



Department
for Education

Consultation response form

Consultation closing date: 11 January 2016

Your comments must reach us by that date

Out-of-school education settings: registration and inspection

If you would prefer to respond online to this consultation please use the following link: <https://www.education.gov.uk/consultations>

This call for evidence follows the announcement to introduce a new system for registering and inspecting out-of-school education settings providing intensive tuition, training or instruction to children. The proposed system is intended to avoid imposing unnecessary burdens on the great number of such settings which are positively enhancing children's education. It would, however, enable action to be taken where settings fail to safeguard and promote the welfare of children.

We are inviting education providers, local authorities, and interested parties including parents and children, to help broaden our evidence base on out-of-school education settings.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes, primarily the Freedom of Information Act 2000 and the Data Protection Act 1998.

If you want all, or any part, of your response to be treated as confidential, please explain why you consider it to be confidential.

If a request for disclosure of the information you have provided is received, your explanation about why you consider it to be confidential will be taken into account, but no assurance can be given that confidentiality can be maintained. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data (name and address and any other identifying material) in accordance with the Data Protection Act 1998, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Please tick if you want us to keep your response confidential.	<input type="checkbox"/>
Reason for confidentiality:	

Name: Pavan Dhaliwal	
Please tick if you are responding on behalf of your organisation.	✓
Name of Organisation (if applicable): British Humanist Association	
Address: 39 Moreland Street, London, EC1V 8BB	

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the Ministerial and Public Communications Division by email: consultation.unit@education.gsi.gov.uk or by telephone: 0370 000 2288 or via the department's ['Contact Us'](#) page.

We welcome responses from anyone wishing to offer their views, however, we appreciate some of the questions may be more relevant than others to certain respondents. If that is the case, please do not feel you have to answer all of the questions that follow.

1. Please select the item from the list below that best describes you and your interest in this call for evidence?

<input type="checkbox"/> Local authority	<input type="checkbox"/> Out-of-school setting	<input type="checkbox"/> Parent
<input type="checkbox"/> Child/young person	<input type="checkbox"/> Faith group	<input type="checkbox"/> Community group
<input type="checkbox"/> Accreditation or support organisation for out-of-school settings	<input type="checkbox"/> Inspectorate	<input type="checkbox"/> School or college
<input type="checkbox"/> Registered childcare provider	<input checked="" type="checkbox"/> Other	

Please Specify:

The British Humanist Association (BHA) is the national charity working on behalf of non-religious people who seek to live ethical and fulfilling lives on the basis of reason and humanity. It is the largest organisation in the UK campaigning for an end to religious privilege and to discrimination based on religion or belief, and for a secular state.

The BHA has a long history of contributing towards and improving education. We provide materials and advice to parents, governors, students, teachers and academics. We also work closely with others on wider equalities and children's rights issues in a range of forums. The BHA is a member of the National Children's Bureau Sex Education Forum (SEF), the PSHE Association, the Children's Rights Alliance for England (CRAE), Rights of the Child UK (ROCK) and the Religious Education Council for England and Wales.

2. What local authority area do you live in (respondent)?

Comments:

3. What local authority area(s) do the providers you know about operate in?

Comments:

The settings that this response focuses on are schools serving the strictly Orthodox Jewish community, commonly known as yeshivas. The majority of these settings are located in the London Borough of Hackney, specifically in Stamford Hill.

There are also three other parts of the UK with prominent Charedi communities: Salford, Gateshead, and Glasgow. It is likely that there are more yeshivas in these places.

Characteristics

When answering questions under this heading:

- If you are responding to the consultation in respect of a particular out-of-school setting, e.g. the setting your child attends or the setting in which you work, please answer all questions, except questions 6-8.*
- If you are responding with information concerning a number and type of setting across a particular area, please answer all questions, except questions 1-5.*

1 What type(s) of setting are you providing information about? Please select one or more from the following list and provide details in the box below:

<input type="checkbox"/> Religious setting	<input type="checkbox"/> Extra-curricular activities (e.g. music, sport or art)	<input type="checkbox"/> Academic tuition in core curriculum subjects
<input type="checkbox"/> Cultural	<input type="checkbox"/> Language	<input type="checkbox"/> Other

Comments:

2 How many hours do individual children attend the setting for each week? Please provide a number of hours or state "do not know".

