amend the order accordingly.

(6) Where a school attendance order is in force in respect of a child who subsequently becomes a child for whom the local authority maintain an EHC plan which specifies the name of a school, the local authority must ensure that school is named in the order.

436K School attendance order for child with individual development plan (Wales) 5

(1) Where a local authority in Wales is required to serve a school attendance order under section 436I in respect of a child for whom an individual development plan is maintained in which a particular school is named, that school must be named in the order. 10

(2) Where—

(a) a school attendance order is in force in respect of a child for whom an individual development plan is maintained in which a particular school is named, and

(b) the name of the school specified in the plan is changed, the local authority must amend the order accordingly. 15

(3) Where a school attendance order is in force in respect of a child who subsequently becomes a child for whom an individual development plan is maintained in which a particular school is named, the local authority must ensure that school is named in the order. 20

436L School nomination notice for school attendance order

(1) Before a local authority serves a school attendance order under section 436I on a person in respect of a child, other than a child for whom the authority maintains an EHC plan or a child for whom an individual development plan is maintained in which a particular school is named, the authority must serve a notice on the person under this section (a “school nomination notice”). 25

(2) A school nomination notice is a notice in writing—

(a) informing the person of the local authority’s intention to serve the order, 30

(b) specifying the school which the authority intends to name in the order and, if the authority considers it fit, one or more other schools which it regards as suitable alternatives, and stating the effect of subsections (3) to (6).

For periods within which the school nomination notice must be served, see section 436N(6) and (7). 35

(3) If the school nomination notice specifies one or more alternative schools and the person selects one of them before the end of the period of 15 days beginning with the day on which the notice is served, the school selected by the person must be named in the order. 40

(4) If—

School nomination notice to be served before full SAO

- (a) within the period mentioned in subsection (3) the person—
- (i) applies for the child to be admitted to a school which is an Academy school or alternative provision Academy and notifies the local authority which served the notice of the application, or 5
 - (ii) applies for the child to be admitted to a school maintained by a local authority and, where that authority is not the local authority which served the notice, notifies the latter authority of the application, and 10
- (b) the child is offered a place at the school as a result of the application,
that school must be named in the school attendance order.
- (5) If—
- (a) within the period mentioned in subsection (3) the person applies to the local authority by whom the notice was served for education to be provided at a school which is not a school maintained by a local authority, an Academy school or alternative provision Academy, and 15
 - (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 517, 20
that school must be named in the school attendance order.
- (6) If, within the period mentioned in subsection (3)— 25
- (a) the person—
 - (i) applies for the child to be admitted to a school which is not maintained by a local authority, an Academy school or an alternative provision Academy and in respect of which no application is made under subsection (5), and 30
 - (ii) notifies the local authority by whom the notice was served of the application,
 - (b) the child is offered a place at the school as a result of the application, and 35
 - (c) the school is suitable to the child's age, ability and aptitude and to any special educational needs the child may have,
that school must be named in the school attendance order.

436M School nomination notice: restrictions

- (1) A local authority may not specify a school in a school nomination notice if the child is permanently excluded from it. 40
- (2) A local authority may not specify a maintained school or Academy school in a school nomination notice if the admission of the child would, because of the need to take measures to avoid failing to comply

with any duty applicable to the school in relation to class sizes, prejudice the provision of efficient education or the efficient use of resources.

(3) A local authority may not specify a maintained school or Academy school in a school nomination notice if, were the child concerned admitted to the school in accordance with a school attendance order resulting from the notice, the number of pupils at the school in the child's age group would exceed the relevant number. 5

(4) The relevant number is—

(a) in the case of a maintained school, the number determined in accordance with section 88C or 89 of the School Standards and Framework Act 1998 as the number of pupils in the child's age group which it is intended to admit to the school in the school year in which the child would be admitted, or 10

(b) in the case of an Academy school, the number determined in accordance with the Academy arrangements relating to the school or any enactment as the number of such pupils. 15

(5) Subsection (3) does not prevent a local authority from specifying a maintained school where the authority is responsible for determining the arrangements for the admission of pupils to the school. 20

(6) Subsection (3) also does not prevent a local authority from specifying a maintained school or Academy school if—

(a) in the opinion of the authority the school is a reasonable distance from the home of the child, and
(b) there is no maintained school or Academy school in their area which— 25

(i) the authority could specify (apart from subsection (3)), and

(ii) is in the opinion of the authority a reasonable distance from the home of the child. 30

436N School nomination notice: procedure

(1) Before deciding to specify a maintained school, Academy school or alternative provision Academy in a school nomination notice a local authority must consult—

