

Support Documentation
for letter dated 15-09-2013 to MP Adrian Piccoli

Changes to home education policy in NSW

In NSW, home educators are required to be registered by the NSW Office of the Board of Studies (OBOs) for home education. The experience of the Home Education Association (HEA) is that this registration process proceeded relatively smoothly for the vast majority until about two years ago. Over the past two years, HEA members have reported that the registration process had changed and that they were being asked to provide information or undertake paperwork beyond that ever before required. The registration process had become extremely stressful and difficult for some families, including the children. The diversity of locations from which these reports originated and their sustained and repeated nature, led the HEA to believe there had been a major change in policy and practice at the OBOs.

The HEA approached the OBOs on a number of occasions making specific enquiry as to whether there had been any changes to registration policy or practice. HEA were advised there had been none and that no changes had occurred since October 2011. On the 30th of July 2013, HEA representatives met with the OBOs to again raise the issue of changes in registration practice and policy. At that time the HEA were advised that there had been no changes but a new Registration for Home Schooling in NSW Information Package (IP) was about to be published. The HEA were also advised that the new August 2013 IP contained only minor changes as compared to the previous 2011 IP.

The 2013 Registration for Home Schooling in NSW Information Package (IP) was published on the 26th of August. The 2013 IP was very different from the 2011 IP and contained major changes in policy and procedures for home education registration. The HEA is of the opinion the significant changes noted in the 2013 IP were directly responsible for the difficulties in registration HEA members were reporting. These changes probably began to be implemented directly after the 2011 IP was released and it appears that the 2013 IP is considered a “clarification” of policy rather than new policy by the OBOs. Nonetheless the 2013 IP constitutes real change in the regulatory environment for home educated families in NSW.

These changes include: Removal of recognition of different styles of home education, addition of a requirement for home educators to provide written plan for recording, teaching and assessing that is linked to the outcomes of the NSW Syllabus, removal of registration via documentation, addition of a requirement to restrict teaching to the years for which children are registered, change in the process so that initial registrations are a maximum of one year and institution of no minimum registration, addition of an allowance for “spot checks” of home educators, addition of a requirement that all home education occur in the home and be taught by the parent, an overall reduction in flexibility and a change in attitude from APs towards home educators. A detailed description of these changes and the ways in which they have been implemented is provided below, as are quotations from home educators about their recent registration experiences.

Removal of recognition of different styles of home education

The 2011 IP contained the following description of styles of home education: *“As with other forms of education there is no single approach to home schooling. Some home educators have a structured approach that is based upon a set timetable and formal instruction. Others prefer an approach that is less formal and responds to the child’s developing interests and needs.”* These sentences have been removed from the 2013 IP. It is evident from the other changes and the ways in which those responsible for assessing applications for home education registration (called Authorised Persons (APs)) have been interacting with families that the OBoS wishes to discourage flexibility in the provision of home education in NSW.

Addition of a requirement for home educators to provide written plan for recording, teaching and assessing that is linked to the outcomes of the NSW Syllabus

The 2011 IP required home educators to have a plan for their child’s educational program, for keeping records and for recording achievement and progress. It provided descriptions of each key learning area in primary education called “Foundation Statements,” described them as a summary of Syllabus outcomes, and suggested that they constitute the minimum curriculum requirements (which is what home educators are required to teach to in the 1990 Education Act). In practice many home educators found these descriptions helpful in developing learning programs and in presenting evidence of delivery of their educational programs to their children. Until recently, APs were satisfied with home educators using these Foundation Statement as the basis for their planning, assessment and reporting of their education programs. The 2013 IP has removed these descriptions of the key learning areas and instead, throughout the document states that home educators are required to indicate in their planning and record keeping how they are meeting or intending to meet each learning outcome in the NSW Syllabus. For example, *“the educational program identifies the intended learning outcomes based on the relevant Board of Studies syllabuses and relevant content;”* *“written a plan or outline of the educational program you intend to deliver to your child including the intended learning outcomes and content;”* *“the written plan for the proposed educational program showing how it is based on Board of Studies syllabuses and identifies intended learning outcomes and content;”* and *“the suitability of the proposed educational program, including the intended outcomes and content, to cater for the identified learning needs of the child.”*