Comments:

3 How many children receive instruction at this setting and how many staff work in this setting?

Comments:

4 What is the nature of the premises at which tuition, training or instruction is provided?

Comments:

5 What subjects are taught in this setting?

Comments:

6 How many out-of-school settings do you know about in this area? Please state a number or "do not know". Can you tell us whether there are likely to be many more out-of-school settings in this area?

Comments:

We are aware of 17 unregistered Jewish schools in north London, all of which, we believe, the Department for Education is aware of to some extent. There are almost certainly more that we have been unable to identify, however, given their covert nature.

7 What types of settings do you know about? Please choose from the following list. If your information covers a mixture of settings, please choose all applicable types and provide comments in the box below:

Religious setting

Extra-curricular activities (e.g. music, sport or art)

Academic tuition in core curriculum subjects

Cultural

Language

Other

Comments:

Our interest lies in religious settings of all kinds, but we have specific information on settings that cater for the strictly Orthodox Charedi Jewish community ('yeshivas'), having worked closely with former pupils of these settings over the last 18 months to expose the plight of children who continue to be 'educated' within them.

Up to the age of 16, Charedi boys attend schools known as yeshivas, which provide an education almost exclusively based on the study of scripture. It is important to note that these yeshivas are not 'out-of-school settings' in the sense that they provide supplementary (religious) education to children who receive the bulk of their education elsewhere. Yeshivas in the Charedi community account for the entirety of the boys' education and they should therefore be treated like independent schools, and be subject to the existing process of registration as set out in the Education Act 2002.¹

However, for a number of reasons we believe that it is important for them to be considered as part of this consultation. First and foremost, yeshivas are often referred to and thought of as out-of-school settings, and we believe that it is important for government to make clear that these institutions are full-time schools which, if they are to remain open, should be meeting the relevant minimum standards. We are also concerned that unless care is taken, these schools will seek to register as out-of-school settings whilst continuing to provide full-time education to pupils. Given the nature of their education offer, as detailed in our response to question 13, this is obviously to be avoided. Finally, we believe that the proposals could act as a useful mechanism for further identifying these settings and ensuring that both local authorities and the Department for Education are aware of them. This should support local authorities in fulfilling their legal duties around both safeguarding and children missing in education.

8 What proportion of settings provide tuition, training or instruction for individual children who attend for more than: (a) 2 hours; (b) 4 hours; (c) 6 hours; (d) 8 hours; and (e) 10 hours per week?

¹ Part 10, ch.1, Requirement of registration, Education Act 2002:
<http://www.legislation.gov.uk/ukpga/2002/32/part/10/chapter/1/crossheading/requirement-of-registration>

Comments:

All of the yeshivas of which we are aware account for the entirety of Charedi boys' education, so attendance is significantly more than 10 hours a week. Indeed, as school days tend to start at around 8am and finish at around 10pm, far longer than the normal school day, attendance can even be significantly more than 10 hours a day. As we have stated above, these settings should be subject to the process of inspection and registration set out for independent schools, but we discuss them here for the reasons given in our response to question 7.

9 How many staff, on average, work in these settings?

Comments:

10 How many children, on average, attend these settings?

Comments:

Yeshivas vary in size. We are aware of yeshivas enrolling as many as 200 boys, but also of settings that take only a handful of boys. It is estimated that perhaps as many as 2,000 boys are educated in yeshivas in north London alone, though that figure is expected to rise sharply given the extremely high birth-rates within the Charedi community.²

11 Which settings that you are aware of subscribe to voluntary accreditation schemes with regard to curriculum development and/or safeguarding children? Please provide details of the schemes.

Comments:

None of the yeshivas we are aware of subscribe to voluntary accreditation. However, some yeshivas have sought to register as independent schools and have therefore been subjected to pre-registration inspections by Ofsted. The reports from those inspections that are available reveal significant issues with regard to both curriculum and safeguarding, as is detailed in our response to question 13.

