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Defence Instructions and Notices	
(Not to be communicated beyond Crown Servants, and Government contractors, without authority)	
Title	Elective Home Education Overseas
Audience	All Service and civilian personnel (members of the Regular Armed Forces including Full Time Reserve Service Full Commitment and entitled MOD Civilians: United Kingdom Based Civil Servants or civilians specially recruited for overseas employed by the MOD or its Agencies)
Applies	02/11/2021
Expires	02/11/2022
Replaces	[Replaces]
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Status	Current
Channel	01 Personnel
Subchannel	All personnel
Summary	MOD policy for elective home education of Service Children overseas.
Sponsor/ Business owner	Caroline.Waight158@mod.gov.uk
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Annexes	[Annexes]
Related Info	JSP 342: Education of Children and Young People: JSP 770: Tri-Service Operational and Non-Operational Welfare Policy JSP 834: Safeguarding DfE Guidance for parents: https://www.gov.uk/government/organisations/department-for-education
Classification	Official

Introduction

This DIN replaces Ministry of Defence (MOD) policy contained in JSP 342: Education of Service Children and Young People (Version 4.0, Chapter 4, Paras 50-57, dated Sep 2019) and will be subsumed into the next JSP revision.

1. This DIN has undergone an Equality Impact Analysis and a Family Test in accordance with MOD policy.
2. The MOD, as a Central Government department, seeks to align itself, where reasonably practicable overseas, with direction and guidance on elective home education as defined by the Department for Education (DfE) in England. This DIN therefore takes its policy principles from DfE statutory direction on elective home education which applies to children of compulsory school age in England.

Principles

3. Educating children at home can work well when it is a **positive choice** and carried out with proper regard for the needs of the child. Overseas, parents and children may not be able to access the educational support networks that they might be able to access in the UK and this may present challenges for parents delivering education in the home. These challenges may be increased where a child has SEND and where specific care and education provision is not accessible in the location. Service/MOD Civilian personnel may be assigned/transferred to a location where home schooling is not permitted or is subject to constraints which do not apply in England. **Therefore, decisions on elective home education should always be carefully considered in the interests of supporting the best outcomes for a child overseas.**
4. Elective home education must never be used to avoid exclusion from a school; to avoid the MOD's Assessment of Supportability Overseas (MASO) process or as a solution to an unsupportable decision following a MASO. Personnel are directed to JSP 770: Tri-Service Operational and Non-Operational Welfare Policy (Chapter 2A) for MOD policy on the MASO.
5. Elective home education does not confer any entitlement to an extension of assignment or dependency status, or to Service Family Accommodation.
6. Work experience is not a statutory requirement, therefore children educated at home have no entitlement to participate in work experience.
7. Parents will not be able to access MOD education resources for the period of home education.
8. The UK has ratified the United Nations Convention on the Rights of the Child (UNCRC) which through Article 28, requires signatory States to 'recognise the right of children to education'. These rights are also protected under Protocol 1, Article 2 of the European Convention on Human Rights which is incorporated into the domestic law of the UK by the Human Rights Act 1998.
9. Article 12 of the UNCRC requires signatory States to provide a right for children to express their views and for due weight to be given to those views, in accordance with the age and maturity of the child. This means that there is an expectation for parents to consider their child's views of home education, whether they are happy to be educated in this way and whether home education is realistically possible in a family's circumstances.
10. Furthermore, the Education Act 1996 places a legal duty on the parent or guardian of a child of compulsory school age in England and Wales to ensure that the child attends and receives full-time education, either in a school or by any other means appropriate for their age, ability and aptitude and taking into account any special needs they may have. The Education (Scotland) Act 1980 and the Education and Libraries (Northern Ireland) Order 1986 make similar provision in relation to Scotland and Northern Ireland.

Scope

11. This DIN presents MOD policy for elective home education for Service Children^[1] overseas and applies to all Service/MOD Civilian personnel and to any scenario where a parent is considering home education as an alternative to school-based education overseas. Unless otherwise stated, this DIN applies only to the provision of home education for Service children of compulsory school age as defined by the DfE:

“A child becomes of compulsory school age from the first of the following dates (31 August, 31 December or 31 March) which occurs after she or he becomes five years old (or if the fifth birthday falls on one of those dates, on that day). The child remains so until the last Friday of June in the academic year in which she or he becomes sixteen. Children may be educated at home in order to participate in education and training until the age of 18”^[2]

Definitions

12. For the purposes of this DIN, the MOD has adopted the definition of elective home education described by the DfE^[3], which is, the ‘parental choice to provide education for their child at home instead of school’.

