

Submission
No 145

INQUIRY INTO HOME SCHOOLING

Organisation: Home Education Association (HEA)

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Home Education Association

Submission

Senate Select Committee on

Home Schooling

August 2014

Tribute and Thanks

This document was produced by members of the HEA Lobby Subcommittee through consultation with, and involving input from HEA members and others, on behalf of the HEA. The opinions presented herein are the opinions of the Lobby Subcommittee and may not be the opinions of HEA members overall.

The HEA Lobby Subcommittee is extremely grateful to all of the people who have contributed their time, their passion and their stories to making this document a powerful representation of this educational path we follow. These efforts follow the work that was started many years ago by NSW home educators. This new work is undertaken on behalf of all the people who home educate, those whose experience of registration have been heartrendingly unjust, and for the children who are being home educated now and those who will be in the future. We hope our efforts help to create a more just present and a more inspired future.

Contributing authors (in alphabetical order):

Name	Qualifications	Years of home education
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The Home Education Association

The Home Education Association Inc. (HEA) is a national non-profit association that was formed in April 2001. In NSW, it has 450 member families. It aims to encourage and promote the practice of home education in Australia, as well as advocating for freedom of educational choice. The Association is governed by a committee and managed by volunteers on behalf of the membership. All forms of home education, and freedom of choice in home education style, are supported by the Association. The HEA has no affiliation with government education authorities and prioritises members' confidentiality.

The HEA provides a range of services to members, including facilitating access to resources and group discounts negotiated with educational service providers, a regular newsletter and monthly magazine. HEA insurance policies cover a range of activities for members, including work experience, excursions, group activities, information sessions, seminars and conferences; the Association also sponsors activities and events within the home educating community. Volunteers field email and telephone inquiries from families and members of the general public, including non-member home educators, academic researchers, journalists and politicians.

The broader objectives of the HEA are:

- To uphold the principle that parents are primarily responsible for the education of their children.
- To promote a broader awareness of home education and its benefits throughout Australia.
- To promote and encourage the development of home education networks.
- To provide services and resources to home education networks and individual home educators.
- To endeavour to procure any rights, privileges, concessions or benefits relating to home education for home educators and their families.
- To maintain a respect for the diversity of philosophies and methods used by home educators.
- To use our membership size to obtain discounts and benefits for our members.
- To fund insurance cover for event organisers and work experience students.
- To support home education events and activities.

Executive Summary

This submission on behalf of the Home Education Association (HEA) responds to all the terms of reference of this Inquiry. It was developed through a collaborative process, including input from members of the HEA and non-HEA members. It presents an evidence base for the claims made, drawing upon experiences, surveys deployed during the development of the submission, published research, and government statistics. The submission demonstrates the value of home education, presents details of the positive outcomes of home education, and outlines issues faced by home educators in NSW. Throughout the submission the term 'home education' is used as distinct from 'home schooling'. As will be explained in the document, this terminology is deliberately chosen in order to differentiate these learning approaches, and reduce inappropriate comparison.

The HEA asserts that home education is a marginalised, unsupported and poorly understood educational option in NSW. Nonetheless, home education provides a positive learning environment and achieves significant educational and wellbeing outcomes for children and young people in NSW.

Diversity is a hallmark of home educators and home educated children and young people. Beliefs, convictions, social circumstance, family structure, ability levels (including recognised disabilities), approaches to education, geographical location, preferences for individual or group-based learning, and political conviction are some dimensions of this diversity. This diversity is also reflected in beliefs about appropriate home education regulation and the HEA urges the Committee to consider all perspectives presented by home educators through the course of this Inquiry.

Summary points in relation to specific terms of reference

That a select committee be established to inquire into and report on home schooling in New South Wales, and in particular:

a) The background of home schooling including comparison of practices with other jurisdictions in Australia and New Zealand

Home education predated any form of government provided and mandated school system. While it became less common after compulsory education was introduced in Australia (completed in all states by 1895), it has experienced a resurgence since the 1970s.

All Australian states and territories, and New Zealand, recognise and allow home education within their various Education Acts. Registration, or exemption from attendance at school, is a requirement in all jurisdictions; each state and territory implements these systems differently.

Each state and territory's home education system has been developed independently, more or less deliberately, and with greater or lesser levels of involvement with home educators. This has resulted in vast differences in approach between states and territories, including in relation to regulation, support and levels of home educator engagement with the system. The HEA has found that there are strengths and weaknesses, and lessons to be learned, in each.

The HEA's assessment is that NSW has the most onerous and least fit-for-purpose registration system at present and that this system is in need of an urgent overhaul.

b) The current context of home schooling in New South Wales including:

i) outcomes of home schooling including in relation to transition to further study and work

Home education is not an impediment to further study (including university) or work and in many cases has allowed earlier engagement with these 'post-school' options.

High rates of engagement with higher education and employment are evident in individuals who were home educated.

The qualifications held by these previously home educated adults range from Certificate II through to Doctorate.

It is the experience of the HEA that good educational outcomes are experienced by home educated students whose families employ every variety of home educating philosophy, regardless of registration status.

The HEA also recognises high levels of wellbeing for home educated students.

ii) financial costs

Home education involves a range of costs and represents a substantial financial commitment.

Costs to the home educating family can include purchase of structured programs, purchase of equipment and resources, engagement of subject-specific tutors, cost of excursions and the domestic costs of students being present in the home.

Home education often requires the loss of a wage which can be the greatest financial cost to the family.

iii) demographics and motivation of parents to home school their children

Parents who home educate have a broad range of educational levels (from year 10 through to trade qualifications and PhD) and 'work' experiences (e.g. self-employed, carer, artist, teacher, academic, sales manager and doctor).

Parents home educate for reasons that reflect the diversity inherent among home educators overall. Home education may be chosen for ideological reasons (e.g. support for family values) or pedagogical reasons (e.g. preferred methods of education). In other cases, home education is chosen to meet specific wellbeing or learning needs of children.

Student welfare is a strong motivator for many home educators (e.g. responding to experiences of bullying). For others, being able to provide an effective learning environment for children (especially for children with a disability) is key. In many of these cases, the children have been to school and are withdrawn in response to detrimental experiences.

iv) extent of and reasons for unregistered home schoolers

It is not possible to confirm the number of unregistered home educators. The HEA believes the numbers to be substantial and acknowledges that there are large variations in estimates.

Reasons for not registering may be ideological, pedagogical or practical. Ideological reasons include belief in the ultimate right and responsibility of the parent to educate without State interference or permission. Pedagogical reasons include families believing that their educational philosophy and methods will not be approved by the BOSTES representatives who don't understand/appreciate different methods of education. Practical reasons include a desire to avoid the current compliance-focussed registration process, which has no significant benefit and is frequently reported to be onerous, stressful and unpleasant.

Individuals will avoid engagement with regulatory systems that are difficult to understand, for which there is little benefit to complying and low penalties for non-compliance, and for which compliance

is difficult. The HEA asserts that this is the current situation in NSW with regard to the regulation of home education.

v) characteristics and educational needs of home schooled children

Home educated children and young people are an extraordinarily diverse group. A substantial proportion of children and young people who are home educated have special needs including physical disabilities (such as hearing impairment and health problems), learning differences (such as dyslexia and giftedness), and emotional, developmental or behavioural conditions (such as anxiety, autism and developmental trauma).

The physical, learning, emotional and behavioural conditions which children experience as severe impediments in school settings and which interrupt learning and lead to negative emotional effects are often ameliorated in the home education environment resulting in better learning, emotional and social outcomes.

vi) comparison of home schooling to school education including distance education

While home education is equal in law to school education, it is under-recognised, under-supported and marginalised within education systems.

Home educators utilise a broad range of pedagogical methods including: structured approach, unit studies, Charlotte Mason, unschooling/natural learning and eclectic.

In home education, ability-based progress is esteemed above prescribed stages and milestones. This allows acceleration and/or slowing across individual content areas, based on student capacities.

Participation in conversations and activities, rather than continual production of 'written' work, can demonstrate learning. Flexible, life-embedded and project-based learning are key to most families' educating approach.

Despite being the longest-standing educational approach, home education closely reflects the aspirations for 21st century learning systems by involving progression by achievement rather than age, engagement in learning through real life problems and development of critical thinking and lifelong learning.

c) Regulatory framework for home schooling including:

i) current registration processes and ways of reducing the number of unregistered home schoolers

Many NSW home educators find the current registration processes to be burdensome, intrusive, unsupportive and more focussed on compliance than on educational quality.

The current registration process is open to change without meaningful consultation with home educators. Recent experiences of this have led to an outcry from home educators across the State.

Consultation and implementation of an improved regulatory regime elsewhere, led to many unregistered families registering for home education. A more appropriate regulatory system in NSW would likely similarly decrease the number of unregistered home educators.

An examination of registration rates in other Australian states reveals that regulatory systems that were developed with close consultation with home educators and that provide a sympathetic assessment process and support have the highest registration rates.

Consultation should be embedded within any home education regulatory system to reduce the possibility of negative consequences for home educating families and the government.

ii) training, qualifications and experience of authorised persons

Authorised Persons are not required to have any specialised knowledge or experience of home education and many have demonstrated a serious lack of understanding of home education.

Lack of knowledge and experience of home education and the needs of home educated children has, in some cases, resulted in an insensitive application of their duty which has led to distress and actual harm for students.

Parents are often given inappropriate information and advice by Authorised Persons which can be confusing, distressing and burdensome.

Where Authorised Persons have developed an understanding of home education (through their interactions with home educators) many families report a positive registration experience.

Staff in positions of authority within the hierarchy of BoSTES have demonstrated a poor understanding of home education or a negative appreciation of it. Given their role in the appointment and training of Authorised Persons, the development of policy and procedures, and their participation in assessment of home education applications, this has impacted negatively on home educators' experience of the registration process and registration outcomes.

iii) adherence to delivery of the New South Wales Syllabuses

Although BoSTES has a policy requiring home educators to deliver the NSW syllabus, the requirements of this policy are unclear and inconsistently applied. The policy is also inconsistent with the proper construction of the relevant sections of the *Education Act 1990*

Curriculum identifies the overall content areas of a course of study, whilst a syllabus outlines content, scope and sequence of that study. Current home education registration information

documents require students to be provided an individualised learning plan that caters to their needs, however a strict adherence to the syllabuses restricts a parent's capacity to individualise the child's learning plan.

iv) potential benefits or impediments to children's safety, welfare and wellbeing

Home educated children cannot be identified as a specific cohort in child protection data held by Family and Community Services. Data from BOSTES indicate that Authorised Persons and other home education-related staff have shared information about children and young people under the exchange of information principles in the NSW *Children and Young Persons (Care and Protection) Act 1998*.

Concerns have been expressed that home educated children may be vulnerable to abuse or neglect that is not identified because they are not attending school. This assumes home educated children are entirely ensconced in their home. However, in the vast majority of cases, home educated children are deeply engaged in communities through family and educational activities, where they would come into regular contact with mandatory reporters.

For many children and young people, home education has been a means by which to increase positive family connectedness, as well as to address the negative impacts of bullying, or other trauma experienced in school.

In many cases, the current registration process impacts negatively on the wellbeing of children due to the stress it places upon parents and children. Inappropriate interactions with Authorised Persons (including suggestions made to children who were traumatised in school that they may need to return) have resulted in actual harm.