12 Please give details of any positive benefits that you think out-of-school settings provide for children and the local community, including any case studies.

² See 'Haredi: half of Britain's Jews will soon be strictly Orthodox, says new study', Independent, 15/10/2015: <http://www.independent.co.uk/news/uk/home-news/haredi-half-of-britain-s-jews-will-soon-be-strictly-orthodox-says-new-study-a6696046.html>

Comments:

The settings we are concerned with do not provide any positive benefits for either children or the local community.

13 Do you have any concerns about any of the settings you know about? These might be general or specific and in relation to safeguarding, extremism, physical punishment or suitability of premises. Please provide as much detail as possible.

Yes

No

Don't Know

Comments:

We have a number of serious concerns about yeshivas.

Yeshivas are known to teach a very narrow curriculum that focuses almost exclusively on study of the Torah and Talmud, and no provision is made for the teaching of English, which would, by their own admission, contravene the ethos of the schools³. There is also very little in the way of 'secular' education in subjects such as science and maths, and Charedi boys therefore finish their education completely ignorant to, and unprepared to exist in, the outside world, making it almost impossible for them to leave the community if they were minded to.⁴ In 2014, for instance, a former pupil at an unregistered yeshiva in Stamford Hill told a meeting of MPs about the difficulties he faced in leaving the Charedi community, having grown up speaking almost no English and receiving just thirty minutes of 'normal' curriculum time each day. He also explained that corporal punishment was a common feature of yeshivas which went unchecked due to the lack of oversight.⁵ The use of corporal punishment within the strictly Orthodox Jewish community is well known. In 2014, for instance, an Ofsted inspection report of a strictly Orthodox Jewish independent school in London found that teachers had been 'slapping' pupils as well as threatening this as a punishment.⁶

In addition, there is almost no effort to teach children about other cultures or religions, even other Jewish traditions, and where such teaching does exist, the information provided to children is often not accurate and is designed to encourage a negative opinion of those outside their immediate community. Speaking anonymously to BBC London last year, another former pupil of a yeshiva in north

³ See Ofsted's pre-registration inspection reports for Talmud Torah Tashbar, 2012-2014: <https://humanism.org.uk/wp-content/uploads/Talmud-Torah-Tashbar-pre-registration-inspection-reports-2012-14.pdf>

⁴ See various sources:

- DfE briefing note on Jewish Independent Schools, 26/04/2012: <https://www.gov.uk/government/publications/jewish-independent-schools>
- Ofsted's pre-registration inspection report for Talmud Torah Tashbar, 2012-14: <https://humanism.org.uk/wp-content/uploads/Talmud-Torah-Tashbar-pre-registration-inspection-reports-2012-14.pdf>
- 'Why are Orthodox Jewish religious schools unregulated?', Guardian, 11/08/2015: <http://www.theguardian.com/education/2015/aug/11/orthodox-jewish-religious-schools-unregulated-london-yeshiva>
- 'Illegal Orthodox Jewish schools', BBC London, 01/12/2015: <https://www.youtube.com/watch?v=hICjMR7Tj1w>

⁵ 'Parliamentary Humanist Group hears from "Trojan Horse" and other whistleblowers', British Humanist Association, 23/10/2014: <https://humanism.org.uk/2014/10/23/parliamentary-humanist-group-hears-trojan-horse-whistleblowers/>

⁶ See: Emergency inspection report for Talmud Torah Chaim Meirim Wiznitz School, Ofsted, 16/01/2014: <http://reports.ofsted.gov.uk/inspection-reports/find-inspection-report/provider/ELS/100296>; and 'Hasidic teacher accused of slapping pupils', Sunday Times, 23/11/2014: http://www.thesundaytimes.co.uk/sto/news/uk_news/Education/article1487071.ece?CMP=OTH-gnws-standard-2014_11_23

London said that he was taught that ‘the outside world is evil’, and told ‘you’re not allowed to be friends with them, you’re not allowed to speak their language, you’re not allowed to talk to them’.⁷ Yeshivas therefore very clearly fail in their duty to promote British values, particularly around mutual respect for and tolerance of those with different faiths and beliefs, but also around individual liberty.

