The Rt Hon Baroness Jacqui Smith

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The Lord Lucas
House of Lords
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Thursday 2nd October 2025

Dear Lord Lucas,

During the Committee debate of the whole House on 2 September, I promised to write to you on a number of topics. These include; further information about best interest decisions including the appeals process, Local Government Ombudsman jurisdiction in relation to the Children Not In School registers, further details of cases where the Department has intervened with individual local authorities and updates on the Implementation Forums which we have established. I hope my responses to each of these topics below are helpful to you. I have additionally provided some further information below on the expected details of the Support Duty which I hope will be useful to you.

Best Interest Determinations

Regarding "best interests" determinations which will be made by local authorities in respect of Clause 32 (and also applicable to Clause 30) of the Children's Wellbeing and Schools Bill:

The best interest requirement in clause 32 applies only to children who meet Condition B – that is those children who are either subject to a section 47 enquiry or on a child protection plan. It provides local authorities with an important safeguarding check for children who are not regularly attending school but are considered at risk of, or are already, suffering significant harm. Issues such as school related anxiety and bullying will not be deemed, by themselves, a child protection matter but we do know that for some children who are subject to a section 47 or child protection plan, school related anxiety and bullying may be additional factors in their lives. Working Together to Safeguard Children (2023) which will be updated during the implementation of the bill to provide specific advice on clause 30 and 32, requires that all local authority decisions be made in the best interest of the child and offers clear guidance on how this principle should be upheld. In cases where a child experiences school-related anxiety, such circumstances will be a significant factor for the local authority when determining if it is in the child's best interest to be educated in school or not.

Where a child has experienced school-related anxiety or bullying, and there is a decision that it would be in the child's best interest to be educated in school, I want to be clear that this should be achieved in a way that is sensitive to the child's needs. Current guidance (Working together to improve school attendance, 2025), is clear that schools should work to support pupils to overcome barriers to their attendance, including working in partnership with families and making any appropriate adjustments. We expect schools and local authorities to work with families to provide additional support where necessary, to help ensure that the child is able to regularly attend.

Working Together to Safeguard Children has been updated to include principles that place a strong emphasis on collaborative working between practitioners and families. It reinforces the need for decisions to be made in partnership with parents and carers, ensuring that families are actively involved in the process, and practitioners build a fuller understanding of the child's circumstances. This supports fair and informed decision making and is reflected in the CNIS provisions in the bill.

Regarding appeals, parents may request the local authority revoke a school attendance order by providing evidence that arrangements have been made to ensure their child will receive suitable education otherwise than at school (and in the cases of children subject to section 47 / child protection plans that this would be in their best interest). If the local authority disagrees, then parents can refer the case to the Secretary of State who will determine the issue.

I hope this provides the clarity you were seeking and supports your engagement with the home education community.

Local Government Ombudsman

In response to your query regarding whether the Local Government Ombudsman might have jurisdiction in terms of the operation of the Children Not In School registers, I am pleased to provide the following comment from representatives of the Local Government Ombudsman which I hope will satisfy you on this point.

"The Local Government Act (1974) enables the Ombudsman to consider complaints about the administrative functions of councils in England. Based on the current wording of the Bill, the Ombudsman expects to have jurisdiction to consider complaints about how councils maintain registers for children outside of state education, as well any interventions that might take place under the new powers. While the law places some constraints on the Ombudsman's jurisdiction, by precluding investigations into certain matters (such as personnel disputes, the internal management of maintained schools, or where a statutory right of appeal exists), we do not see any of those barriers applying here. However, the Ombudsman would almost always expect the complainant to exhaust the local complaints process in the first instance, and would generally only start a detailed investigation when it appears the complainant has suffered a serious injustice."

DfE interventions with Local Authorities

In the debate on 2 September, you raised several concerns about the actions of some local authorities towards home educating parents in their areas, and queried how the Department intends to support such local authorities to adapt their practice.

I am pleased to confirm that my officials are already active in this regard. Through regular communication with home education stakeholder groups, officials are alerted to any issues with local authorities. When these are flagged, officials aim to resolve them as quickly as possible, which because of the strong relationships officials also have with local authority home education teams, is usually achieved through informal means.

For example, officials in my Department were recently made aware of a local authority that did not follow the appropriate process when issuing a School Attendance Order. This was resolved swiftly through an email and a short phone call.

We will look to strengthen and deepen our relationships as we implement the Bill, and continue to seek to support and inform local authorities in their preparation for and implementation of the Children Not In School measures. We will also consider the potential benefits of introducing specific training for local authorities to further assist with the implementation of the measures.

Implementation Forum

Regarding the two sister Implementation Forums which the Department continues to maintain, you queried whether occasional updates might be produced concerning forum deliberations. I am happy to confirm that the Implementation forums have been in operation since December 2024 and most recently met in July 2025. The primary purpose of the forums is to advise on the implementation of the Children Not In School measures, which will come into more focus towards the end of the Bill' passage through parliament and subsequently as we look to consult on and implement the regulations and statutory guidance. Thus far forum discussions have focussed upon hearing stakeholder views of the Children Not In School measures, and testing some early thinking regarding implementation, such as how new statutory guidance should be approached.

The next meeting of the Implementation forums will be scheduled to follow Report stage. At this meeting, we expect to begin to consider in more detail some of the policy considerations which will feed into a consultation following Royal Assent. We expect to have further meetings with the Implementation forum following analysis of consultation responses, and at appropriate subsequent points during the laying of regulations, prior to publishing new statutory guidance, and in the pre-implementation period where forum discussions are likely to focus on understanding sentiment amongst stakeholders and ensuring clarity of communications.

You and colleagues will appreciate that there are sensitivities regarding sharing any details of specific forum discussions, particularly as the membership of these includes private individuals as well as representatives of a wide range of stakeholder organisations. The importance of ensuring that the forums remain a safe confidential space where views can be shared freely to best aid policymaking cannot be overstated, and for that reason I am afraid that I cannot commit to providing any updates or details from previous or future forum discussions. I hope that the information that I have provided here is sufficient to reassure you of my Department's intention to continue to engage closely with these forums and seriously consider all views shared within these.

Support Duty

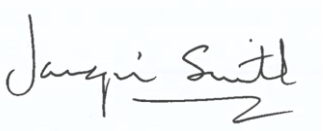
In approaching the Support Duty, the Department has been mindful of the broad variation in support offers currently available across local authorities. The Support Duty is intended to set a consistent baseline of support across all local authorities so that home educating parents can have clarity on the support which they can expect regardless of where they live. However, I recognise that some local authorities currently choose to provide a more fulsome support offer than that set out in the Bill. Local authorities will continue to have discretion to provide further support in addition to the baseline set in the Support Duty, and this will be for the individual local authority to determine.

Guidance on how the Support Duty should operate will be included in the new statutory guidance which we will publish for the implementation of the Children Not In School measures. This guidance will be consulted upon, including the support elements, as I and my ministerial colleagues are keen to ensure that guidance is pitched well to enable a smooth implementation of the new measures.

The intention of the Support Duty is for the local authority to have the role of an 'informed friend', acting as a source of advice and information for parents. However, parents retain responsibility for the education of their children, and the existence of the Support Duty for home educating families should not blur boundaries regarding this. This is another element upon which we will seek to ensure clarity through guidance.

I hope that the above provides you with sufficient reassurance on the topics which you raised in the debate. I will place a copy of this letter in the library of the House.

Yours sincerely,



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