While failure of parents to register for home education is a contravention of the *Education Act 1990*, it does not follow that a child's education is being neglected and that they are at risk of harm. Consequently, a child or young person and their family should not end up on child protection databases based on this. Nor should Community Services scarce resources be diverted to assess unregistered home educating families as inherently neglectful under the *Children and Young Persons (Care and Protection) Act 1998*.

v) appropriateness of the current regulatory regime and ways in which it could be improved

The number of unregistered home educators is a clear indication that the current regulatory regime is inappropriate.

BoSTES is an organisation that is primarily concerned with the registration of schools. They have sought to apply the same methods and criteria that are used in the registration of school institutions to home educating families. Given the vast difference between school education and home education it is unsurprising that regulatory systems designed for schools have been found wanting.

The inappropriate policies of the current system, the inconsistency of Authorised Persons and the distressing registration experiences of many home educators, has led to an atmosphere of great anxiety and fear amongst parents as they approach registration.

A regulatory system embedded with supportive practices and sympathetic to the methods and philosophies of home educating families would encourage engagement in home education registration.

In the contexts of family separation and court orders, enrolment in school or home education has been differentially applied, with home education being seen as secondary to school education and scarcely supported. The consequence of this has been disruption to children, loss of effective education, and ongoing intimidation of the home educating children and/or parent.

d) Support issues for home schooling families and barriers to accessing support

Home educating families access a wide variety of supports in the education of their children.

For some families, accessing the support that they need is difficult because of issues related to financial constraints, location or availability. This is especially the case for families of children with special needs.

Home educated children are excluded from many resources that are available to students in government and non-government schools such as TAFE-delivered vocational education and training (TAFE-delivered vocational education and training (TVET) courses, Open High School, hospital school programs, school sport and Department of Education and Community learning centres. Home educated students in NSW are also excluded from receiving support services related to disability and from resources such as student travel passes and the Assistance for Isolated Children once they turn 17 years old.

Students with special needs and other students have been personally and educationally disadvantaged by these exclusions.

Exclusion from the supports available to other NSW students adds to the marginalisation of home educated students and may constitute disability discrimination in some circumstances.

Many home educators would value the opportunity for access to specific support, currently available to students enrolled in schools, to suit their (and their children's) needs.

e) Representation of home schoolers within Board of Studies, Teaching and Educational Standards (BoSTES)

Through developing or endorsing syllabuses, to which home educators are expected to 'teach', BoSTES significantly shapes the educational requirements affecting home educators. At the same time, the Board cannot demonstrate an effective understanding of the conditions of home education.

An extensive range of education stakeholders are represented on the NSW BoSTES. Home educators are currently not represented despite home education being very different from school-based education.

f) Any other related matter.

The 'research' into home education currently being undertaken by BOSTES (as reported to Parliament on 6th May, 2014) will not have a sufficient level of participation to provide a statistically meaningful result. It will, therefore, not provide any greater degree of understanding regarding home education than exists at present.

Recommendations

Improve the oversight of home education

- 1) The HEA recommends that the current system of home education registration be improved by incorporating the best practices of other Australian and New Zealand jurisdictions. The HEA proposes that features of such an improved system would:
 - a) be developed in consultation with NSW home educators for its design, establishment, and ongoing review:
 - b) be founded on an explicit intention to assist, enable, support and empower home educators in their delivery of their approach to home education:
 - c) include balancing principle of attention to the learning and welfare needs of the children being home educated:
 - d) be administered and delivered separately from the regulation of schools:
 - e) involve a registration process that understands and is sympathetic to the needs of home educating families:
 - f) provide a registration process that specifically accounts for students' different learning needs:
 - g) design a registration and review process where-in the quality of education is the focus, and documentation is minimised:
 - h) ensure the provision of support is an explicit aspect of Authorised Persons' (or their equivalent) job descriptions:
 - i) involve home educators in the development of criteria for employment, recruitment, training, support and ongoing development of all employees responsible for home education regulation:
 - j) have individuals with extensive experience and knowledge of home education involved in all areas of its administration:
 - k) provide an interim or provisional registration option:
 - l) allow families that are travelling to register:
 - m) allow voluntary registration for children younger or older than compulsory school age:
 - n) provide written feedback to all home educators as a part of the registration process.

- 2) The HEA further recommends that, if BoSTES continues to have any role in home education:
 - a) a representative of home educators be appointed to the BoSTES:
 - b) that home educators be closely involved with developing criteria for employment, recruitment, training, support and ongoing development of all employees responsible for home education regulation:
 - c) that those persons be able to demonstrate understanding, positive support and experience of home education before being appointed to that role.

Integrate support for home educated children within the education system

- 3) The HEA recommends that that home educated children should receive appropriate support including access to the following, on a voluntary basis:
 - a) part-time school with part-time home education at the discretion of school principals:
 - b) distance education (full or part-time):
 - c) TAFE-delivered vocational education and training (TVET) courses, Open High School, Hospital School programs, Department of Education and Community learning centres and other similar resources available to other NSW students:
 - d) support services for students with a disability and/or other special needs including access to special educational resources and psychological testing:
 - e) other support designed to assist families in home educating their children, including ensuring that those involved in regulation of home education are also empowered and required to provide support for home educators when requested.

Reconsider the appropriateness of the NSW Syllabus for home educated children

- 4) In relation to the NSW Syllabus, the HEA recommends that:
 - a) the Committee consider the appropriate interpretation of Minimum Curriculum for home educated students in relation to legislative requirements:
 - b) prescription of educational programs for home educators should, at maximum, be limited to requiring that educational programs cover the Key Learning Areas, study relating to Australia, courses including Art and Music and are appropriate for the child's level of achievement and needs. Home educators should not be required to implement the BoSTES

syllabuses, which were designed for the institutional school context and specify an order of teaching that is not appropriate in the home education context:

- c) children should not be required to be registered for particular years of study.

Provide appropriate funding for home education

- 5) The HEA recommends that consideration be given to the private costs of home education and the public savings resulting from home educated students not being enrolled in government or non-government schools and that:
 - a) home educated children should be included in the broader funding model for state government education expenses and funds should be allocated to support home educated children:
 - b) funding may be allocated directly to registered home educating families and/or support and resources for home educators. The spending of this funding should be developed as part of broader consultation with home educators.

Make appropriate adjustment to policies to account for home education

- 6) The HEA recommends that other bodies be encouraged to make appropriate adjustment to policies and procedures to account for home education. Such adjustments should ensure that:
 - a) any tools developed and/or used to assess 'educational neglect' include direct input from home educators such that these tools are aware of, and sensitive to, the diverse educational methods used by home educators:
 - b) Centrelink is informed that home education is a legitimate form of education for young people and that application of an exemption from the education requirements of eligibility for Family Tax Benefit and Youth Allowance for registered home educated students is appropriate:
 - c) the Children's Court and the Family Law Court are informed that home education is equal in its status with school education and that decisions regarding education should be determined according to the best interests of the child.

Make appropriate legislative amendments

- 7) The HEA recommends that legislative amendments be made to ensure consistency and appropriate legislative frameworks for matters related to home education including:

- a) That the *NSW Children and Young Persons (Care and Protection) Act 1998* be appropriately amended to make clear that failure to register for home education is not, without further evidence, sufficient to prove educational neglect.
- b) That the *Education Act 1990* be amended to more clearly reflect the nature of home education and the encouragement of quality education. Such amendments should:
- (i) Remove the use of the misleading term “Home schooling” and the unhelpful definition thereof.
Amendment: s3 Definitions: delete the definition of “home schooling”
Amendment: throughout the Act replace the term “home schooling” with the term “home education”
 - (ii) Clarify the drafting of Part 7 such that it specifically includes home education.
Amendment: change s37 from “*This Part applies to schools other than government schools*” to “*This Part applies to home education and schools other than government schools.*”
 - (iii) Provide that Authorised Persons must give written reasons for the recommendations they make regarding registration.
Amendment: change s71(3) from “*The authorised person is to notify the applicant in writing of a recommendation to the Minister that the application be refused.*” to “*The authorised person is to notify the applicant in writing of the reasons for their recommendation to the Minister.*”
 - (iv) Clarify the extent to which the Minimum Curriculum applies to home educators.
Amendment: S73(2)(b) add the words “*for the purposes of this section the ‘relevant parts of the minimum curriculum’ are s8(a)-(d) and s10(a)-(c)*”
 - (v) Provide that any recommendation other than registration for the maximum period be subject to administrative review.
Amendment: change from S 107(d) “*(d) a recommendation of an authorised person that the Minister refuse to register a child for home schooling*” to “*(d) a recommendation of an authorised person that the Minister register a child for a period less than the maximum available or that the Minister refuse to register a child for home schooling*”

Undertake research on home education

8) The HEA recommends that:

- a) a thorough, robustly designed, program of qualitative and quantitative research should be undertaken in order to develop a better understanding of home education, including of numbers, methods, outcomes, benefits and impediments
- b) the NSW government advocate for inclusion of questions in the Census that allow the number of current or former home educated children to be counted

TERMS OF REFERENCE

(a) The background of home schooling including comparison of practices with other jurisdictions in Australia and New Zealand

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Across all eras, throughout all countries, across all social classes and ideologies, parents have educated their children outside of school institutions. Societies have been enriched, inspired and forever improved by the achievements of people who were educated at home. Through choice or through necessity, using the sparse or elaborate resources at hand, families have met the educational needs of their children in their homes and in their communities. Thomas Edison, Florence Nightingale, Beatrix Potter, Quentin Bryce and Alexander Graham Bell were home educated; and Michael Leunig, Australia's 'National Treasure', home educated his children. Home education is a robust part of Australia's past, present and future.

To home educate is to embrace fully the legislated responsibility for one's children's education. Home education is a legitimate alternative to institutional schooling - the *Education Act 1990*

provides for compulsory education, and whilst schooling is one option for fulfilling this, home education falls clearly within the spectrum of legitimate education choice.

Although colloquially referred to as ‘home schooling’, it is not necessarily limited to a particular location nor is it always recognisably ‘school-like’ in implementation. Throughout this submission the term ‘home education’ is used rather than ‘home schooling’, to distinguish home education as a distinct approach to education that may be substantially different from that undertaken in the mainstream school system, and not simply a similar approach in a different venue.

One of the few specialist researchers in Australian home education, Glenda Jackson, explains that *“home education is different in the context of each family; no two families will go about providing for the educational needs of their children in the same way. It is important to recognise, not only the important role all parents have in educating their children, but the particular ability of home educating parents to approach the unique needs of each child, providing an individualised program to meet not only the requirements of the family, but also particularly relevant to each child.”*¹

History of home education in NSW

Colonial Australia inherited from England a common law which did not impose any duty on a parent to educate their child but did provide a *parens patriae* jurisdiction for the state to intervene in matters of child welfare. Until the nineteenth century this state interest in child welfare did not extend beyond poor laws and protection of the property of wealthy infants. However, as early as 1821 there was concern for the children of ‘*the profligate parents of New South Wales.*’ Later in the nineteenth century, legislation to provide free, compulsory and secular education effectively ‘*removed the common law parental right to determine whether or not a child should be given a formal education.*’ Since that time, parents have had a responsibility and/or duty to ensure that their children receive an education. It has not at any time been required that this education be provided by a government school. Indeed, although home education was historically the only option for formal education, churches and philanthropic societies began to offer various forms of education prior to the development of government schools. Even once a system of government schools was provided (and required by legislation), the choice of home education or non-government schooling remained. The provision of government schools not only ensured that all children were able to receive education, it changed the nature of home education to some extent. Home education is now a choice amongst forms of education rather than a choice between home education and no education. However, it must be emphasised that it has never, historically, been the case that the

¹ Allan S, Jackson G. The whats, whys are wherefores of home education and its regulation in Australia. *International Journal of Law and Education*. 2010;15(1):55-77.

only alternative to school education was no education. It is only over the past century that families have been encouraged to send children to schools for the main part of their education.