(a) in the case of a maintained school— 35

(i) the governing body, and

(ii) if another local authority is responsible for determining the arrangements for the admission of pupils to the school, that authority, or

(b) in the case of an Academy school or alternative provision Academy, the proprietor. 40

(2) Where a local authority decides to specify a maintained school, Academy school or alternative provision Academy in a school

- nomination notice the authority must, before serving the notice, serve notice in writing of their decision on—
- (a) in the case of a maintained school—
 - (i) the governing body,
 - (ii) the head teacher, and 5
 - (iii) if another local authority is responsible for determining the arrangements for the admission of pupils to the school, that authority, or
 - (b) in the case of an Academy school or alternative provision Academy— 10
 - (i) the proprietor, and
 - (ii) the principal.
- (3) A notice under subsection (2) must be served without delay, and in any event before the end of the period of 15 days beginning with the expiry of the period specified in the notice under section 436H. A 15
- (4) person on whom a notice is served under subsection (2)(a)(i) or (iii) or (b)(i) may apply to the Secretary of State in relation to a school in England, or to the Welsh Ministers in relation to a school in Wales, for a direction under this section and, if they do so, must inform the local authority which served the notice. An application under 20
- (5) subsection (4) must be made—
- (a) if the notice is served on a school day, before the end of the period of 10 school days beginning with the day on which the notice is served, or
 - (b) if the notice is served on a day that is not a school day, before 25
the end of the period of 10 school days beginning with the first school day following the day on which the notice is served.
- (6) If the local authority which served a notice under subsection (2) is not informed of an application under subsection (4) within the period specified in subsection (5), the authority must serve the school nomination notice without delay, and in any event before the end of the period of five days beginning with the day after the day on which the period specified in subsection (5) ended. 30
- (7) Where the Secretary of State gives a direction under this section in relation to a school in England or the Welsh Ministers give a direction under this section in relation to a school in Wales— 35
- (a) the school or schools to be specified in the school nomination notice are to be determined in accordance with the direction, and
 - (b) the school nomination notice must be served without delay, 40
and in any event before the end of the period of five days beginning with the day after that on which the direction is given.

- (8) If a local authority in England serves a notice under subsection (2) specifying a school in Wales and an application for a direction is made to the Welsh Ministers under subsection (4) in relation to that notice, the direction under this section may only—
- (a) confirm that a school specified in the notice under subsection (2) should be specified in the school nomination notice, or
 - (b) refer the question of which school or schools should be specified in the school nomination notice back to the local authority to determine.
- (9) If a local authority in Wales serves a notice under subsection (2) specifying a school in England, and an application for a direction is made to the Secretary of State under subsection (4) in relation to that notice, the direction under this section may only—
- (a) confirm that a school specified in the notice under subsection (2) should be specified in the school nomination notice, or
 - (b) refer the question of which school or schools should be specified in the school nomination notice back to the local authority to determine.

4360 Amendment of school attendance order

- (1) This section applies where a school attendance order under section 436I is in force in respect of a child, other than a child for whom the local authority maintains an EHC plan or a child for whom an individual development plan is maintained in which a particular school is named.
- (2) If at any time—
- (a) the person on whom the order is served applies for the child to be admitted—
 - (i) to a school maintained by a local authority, an Academy school or an alternative provision Academy, and
 - (ii) which is different from the school named in the order,
 - (b) the child is offered a place at the school as a result of the application, and
 - (c) the person requests the authority that served the order to amend the order by substituting that school for the one currently named,
- the authority must comply with the request.
- (3) If at any time—
- (a) the person on whom the order is served applies to the authority for the child to be admitted—
 - (i) to a school not maintained by a local authority, an Academy school or an alternative provision Academy, and
 - (ii) which is different from the school named in the order,

- (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by the authority under section 517, and
- (c) the person requests the authority to amend the order by substituting that school for the one currently named, the authority must comply with the request. 5
- (4) If at any time—
- (a) the person on whom the order is served applies for the child to be admitted— 10
- (i) to a school not maintained by a local authority, an Academy school or an alternative provision Academy,
- (ii) which is different from the school named in the order, and
- (iii) in respect of which no application is made under subsection (3), 15
- ~~(b)~~ the child is offered a place at the school as a result of the application,
- ~~(c)~~ the school is suitable to the child's age, ability and aptitude and to any special educational needs the child may have, and 20
- (d) the person requests the authority to amend the order by substituting that school for the one currently named, the authority must comply with the request.