There is also now a requirement for a “written plan” (as opposed to just having a plan) for recording and assessing. Again this increases the amount of paperwork that home educators are required to produce. For example, *“(e) prepared a written plan or method for recording the teaching and learning experiences to be completed by your child”* and *“(f) prepared a written plan or method for assessing and recording your child’s achievement and progress in each course or key learning area to be studied”*

Each key learning area has up to 30 outcomes for each stage of learning that are written in difficult and complex language. This makes providing written plans for meeting and reporting each of these outcomes for each child difficult and time consuming. Requiring home educators to provide plans and reporting at the detail of outcomes is a dramatic change to what was previously required and is excessively burdensome if APs follow it to the letter. This is the change that is having the biggest impact upon home educators as they are being asked to provide detailed plans and reporting on each outcome in the NSW Syllabus. Experienced as well as new home educators are affected by this change. Home educators

with more than a decade of experience have received three month registrations or have been refused registration because they have not provided documentation to the level of Syllabus outcomes. This change requires home educators to keep records far in excess of those who are employed (and paid) to educate children in schools as no teacher is required to keep records of when and how each child meets each learning outcome in the Syllabus. Furthermore, to keep such records is extremely time consuming.

Removal of registration via documentation

Experienced and competent home educators have long had the option of reregistering via documentation rather than by home visit. Registration via documentation involved home educators sending information about the program delivered and future plans for education delivery to the OBoS. The 2011 IP states, *"In some cases, following a successful two year period of registration and the recommendation of the previous Authorised Person, home educators are notified by the Home Education Unit to apply for renewal of registration by documentation."* Experienced home educators were encouraged to take up the option of reregistration via documentation but abruptly this option was removed in mid 2012. The OBoS maintains that the option remains available in exceptional circumstances but the 2013 IP describes registration via documentation as being available in a situation that is unlikely to ever occur stating, *"In some cases, for experienced and successful home schoolers and following a recommendation from the previous Authorised Person, the Office may consider assessing an application by documentation. Assessment by documentation will not be recommended where a home visit has not occurred in the past two years."* Experienced and successful home educators receive two year registration periods.

Addition of a requirement to restrict teaching to the years for which children are registered

From around 2010 the OBoS introduced a policy that required children to be registered for a particular year or years of schooling. Many home educators were bemused with the idea of registering home educated children for particular years of schooling when they had never applied the concept to their child's education before and saw no practical relevance for it. Whilst in some cases APs have been persuaded to register children for "primary" or "secondary" schooling, in most cases children have been registered for particular years of schooling. Years of registration is often seemingly based primarily upon the child's age rather than their stage of learning. It was common for APs to tell home educators that the years of registration was of no significance that children could be taught at any level. However, in recent times home educators have been told that they must only teach to the school years for which they are registered and that they cannot allow their child to advance beyond the upper limit of their registration. Home educators were incredulous at this suggestion but the 2013 IP makes it clear that this is a genuine policy of the OBoS stating, *"You must notify the Home Schooling Unit if you decide to discontinue home schooling or change the home address as specified on the child's certificate of registration, or if you intend to deliver an educational program for Years of schooling other than those specified on the certificate of registration and/or you change your contact details."* And *"If, based on your child's identified learning needs and achievement, you wish to deliver an educational program in advance of the Years of schooling specified on the child's certificate of registration, you must notify in writing the Home Schooling Unit providing details of the proposed change. On receipt of such notice, an Authorised Person will contact you to arrange a mutually convenient time to assess the proposed new educational program. If the proposed educational program satisfies the Authorised Person that the requirements for registration will be met, a certificate of registration specifying the new Years of schooling will be issued"*

Change in the process so that initial registrations are a maximum of one year and there is no minimum registration