In Australia and other Anglophone countries (e.g. UK and USA) there has been a substantial increase in home education in recent decades², motivated in some cases by values perspectives and in other cases by pedagogical commitments. This distinction was described by Van Galen in the late 1980s and early 1990s (as reported in Hanna 2012³) as ideologues (those motivated by religious convictions and seeking greater family connection) and pedagogues (those motivated by reformist educational ideas such as 'de-schooling', 'unschooling' and 'natural learning' (see, for example, Holt 1972; Illich 1971)⁴). This distinction, though not absolute, appears to be relevant in Australia at the present time (see, for example, Department of Education 2003; Varnham and Squelch 2008⁵). The various motivations for home education are discussed elsewhere in this submission.

Home education in different jurisdictions

The *Education Act 1990 (NSW)* clearly recognises that '*the education of a child is primarily the responsibility of the child's parents*'. One of five principal objects of the Act is '*to allow children to be educated at home.*' However, these principles are not upheld in many of the current policies regarding home education. The Home Educators Association (HEA) is of the view that it is important to provide regulatory systems that support parents in the very significant endeavour of educating their children. Home education registration policies ought to recognise the significant investment of parents who take responsibility for their children's education, tailor a personalised educational program to meet their children's specific requirements, and desire to provide their children with the very best educational and personal outcomes.

In NSW the *Education Act 1990* requires that all students of compulsory school age are either enrolled in and attending school or registered for 'home schooling' and receiving instruction in compliance with the registration certificate. The Act specifies that parents apply to the Minister for registration but, in practice, the Minister has delegated the administration of registration to the

² Kunzman R, Gaither M. Homeschooling: A comprehensive survey of the research. *Other Education*. 2013;2(1):4-59.; Meighan R. Home-based education effectiveness research and some of its implications. *Educational Review*. 1995;47(3):275-287.; Ray BD. Homeschooling associated with beneficial learner and societal outcomes but educators do not promote it. *Peabody Journal of Education*. 2013;88(3):324-341.; Varnham S, Squelch J. Rights, responsibilities and regulation – the three Rs of education: a consideration of the state's control over parental choice in education. *Education and the Law*. 2008;20(3):193-208.

³ Hanna LG. Homeschooling education: Longitudinal study of methods, materials, and curricula. *Education and Urban Society*. 2012;44(5):609-631.

⁴ Holt J. *Freedom and beyond*. Middlesex, England: Penguin; 1972. Illich I. *Deschooling Society*. New York: New York : Harper and Row; 1971.

⁵ Department of Education, Queensland. Home Schooling Review. Brisbane; 2003.; Varnham S, Squelch J. Rights, responsibilities and regulation – the three Rs of education: a consideration of the state's control over parental choice in education. *Education and the Law*. 2008;20(3):193-208.

Board of Studies, Teaching and Educational Standards (BoSTES). The BoSTES has provided guidelines in the form of the *Home Schooling in NSW Information Pack*. According to the current (2013) *Home Schooling Information Package*⁶, the parent submits an application form to the BoSTES, then an Authorised Person will visit to assess the home, the child, the parent and the written evidence of an educational program which complies with the NSW BoSTES Syllabus. The educational program must be in detailed written format and must describe activities and the syllabus outcomes for each child. After the visit, the Authorised Person makes a recommendation as to whether the child will be registered for 'home schooling' and, if so, the duration of that registration. Registration is typically for a period of 3, 6, 12, or 24 months, there is no minimum registration period but the maximum period is set by the Act at 2 years. The Authorised Person may give a verbal explanation for the suggestion, but will not provide a written explanation unless registration is refused. If registration is approved, the parents will receive a registration certificate in the mail. This certificate will specify the length of registration (which may or may not be the same as the Authorised Person's recommendation). Until receipt of the registration certificate, children of compulsory school age must continue to be enrolled in an attending school. Neither the BoSTES nor the Authorised Person provide any guidance or assistance during the registration process. Once the student is registered, there is no additional access to resources or support for the student's education. Further details regarding the details of home education registration policies and procedures are outlined elsewhere in this submission.

Comparing the NSW approach with other systems in Australia and New Zealand, it is possible to see a variety of ways that regulatory systems might provide support or present difficulties for these families. These differences often impact on the extent to which home educators engage with the registration processes. In the view of the HEA, no jurisdiction is perfect; each has their own strengths and weaknesses as outlined below.

⁶ http://www.boardofstudies.nsw.edu.au/parents/pdf_doc/home-edu-info-pack-13.pdf

Comparison of Home Education Regulatory Systems

	NSW	Victoria	Qld	Tas.	NT	ACT	SA	WA	NZ
Administering body	Board of Studies Teaching and Educational Standards	Victorian Registration and Qualifications Authority	Home Education Unit (Department of Education, Training and Employment)	Tasmanian Home Education Advisory Council	Department of Education	Education and Training Directorate	Dept of Education and Child Development	Dept of Education	Ministry of Education
Max. period of registration	2yrs	Ongoing (must renotify 30 Nov each year)	Ongoing	2 yrs	1 year (registration is until 31 December)	2 years	12months	Ongoing	Stat dec every 6 months
Method of monitoring	Home visits with extensive documentation	Potential for assessment if concern	Annual reports by mail	Bi-annual home visits	Annual home visit to assess portfolio	Annual report	Annual home visit	Meetings to review	Potential for assessment if concern
Interim registration	No	NA	Yes	Yes	Yes	Yes 6 months		Yes 3 months	Yes
Home visits	Yes	No	No	Yes	Yes	Yes	Yes	Yes (May meet away from home)	No
Home Ed while travelling	No	Yes	Yes	Yes	No	No	For 12 months	No	yes

	NSW	Victoria	Qld	Tas.	NT	ACT	SA	WA	NZ
Curriculum	Prescribed syllabus	KLAs plus certain inclusions	Variety of approaches accepted	Variety of approaches accepted	Australian Curriculum recommended, not mandatory	No – ‘ <i>broad range of opportunities</i> ’	KLAs plus certain inclusions	Progress compared with WA curriculum	No, “ <i>taught at least as regularly and well as in a registered school</i> ”
Earliest age of registration	6th birthday	Beg. the year child turns 6	6.5 years	Aged 5 by Jan 1st	6 years	6 years	6 years	Beg. of yr child turns 5.5	6 years
Latest age of registration	17 years	End of year child turns 18	17 years	End of year child turns 18	17 years	17 years	17 years	Earliest of 18 or end of year child turns 17.5	16 years
Distance education	Very limited		Yes	Free			Yes	Limited	
Part-time school available	No	Yes, at school discretion	No, some activities at discretion of principal	No	No	Yes	Only under exceptional circumstances		
Resources	Phone number of HEA	"A Guide to Services and Support" booklet	Text book allowance General support High support for distance ed	Monitoring Officers provide assistance Home ed Library Insurance for home ed activities bus pass ID card		Regular information bulletin		Regular newsletter Special needs support Swimming lessons School dental and medical ID card	Financial support specifically for home ed

Victoria

In Victoria, home educated children are registered by the Victorian Registration and Qualifications Authority. Registration involves the home educating parent completing a single page form in which they enter a binding undertaking to provide their children with an education, that covers certain stated key learning areas (KLAs) and that is *“consistent with... the principles and practice of Australian democracy”*. Registration for home education is available *“for children residing in Victoria, who are of compulsory school age - aged 6 to 17, or a child who turns 6 during the year homeschooling will commence, and those who will turn 18 in the school year in which registration occurs”*⁷.

The HEA understand that, in Victoria, home educating parents appreciate the fact that parents are trusted to educate their children and that there is minimal interference in the education of their children. This is especially the case for those who hold strong views about parents being primarily responsible for their children’s education. Some home educators also appreciate the ability for children to be home educated and attend school part-time (at the discretion of school principals). The “Homeschooling Guidelines” booklet, from the Victorian registering authority, provides information about support and services available to home educating students. However, there is very little active support or guidance in this system, particularly for new home educators. Some Victorian home educators fear that policies are likely to become more stringent over time, as the current system has only weak control against arbitrary changes. There is evidence that this concern leads some home educators to choose not to register despite the current ease of registration. As in NSW, the Victorian system also suffers from a lack of engagement, by home educators, with the registration system⁸.

South Australia

In South Australia, home educated children are not registered for home education instead they are enrolled in school and exempted from school attendance. *“When choosing to home educate, parents undertake responsibility for their children's education and must be able to demonstrate that their children are provided with: an appropriate learning program and a typical timetable, resources to support the learning program, opportunities for social interaction, and a suitable learning environment.”*⁹ Following an assessment at a home visit, exemption from attendance at school is granted for up to 12 months. Part-time exemption from school attendance (and part-time home

⁷ http://www.vrqa.vic.gov.au/Documents/homeschoolingbooklet_1.pdf

⁸ NSW Parliamentary Research Service. *Home education in NSW*. Sydney: Parliament of NSW; 2013.

⁹ <https://www.sa.gov.au/topics/education-skills-and-learning/schools/alternative-schooling/home-education>

education) is available. Access to distance education is available to all home educators and access to many other resources is facilitated by the technical enrolment of children in schools.

Western Australia

In Western Australia, home educated children are registered by the Western Australian Department of Education. The home educator is responsible for developing the curriculum for the child, which must be based upon the Western Australian Curriculum Framework. Registration for home education is granted for children *“from the beginning of the year in which the child reaches the age of 5 and 6 months until the end of the year in which the child reaches the age of 17 and 6 months or the child reaches the age of 18, whichever happens first”*. The application process involves individuals completing an application form and lodging it with the Department of Education. Registration is granted automatically and a moderator then visits within 3 months to assess of the grant of registration. Follow up visits are then carried out every 12 months. At the follow-up visits, which may take place in the home or in another location, home educators are required to demonstrate educational progress. The role of the moderator includes providing information and advice. The moderator provides home educators with a written report that contains information such as an evaluation of the program, links to the Curriculum Framework, areas needing attention and suggestions for future strategies and resources¹⁰.

Parents report an appreciation of information provided by moderators and the benefit of choosing between home and another location for follow-up visits. Some parents also report a lack of understanding by some moderators of the different styles of home education and an unfortunate tendency for some moderators to “quiz” children. Community meetings with home educators and moderators are facilitated each year. Resources available to WA home educators include access to school medical and dental clinics, and free school swimming programs, as well as provision of an ID card. Children with special needs may qualify for support via services such as Vision Education. Registration rates in WA are double those of NSW.