The few inspection reports that are available also indicate that conditions within yeshivas are not suitable. One report from 2014 states that inspectors found ‘broken windows’, ‘large holes in some walls’, and toilet facilities that were ‘poorly maintained, resulting in a pervading unpleasant smell’⁸. This is also the case in other unregistered religious schools, such as the Muslim schools recently identified by Sir Michael Wilshaw in his two letters to the Education Secretary, dated 10 November and 11 December 2015.⁹ This would clearly fall under the proposed prohibited activity of ‘accommodating children in premises that are unsafe and pose a threat to their safety or welfare’.

14 We are keen to understand more about what advice and assistance is available to out-of-school settings and what additional support would be welcome. Please provide as much detail as possible.

Comments:

⁷ ‘Illegal Orthodox Jewish schools’, BBC London, 01/12/2015:

<https://www.youtube.com/watch?v=hICjMR7Tj1w>

⁸ Ofsted’s pre-registration inspection reports for Talmud Torah Tashbar, 2012-2014:

<https://humanism.org.uk/wp-content/uploads/Talmud-Torah-Tashbar-pre-registration-inspection-reports-2012-14.pdf>

⁹ ‘Unregistered schools: Ofsted advice notes’, Ofsted, 10/11/2015 and 11/12/2015:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/475553/Advice_letter_from_Sir_Michael_Wilshaw_Her_Majesty_s_Chief_Inspector_on_unregistered_schools.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/484458/151211_HMCI_to_Secretary_of_State_advice_note_on_3_unregistered.pdf

Thresholds

15 Do you agree that intensive education is where a child attends a setting for more than between 6 to 8 hours per week? Please provide details of whether further reference should be made to the frequency of that attendance (e.g. number of times during a week or number of weeks over a year etc.), including views on how to ensure settings do not simply amend their provision to evade regulation

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't Know
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Comments:

16 Do you agree that private providers of alternative provision catering exclusively for children who have been referred to them by local authorities and/or schools should be exempt from the requirement to register? We welcome views on whether it would be appropriate to exclude any other providers with reference to any of their defining characteristic, for example their educational offer, physical premises, affiliations with professional bodies, etc.

<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input checked="" type="checkbox"/> Don't Know
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Comments:

Inspection and registration

17 Do you agree that settings meeting the proposed threshold should be required to register with their local authority?

Yes

No

Don't Know

Comments:

The proposals do not currently make any reference to the system by which settings will be made to register if they do not actively do so themselves. We would welcome further detail in this area.

18 Do you agree that, when registering, settings should provide details about the proprietor, location(s), education offer and numbers of children? Please provide details of any further information that settings should provide.

Yes

No

Don't Know

Comments:

In addition to providing details in all the areas proposed, we believe settings with a particular religious character or ethos should have to register as such, as is the case for maintained schools and academies and free schools. First and foremost, this will create greater transparency over the 'education offer' of the setting and ensure that parents are absolutely clear about the nature of the education they provide. Similarly, details about the proprietor should include the name(s) of the individual(s) responsible for the day-to-day running of the setting, as well as any organisation(s) ultimately responsible for its management and/or funding.

Registering both the ethos and any organisations involved will avoid a situation in which parents, local authorities, or the Department for Education are not aware that an out-of-school setting has some form of religious ethos despite not being formally designated with one. This is the case with so-called 'faith ethos' academies and free schools, which though not legally registered as having a religious character, are nonetheless run by an organisation with a religious ethos, which is entitled to exert control over aspects of the school on the basis of its religion.¹⁰

We are also concerned about the risk that full-time, unregistered religious schools may seek to register as out-of-school settings as a means of avoiding the proper regulation. To mitigate this risk, we believe that settings should be required to provide not only the number of children in attendance, but also make available to officials upon request a full list of names for the children attending, along with the number of hours each attends. In the case of yeshivas, as well as other unregistered religious schools, the children in attendance are 'children missing education', in that they are not registered at any school. Requiring out-of-school settings to provide a list of names would allow local authorities to better identify where children are not receiving the education to which they are entitled, as well as identify which out-of-school settings may in fact be operating as full-time schools.