For many years the standard registration period was for six months to two years. This is described in the 2011 IP which states, *“Registered home schooled children are authorised to be home schooled in accordance with the conditions specified on the relevant certificate of registration including the period of time (from six months to two years).”* However, for some time, home educators have been told that the initial registration period can only be for one year. This is reflected in the 2013 IP, *“If an applicant for initial registration currently has another child registered for home schooling and that child has been registered for at least two successive periods of the maximum two years for each period, consideration may be given to an initial period of registration of more than one year for another child.”* The OBoS is applying this principle not just to those who are new to home education but also to those who have had breaks in registration due to children attending school or due to lapsed registration and to the registration of subsequent children. In some cases APs have told home educators that they wanted to give them two years registration but were not allowed to do so. In addition the 2013 IP makes no mention of a minimum duration of registration and many home educators (including those with many years of experience and successive two year registrations) are receiving three month registrations. Some have received successive three month registrations.

Addition of an allowance for “spot checks” of home educators

The OBoS inserted into the 2013 IP a policy whereby “spot checks” of home educators may occur in between registration visits. The 2013 IP states, *“From time to time the Office may monitor compliance with the requirements for registration. When this occurs, an Authorised Person contacts the parent to organise a home visit to review evidence relating to compliance with the requirements for registration.”* Whilst the 1990 Education Act contains a provision for the checking of records within the registration period, this section of the Act has never been applied to the knowledge of the HEA. It is unclear under what circumstances such spot checks might occur but home educators have been warned that they must be prepared for a visit at any time.

Addition of a requirement that all home education occur in the home and be taught by the parent

Many home educators have been puzzled when filling out their registration forms to have to nominate the address *“where home schooling will occur.”* Most home educators, to a greater or lesser extent, engage in home education outside of the home and in fact the descriptor “home education” is a misnomer. However, in recent times APs have been stating that educational activities that occur outside the home should not be counted towards a child’s educational program and it has also been suggested that it is not appropriate for outside tutors or classes to contribute to a child’s home education program. This is reflected in the 2013 IP, which states, *“Registration for home schooling requires that parents accept responsibility for developing, implementing and assessing their child’s educational program as based on Board of Studies syllabuses. The educational program upon which a child’s registration is based must be delivered in the child’s home.”* This requirement is described in more detail in the AP’s Handbook, which makes it explicit that any activities that occur outside of the home are supplemental to the home education program. The AP’s Handbook states that, *“Registration for home schooling requires that the educational program be delivered in the registered child’s home. In assessing an application for home schooling registration, an*

Authorised Person must be satisfied that the education of the child, as required for registration, including for all key learning areas, will occur in the home. The home schooling program may be supplemented by extracurricular activities, participation in tutorial groups and/or excursion type activities." It is interesting that it was once the case that the OBoS encouraged home educators to ensure that children not be cloistered within the home and that they received ample opportunity for "socialisation" but this policy actively discourages home education in the community.

It has also been made explicit that a family cannot be travelling from the home address for more than the normal school holiday period and remain registered for home education. The 2013 IP states, *"If you are planning to reside temporarily outside NSW or travelling for periods longer than the typical school holiday periods, you may be eligible to apply for distance education through the NSW Department of Education and Communities."* Many home educators who were planning to travel as a part of their home education program have been told that the travelling environment is not suitable for home education, that registration for home education is not available to them for that reason and that the family should apply for distance education. It is the experience of home educators that travelling can be an ideal environment for home education and that enrolment in distance education whilst travelling may impede learning. Given their commitment to their children's education, many families who are travelling have no choice but to do so unregistered.

An overall reduction in flexibility

Overall the policy changes that have been introduced reduce flexibility. Since the ability to be flexible in the delivery of education is a strength of home education, reducing flexibility has great potential for reducing the quality of education provided to children. Many APs appear to be seeking to enforce a "school at home" approach. For example, whilst there has long been an expectation that home educated children devote a similar time to their education of children at school, most families have not had a problem with this because they consider many everyday activities to be learning activities and it is therefore easy to exceed the daily hours of school via home education. However, recently as home educators have been required to provide extensive plans for future learning based on Syllabus outcomes, APs have been seeming to narrow the definition of what constitutes education, requiring detailed timetables with specified time devoted to overall learning and specific subjects. It is of note that the 1990 Education Act states that time devoted to the delivery of a syllabus cannot be mandated.