Northern Territory

In the Northern Territory, home educated children are exempted from school attendance by the Northern Territory Department of Education. Upon making an application to home educate, interim approval is granted. A departmental officer, often a local school principal, will visit the home and make a recommendation regarding final approval. The recommendations are based on the approach that key learning areas must be covered but *“The method of delivery will be at the*

¹⁰ <http://www.det.wa.edu.au/homeeducation/detcms/portal/>

discretion of parents, based on the needs of the child.” A new application for home education is required each year and approval will be determined by a home visit including consideration of children’s work samples with a particular focus on progress in literacy and numeracy¹¹.

Queensland

In Queensland, home educated children are registered by the Department of Education, Training and Employment. Applications to home educate are considered by the home education unit (HEU), who provide some support and are generally experienced as supportive and flexible. Applications must be followed by *“a summary of the educational program to be used, or learning philosophy to be followed”*¹². Re-registration takes place after submission of an annual written report which evidences provision of a “high quality education” and notes the student’s progress are required. Applications for home education are assessed purely via provision of documentation; there are no home visits. There is an understanding within the HEU of the variety of approaches to home education. Home educating parents can receive the Textbook and Resource Allowance, also available for parents of school students: for students in years 8-10, \$115 per student per annum, and years 11-12, \$25. Numerous distance education options are also available including free access to government distance education schools. Queensland students can gain credit towards a QSC (Year 12 qualification) through participating in various activities (not individual work at home). Travelling families in Queensland are able to register for home education.

The registration system for home education in Queensland was previously a much more difficult system, requiring that a home educating parent either be, or engage, a qualified teacher. Consequently, many home educators either did not engage with the registration system, or else enrolled for distance education. Following a review in 2003¹³, involving input from home educators, the system was improved, resulting in greater levels of registration. The strong distance education sector, consisting of eight state schools of distance education, and six accredited non-state providers of distance education, continue to be well utilised by families who choose home education.

Australian Capital Territory

In the ACT, children are registered for home education by the ACT Education and Training Directorate. The directorate explains its view of home education as *“actively and regularly provided on a full or part-time basis. Home Educators may seek additional educational support from tutors, community based programs or activities at a location other than the home base.”*¹⁴ Provisional

¹¹ <http://www.education.nt.gov.au/parents-community/schooling/home-education>

¹² <http://education.qld.gov.au/parents/home-education/>

¹³ Department of Education, Queensland. Home Schooling Review. Brisbane; 2003.

¹⁴ http://www.det.act.gov.au/school_education/home_education

registration is granted for six months, on receipt of registration form. Within this time, a home visit with an Authorised Person is arranged. Registration is for a period of two years but annual reports are provided by parents at the end of each year. Home educators are not required to follow a particular curriculum but must offer their child a broad range of educational opportunities that foster *“the development of the child’s unique spiritual, emotional, physical, social and intellectual being”* and prepare them to *“become an independent and effective local and global citizen.”* Home educators report that Authorised Persons generally have an understanding of home education. The content of the curriculum provided is decided by parents. Children may be both enrolled in a school (part-time) and registered for part-time home education.

Tasmania

In Tasmania, home educated children are registered by the Tasmanian Home Education Advisory Council (THEAC)¹⁵. The application to home educate involves provision of an outline of the proposed education program. Provisional registration is given after receipt of this application. A monitoring visit occurs 1-2 months later, (generally, in the home, but could be held in a different location). Assuming all guidelines are met, the registration continues. A further monitoring visit occurs one year later and then every two years.

Home educators in Tasmania are reassured that *“Council and Monitoring Officers do not have a particular bias towards the differing styles of home education but are able to offer information on various curricula, learning methods, contact information for networks and other home educators”*. Providing support is thus intrinsic to the regulatory system in Tasmania. Monitoring Officers have extensive knowledge and experience of home education because they have home educated themselves; experience in home education is a criterion for the role. Education plans are required to focus on numeracy and literacy and ensuring that there are opportunities for development of interpersonal skills. The system is supportive, and provides advice, access to resources through a special library and also insurance for home education activities. It appears that THEAC has credibility and the respect of home educators in Tasmania. In Tasmania, home educators are provided with support in the practicalities of home education, and a greater level of monitoring in the first months. The different home education philosophies are understood and supported. The support inherent in the system, from those who have experienced the unique nature of home education through having undertaken it themselves, and the understanding of the full range of home education philosophies and methods, means that the visits are often welcomed, even described as *“fun.”*

¹⁵ <http://www.theac.org.au>

The system in Tasmania was developed in 1993, following a Report prepared by a Working Party that included home educators and professional educators¹⁶. Every one of the recommendations of the Working Party was accepted, and a robust and supportive system developed. Tasmania has the highest rates of registration for home education of any Australian jurisdiction, which may be interpreted as providing evidence that there is a high rate of satisfaction with this system.

New Zealand

In New Zealand, children are registered for home education by the Ministry of Education¹⁷. The Ministry of Education approves home educators on the basis of documentation provided to them and a phone call to applicants. Following initial approval, the home educator is assumed to be continuing satisfactorily with home education and no further applications or assessments are required. New Zealand used to undertake random home visits of a proportion of home educators each year but routine reviews were discontinued as they were found to be unnecessary. Completion of a statutory declaration, signed by a Justice of the Peace, is required every six months to advise that home education is continuing. Home educators in New Zealand are provided with financial support in the form of the homeschooling supervision allowance that is paid in June and December each year (\$743, for first child in family each year, to \$372, for fourth and subsequent children). NZ home educators have reported the process as being “rewarding”, “respectful, empowering and encouraging”, and “supportive”. They have also found the requirements “simple to understand”.

¹⁶ Ministerial Working Party. *Home Education in Tasmania*; 1991.

¹⁷ <http://www.minedu.govt.nz/Parents/AllAges/EducationInNZ/Homeschooling.aspx>

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Currently or formerly home educated students are currently undertaking the following formal study:	45
Currently or formerly home educated students hold the following qualifications:	46
Currently or formerly home educated children are currently employed in the following occupations*	47

Positive outcomes of home education

As described later¹⁸, home education is able to provide children with an education that is tailored to their individual learning needs. As a result of this, home educated children are provided with an excellent education that prepares them for a broad range of life experiences. Drawing on the little research that has been done, Jackson and Allan (2010)¹⁹ assert that, “*Research on educational outcomes for home educated children shows good to above average academic performance, positive social adjustment, healthy self-concepts, and cohesive families relationships.*”

Home schooled students studying at year 12 level are not currently eligible for the HSC. This is therefore not a feasible pathway to further education or work unless students are willing to enrol in school. Despite this, being home educated is no barrier to further study in any area, nor does it restrict career choice. In recent times alternative entrance pathways have been implemented by TAFE and universities, which have resulted in many home educated young people going on to certificate and degree level studies. These can often be accessed by home educated students at younger ages than would occur in school.

Although educational success should not be measured solely in relation to higher qualifications and employment, the HEA recognises that this is one measure commonly applied to ascertain educational outcomes. An HEA survey of over 200 home educators identified that current or formerly home educated students were undertaking, or had undertaken, a large variety of higher education courses and were employed in a large variety of occupations. The results indicate that 71% of students were studying toward a Bachelor degree or higher (52%- Bachelor degree, 12%- Bachelor Honours, Graduate Certificate or Graduate Diploma, 6%- Master Degree and 1%- Doctorate). This compares favourably with the 2013 Bureau of Statistics data in which 60% of school leavers (aged 15-24 years) who were studying, were undertaking a Bachelor degree or higher (ABS 2013). When asked to describe their employment and studying pattern, students indicated a high level of engagement in work and study. The ages of home educated students ranged from 15-35 years, with an average of 22 years. As shown below, over 67% of individuals indicated that there were employed and 62% were engaged in study. These figures compare favourably with published results from the Australian Bureau of Statistics in which 63% of school leavers between 15 and 24 were employed, and 59% were enrolled in formal study.²⁰ [A list of

¹⁸ b)(vi) The current context of home schooling in NSW including: comparison of home schooling to school education including distance education

¹⁹ Jackson G, Allan S. Fundamental elements in examining a child's right to education: a study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

²⁰ <http://www.abs.gov.au/ausstats/abs@.nsf/Products/>

the qualifications, courses and occupations of formerly home educated students is provided at the end of this section.]

The table below shows results of the HEA survey regarding work and study outcomes.

Studying and working pattern of home educated students	% (n=137)
Studying full time and working part time	23
Studying full time	22
Working full time	20
Studying part time and working part time	10
Other*	9
Working full time and studying part time	7
Managing own business	4
Working part time	3
Home duties	3
Finished studying and looking for work	0

**The responses from "Other" also show a high degree of full time engagement such as: full time parenting, apprenticeship, or working as a casual with a full time workload.*

Methods of Transition to Work or University

A variety of methods of transition to work and university are employed by home educating families including through school (some home educated students go to high school for years 11 & 12), TAFE, university courses, examination and interview. The HEA survey described above indicates that TAFE and online university are major transition pathways to work or university, as shown in the table below.

Pathway to further education and employment	(n=137)
TAFE	49
Open University/other online University	42

Direct to work	32
Online TAFE	20
Attending high school	16
Interview	15
Examination	12
Private college	6
University courses without credit	4
Bridging courses	4
Distance education	3

Attending TAFE was a method used by 36% of students and online TAFE or college was indicated by a further 15% of responses. TAFE is therefore a primary pathway for home educated student with a total of 51% of students using this method of transition. Home educators are concerned that changes to funding for TAFE will limit options for students. Home educators also object to the requirement to seek permission from BoSTES prior to being able to enrol a student under 17 years of age, in TAFE.

Home education and preparation for further studies and employment

The voices of parents and former home educated students provide further detail to the figures above. These show that the flexibility of home education and the ability of parents to tailor studies to the child's interests allow a range of activities to be undertaken. Children can follow their own interests and, as they grow older, place an increasing emphasis on areas of study that are of special interest to them. Home educated children are able to initiate further study at younger ages if they have the interest and ability. Home educated students are able to become self-directed learners and can enter further studies at an age that suits them, rather than at school leaving age.

“Our three boys are aged 12 and 10. One of the boys has done a few courses through Coursera: one, an online programming class (in Python) which of course is beneficial for so many careers, especially since he is interested in science. Another one of the boys took a “Child Nutrition and Cooking” class - he wants to own a cafe or restaurant when he grows up. Being able to have our boys do online

external courses through Coursera, EdX and Khan Academy has been invaluable for their success as homeschoolers and we are sure it will benefit them in their future studies/career path.”

“I first developed a love for foreign languages when I started learning Italian as a home educated student around the age of 10. Later on, aged maybe 11 or 12, I got a lovely new English dictionary and became fascinated by the phonetic symbols used to describe pronunciation. Around the same time, I discovered a great website (through Otherways home schooling magazine, no less!) dedicated to writing conlangs (fictional languages), and this introduced me to the world of phonology (sound systems). Despite dabbling in other fields like politics and social science, I went back to linguistics at university. Now I work as a research assistant at the University of Queensland, specialising in the phonology of Indigenous languages.”

“Being free to jump right in and start studying university subjects (through Open University Australia) was awesome. Having that experience put me a huge step ahead when I eventually went to study at university full time. Having the opportunity to socialize, work with and build relationships with people of all ages and backgrounds was also of immeasurable benefit. By the time I reached adulthood, I already had a wealth of experience working with everyone in the community, from the very young to the very old.”