19 Do you agree that settings required to register should be eligible for investigation and possible intervention where concerns arise? Please provide comments.

Yes

No

Don't Know

¹⁰ "Faith ethos" Academies and Free Schools explained', BHA briefing, 2012:

<https://humanism.org.uk/wp-content/uploads/bha-briefing-faith-ethos-academies-and-free-schools-explained.pdf>

Comments:

We agree that out-of-school settings should be subject to investigation and possible intervention where concerns arise, as is the case in the school system, and we also believe that sampling particular settings, particularly by type, would be an effective and efficient way of ensuring compliance with minimum standards across the board. However, we see no reason why these approaches should be mutually exclusive and could not be run in tandem.

20 Do you agree that Ofsted should be able to investigate concerns that arise in out-of-school settings that meet the proposed threshold for registration? Please provide comments.

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't Know
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Comments:

We agree that it should be Ofsted that has powers to investigate and inspect out-of-school settings, though we are not opposed, in principle, to a similar independent body carrying out this function. However, if inspection/investigation is to take place, we are keen to avoid many of the problems that have arisen in the independent school system as a result of allowing schools to appoint an independent inspectorate of their choosing. Whilst we have no problem with this in principle, there has frequently been cause to question the impartiality of certain independent inspectorates as they pertain to independent religious schools, and we are keen that this is not replicated with out-of-school settings.

By way of example, last year the Bridge Schools Inspectorate, previously responsible for inspecting private Muslim and Christian Schools' Trust schools, was forced to cease operations after long-standing concerns over the independence of its inspectors from the two groups of religious schools they inspected.¹¹ Further, the impartiality of the School Inspection Service (SIS), one of two remaining independent inspectorates, remains in question. Despite having been founded by the Focus Learning Trust (FLT),

¹¹ See: 'Controversial schools inspectorate reportedly forced to close following successful BHA campaigning', BHA 16/06/15: <https://humanism.org.uk/2015/06/16/controversial-schools-inspectorate-reportedly-forced-to-close-following-successful-bha-campaigning/>; and 'Creationists and religious hardliners found to be inspecting private Christian and Muslim schools', BHA, 12/05/14: <https://humanism.org.uk/2015/06/16/controversial-schools-inspectorate-reportedly-forced-to-close-following-successful-bha-campaigning/>

whose schools teach in line with the views of the strict Christian group 'Exclusive Brethren', the SIS is responsible for inspecting all FLT's schools (as well as Steiner schools). This represents a clear conflict of interest and is an inadequate means of ensuring that schools are meeting both the necessary standards and their obligations with regard to safeguarding.

We therefore believe that when the inspection framework for out-of-school settings comes to be drawn up, specific and robust provisions should be included to ensure that all inspectors/inspectionates are fully independent of both the setting they are inspecting and the individual(s) or organisation(s) behind it.

21 What impact do you think the proposed system for registration and inspection will have on out-of-school settings? Please provide as much detail as possible.

Comments:

It seems likely that settings which do not currently fulfil the proposed obligations, and which may not have any intention of doing so, will seek to evade registration. This may be particularly true of religious settings such as yeshivas and madrassas whose teaching does not comply with the proposed obligations regarding British values, and the impact of the proposed system on these settings may be to 'drive them underground' so to speak. We therefore believe that some consideration should be given as to how settings which do not register themselves can be forced to register and/or prevented from operating until they do so.

Prohibited Activities

22 a) Do you agree that the prohibited activities should focus on the failure of out-of-school settings to adequately ensure the safety of the children in their care, as set out in paragraph 3.19?

<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Don't Know
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Comments:

22 b) Do you agree that the prohibited activities should focus on the appointment of unsuitable staff, as set out in paragraph 3.19?