A change in attitude from APs towards home educators

Many home educators have noticed a change in attitude of some APs towards home educators. It seems that rather than APs considering whether home educators are providing their children with a good education, the focus is determining whether home educators are complying with OBoS policy. The new policies causing the most concern have been developed and implemented without any consultation with home educators and clearly do not reflect an understanding of home education. Home educating parent's focus is on the wellbeing and education of their children not the implementation of policy. The focus on compliance with policy (the tick the box approach) rather than looking at children as people is the source of much of the conflict between APs and home educating families.

It is possible that some of the changes in attitude and policy within the OBoS are related to child protection issues. In recent years "Educational Neglect" was inserted into the Children and Young Persons (Care and Protection) Act 1998

http://www.austlii.edu.au/au/legis/nsw/consol_act/caypapa1998442/ as a type of child abuse. In addition the 2009 Keeping them Safe Report called for a multi organisational approach to preventing vulnerable children from “falling between the cracks” and has resulted in many organisations changing policy in order to protect children (http://www.community.nsw.gov.au/docs/wr/_assets/main/lib100040/keep_them_safe.pdf). Some of the policy changes are almost certainly directly flow from this legislative change and report. For example, removal of registration via documentation means that children will likely be sighted at registration visits and extreme abuse or neglect identified. In addition, the use of registered post mail in response to requests to OBoS provides confirmation of receipt of communication in the case of a family being taken to court.

It is possible that the OBoS insistence that home educators provide information about their planning, assessment and reporting to the level of each outcome is based on the misunderstanding that the insertion of “educational neglect” into child protection legislation requires them to more closely monitor how home education children are being taught. In fact “educational neglect” is defined as a child not attending school or being registered for home education and bears no relation to the quality of a child’s education. Furthermore, some APs have seemingly taken on board the idea that they are child protection workers and the HEA has received reports of families feeling under intense scrutiny and being asked questions unrelated to home education. The case of the death of “Ebony” has been linked to home education and mentioned to several home educators by APs or officers of the OBoS. Whilst “Ebony” did not attend school and her father told child protection workers that they were going to home educate the children, she was never home educated, never registered for home education and never would have been registered for home education had an application to home educate ever been made (http://www.ombo.nsw.gov.au/_data/assets/pdf_file/0012/3360/Special-Report-Death-of-Ebony-Oct-2009.pdf).

The state has a responsibility to protect vulnerable children from abuse and neglect and families have used absence from school as a method to hide child abuse or neglect. However, whether all home educating families should be subject to increased scrutiny is questionable. For instance, registration via documentation was not ever available to everyone, it was only ever available to families where APs were confident in their ability to home educate, and therefore one may presume parent, successfully. Furthermore, it is not acceptable for all home educating parents to be treated as if they are at high risk of abusing or neglecting their children simply because they are home educating when there is no evidence that this is the case nor should home education be linked with a death of a child who was never home educated.

Home educators as a group are parents who are dedicated to their children and their children’s education. Whilst some oversight of home education is necessary under the 1990 Education Act, this does not mean that home educators should be treated with suspicion and as if the State, in the guise of APs and the OBoS, is better able to ascertain the best interest of the child than the parents. Home educating parents should be treated with respect and valued as contributing to society by taking on the responsibility of educating their children. Furthermore, the State should consider how they might assist parents in this important undertaking.