“My son was able to access TAFE studies in Information Technology (IT) at 15, which enabled him to gain entry to a Bachelor of IT, at the age of 16. Due to his TAFE studies, he was given credit for 90 units of the degree, and also was awarded a scholarship. He graduated from his degree, with credit, at the age of 18, when his age peers were finishing the HSC, and has been working full-time in IT since graduating”

Home education and small business opportunities or part-time employment

Home education can also provide the flexibility that enables children to begin working part-time jobs or start their own businesses, at an early age. These might include working in cafes or enterprises such as washing cars, walking pets, tutoring younger children in musical instruments, and selling

homemade products. These initiatives provide enormous benefits across many educational and personal development domains.

“My 15 year old daughter began working at McDonalds at the beginning of this year. This employment has significantly improved her chances for further employment. My daughter has developed many new skills in the McDonalds’ environment. She has learned flexibility as her roster changes each week. She has learned to manage her time, to be at work for an opening shift and to complete 5 days study in 3 days. Their extensive training is equipping her not only for the work she is currently doing, but for her future. She wants to be a pediatric nurse. Part time work is teaching her to manage work and study together – a skill she will need as she studies, trains, works and specializes in her nursing career.”

“Our girls, aged 8, and 10, make earrings and necklaces. They sell them at market stalls. They visit the bead shop and budget their way through what we can and can't afford, then keep the itemised receipt. At each market they tally each item sold then any profits are put back into buying more beads and accessories. Recently they did a face painting stall, too.”

“My daughter started teaching piano and flute from home when she was a 15 year old homeschooler”

“My 10 and 12 year old children busk violin down the street; they have donated to charity, and funded their own violins, music camps, and last year a 5 week trip camping to French Polynesia to practise their French. They play Christmas carols and concerts at nursing homes. They play violin at weddings, funerals etc.”

“My daughter, aged 13, has recently set up an Etsy shop selling her handmade plush toys and bags (sewn material, upcycle, recycle)”

“My son started a car detailing business last year, when he was 15. He runs it part time to fit in with his school work.”

One group of home educated children have become International Lego Robotics champions. They have generated funds for their overseas competitions by running Robotics camps and clubs for other Lego fans. This has not only funded their hobby, but taught them very valuable income-generating skills.

“Our LEGO Robotics team run after school and school holiday Robotic workshops. All the kids on the team work at least 3 hours a week, plus 2-3 days in the school holidays. The kids aged 9 -16 are involved in the teaching of other kids and adults aged 5-103! When the team formed in 2010 we won the National Championship and were selected to represent Australia in the Netherlands. As all the families involved with the team were single income families and couldn't afford to travel o/seas, it was suggested we run some Robo Camps to fundraise for the trip. The team were given loan kits. We then decided that this could be an after school activity so started to run Robo Club 2 days a week at a local school. From there it has grown to a Robo Club running everyday after school in a different location around our region as well as every school holidays. The team is also asked regularly to do demonstrations at Brick Fun Days for schools and even go and talk to school students about robotics. All funds raised by running these Robo Camps and Clubs funds the team who have competed internationally 4 times in a row with the team just getting back from Canada in June.”

Home education and family businesses

Other children are able to gain valuable skills from participating in their family's small business. The flexibility of their home education allows time for integrating work skills into their education or working around other studies.

“All of our children (even the 8 year old) have had a chance to work alongside us in the family business (in an appropriate way). We pay them according to their age. Their duties include sticking on labels, packing up boxes, and cleaning the factory, among other things. It has been very helpful for them to learn what a boss expects and develop a good working attitude. Our older sons can run our weekend market stall. We are nearby but they are able to do the whole thing themselves: Erecting and putting up tent, tables and display. They sell product to customers, take money and give change. Our eldest son, 15, now has a job at a packaging company while he studies at TAFE - Cert IV in Media and Journalism. I feel confident that he is a good worker because he has already had so much work experience.”

Home education and volunteering

Some children have been able to learn valuable skills through volunteering in the community.

“My daughter has been a bird carer for Wildlife Arc for two years. She could not have done it if she'd been at school because she wouldn't have been home enough. Lots of responsibility, lots of learning about care of animals, lots of training etc.”

“Our children participate in Bushcare. The kids will be doing native wildlife tracking soon using videos in trees and helping with statistics of the area as far as increase in native animals with improved bushland. The kids have learnt a lot.”

Good educational outcomes occur with all types of home education (and regardless of registration status)

As is explained later²¹, there are many educational methods employed by home educators. Some of these are distinctly not-school in their approach and yet, they can achieve excellent results. [The registration status of the children has no bearing on these outcomes.] For example, illustrating many of the potential benefits of home education, using an ‘unschooling’ approach (while being unregistered) one parent described,

“We have five children. In our first year of homeschooling we used the Sonlight program and whilst it was terrific, for us it was just like doing school at home. So since that first year, we have used an eclectic/unschooling approach which we have found to be beneficial. For us, the idea of registering with the government is all about the government making sure that parents are not being neglectful of their children. Since we are 100% committed to our own children's development, there is no benefit to being forced to comply with the government's education curriculum.

Our eldest son is 21, has his own business and is studying Horticulture. We found that all that was required to satisfy the entrance requirements was a phone call to the head of the department explaining our commitment to our son's education and his ability to learn and be self-motivated.

Our eldest twin, 20, has completed a computer aided design certificate and a mechanical engineering certificate at TAFE. He is now part way through a mechanical engineering degree through Open Universities. He is achieving

²¹ b)(vi) The current context of home schooling in NSW including: comparison of home schooling to school education including distance education

distinctions due to his dedication and commitment. He is planning to transfer to UNSW in the near future. It's interesting to note that we spent very little time formally teaching the basics of chemistry and no time in formally teaching anything to do with physics. Yet, these are two areas in which he is excelling simply because he is interested in them. So, the unschooling approach in these 2 areas has not hindered him. Conversely, his grounding in being able to think for himself and being responsible for his own success has stood him in good stead. Our youngest twin, 20, has just completed a double diploma in Mind, Body Medicine and is about to enrol in a Health Science Degree majoring in Traditional Chinese Medicine and Acupuncture. Since he did not meet the entrance requirements, the director of the college said that he would give him a trial for 1 month and then review his progress. He has done so well that one of his teachers has offered to be a mentor as he works towards setting up his own clinic. Our 14 year old daughter is becoming interested in Occupational Therapy and hopes to do work experience in this field this year. Our 10 year old daughter is excelling in Maths which is something she finds an interest in."

Outcomes of home education in relation to emotional and physical wellbeing

Although providing children with a quality education is extremely important to home educators, parents are also very interested in ensuring the psychological and physical wellbeing of children. As described later²², very many home educated children have special educational or other needs that can make school difficult for them. As further discussed later²³, many parents have removed children from school because of the environment was emotionally or physically unsafe for them. Research supports the proposition that home education can benefit such children academically, socially and personally by reducing their level of stress and improving their self-esteem.²⁴

For parents with children who have specific long-term illnesses, the benefits of home education are particularly obvious, in enabling their children to better manage their illness, build a better self-esteem, and learn in a safe, and less stressful environment.

²² b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

²³ b)(iii) The current context of home schooling in New South Wales including: demographics and motivation of parents to home school their children

²⁴ Allan S, Jackson G. The whats, whys are wherefores of home education and its regulation in Australia. *International Journal of Law and Education*. 2010;15(1):55-77.

“For kids with illnesses it definitely takes away a huge burden. When kids are little and sent to school that burden of their illness is all on them. Add to that trying to fit in at school the stress can be unbearable...causing physical symptoms such as soiling, meltdowns of the uncontrollable variety, inability to sleep, headaches. Also sending to school caused more illness. My kids now have less.....way less illness, I can provide them with the support and the right condition, the need in regards to their illness and therefore cater to their educational needs better. In turn they are happier, healthier and learning so much more, not just educationally, but being able to function with their illness and become empowered by that. Many of the symptoms my kids have had are almost gone. They are happy, confident within themselves and are learning in an environment that they trust and feel safe in.”

Other parents have observed that home education has spared their children from the bullying and victimisation that can occur in schools.

“Home education has meant that my children have been protected from the racism that they would likely experience every day at school. We live in a very white area. My friends have told me about what their kids have experienced and how it has been really hurtful and damaging to them. My daughters are really sensitive. My 15 year old has said to me that she thinks that she would have been victimised at school (she also has a disability that would likely have been a source of teasing or exclusion) and that this would have been really terrible and that she doesn't know if she would cope. I agree with her. I am glad that we have been able to avoid this particular problem.”

The Ministerial Working Party Report into Home Education in Tasmania observed that many parents believed that social interactions for children were better served by home education than by school attendance, citing opportunities for spending time with a broad range of people in local society of all ages and backgrounds; with siblings, grandparents, and other relatives.²⁵

“My answer to that would be life skills and the ability to be able to communicate with all ages and walks of life. I also value my attitude towards authority and I feel this is due to my home education. My sense of self and that I don't feel the need or pressure to conform. I feel content to be who I am.”

²⁵ Ministerial Working Party. *Home Education in Tasmania*; 1991.

Conclusion

Whether measured in terms of academic success or personal wellbeing, home education provides children with an education that is tailored to their individual learning needs and leads to good options for future study and work. Adults who were formerly home educated are currently studying and working in a full range of fields, at all possible levels. Not only is home education not a barrier, it can be an excellent foundation for further studies and career choice.

List of Educational Outcomes

Currently or formerly home educated students are currently undertaking the following formal study:

Newstep

HSC

International Baccalaureate Diploma

Electrical Apprenticeship

Certificate IIIs in Children's Services, Commercial Cookery, Early Childhood, Engineering, Locksmithing, and Theology.

Certificate IVs in Aviation, Building, Business Management ,and Design Fundamentals / Graphic Design

Diplomas in Children's Services, Christian Ministries, Fine Arts, Hospitality, and Information Technology

Advanced Diploma of Electrical Engineering

Bachelor's Degrees in Art/Music, Arts, Arts (Drama & Film), Arts (majoring in Applied Theatre), Arts Honours (majoring in Linguistics), Arts in the Liberal Arts, Arts/Science,Arts/Social Work, Bachelor of Biomedicine, Behavioural Science, Business, Criminology and Criminal Justice, Early Childhood Education and Primary Teaching, Education (Primary), Engineering (majoring in Mechatronics), Fine Arts, Health Sciences (Human Movement), Information Studies (Library), Information Technology, International Relations, Liberal, Arts (Journalism), Medical Science, Medicine, Ministry, Music, Music (Composition), Music Performance (Cello)(Hons), Nursing, Policing, Psychology and Education (Primary) Science, Science (Biotechnology), Science (majoring in Bioscience), Science (majoring in

Genetics), Science (Social Research), Science (Hons), Science/ Business and Commerce, Social Science Majoring in Criminology (Hons), Social Work (honours), Surveying and Spatial Sciences, Tourism and Event Management, and Visual Communication and Design (Honours)

Graduate Diplomas in Accounting and Digital Archiving, Masters in Arts, Digital Communications, Forensic Science, Secondary Education, and Translation and TESL

Doctorate in Music Education Research (PhD)

Currently or formerly home educated students hold the following qualifications:

Year 12 certificate, International Baccalaureate Diploma

Certificate IIs in Animal Studies, Conservation and Land Management, Engineering, Floristry, Horticulture, Information Technology, Japanese, Locksmithing, Retail Operations, and Water Management

Certificate IIIs in Art and Contemporary Craft, Breastfeeding Education (Counselling), Business, Business Administration, Child Care, Children's Studies, Community Pharmacy, Dental Nursing, Design Fundamentals, Electronics, Financial Management, Fitness, Fitness and Health, General Vocational and Educational Certificate, Horticulture, Hospitality, Information and Cultural Services, Information Technology, Logistics, Photography, Retail, Technical Production, and Veterinary Nursing

Certificate IVs in Aged/Community Services, Health (Nursing), Art and Contemporary Craft, Acting for Screen and Television, Bookkeeping and Accounting, Communications and Media, Computer Programming, Electrical Engineering, Events Management, Financial Services (Accounting), Fitness and Health, Graphic Design, Horticulture (Nursery), Hospitality, Information Technology, Interactive Digital Media, Library Services, Retail Management, Small Business Administration, Sound and Lighting (Music Industry), Sustainability Management, Technical Production, Training and Assessment, Veterinary Nursing, and Youth work

Diplomas in Business, Community Services (Childcare), Information Technology, Digital and Concept Art, Events Management, Graphic Design, Information and Library Services, Library Technician, Studio Sound Production, Systems Administration, Technical Production, Technical Production Live Performance, Voice and Communication, and Website Development.