13. There is no current legislation that deals with home education specifically, therefore the MOD has adopted the DfE’s description of a child’s educational needs as below, noting that for the purposes of this DIN, the use of the pronouns ‘him/his/he’ in the quote are considered to denote both male and female children:

‘The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable –

- a. To his age, ability, and aptitude, and*
- b. To any special educational needs, he may have, either by regular attendance at school or otherwise.’^[4]*

14. Whilst there is no definition of ‘efficient’ or ‘suitable’ education in statute law, an accepted definition of these terms is ‘an education which achieves that which it sets out to achieve and equips a child for life within the community in which he is a member’^[5] and further information on these terms and all DfE definitions used in this document, is contained in DfE guidance published on its pages of GOV.UK.

15. There is currently no legal definition of ‘full-time’ education. At school, children will normally have five hours of tuition per day for 190 days a year, spread over 38 weeks. Home education does not have to mirror this, but parents should be able to demonstrate the amount of time for which children are being educated.

16. Where the term ‘compulsory education’ appears in this DIN, it means compulsory school age as defined by the DfE^[6].

The Overseas Context

17. Where the MOD has assumed responsibility for its personnel and their entitled family members overseas, it will, where reasonably practicable, provide or provide access to services that replicate, so far as possible, services that would be provided by statute in England. The MOD recognises the need to exercise its duty to promote the safety and wellbeing of children by directing that parents are to engage in seeking advice when considering elective home education; a requirement for a register of children who are being home educated and periodic reviews of education.
18. All Service/MOD Civilian personnel assigned overseas are required to complete the MOD's Assessment of Supportability Overseas (MASO) and it is important to understand that should the CofC determine that a child is not supportable in the overseas location, home education cannot be supported. Children of parents who fail to engage in the MASO will be automatically deemed unsupported in the location and this is likely to trigger a return to the UK.

The Safeguarding Context

19. Whilst elective home education does not present a safeguarding risk in and of itself, it is important to understand that where a child's development may be considered to be at risk, safeguarding procedures may be triggered.
20. Service/MOD Civilian personnel should, where there is cause for concern that a child is not receiving education or whose safety and/or welfare is at risk, raise a concern to their CofC or to Defence Children Services (DCS) by emailing:

RC-DCS-HQ-EHE@mod.gov.uk
21. Where concerns trigger safeguarding procedures, these must be managed in accordance with JSP 834: Safeguarding.

Where specific concerns are raised and/or where it appears that a child's welfare/safeguarding is at risk, all personnel must follow the Safeguarding Procedures set out in JSP 834.

Command Responsibilities

22. Overseas, Departmental responsibility for the safety and welfare of Service/MOD Civilian personnel and their entitled family members is delegated to the functional CofC.
23. For children whose parents are electing to home educate overseas, it is crucial that any potential impact for a child's education presented by the overseas context can be assessed, this is done through the educational supportability assessment which is part of the MASO process. The CofC is responsible for leading the MASO and for decisions on supportability.
24. In all circumstances where parents are intending to elective home educate, they are to engage with DCS and their CofC and their child is to remain in school until the outcome of the MASO. If a parent removes their child from school this will be considered an

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unauthorised absence and the Service parent will be required to notify their CofC who will lead a MASO, inclusive of an educational supportability assessment. The CofC should contact DCS for advice on this by emailing:

RC-DCS-HQ-EHE@mod.gov.uk

25. When determining the supportability^[7] of a child overseas where elective home education is a factor, the overseas CofC should consider home education in the context of host nation laws, Status of Forces Agreements, and any other applicable international agreements. All determinations are to be on a case-by-case basis and are to take account of the following:

- a. Where elective home education is lawful, there is to be no presumption that a child is supportable in the overseas location.
- b. Where home education is not permitted in a host nation, the applicability of the host nation's laws to Service/MOD Civilian personnel and their entitled family members is laid out in Status of Forces Agreements (SOFAs) or other applicable international agreements. These international agreements do not create an exemption from host nation law. In some countries, parents will not be able to legally home educate, whilst in others, home education may be subject to conditions. It is therefore critical that parents take advice from their CofC when considering home education and prior to any decision making.

26. Where a concern that a child is not receiving education is raised to the CofC or the CofC becomes aware of a concern, the CofC is to first engage with DCS, who will provide advice to the CofC on the steps to take.

