

Written evidence submitted by Joel Norris to The Children's Wellbeing and Schools Bill Committee (CWSB230).

Executive Summary

- The Children's Wellbeing and Schools Bill proposes a compulsory register and consent requirements for elective home education (EHE) families.
- The Bill invokes safeguarding concerns but does so based on extraordinary cases such as Sara Sharif's, which do not represent the typical EHE experience.
- Mandatory registration and local authority consent are disproportionate measures that undermine parental rights and contradict existing legal principles.
- The measures proposed are unlikely to prevent rare tragedies but will burden responsible families and divert resources from genuine safeguarding concerns.
- Recommendations include replacing "consent" with "advice," voluntary rather than mandatory registration, and strengthening targeted safeguarding interventions.

Introduction

I submit this evidence as a concerned private individual with an interest in the protection of parental rights and the proportionality of state intervention. I write to express my strong concerns regarding the provisions in the Children's Wellbeing and Schools Bill that pertain to elective home education (EHE), namely clauses 24-29.

While safeguarding children is undoubtedly a vital societal responsibility, the measures proposed in this bill risk undermining parental rights and imposing intrusive state controls that are both disproportionate and ineffective for their stated purposes.

It is particularly troubling that the tragic case of Sara Sharif has been invoked as justification for these sweeping changes. Her case is an outlier rather than a representative example, and what happened to her reveals the failure of existing safeguarding mechanisms, not the need for blanket oversight of home educators. The bill, under the guise of safeguarding, appears to target hard-working, conscientious families without addressing the real issues behind rare but devastating cases like Sara's.

Furthermore, these measures run contrary to foundational legal principles and freedoms enshrined in English law, including the presumption of innocence, parental primacy in education, and the importance of proportionate state intervention.

1. The Contradiction of Parental Primacy and State Consent

1.1 The bill introduces a compulsory registration requirement for home-educating families and suggests that local authorities may need to consent before parents can home educate their children. Proponents of the bill maintain that parents are still recognised as the

"primary educators" of their children. However, this assertion is fundamentally contradictory.

1.2 Parental education cannot truly be the default position if the state holds veto power over parental decisions. The very notion of requiring "consent" implies that parents must seek permission to exercise a right that should be theirs by default. This contradicts Section 7 of the Education Act 1996, which clearly states:

"The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable... either by regular attendance at school or otherwise."

1.3 The phrase "or otherwise" explicitly affirms that home education is a lawful and legitimate choice, resting on parental discretion. By requiring consent, the bill effectively subordinates this parental right to state approval, treating it as a conditional privilege rather than a protected freedom.

1.4 The use of the term "consent" implies that the state has primary authority over a child's education, with parents needing permission to fulfil their lawful educational duties. This reverses the historic and legal norm that parents hold primary responsibility for their children's education.

1.5 In a society that upholds personal freedoms, lawful actions undertaken by responsible citizens should not require state approval. Parental education of children is the default legal and natural position, not an exception requiring justification.

1.6 By requiring "consent," the Bill sets a dangerous precedent. If the state can veto parents' lawful decisions about education, what other areas of family life might it seek to control next? Such measures contradict principles enshrined in English law and common sense.

1.7 A more appropriate and legally consistent approach would be to frame the role of local authorities as advisory rather than authoritative. Authorities should offer support and guidance rather than wielding arbitrary power to veto lawful parental decisions.

2. The Presumption of Innocence and Blackstone's Ratio

2.1 One of the cornerstones of English law is the presumption of innocence. Sir William Blackstone famously articulated this principle in his *Commentaries on the Laws of England* when he stated:

"It is better that ten guilty persons escape than that one innocent suffer."

2.2 This legal maxim underscores the importance of protecting individuals from unjust treatment by the state, even at the cost of some risks. In the context of this bill, it would

mean that it is better to risk a small number of safeguarding failures than to unjustly impose surveillance and control on thousands of innocent, responsible families.

2.3 The bill's requirement for compulsory registration and potential consent treats all home-educating families as though they are pre-emptively under suspicion. This flips the presumption of innocence on its head, implying that parents who choose to home educate are inherently suspect and must be monitored.

2.4 Such an approach is fundamentally at odds with the principles of a free and just society, in which only criminals and suspects are subjected to monitoring and restrictions. Law-abiding parents should not have to seek permission or register their rightful educational choices.

2.5 Just as "ankle tracker" devices are used to monitor individuals suspected or convicted of crimes, the compulsory registration of home-educating families, and lengthy questioning about their curricula, imposes a form of state surveillance, a bureaucratic ankle tracker. It signals a lack of trust and a presumption of guilt without evidence.