Associate Degree or Advanced Diplomas in Acting for Screen and Stage, Bassoon Performance, Sound Production, Sound Production, and Violin Performance.

Bachelors of Advanced Science, Ancient History (Honours), Applied Science in Human, Biology, Arts, Bachelor of Medicine, Bachelor of Surgery, Business, Computer Science (Honours, Class 1), Education (Primary), Electrical and Computer Engineering (Honours), Film Production, Information Technology, Medical Science, Music, Music Performance (Cello), Health Science (Nursing) Music (Honours, Class 1), Science, Science (Criminology), Science (Forensics)

Graduate Certificate in Music Performance

Master of Teaching

[Currently or formerly home educated children are currently employed in the following occupations*](#)

Administration Coordinator, Agronomist, Artistic Design Fabricator, Assistant Librarian, Audio/Lighting Technician, Automotive Dismantler, Barista, Bid Manager/Bid Specialist, Bird Trainer, Website Builder, Business Owner and Manager, Camera Operator, Campaign Manager (Queensland Greens), Casual Cellist with Adelaide Symphony Orchestra, Chemistry Demonstrator, Childcare Worker, Childcare Director, Cinema Manager, Cisco Engineer, Client Services Manager, Composer, Computer Technician, Contract Harvester, Contract Header Driver, Conveyancer, Customer Service, Dairy Farm Hand, Dairy farmer, Debating Team Coach (private girls' school), Dental Nurse, Disability Support Worker, Dismantler, Electrician, Mining Electrician, Elite Athlete, Event Coordinator, Farm Manager, Film Editor, Film Preservation, Firefighter, Food Attendant, Freelance Website Design, Front Counter and Customer Relations, Front of House Manager, Gallery Assistant, Gardener, General Practitioner, Graphics and Web Designer, Groundsman, Gymnastics Coach, Handyman, High School teacher, Horticulturist, Horticulturist (Nursery), ICT Support Technician, Indoor Play-centre worker, Junior

Process Worker, Labourer, Legal Assistant, Library Assistant, Lifeguard, Locksmith, Microsoft Engineer, Ministry Coordinator, Nanny, Network Engineer, NSW Ambulance Paramedic, Office Administrator, Opera Australia Performer, Outdoor Activity Leader, Outdoor Recreation Instructor, Owner, Proprietor and Director of LED Lighting Business, Packer, Painter, Peripatetic Music Teacher, Personal Assistant, Personal Trainer, Pharmacy Assistant, Photographer, Piano Teaching, Point of Sale (Australia Post), Police Officer, Presenter, Australian Film and Sound Archivist, Primary School Teacher, Private Cello Teacher, Professional Actor, Professional Musician, Program and Individual Support in Social Enterprises, Projectionist, Public Service, Quality Assurance (Support, Teaching), Receptionist, Registered Nurse, Research Assistant, Research Engineer, Retail Assistant, Roofing, Science Education Performer (“Excited Particle”), Search Engine, Optimization Expert, Senior Accountant, Service Technician/Intern, Shearer, Social Worker, Software Developer, Software Engineer, Sound Recording/Post Production, Student Administration, TAFE Tutor, Teacher, Veterinary Nurse, Video Editor, and Water Quality Monitor.

*Average age of individuals is 22 years and 40% of respondents are also engaged in full or part-time study.

(b)(ii) The current context of home schooling in New South Wales including financial costs

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Overview

Home educating typically requires a significant financial commitment by parents due to the impact of:

- reduced income as one parent is at home educating rather than earning an income,
- investment in educational resources and services,
- incremental household expenditure incurred through additional transport costs, power and internet use.

In addition to the fact that home education is not government funded in the way that schools are funded, home educators are denied access to some resources, which are provided to schooled children. Neither the Federal nor the NSW State Government currently provide any financial

assistance or resources and services which are specifically for home educated families, however there are some resources which are available to both schooled and home educated students.

- Schoolkids Bonus which is available to all low income families who qualify for Family Tax Benefit A and have a dependent child attending primary or secondary school.²⁶ The Schoolkids Bonus is expected to be repealed by Parliament shortly, and
- Assistance for Isolated Children Scheme which provides financial assistance to school age students who live in an isolated area, or a school age child with a disability or special health need that cannot be met at a local state school.²⁷

Parents who have children with a disability are not able to access special educational resources and services accessible through Government schools, such as access to costly reading programs for dyslexia. This is discussed in some detail later.²⁸

In addition, low income home educated families are currently discriminated against in terms of their ability to receive the Family Tax Benefit A or Youth Allowance once their child turns 16, yet they must register their child for home education until they are aged 17. This issue of inequity to home educated families is discussed further later.²⁹

While home educated families in NSW do not receive access to any resources or services, a number of other jurisdictions provide various types of financial benefits including: access to State funded swimming classes, foreign language classes and Open Access College in South Australia, and a Textbook and Resource Allowance in Queensland provided to all school children. New Zealand's Ministry of Education also provides registered home educated families with an allowance of NZ\$763 per year for the first child, reducing thereafter to NZ\$372 for the fourth and subsequent children.

Family financial issues

Forgone income of home educating parent

For a large proportion of home educating families, forgone income is the most significant cost of home education. Families choose to make this substantial financial sacrifice to provide their children with the best education possible, both in terms of learning outcomes and their children's emotional, physical and psychological well-being.

²⁶ <http://www.dss.gov.au/our-responsibilities/families-and-children/benefits-payments/schoolkids-bonus>

²⁷ <http://www.humanservices.gov.au/customer/services/centrelink/assistance-for-isolated-children>

²⁸ (d) Support issues for home schooling and barriers to accessing support

²⁹ (d) Support issues for home schooling families and barriers to accessing support

Typically a home educating family will have a single income as the educating parent (typically the mother) will be unable to work full-time. Therefore the family foregoes a significant proportion of their income. While for some families, home education allows greater flexibility for parents to participate in the workforce on a part-time basis, this nevertheless results in a reduced income.

“Our family has foregone a six figure second salary to home educate our children after we found school sub-optimal both in terms of their individual learning experience and emotional well-being.”

“The biggest cost to me as the homeschooling parent is not being able to work. That really makes our schooling cost \$50,000 per year plus expenses.”

“The biggest expense of homeschooling is trying to live on one income.”

“If we were not homeschooling we would be a double income family and our annual income would increase by about \$90,000”.

“I stay home to home educate our children ... so we are less about \$50K than what we might otherwise earn as a family, plus the cost of resources, IT, excursions, travel, accommodation, subscriptions, memberships, etc, amount to about \$7-8000 a year, so more than \$1000 per child per year. Although we live in a remote area, we are not entitled to AIC (Assistance for Isolated Children).”

“As a single parent, home education is extremely difficult financially as we receive limited financial support through the children’s father and therefore mostly rely on the Parenting Payment. Although I would like to work part-time, I am unable to access child care during school hours so I am very restricted in terms of finding suitable work. I tried to access in-home care but was denied access as my children are school aged”.

As a result of the responsibilities associated with home education, many home educating families live on a single income. The average household income ranges of home educating families based on the 2014 HEA survey of home educating families in NSW is as follows:

	Percentage
Household income per annum	n=167
\$0 - \$30,000	15%

\$30,000 - \$60,000	20%
\$60,000 - \$90,000	25%
\$90,000 - \$120,000	22%
>\$120,000	18%
Total	100%

In comparison, the most recent Australian Bureau of Statistics data as at November 2013 for average weekly earnings per person is \$1,500 per week, equating to a gross income per annum of approximately \$78,000. Evidently most home educating families are living on a single income.

Investment in educational resources and services

The HEA survey of home educators found that home educating families who completed the survey spent an average of over \$3,500 per child per year on educational resources and services. While this cost is less than the fees and other costs associated with attending most private schools, they far exceed the cost of a child attending a Government school.

Educational resources and services encompass but are not limited to the following:

- Reading books and textbooks
- Computers/software/printers
- Online courses and programs
- Multimedia
- Children desks and chairs
- Equipment and materials - for science, sports, music, craft, art, etc
- Private classes/tutoring
- Excursions
- Camps

“Some years I have spent over \$1,000 on good reading materials.”

“For my high-school children I would like them to be able to participate in the local school music and foreign language program as I struggle to afford private tuition for them in these areas and do not have the skills to teach them myself.”

“Extra electricity being at home all day. Extra water bills. Extra gas with cooking warm lunches”

“Even appropriate sized desks and chairs are so difficult and expensive to access - I wasn’t prepared for the fact that it would cost ten times as much to buy child sized desks as to buy adult size desks”

Government financial issues

Government expenditure on education

By way of background, based on the Australian Government Productivity Commission, government recurrent expenditure per FTE student in NSW in 2011 -12 was:

- \$15,896 for students attending a Government school, and
- \$8,473 for students attending non-government schools.³⁰

Government schools	
NSW government	\$13,688
Australian government	\$2,030
Total	\$15,896
Non-government schools	
NSW government	\$2,320
Australian government	\$6,153
Total	\$8,473

Lack of access to resources and services for children with a disability

Home educated children with one or more disabilities do not currently have access to the additional resources and assistance available to such students through the school system and such resources can be extremely expensive to source. The HEA experience is that a significantly larger proportion of home educated children have a disability than the general community. Over 40% of families in NSW who responded to a recent HEA survey had at least one child with a disability or special need. In comparison, 6.3% of full time equivalent students in NSW Government schools have a disability.³¹

Government recurrent expenditure per full-time equivalent student with a disability will by necessity be higher as additional support and services are provided to cater for the additional needs of these students through:

- Additional resources
- Teachers’ aids
- Teachers’ training and access to specialist resources.

³⁰ http://www.pc.gov.au/__data/assets/pdf_file/0015/132306/rogs-2014-volumeb-chapter4.pdf

³¹ http://www.pc.gov.au/__data/assets/pdf_file/0015/132306/rogs-2014-volumeb-chapter4.pdf

As discussed later³², research on the support needs of children with a disability who had been removed from school in Western Australia found that lack of funding to purchase resources or ability to access resources in the education system was an issue.