27. Cases that do require safeguarding procedures are to be referred to the contracted social work provider as directed in JSP 834: Safeguarding. Detailed advice on safeguarding procedures is accessed by contacting the Global Safeguarding Team (GST) at:

People-AFFS-Safeguarding-Mailbox@mod.gov.uk

DCS Responsibilities

28. DCS provides a single point of contact for elective home education:

RC-DCS-HQ-EHE@mod.gov.uk

29. DCS will own a register of children who are being electively home educated.

30. DCS advice on a child's educational supportability will be informed by the following considerations:

- a. Will the child have access to educational resources suitable to age, ability, and aptitude, and to any special educational needs?

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- b. Will the child have access to social and educational networks suitable to age, ability, and aptitude, and to any special educational needs?
- c. Will the child have access to any specialist or additional resources that are needed?
- d. Will elective home education present risks to the safety and/or welfare or safeguarding of the child, the family and others and can these risks be mitigated?

31. Periodic reviews of home education provision will be conducted by education and welfare professionals. During a review, a child's opinion on the suitability of the home education received will be sought. This is to enable children to express their views and can be relevant to advice on whether the educational needs of the child can be met through home education.

32. DCS will make enquiries with parents upon receipt of a concern that a child's educational needs are not being met.

Parental Responsibilities

33. Parents who are considering delivering home education overseas as an alternative to school-based education, are to actively seek advice and guidance, including engagement in an advisory discussion with DCS.

34. If the outcome of this is that parents wish to continue with their plans to home educate, parents are to:

- a. Notify their CofC, discuss issues that may prevent home education (for example, legality in the host nation) and;
- b. Engage in the MASO (JSP 770: Ch2A) for all overseas assignments (including extensions and new assignments). Part of the MASO process requires families to engage in an assessment of educational supportability. Advice on this element of the MASO is accessed by emailing:

RC-DCS-HQ-EHE@mod.gov.uk

- c. Provide notice to their current school so that their child can be removed from the admissions register. If a child is removed from school without notice this is considered to be an unauthorised absence and the Service person is to notify their CofC who will generate a MASO.
- d. Take on full responsibility for delivering their child's education (including examination costs) and for all costs of education including transport, additional educational support and/or reasonable adjustments.

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35. During home education parents are to engage in periodic reviews of education provision. Reviews provide an opportunity for children and their parents to discuss their programme of education and may lead to recommendations for adjustments. Reviews may also identify concerns about a child's development and/or safety or welfare. Where significant educational, safeguarding, or other issues are identified as part of the review process, the CofC will be notified and this may lead to a CofC led multi-agency meeting being convened to discuss the issues and agree next steps. Safeguarding concerns will be responded to in accordance with JSP 834 and this may lead to the MOD's contracted social service being involved. Further information and guidance on these reviews is accessed by emailing:

RC-DCS-HQ-EHE@mod.gov.uk

36. In circumstances where parents remove their child from an overseas school before engaging with DCS, the Serving parent is to notify their CofC. A MASO will be required.

37. Where parents are considering re-entry into any school overseas, this may present new supportability risks so is considered to be a change in circumstances and requires a new MASO, inclusive of an educational supportability assessment. Following a MASO, where a child is determined as supportable overseas, parents are to re-engage in the admissions process for the relevant school. It is important to understand that there is no guarantee that a school overseas will be able to automatically support a child who is transitioning from home education to school-based education. Parents should initially contact DCS for advice on transitions.

38. Where a child is determined (for any reason) as unsupportable in the overseas location, parents should understand that this may result in the following: return to the UK, re-assignment, or involuntary separation. These courses of action will be determined by the CofC, working in partnership with the relevant agencies and the Service Assigning Authorities (for Service personnel) and the relevant TLB for MOD Civilians and giving due regard to the circumstances of the individuals concerned.

39. Further guidance aimed at supporting parents with decision making and required actions are contained in a parental guidance document which should be accessed on DCS' pages of GOV.UK or by emailing:

RC-DCS-HQ-EHE@mod.gov.uk

^[1] Service Children as defined in JSP 342 Chapter 1.

^[2] Department for Education, Elective Home Education, Guidance for Parents, Gov.UK (April 2019).

^[3] Department for Education, Elective Home Education Guidance for Local Authorities, Gov.UK (April 2019).

^[4] Department for Education, Elective Home Education Guidance for Parents, Gov.UK (April 2019).

^[5] Mr Justice Woolf in the case of R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust, *the Times* (12 April 1985)

^[6] DfE Elective Home Education, Guidance for Parents, April 2019.

^[7] Service personnel are directed to follow JSP 770: Tri-Service Operational and Non-Operational Welfare Policy; MOD Civilians are directed to follow JSP 770 where it applies to them overseas and the Civilian Overseas Transfers Policy and JSP 342: Education of Service Children and Young People.