436P Revocation of school attendance order

- (1) This section applies where a school attendance order made by a local authority under section 436I is in force in respect of a child. 25
- (2) The local authority must revoke the order if—
- (a) the order was served following a preliminary notice under section 436H in which the only condition cited was condition B, 30
- ~~(b)~~ the local authority is no longer conducting enquiries or taking action in respect of the child as mentioned in section 436H(5)(a), and
- ~~(c)~~ the local authority is not aware of any other enquiries being made under section 47 of the Children Act 1989 or of any other action being taken under section 47(8) of that Act, or which has been taken during the period of five years ending with the date that the order was made, in respect of the child. 35
- (3) The person on whom the order is served may at any time request the local authority to revoke the order on the ground that arrangements have been made— 40
- (a) for the child to receive suitable education otherwise than at a school, where the order was served—

SAO can be revoked if
info satisfies the LA that
a suitable education is in
place.
Or that it is in child's
best interests to stay
home educated.

- (i) as a result of the person failing to satisfy the local authority that the child is receiving suitable education, or as a result of the person failing to satisfy the local authority both that the child is receiving suitable education and that it is in the best interests of the child to receive education otherwise than by regular attendance at school, where subsection (2)(b) and (c) applies; 5
 - (ii) 5
- (b) for the child to receive education, otherwise than at a school, that is in their best interests, where the order was served as a result of the person failing to satisfy the local authority that it is in the best interests of the child to receive education otherwise than by regular attendance at school. 10
- (4) The authority must comply with a request under subsection (3), unless the authority is of the opinion that the arrangements mentioned in subsection (3)(a) or (b), or both, as the case may be, have not been made for the child. 15
- (5) If a person is aggrieved by a refusal of a local authority in England to comply with a request under subsection (3)— 20
 - (a) the person may refer the question to the Secretary of State, and
 - (b) the Secretary of State must give such direction determining the question as the Secretary of State considers appropriate.
- (6) If a person is aggrieved by a refusal of a local authority in Wales to comply with a request under subsection (3)— 25
 - (a) the person may refer the question to the Welsh Ministers, and
 - (b) the Welsh Ministers must give such direction determining the question as the Welsh Ministers consider appropriate.
- (7) Where the child is one for whom the local authority maintains an EHC plan— 30
 - (a) if the name of a school or other institution is specified in the EHC plan, subsection (3) does not apply;
 - (b) if the name of a school or other institution is not specified in the EHC plan, a direction under subsection (5)(b) may require the authority to make such amendments in the plan as the Secretary of State considers necessary or expedient in consequence of the determination. 35
- (8) Where the child is one for whom the local authority maintains an individual development plan— 40
 - (a) if the name of a school or other institution is specified in the plan, subsection (3) does not apply;
 - (b) if the name of a school or other institution is not specified in the plan, a direction under subsection (6)(b) may require the authority to make such amendments in the plan as the Welsh

Ministers consider necessary or expedient in consequence of the determination.

436Q Offence of failure to comply with school attendance order

(1) If a person on whom a school attendance order under section 436I is served fails to comply with the requirements of the order, the person is guilty of an offence. 5

(2) Subsection (1) does not apply if—

(a) the person proves that arrangements have been made for the child to receive suitable education otherwise than at a school, where the order was served as a result of the person failing to satisfy the local authority that the child is receiving suitable education, 10

(b) the person proves that arrangements have been made for the child to receive education, otherwise than at a school, that is in their best interests, where the order was served as a result of the person failing to satisfy the local authority that it is in the best interests of the child to receive education otherwise than by regular attendance at school, 15

(c) section 436H(5)(a) is no longer met in respect of the child, where the order was served following a preliminary notice under section 436H which cited only condition B, or 20

(d) both—

(i) the person proves that arrangements have been made for the child to receive suitable education otherwise than at a school, and 25

(ii) section 436H(5)(a) is no longer met in respect of the child,

where the order was served following a preliminary notice under section 436H which cited condition B and another condition. 30

(3) The reference in subsection (1) to failure to comply with the requirements of a school attendance order includes causing a child to cease to be registered at the school named in the school attendance order.

(4) Subsection (3) does not apply in circumstances where— 35

(a) the school has, pursuant to section 436J, 436K or 436O, ceased to be the school named in the school attendance order, or

(b) the school attendance order has been revoked pursuant to section 436P.