“We’ve never had any financial assistance with resources or anything like that. Sometimes meeting educational needs can be difficult to do at home as some things require a fair degree of resources and specialised equipment. If the Education Department were really committed to the education of children they ought to be giving us the same resources that they do to schools, even if that’s in the way of providing the option to outsource some things or use local schools as a resource.”

“My daughter has been diagnosed with dyslexia. Programs such as Easy Read are available to school children for only \$75, but for Home Schooling families, it is over \$1,300. I am planning to attend the Learning Differences conference (to help my daughter with her dyslexia) which I have to pay for, whereas in schools teachers are funded to attend the BoSTES approved seminars at this conference.”

“Therapy that is provided free to children in public schools, I have to access privately e.g. speech therapy and occupational therapy.”

“A significant expense is accessing specialists for learning support/behavioural issues ...and attending related training, conferences, professional development.”

[Federal Government financial assistance and home educating families](#)

Discrimination of home educating families in relation to Federal Government support

The Federal government, through Centrelink, provides Family Tax Benefit (FTB) parts A and B for low income families until the relevant child turns 16. However, once the young person turns 16, subject to other eligibility criteria, the family may be entitled to continue to receive FTB or the young person may be eligible for Youth Allowance..

In order to be eligible for Family Tax Benefit, under the *A New Tax System (Family Assistance) Act 1999* the person is a ‘FTB child’ if ‘*the individual is a senior secondary school child*’ (s22(3)(e) and s22(4)(e)). In order to be considered a “*senior secondary school child*”, the individual must be:

³² (d) Support issues for home schooling families and barriers to accessing support

“undertaking full-time study in an approved course of education or study that would, in the Secretary's opinion, assist or allow the individual to complete the final year of secondary school or an equivalent level of education;” (s22B (1)(i))

Section 3 of the *A New Tax System (Family Assistance) Act 1999* states that *“undertaking full-time study”* has the same meaning as in the *Social Security Act 1991* and *“approved course of education or study”* has the meaning given by subsection 541B(5) of the *Social Security Act 1991* for the purposes of paragraph (1)(c) of that section.

In order to be eligible for Youth Allowance, the *Social Security Act 1991* provides that the person must satisfy the ‘activity test’(s541). The ‘activity test’ may be satisfied by ‘undertaking full time study’ (s541(10(a))). In order to be considered to be *“undertaking full-time study”* the Act requires that the young person must be:

- enrolled in a course of education at an *educational institution* (s541B(1)(a)(i))
- the course in question is an *approved course of education or study* (s541B(1)(c))
- making satisfactory progress towards completing the course.(s541B(1)(d))

By the provisions of *A New Tax System (Family Assistance) Act 1999* s22B(1)(i), this definition of ‘undertaking full-time study’ also applies to determine eligibility for Family Tax Benefit where a child is over 16. Given that the definition for *“undertaking full time study”* for the purposes of *Social Security Act 1991* s541B require an *“approved course of education or study”* under *Social Security Act 1991* s541B(1)(c), the addition of this requirement in *A New Tax System (Family Assistance) Act 1999* s22B (1)(i) is redundant.

Therefore, fulfilment of s541B of the *Social Security Act 1991* is a requirement for eligibility for either Youth Allowance or Family Tax Benefit for a student aged over 16. However, students who are registered with the BoSTES for home education face significant hurdles due to the definitions of ‘*educational institution*’ and ‘*approved course of education or study*’.

In relation to the definition of the educational institution, the *Student Assistance Act 1973* provides that *“education institution”* means:

- (a) a higher education institution; or
- (b) a technical and further education institution; or
- (c) a secondary school; or
- (d) any other institution (including an educational institution), authority or body, that is in Australia and that, in accordance

with a determination by the Minister, is to be regarded as an education institution for the purposes of this Act.

The term *secondary school* is defined to mean “*an educational institution in Australia that, in accordance with a determination by the Minister, is to be regarded as a secondary school for the purposes of this Act.*” Therefore, the Minister may make a Determination regarding what constitutes a ‘secondary school’ or an ‘education institution’ for the purposes of the Act.

The current such determination *Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2) (the Determination)* provides, at section 6, that:

For the definition of *secondary school* in subsection 3(1) of the Act, the following are to be regarded as secondary schools for the purposes of the Act:

- (a) an institution located in Australia that is a government secondary school;
- (b) an institution located in Australia that is recognised as a secondary school under the law of the State or Territory in which the institution is located.

The requirement that students undertake education at an ‘institution’ removes the right of a family to home educate their children. Where a commonly recognised right is to be removed by legislation it is important that the drafters provide evidence of clear intent. In this instance it is unlikely that the intention was to reduce the scope of educational choice available to low income families. It is more likely that this result is an unintended consequence of drafting which did not specifically consider the circumstances of home education.

A further hurdle for home educated students is the requirement to be undertaking an “*approved course of education or study*”. This is defined as including any course of study determined by the Minister to be a secondary course for the purposes of the Act.

(1) The Minister may, for the purposes of this Act, determine in writing that:

- (a) a course of study or instruction is a secondary course, or a tertiary course; or
- (b) a part of a course of study or instruction is a part of a secondary course, or a part of a tertiary course.

(2) For the purposes of this section, a determination that:

- (a) was made under paragraph 7(1)(c) as in force before the day on which this section commences; and

- (b) was in force immediately before that day;
is taken to be a determination under subsection (1) of this section and may be amended or repealed accordingly.
- (3) A determination under subsection (1) is a legislative instrument.
(*Student Assistance act 1973 s5D*)

In relation to the definition of **approved course of study**, the Student Assistance (Education Institutions and Courses) Determination 2009 (No. 2) (the Determination) provides, at section 4, that

accredited secondary course means a course accredited as a secondary course by the State or Territory authority responsible for the accreditation of secondary courses in the State or Territory in which the course is conducted.

Section 9 of the Determination further specifies that such *accredited secondary course* include:

For paragraph 5D (1) (a) of the Act, a secondary course is a course:

(a) specified in Column 1 of the table in Schedule 1 to this instrument that is provided by an education institution specified for that course in Column 2 of that table; or

(b) provided by a secondary school, a registered training organisation or a higher education institution that leads to an accredited secondary course qualification involving:

(i) accredited secondary course subjects; or

(ii) a VET course.

Schedule 1 of the Determination outlines the courses as follows:

Schedule 1	Secondary courses
Column 1 – Course	Column 2 – Education institution
Accredited secondary course	Secondary school Registered training organisation Higher education institution Special school
ESL Course	Secondary school Special school
Preparatory course	Secondary school Registered training organisation Higher education institution Special school
School-based apprenticeship or traineeship	Secondary school
International Baccalaureate	Secondary school

Following this legislative trail we find that, despite the fact that home education is recognised as a valid legal alternative to institutional schooling, home educating families are financially penalised for their choice. Home educated students who would be eligible for Family Tax Benefit or Youth Allowance until as late as the end of the calendar year in which they turn 19 if they attended an institutional school are denied that support purely because they are home educated.

As a consequence of this inequitable treatment of home educated students in relation to parental Family Tax Benefit payments and Youth Allowance, lower income families are often compelled to send their children to Tertiary institutions earlier than anticipated (once the student turns 16) in order to qualify for *Youth Allowance*. This decision is forced on students prematurely and made for reasons other than the best interests of the child.

“Due to Centrelink policy, my homeschooled children have had to commence tertiary education from the age of 16. I think it would have been better for them to remain least another year studying from home. They were always the youngest in their classes and the extra maturity would have been beneficial. It would have been better socially, and it would have given them more time to choose a career path.”

“When my son turned 16 he was denied Newstart payments for about 3 months, costing us around \$1500 until he was enrolled in Open Universities. I mistakenly thought that since the age of compulsory schooling had gone up and because he was registered until 17 we would get the Centrelink benefit. It was a huge financial setback for us and really hard to make ends meet. I was not pleased that he was forced to enrol in institutionalised learning, as he needed more time to finish year 11 and 12 equivalent studies and prepare him for tertiary education”.

[Other Federal Government funded financial assistance to home educating families](#)

Payments under the Assistance for Isolated Children Scheme are available to school age students who live in an isolated area, or a school age child with a disability or special health need that cannot be met at a local state school. Under this system a ‘Distance Education Allowance’ of up to \$3,833 per year per student is available if *“the student lives at home and is undertaking distance education or approved home education”* and meets the eligibility criteria. In addition, payment increases are made in line with the Consumer Price Index on 1 January each year. Unfortunately the availability of

this assistance is not well known and no information is currently provided by BoSTES on this scheme to families registering for home education.³³

Home educating families currently receive the Schoolkids Bonus which is received by other families. This is a payment currently made to a parent receiving Family Tax A benefit for a dependent child in primary or secondary education. However Parliament is expected to shortly pass legislation to end this financial assistance. The Schoolkids Bonus currently totals \$410 per year for each child in primary school and \$820 for each child in secondary school.³⁴

State government funding, resources and services available to home educating families in each State jurisdictions

The Western Australian Department of Education provides a \$115 Clothing Allowance and \$235 Educational Program Allowance to parents who qualify for low income benefits such as Centrelink Family Health Care Card.³⁵ Home educated students are entitled access to state government swimming classes through the local public primary school (for metropolitan students) or through an education office (for country students). Home educated students may also access school medical services, school dental service and student concessions on public transport.

The Department of Education and Child Development in South Australia provides courses in a choice of ten foreign languages for senior students. These courses are available online through the Open Access College Language Partnership Program or face to face through the School of Languages. Home educated students also have access to Language or instrumental music lessons for Reception to Year 9 students. Parents may also borrow school resources and special needs materials.

Students who are registered for home education through the Department of Education and Early Childhood Development in Victoria have access to the school start bonus payment for children in Prep to Year 7. Home educated students are able to access the out-of-hours foreign language lessons through the Victorian School of Languages at a cost of only \$210 per year or an online program where work is sent in electronically for \$70 - \$85 per year depending the grade level. Registered home educated students are also entitled to student travel concession cards.

The Queensland Government Department of Education does not provide any resources or services to home educated students or families outside the Textbook and Resource Allowance, which is

³³ <http://www.humanservices.gov.au/customer/services/centrelink/assistance-for-isolated-children>

³⁴ <http://www.dss.gov.au/our-responsibilities/families-and-children/benefits-payments/schoolkids-bonus>

³⁵ <http://www.concessions.wa.gov.au/Concessions/Pages/Secondary-Assistance-Scheme.aspx>

available for parents of school students and home educated students. The allowances for students in years 8-10 is \$115 per student per annum, and in years 11-12 is \$250 per student per annum.³⁶

The ACT Government Education and Training Directorate provides no general funding to parents who are home educators. However, low income parents of children approved for home education in years 7-10 may be eligible for the ACT Secondary Bursary Scheme, administered by the Education and Training Directorate, which provides financial assistance to support low income parents (holding a Health Care Card or Centrelink Card) with dependent full-time students in years 7 – 10 with education expenses. The Bursary payment is \$750 per year for eligible students.³⁷

Funding provided to home educators in New Zealand

The New Zealand Ministry of Education provides a '*homeschooling supervision allowance*' to parents who have registered their child for home education and obtained a Certificate of Exemption from enrolment in a registered school. The '*homeschooling supervision allowance*' is NZ\$763 per year for the first child being home educated and decreases in amount for subsequent children down to NZ\$372 for the fourth and subsequent children.³⁸

³⁶ <http://education.qld.gov.au/schools/grants/state/core/textbook.html>

³⁷ http://www.det.act.gov.au/school_education/starting_school/financial_assistance_for_families

³⁸ <http://www.nchenz.org.nz/supervisory-allowance/>

(b)(iii) The current context of home schooling in New South Wales including demographics and motivation of parents to home school their children

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There is limited research into the demographics and motivation of home educators in NSW. Most home education research emanates from North America, but the difference in context makes it difficult to extrapolate to Australia. Families generally choose to home educate for mixed reasons, including both ‘push’ and ‘pull’ factors.³⁹ Push factors are those which push a family or student away from school, such as bullying, perceived lack of quality of education, lack of support for special needs, whilst pull factors are the particular advantages of home education such as family time, parental responsibility, flexibility and one-on-one instruction or the ability to follow a particular educational philosophy.

