

## Response ID ANON-TN9R-CA3X-V

Submitted to **Children not in school**

Submitted on **2019-06-24 13:31:08**

### Introduction

#### 1 What is your name?

**Name:**

Pamela Smith

#### 2 What is your email address?

**Email:**

secretariat@bargee-traveller.org.uk

#### 3 Are you responding as an individual or on behalf of an organisation?

Organisation

#### 4 If you are responding on behalf of an organisation, what is your organisation?

**Organisation:**

National Bargee Travellers Association

#### 5 Which of the following best describes the capacity in which you are responding to this consultation?

Representative of other organisation

#### 6 Would you like us to keep your responses confidential?

No

**Reason for confidentiality:**

### LA duty to maintain a register of children not in school

#### 7 Do you agree that local authorities should be obliged to maintain a register of children who are not registered at specified schools (those listed at paragraph 2.2 of the consultation paper) or being educated under s.19 arrangements?

No

### Maintaining a register - implementation details if opposed

#### 20 Why do you not support the concept of a duty on each LA to maintain a register?

**comments on duty - opposed:**

These proposals are likely to discriminate both directly and indirectly against Bargee Traveller families and families from other Traveller backgrounds.

#### 21 Should such a register specify whether children are attending an educational setting (other than their own home) during school hours?

**Add comments if you wish**

No

**other settings comments:**

#### 22 Should the register be widened still further to also include children who are being educated under s.19 arrangements? Add comments if you wish

No

**s.19 comments:**

#### 23 Should the register include flexi-schooled children (ie those who are educated at home or elsewhere for some of the week during school hours but are also on the admission register of a state-funded or registered independent school)? Add comments if you wish

No

**flexi-schooled text:**

**24 What information as a minimum do you think the register should contain about each child? Check as many as required**

Other (add comments if wished)

**information comments:**

A requirement to provide a residential address for the child, for the parents, or for the location at which the child is home educated, has the potential to discriminate against Bargee Traveller families, who do not have access to a fixed residential address and struggle to maintain a consistent postal address for receiving mail. This may also affect other families from Traveller backgrounds.

**25 Do you think DfE should prescribe a national format for the register? Add comments if you wish**

Yes

**national format comments:**

Consistency in this respect will allow for oversight that should include the elimination of requirements that are directly and indirectly discriminatory.

**26 Do you believe that local authorities should share information from their register with other local authorities and other agencies? Add comments if you wish**

No

**share information comments:**

Only in line with the General Data Protection Regulation.

**27 Do you think that a local authority should include any information about a child on its register which has been legally obtained from other agencies? Add comments if you wish**

No

**information from others comments:**

Only if this is in line with the General Data Protection Regulation.

**28 Do you agree that a register held by a local authority should be open to inspection by other bodies as prescribed by the Secretary of State, in order to check whether the local authority is carrying out its obligations to maintain the register? Add comments if you wish**

No

**open to inspection comments:**

Only if this is in line with the General Data Protection Regulation.

**29 Do you agree that local authorities should have to make annual returns of collated data from the register to DfE for statistical purposes? Add comments if you wish**

No

**annual returns comments:**

Only if this is line with the General Data Protection Regulation. Any data should include statistics that allow identification of disproportionate adverse impacts on specific groups such as a higher incidence of penalties against Bargee Traveller families and families from other Traveller backgrounds.

**30 This question is for local authorities only. What does the local authority believe would be the approximate additional annual cost of maintaining a register for its area? This should so far as possible include any costs already incurred on voluntary registration, but exclude other costs incurred by the authority in relation to home education and children missing education. It would be helpful to set out the basis for the estimates**

**costs comments:**

**31 Do you have any other comments on either the principle of registration or practical issues related to registration on the basis proposed?**

**other comments:**

Any requirement for registration has the potential to discriminate against Bargee Traveller families for the reasons stated above and elsewhere in this consultation response.

**Duty on parents**

**32 Do you agree that parents should be under a legal duty to provide information to their local authority about a child who is within scope of the proposed registration requirement?**

No

### **Duty on parents - implementation details if opposed**

**38 If a duty on parents was created what data should parents have to provide about their child? Check as many as required**

Other information (add comments if wished)

**data - comments:**

A requirement to provide a residential address for the child, or for the parents, or for the location at which the child is home educated, has the potential to discriminate against Bargee Traveller families, who do not have access to a fixed residential address and struggle to maintain a consistent postal address for receiving mail.