2.6 If a parent's lawful choice to educate his or her child at home is treated as a suspect activity requiring monitoring, then the distinction between freedom and criminality has been dangerously eroded.

2.7 The state should reserve its powers of intervention for cases where there is genuine evidence of harm or neglect, not apply blanket measures that encroach upon the rights of responsible families.

3. The Ineffectiveness of the Proposed Safeguarding Measures

3.1 The tragic case of Sara Sharif, which has been cited as a justification for these measures, is not representative of the general experiences of home-educated children. Her circumstances were extraordinary, and the tragedy that befell her occurred despite the authorities being aware of her situation. The failure was not due to a lack of oversight but rather a failure to act upon existing knowledge.

3.2 Moreover, Sara's death occurred in the August, during the summer school holiday, a time when school attendance requirements would have made no difference. Even if Sara had been enrolled in school, the tragic events that led to her death took place when schools were not in session.

3.3 This highlights the limitations of institutional safeguarding: schools cannot monitor children during weekends, evenings, holidays, or the 138 hours per week when they are not in school. To suggest that mandatory registration or increased state intervention in home education would have prevented such a tragedy is disingenuous.

3.4 Safeguarding failures in Sara's case were not due to a lack of information but rather to the authorities' failure to act on the information they already possessed. This is a common theme in many tragic cases.

3.5 Expanding bureaucratic oversight for all home-educating families would not have saved Sara and is unlikely to prevent similar tragedies. Instead, it risks diverting resources away from addressing genuine cases of concern, weakens the overall effectiveness of safeguarding interventions, and places an unjust burden on responsible parents.

3.6 Targeted safeguarding measures that focus on families where there is specific evidence of risk are far more likely to be effective than blanket registration requirements.

4. The Danger of Normalising State Surveillance

4.1 The bill's provisions for compulsory registration and consent requirements effectively treat law-abiding citizens as though they are under suspicion without cause. In a free society, only individuals suspected of wrongdoing are typically subjected to monitoring or restrictions on their private actions.

4.2 By mandating registration for home-educating families, the bill creates a precedent where lawful parental decisions are treated as matters requiring state approval. The normalisation of state surveillance creates a chilling effect, where parents may feel dissuaded from making lawful educational choices for fear of unwarranted scrutiny.

4.3 Treating parents as default suspects for choosing home education contradicts the principles of a society founded on trust and individual rights. Such measures undermine trust between families and the state and erode the fundamental freedoms that underpin a democratic society.

5. Proportionality and Targeted Intervention

5.1 English law recognises the importance of proportionality in state intervention. Safeguarding measures should be targeted and based on evidence, not applied indiscriminately.

5.2 The current framework allows local authorities to act where there is specific evidence of harm or educational neglect. Strengthening the ability of authorities to respond effectively in such cases would be a far more proportionate and just response than imposing blanket requirements on all families.

5.3 Overextending bureaucratic resources to monitor compliant families distracts from addressing situations where children are genuinely at risk. Targeted interventions based on evidence, not assumptions, are more likely to be effective.

Factual Information and Legal Principles

6.1 Legal Principles:

- **Parental Primacy:** Section 7 of the Education Act 1996 affirms parents as the primary educators of their children.
- **Presumption of Innocence:** Blackstone's Ratio underscores that it is better to risk some failures than unjustly burden the innocent.
- **Proportionality:** English legal tradition emphasises that state intervention must be proportionate and evidence-based.

6.2 Factual Information:

- Schools are responsible for children for approximately 30 hours per week. For the remaining 138 hours per week, including evenings, weekends, and holidays, parents are the primary protectors and educators.
- Home education is a lawful and growing educational choice that has proven effective for many families.
- Authorities already possess powers to intervene where there are genuine concerns about a child's welfare or education.

6.3 The extraordinary case of Sara Sharif highlights the need for effective intervention rather than increased administrative oversight. Authorities failed despite being aware of her circumstances. Her death occurred during a school holiday when increased surveillance would not have made a difference.

Recommendations

7.1 In light of these concerns, I urge the committee to consider the following amendments to the bill:

- a. Replace the requirement for local authority "consent" with "advice," ensuring that parental primacy in education is respected and maintained.
- b. Frame any registration process as voluntary and supportive rather than compulsory, except where there is specific evidence of safeguarding concerns.
- c. Strengthen existing safeguarding mechanisms to ensure that authorities can act effectively when genuine concerns arise, rather than imposing burdens on law-abiding families.
- d. Maintain the presumption of innocence for parents and avoid treating them as suspects simply because they choose to home educate.

7.2 By adopting these measures, the committee can uphold parental rights, maintain trust between families and the state, and ensure that safeguarding responsibilities are exercised proportionately and justly.

Thank you for your time and careful consideration.

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