Yes No Don't Know

Comments:

22 c) Do you agree that the prohibited activities should focus on accommodating children in unsafe premises, as set out in paragraph 3.19?

Yes No Don't Know

Comments:

We have provided detail in this area as part of our response to question 13.

22 d) Do you agree that the prohibited activities should focus on undesirable teaching, including teaching which undermines or is incompatible with fundamental British values, or which promotes extremist views, as set out in paragraph 3.19?

Yes

No

Don't Know

Comments:

We have provided detail in this area as part of our response to question 13. We also believe there should be reference to following the Equality Act 2010, in order to move its enforcement from a judicial to a regulatory function – much as is the case with the newest Independent School Standards.

22 e) Do you agree that the prohibited activities should focus on corporal punishment, as set out in paragraph 3.19?

Yes

No

Don't Know

Comments:

We have provided detail in this area as part of our response to question 13.

23 Are there additional activities that should be prohibited?

Comments:

Sanctions

24 We welcome views on the proposed sanctions and which body/bodies should have powers to act.

Comments:

We agree that people should be stopped from working with children in, or managing, an out-of-school setting when evidence of prohibited activities is found, though such individuals should also be barred from working with children in any other educational setting. This would ensure that individuals who work with children across a range of different settings, such as those involved in the so-called 'Trojan Horse' affair, would not be able to continue doing so having been banned elsewhere.

We also agree that inadequate or unsafe premises should be prevented from being used for specified purposes.

In addition, we believe that where prohibited activities are identified, out-of-school settings should face the possibility of complete closure, not simply a removal of certain staff or a change of location. In such instances, care must be taken to ensure that settings are not able to re-open under a different name or at an alternative site. Requiring out-of-school settings to provide the additional information we have called for in our response to question 18 about the proprietor and any organisation behind the setting would support this.

25 Are there any particular groups or people for whom the impact of these proposals will be significant? If so, how might these proposals be mitigated or amended in your view to better reflect our duty under section 149 of the Equality Act 2010 to have regard to the need to eliminate discrimination, harassment, and victimisation, to advance equality of opportunity, and to foster good relations between different groups?

Comments:

It is likely that the impact of the proposals on certain religious groups will be significant, but we do not see that this requires the proposals to be 'mitigated or amended'. The regulations, requirements, and sanctions should be applied equally to all types of out-of-school setting, and they should not be changed, nor should exemptions be introduced, to allow particular religious settings to continue operating in a way that would otherwise infringe the proposed prohibitions.

26 The Department for Education may contact you either to discuss the evidence you have provided or to seek your further views. Are you happy for us to do so?

Yes

No

Comments:

Thank you for taking the time to let us have your views. We do not intend to acknowledge individual responses unless you place an 'X' in the box below.

Please acknowledge this reply.

Email address for acknowledgement: jay@humanism.org.uk

Here at the Department for Education we carry out our research on many different topics and consultations. As your views are valuable to us, please confirm below if you would be willing to be contacted again from time to time either for research or to send through consultation documents?

Yes

No

All DfE public consultations are required to meet the Cabinet Office [Principles on Consultation](#)

The key Consultation Principles are:

- departments will follow a range of timescales rather than defaulting to a 12-week period, particularly where extensive engagement has occurred before
- departments will need to give more thought to how they engage with and use real discussion with affected parties and experts as well as the expertise of civil service learning to make well informed decisions

- departments should explain what responses they have received and how these have been used in formulating policy
- consultation should be 'digital by default', but other forms should be used where these are needed to reach the groups affected by a policy
- the principles of the Compact between government and the voluntary and community sector will continue to be respected.

If you have any comments on how DfE consultations are conducted, please email: consultation.unit@education.gsi.gov.uk.

Thank you for taking time to respond to this consultation.

Completed responses should be sent to the address shown below by 11 January 2016.

Send by post to: Call for evidence: Out-of-school settings, Department for Education, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT

Send by e-mail to: outofschooleducation.REVIEW@education.gsi.gov.uk