**39 Do you agree that there should be a consequence for parents for failing to register details of a child for the purposes of registration?**

No

**40 Whether or not your response to (3) was 'yes', do you think that the most effective consequence for non-compliance with the registration process is that it authorises the local authority to begin the school attendance order process by serving a s.437(1) notice on the parents, which begins the formal process of considering suitability of education and whether a child should attend school?**

No

**41 Whether or not you favour any consequences of non-compliance, what alternatives to initiation of the SAO process would you prefer as an effective way of securing compliance?**

**SAO alternatives:**

The authority enforcing school attendance should have the power to require the navigation or other waterway enforcement authority to suspend its enforcement procedure for the duration of the child's attendance at school.

**42 Do you have any other comments about the concept of a legal duty on parents to supply information for the purposes of the proposed register?**

**parental duty comments:**

A school attendance order will unfairly discriminate against Bargee Traveller families. If they comply with a school attendance order they risk losing their homes due to being unable to travel the distances required. If they comply with Canal & River Trust travel distance requirements or with other navigation or local authorities' waterway enforcement requirements they risk being unable to comply with the school attendance order and being fined or imprisoned as a consequence.

Either way, the consequences of a school attendance order would violate the rights of Bargee Traveller families to respect for their home, private and family life under Article 8 of the European Convention on Human Rights, and to peaceful enjoyment of their possessions under Protocol 1 Article 1 of the Convention.

Families from other Traveller backgrounds may also suffer discrimination due to being unable to comply with a school attendance order.

### **Duty on settings**

**43 Do you agree with the general approach that the proprietors of settings providing education in school hours - other than specified types of school - should be under a duty to supply information to local authorities about any child in scope of the proposed register?**

No

### **Duty on settings - implementation details if opposed**

**49 Which settings do you think should be included in the scope of the duty?**

**settings to be included comments:**

**50 Which information should proprietors of the settings in scope be required to supply on request to the local authority about a child in scope of the registration requirement? Check as many as required**

Other (add comments if wished)

**information to be supplied comments:**

This has the potential to discriminate against Bargee Traveller families and other families from Traveller backgrounds, especially if there is a requirement to provide a residential address for the child or for the parents, or for the location or address of any alternative educational provision if this is provided in a mobile setting such as a boat or caravan.

**51 Do you agree that there should be a sanction on the proprietor for non-compliance with a duty to supply information about a child in scope of the registration requirement?**

No

**52 Regardless of your answer to the previous question, which type of sanction do you think would be most effective?**

Other (add comment if wished)

**sanction comments:**

Any information should only be released in line with the General Data Protection Regulation.

**53 Do you have any other comments about the concept or details of a duty on the proprietors of settings to provide information about children who attend their setting and fall within scope of the registration requirement?**

**duty on settings comments:**

This has the potential to discriminate against Bargee Traveller families and other families from Traveller backgrounds, especially if there is a requirement to provide a residential address for the child or for the parents, or for the location or address of any alternative educational provision if this is provided in a mobile setting such as a boat or caravan.

**Duty on local authorities to provide support for home education**

**54 Do you agree that there should be a statutory duty on local authorities to provide support on request to parents who educate children at home, of a type to be prescribed by the Secretary of State in regulations?**

Yes

**Support for parents - implementation details**

**55 If such a duty was to be created which of the following should it encompass? Check as many as required**

Advice, Assistance with exam fees, Support for home education groups, Discounted admissions, Checks on private tutors, Newsletters for home educators, Arranging participation in school activity programmes, Other (add comments if wished)

**scope of duty comments:**

The Local Authority should be empowered to compel Canal & River Trust and any other navigation authority and /or the local authority itself to suspend any enforcement action that prevents the children of Bargee Traveller families from attending one fixed school as regularly as a child from the housed community. This should include powers to compel the navigation authority to agree a reduced travel range in term time and to agree special arrangements such as no movement at all during critical periods of a child's education such as GCSE and A level examinations.

**56 What are the potential difficulties, apart from availability of resources, in ensuring that such a duty is properly discharged by a local authority?**

**difficulties :**

A lack of enforcement powers against navigation and other authorities including against another department of the local authority itself.

**57 Should the duty to provide support on request be limited to children whose details are included on the proposed register?**

No

**limit - comments:**

Bargee Traveller families by definition frequently cross local authority boundaries and may not be on a register in a new area.