Making registration for home education stressful and difficult

Not every home educator has been greatly affected by these changes. For some their practice of home education has naturally aligned with what the OBoS is demanding. For others, the

APs who have assessed their application have applied a common sense approach and have prioritised the quality of the child's education over OBoS policy. However, for those whose home education practice is in conflict with OBoS policy, and who have had an AP who prioritises adherence of policy over the wellbeing of children, the changes have been very unpleasant. The result has been home educators receiving repeated short durations (as little as three months) of registration and rejections of registration applications, extreme stress, excessive amounts of time spend on planning and record keeping and parents being forced to teach their children in ways that they do not believe is in their best interests. The HEA has heard from literally dozens of registered home educators who are considering how they might avoid registration in the future (drop out of the system and home educate unregistered or move states) in order to avoid the onerous requirements of OBoS. In this way, the policy changes implemented by OBoS will likely undermine the government's desire to maintain reasonable oversight of home education in NSW.

Where applicants for home education registration are deemed inadequate, APs appear to have been instructed to direct applicants to withdraw their application rather than to refuse their application outright. Whilst the HEA has heard from many home educators who have been directed to withdraw their application, no one who has had a registration application refused outright has contact the HEA. Such direction undermines the right of home educators to an independent review of their application as outlined in the 2013 IP

“If an Authorised Person notifies you of the intention to recommend refusal of initial registration or renewal of registration, you will be advised in writing of the recommendation and the reasons for the recommendation. You will also be informed of your right to seek an internal review of the recommendation. Formal written notification of the Authorised Person's recommendation will be mailed to you from the Office of the Board of Studies. You will have 30 days from the date of the notification in which to seek an internal review of the recommendation. If you seek a review, a different Authorised Person will be appointed to consider the internal review. The review process may involve a second assessment by home visit by the new Authorised Person to clarify matters that remain unresolved and to assess the documentation you have in support of your application as relevant to compliance with the requirements for registration. If it is found that your application satisfies the registration requirements, a revised report and recommendation will be made to the Home Schooling Unit. If the new Authorised Person independently arrives at a decision that agrees with the original recommendation you will be advised of your right to seek a further review before the Administrative Decisions Tribunal (ADT). An appeal to the ADT must be lodged with the ADT within 28 days of your being notified of the outcome of the internal review. Following the ADT's determination of the appeal, a recommendation will be provided for the consideration of the Minister or delegate.”

No consultation on changes

As previously mentioned, the OBoS has introduced these changes to the registration process without any consultation with home educators. At this point they are maintaining that the changes do not constitute new policy but are simply clarifications of existing policy. It is hoped that this document makes it clear that there have been major changes in policy in the registration of children for home education in NSW. It is unacceptable for OBoS to have made major changes to home education policy without consulting with home educators about these changes.

The last time that major changes to home education were proposed it was a change in the law that was presented to parliament in 1998. With vigorous opposition from the home education

community this legislation was withdrawn, largely because there had not been any consultation about the proposed changes. At the time, the then NSW Shadow Minister for Education and Training, Stephen O’Doherty spoke in parliament saying, *“Second, as I have said to home schoolers and now put on the record of the Parliament, when the coalition is in government it will consult with home schoolers on guidelines, which will probably be given force by regulation, that reflect the new character of home schooling. The coalition will not introduce guidelines or regulations which try to impose a school-based model on home schooling, which is a different form of education. The coalition does not have a preconception that home schooling must be like the education received in a State school for it to be valid. The coalition understands why parents prefer home schooling. They strongly believe that conventional schools do not provide the best education for their children. The State has a responsibility, together with parents, to ensure that children get the best form of education. The Act enshrines that parental responsibility, and the role of the State is to support parents in their choice. Guidelines or regulations that seek to limit home schooling and impose a Big Brother model which operates from the top down, a model that includes the regulation presented by the Minister, are inconsistent with a belief that the State should support parents in their choice and not impose its will on them.”*

This statement remains as pertinent today as it was 15 years ago.

Conclusion

The OBoS has introduced policy changes in the registration of home education in NSW that reflect a lack of understanding of home education and as a result are causing a high level of continuing and daily distress within the home educated community. These changes were implemented without any consultation with home educators and will likely undermine the desire of the government to retain reasonable oversight of home education. The HEA requests that the new policy changes be withdrawn in order that consultation about the future regulation of home education be initiated.