(5) A person who— 40

(a) fails to comply with the requirements of a school attendance order under section 436I by not causing a child to become a registered pupil at the school named in the order, and

Heavier fines
and prison for
failing to
comply with
SAO

- (b) is convicted of an offence under this section in respect of the failure,
may be found guilty of an offence under this section again if the failure continues.
- (6) If, in proceedings for an offence under this section, the person is acquitted, the court may direct that the school attendance order ceases to be in force. A direction under subsection (6) does not affect the
5
- (7) duty of the local authority to take further action under section 436I if at any time the authority is of the opinion that, having regard to any change of circumstances, it is expedient to do so.
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- (8) A person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding the maximum term for summary offences or a fine not exceeding level 4 on the standard scale (or both).
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- (9) In subsection (8), “the maximum term for summary offences” means—
(a) if the offence is committed before the time when section 281(5) of the Criminal Justice Act 2003 comes into force, six months;
(b) if the offence is committed after that time, 51 weeks.
- 436R References to “Academy school” and “Academy arrangements”** 20
- (1) In sections 436I and 436L to 436O, a reference to an Academy school includes a reference to a city technology college and a city college for the technology of the arts.
- (2) The reference in section 436M to Academy arrangements includes a reference to an agreement under section 482.
25
- 436S References to “regulations” and “prescribed”**
- (1) In sections 436B(6), 436C(4) and 436E(7) “regulations” means—
(a) regulations made by the Secretary of State in relation to England, and
(b) regulations made by the Welsh Ministers in relation to Wales.
30
- (2) In sections 436C, 436E, 436F, 436I and paragraph 5 of Schedule 31A “prescribed” means—
(a) prescribed by regulations made by the Secretary of State in relation to England, and
(b) prescribed by regulations made by the Welsh Ministers in relation to Wales.”
35
- (3) In section 572 (service of notices and other documents), at the end insert—
“(4) This section does not preclude any notice or order under sections 436H to 436P (which relate to school attendance orders) from being served by any other effective method.”
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- (4) In Schedule 1 (pupil referral units), for paragraph 14 substitute—
- “14 (1) Where a pupil referral unit is named in a school attendance order made by a local authority under section 436I—
- (a) the local authority must without delay, and in any event within the period of five days referred to in section 436I(6)(a) inform the teacher in charge of the unit, and
- (b) if another local authority is responsible for determining the arrangements for the admission of pupils in the unit, that authority must admit the child to the unit,
- but paragraph (b) above does not affect any power to exclude from a unit a pupil who is already a registered pupil there.
- (2) Section 436L(4) does not apply in relation to a pupil referral unit.
- (3) A local authority—
- (a) must, in a case where another local authority is responsible for the admission of pupils to a pupil referral unit, consult that authority before deciding to specify that unit in a school nomination notice under section 436L, and
- (b) if the authority decides to specify the unit in the notice, must serve notice in writing of their decision on that authority.
- (4) Section 436N(3) to (9) applies where notice is served on a local authority under sub-paragraph (3) above as it applies where notice is served under section 436N(2).
- (5) The parent of a child in respect of whom a school attendance order under section 436I is in force may not under section 436O request the local authority to amend the order by substituting a pupil referral unit for the school named in the order.
- (6) Where a child is a registered pupil at both a pupil referral unit and at a school other than such a unit, the references in section 444 to the school at which the child is a registered pupil are to be read as references to the unit.”

42 Children not in school: processing of information

After section 436S of the Education Act 1996 (as inserted by section 41) insert—

“Children not in school and school attendance orders: processing of information

436T Processing of information

- (1) This section applies to section 434A, sections 436B to 436Q and Schedule 31A, and provisions of regulations made under any of those provisions.
- (2) A disclosure of information authorised or required under any provision to which this section applies does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).”

43 Guidance on children not in school and school attendance orders

After section 436T of the Education Act 1996 (as inserted by section 42) insert—

“Guidance on children not in school and school attendance orders 5

436U Guidance

In exercising its functions under or by virtue of sections 434A, 434B and 436B to 436P, a local authority must have regard to—

- (a) in the case of a local authority in England, any guidance given by the Secretary of State; 10
- (b) in the case of a local authority in Wales, any guidance given by the Welsh Ministers.”

44 Children not in school: consequential amendments

Schedule 2 contains consequential amendments relating to section 41.

Independent educational institutions 15

45 Expanding the scope of regulation

(1) The Education and Skills Act 2008 is amended as follows.

(2) For section 92 (meaning of “independent educational institution”) substitute—

“92 Independent educational institutions in England

- (1) The following are independent educational institutions for the purposes of this Chapter— 20
 - (a) independent schools in England;
 - (b) institutions in England, other than independent schools and excepted institutions, that provide full-time education for—
 - (i) at least five children of compulsory school age, or 25
 - (ii) at least one child of compulsory school age who is looked after by a local authority or has special educational needs.
- (2) The following subsections apply for the purposes of subsection (1)(b) (and see section 138(1A) for provision about the meaning of an institution providing education). 30
- (3) Regulations may—
 - (a) specify that an amount of time is or is not to be treated as “full-time” by reference to a number of hours in, or a proportion of, a week or other period, or in any other way; 35