**58 Should other mechanisms be explored for enhancing access to public examinations for children educated at home, and if so, what?**

Examination body operated centres, Duty on schools and colleges to allow private candidates, Other (add comment if wished)

**other mechanisms - comments:**

Funding for examination fees.

**59 (This question is for local authorities only). What expenditure does the authority already incur on support for home educated families, what types of support does this cover and approximately how many children are in scope of the support?**

**LA costs on support:**

**60 Do you have any further comments on the issue of local authority support for home-educating families?**

**support - other comments:**

**61 Do you consider that support for home-educating parents should be provided by the Department for Education?**

Yes

**62 Regardless of your answer to the preceding question, which forms of support do you think particularly suited to delivery on a national rather than local basis? Check as many as required**

Financial assistance for exam fees, Other (add comment if wished)

**types of national support comment:**

Enforcement powers to compel Canal & River Trust and any other navigation authority and /or local authority that has waterway or mooring enforcement powers to suspend any enforcement action that prevents the children of Bargee Traveller families from attending one fixed school as regularly as a child from the housed community. This should include powers to compel the navigation authority to agree a reduced travel range in term time and to agree special arrangements such as no movement at all during critical periods of a child's education such as GCSE and A level examinations.

**Concluding questions**

**71 Do you have any comments on the conclusions set out in the published equalities log, UNCRC analysis and family test?**

**Equalities comments:**

The issue of discrimination against Bargee Traveller families is not covered in these.

**72 Do you have any other comments on the government's proposals for legislation relating to registration, and support for home education?**

**Other comments:**

The National Bargee Travellers Association (NBTA) is a volunteer organisation formed in 2009 that campaigns and provides advice for Bargee Travellers: itinerant boat dwellers on Britain's inland and coastal waterways. This includes anyone whose home is a boat and who does not have a permanent mooring for their boat with planning permission for residential use. The NBTA is the only national organisation in Britain dedicated to upholding and defending the rights of itinerant boat dwellers. The NBTA has members on all the major navigation authorities' waterways and beyond. The NBTA deals with approximately 200 individual cases each year.

Some Bargee Travellers home educate their children through genuine choice. However others are forced into a position where they decide to educate their children at home because of the completely unlawful enforcement actions of navigation and other authorities that force Bargee Travellers to travel distances that put them out of reach of regular attendance at a specific school. This is especially true for Bargee Travellers who live on Canal & River Trust waterways; this represents the majority of Bargee Travellers, as Canal & River Trust manages some 80% of the UK's inland waterways.

In 2015 Canal & River Trust began a punitive enforcement drive forcing boat dwellers without permanent moorings to travel distances that make getting to work or school difficult or impossible. If they do not comply, their homes can be seized and removed, rendering them homeless and depriving them of their only valuable asset.

Boat dwellers whose licences were renewed without question for decades are now told that their travel patterns are non-compliant, even though the law has not changed. Canal & River Trust's destructive enforcement policy needs to be stopped and this unaccountable charity needs to be reined in. Despite extensive negotiation and discussion on an individual and community level between Bargee Travellers and Canal & River Trust in 2016-2019, the charity has refused to agree 'term time' cruising patterns with individual Bargee Traveller families with school age children.

The British Waterways Act 1995 entitles people to use and live on boats without a permanent mooring if they use their boats 'bona fide for navigation' without staying longer than 14 days in any one place, or such longer period as is reasonable in the circumstances. The Act does not require them to travel a specified distance or range in order to avoid having their boat seized and removed.

On rivers under the control of other navigation authorities such as the Environment Agency, boat dwellers without permanent moorings are also being threatened with eviction. This is happening despite rights to moor within the Public Right of Navigation and the long-established legitimate expectation to moor on river banks. Some authorities have adopted punitive measures to drive out boat dwellers, such as criminal penalties limiting mooring to one hour, or £100 per day civil contract 'fines' for mooring. This has a significant impact on Bargee Travellers' ability to maintain regular school attendance for their children.

Bargee Travellers have no access to a residential address and very limited access to postal mail; because they travel they may also lack access to the internet, depending where they are, as they rely on mobile broadband and the coverage and signal strength is very variable especially in rural areas.

These proposals for legislation and penalties relating to registration of home educated children should be examined by an independent body specifically in order to eliminate any direct or indirect discrimination against Bargee Traveller families and families from other Traveller backgrounds. As the proposals stand at present they carry the unintended consequences of discrimination against families from Gypsy and Traveller backgrounds.