Many home educating families would home educate even given the choice of an absolutely ideal school system. Home education is sometimes perceived as weird, antisocial or extreme but it is clear from what we do know about home educating families that they cover the same spectrum of attitudes and abilities as other families in every area other than education choice.

³⁹ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

Demographics

Number of home educated children

It is impossible know how many home educated children there are in NSW with any degree of certainty however, there are many estimates based on a variety of hypotheses. One method of estimation is to use a typical percentage of home educating families from other jurisdictions, say 2%, and apply this to the school aged population in NSW. Using this method and a prevalence of 2% would suggest that there are 22,000 home educated students in NSW. The difficulty is that this method does not account for the inevitable differences in the level of home education between jurisdictions. Some international jurisdictions have virtually no home education whilst others, especially where independent schools are not financially supported by the government, have significant home education populations making it very difficult to estimate a reasonable prevalence.

Another method of estimating the number of home educated students is by adding the number of registered home educating students to a perceived number of unregistered students. Again this method suffers from the difficulty in predicting the level of compliance with registration from jurisdiction to jurisdiction. As discussed later⁴⁰, even in Australia there are large differences in levels of engagement with home education registration between jurisdictions.

Others have simply created an estimate for the total number of home educated children in Australia based on their experience or opinion. Two such estimates were included in Croft⁴¹ “*Australian estimates range from between 10 000 – 20 000 children (Williams, in McHugh, 2007), to potentially 50 000 children (Townsend, 2012) being home educated in Australia.*” Using national estimates the number of home educated students in NSW can be estimated if students are assumed to be distributed proportionately according to state population. This method of estimation suggests that there are between 3,300 and 16,400 children being home educated in NSW if the national estimates cited in Croft are used.

A further method of estimation uses statistics from New Zealand, where, as described earlier⁴², the home education registration system is not onerous and where a financial incentive for registration is provided.⁴³ The validity of this method was explored by comparing the estimates with the number of actual registered home educated students in Tasmania, where there had been a stable and

⁴⁰ (b)(iv) The current context of home schooling in New South Wales including: (extent of and reasons for unregistered home schoolers

⁴¹ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

⁴² (a) The background of home schooling including comparison of practices with other jurisdictions in Australia and New Zealand

⁴³ <http://www.hea.edu.au/articles/general/how-many-home-educators-in-australia/>

supportive system for a number of years and the rate of unregistered home educators was presumably low. There was close agreement between the number of estimated and registered home educated students in Tasmania. These calculations predicted an estimate of 8200 home educated students in NSW in 1998. Using similar data today would yield an estimate of 9300 home educated students in NSW.

The number of registered home educated students is the only statistic of any certainty when it comes to the home educated population. The Board of Studies annual report for 2012/2013 shows that 3,194 students from 1,853 families were registered for home education in 2011 (in addition to 133 children from 69 families who had conscientiously objected to registration).⁴⁴ This number necessarily excludes any child under age 6 or over age 17 who is ineligible for home education registration, despite being eligible for school attendance. The number also excludes students who were not registered with the Board of Studies.

Thus, it can be said that there are between 3327 and 20000 school aged students being home educated in NSW in 2014. The HEA is of the view that the Australian census should reintroduce the option of home education in questions about education in order that accurate data on the number of home educated children be collected.

Other demographic factors (political/religious/community engagement size of family, occupation as teacher etc)

The lack of home education research in the Australian context makes it difficult to make detailed comments on the characteristics of the home education community. The diversity of characteristics of children who are home educated are described later.⁴⁵ The HEA would argue that the Australian home education community is an extremely diverse group. The one factor that home educating families share is the presence of at least one school aged child (although many families would consider themselves to be home educating families despite having children under the age of 6 or over the age of 17). Home educators live in urban, rural and regional locations, have a range of family incomes, a range of cultural backgrounds and a range of philosophical and political beliefs.⁴⁶

It is the experience of the HEA that home educators come from all socio-educational brackets. Some are wealthy and might have chosen home education over exclusive private school education, some

⁴⁴ <http://www.boardofstudies.nsw.edu.au/administration/annual-report.html>

⁴⁵ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

⁴⁶ Allan S, Jackson G. The whats, whys are wherefores of home education and its regulation in Australia. *International Journal of Law and Education*. 2010;15(1):55-77.; Croft K. *So You' re a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

are families receiving government benefits and prioritising their child's education despite the real financial struggle it involves. Between these two extremes home educators exist on the same continuum as other families, albeit generally limited to a single income. Similarly, home educators have a variety of educational backgrounds. Some parents who choose to home educate may have completed high school, others have significant post-doctoral research experience. In between are parents with qualifications from trade, TAFE, university, private college, industry and those without such paper qualifications but with a variety of other life experiences. Previous research shows between 8% and 26% of the Australian home educating parents studied held teaching qualifications.⁴⁷

Anecdotally, home educators appear to have a larger number of children than average. This is not possible to verify. However, it is possible that this appearance is the result of home educated children often being seen alongside their families. If a schooled child has a large number of siblings this is less obvious when seeing the child in the school setting. The ABS reports that in 2012 the total fertility rate for Australia was 1.93 babies per woman. Children turning 17 in 2014 were born in 1997 when the birth rate was 1.8 and children turning 6 in 2014 were born in 2008 when the birth rate was 2. According to the Board of Studies 2012/2013 Annual Report registered home educating families to have on average 1.72 registered children per family. This suggests that the home educating family size in NSW may be not dissimilar to the family size in the broader population.

One characteristic of the home education community which is likely to differ from the broader community is the prevalence of children with special needs. The extent and nature of children with special needs in the home education community is discussed later.⁴⁸ As described in that term of reference, the educational, medical and behavioural needs of students are often a motivation for home education and it is highly likely that such students form a higher percentage of the home education community than the schooled community. This is despite the fact that home educated children in NSW receive less financial and practical support for their children's special needs than children in school.

⁴⁷ Harding, T. J. A. (1997). *Why Australian Christian Academy Families in Queensland Choose to Home School: Implications for Policy Development*. Queensland University of Technology, Brisbane.; Patrick, K. (1999). *Enhancing Community Awareness of Home - schooling as a Viable Educational Option*, Avondale College, NSW.; Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

⁴⁸ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

Distinction between Australia and USA

In considering research on home education it is important to note that a majority of home education research has taken place in the USA and this research is often not transferable to the Australian context. Two key reasons for this are the historical development of American and Australian cultures and the school funding regimes in each country. The USA has a significant conservative fundamentalist Christian community, from which a large proportion of the home education community in the USA is drawn. Collom⁴⁹ describes the rise of fundamentalist educators in the 1980s who opposed the secularisation of schooling. Australia does not have such a distinct and sizable fundamentalist community. Another historical development is the prevalence of 'frontier mentality' in the USA which is demonstrated in the passion of the gun debate. This tendency to distrust any government involvement is significantly different from the Australian context. The nature of 'rights' debates in the USA is specifically informed by interpretations of the 'Bill of Rights'. Australia does not have a Bill of Rights and debates about whether Australia should have such an explicit document refer to the various differences between Australian culture and North American culture. In addition, Australia is almost unique in its government funding of independent schools. This gives parents a choice other than public school or home school. Christian schools have increased over the past decade and provide an affordable means of education for families with strong faith beliefs. Although there remain some families who choose to home school for faith based reasons, this community is neither as large, nor as conservative as in USA. For these reasons, home education research undertaken in the American context is problematic to apply to the Australian context. It is the view of the HEA that it would be vastly unhelpful to try to address American issues in Australian legislation or policy unless there was separate clear evidence that these issues also faced Australian home educating families.

Motivations of home educators

Motivation to home educate varies between families but there are a few key themes. Research on the issue sometimes divides the motivations into push and pull factors.⁵⁰ Some suggest that families motivated by a push factor will only home educate in the long term if they also discover sufficient pull factors. The Tasmanian Home Education Advisory Council (THEAC)⁵¹ found that 17% of families were primarily motivated by religion, 27% were dissatisfied with the local school and 7% had children with special needs. Education Queensland found that 20% of parents listed religion as a key

⁴⁹ Collom E. The ins and outs of homeschooling: The determinants of parental motivation and student achievement. *Education and Urban Society*. 2005;37(3):307-335.

⁵⁰ Jackson G, Allan S. Fundamental elements in examining a child's right to education: a study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

⁵¹ <http://www.abc.net.au/news/2012-01-28/thousands-of-parents-illegally-home-schooling/3798008>

motivation whilst 21% cited dissatisfaction with the local school.⁵² The New Zealand Education Review Authority (ERO)⁵³ grouped the reasons for home educating into three categories: family philosophy (which included religion); concerns for the child's well-being; and family and local school circumstances. Harding has listed the following as key motivations for home educators: (i) religious beliefs; (ii) a heightened sense of parental responsibility for education; (iii) a commitment to high literacy and numeracy for their children; (iv) promotion of social development of their children and avoidance of negative peer influences; (v) practical reasons such as distance from school or financial need; (vi) the special educational and health needs of their children.⁵⁴

Although the motivation to home educate is extremely varied, there are some general comments and themes to observe. One thing which home educating families have in common is that they have given serious consideration to the education of their children. Even without onerous registration procedures, home education is not something which is undertaken lightly. Caring for school aged children during school hours is an effort many parents would shudder to consider. In a socio-historical context where children routinely attend school at a certain age, it takes consideration and an active decision not to take part in institutional education. This point is important to note because many of the current policies appear to be based on an assumption that parents might home educate out of selfishness or laziness. The very fact that the parent has chosen to home educate should serve as evidence that they have considered the specific educational needs of their child and the best means of meeting those needs on an ongoing basis. Home education is an enormous theoretical and practical commitment; there is no need to impose additional deterrents.

Beyond this unifying characteristic, home educators may have motivations which are philosophical or practical. Philosophical motivations include faith based, political beliefs and educational beliefs. Although, as noted above, the Christian fundamentalist movement is not evident amongst Australian home educators, there are a significant number families who choose to home educate for religious reasons. Home education both avoids negative influences in the school context and provides for opportunities to teach children in a faith-based context. Some families who do not follow an identified religious tradition cite similar motivations - the desire to teach their children in the context of sincerely held beliefs. Another motivation is the political belief that children do not belong to the state and that it is the parents' responsibility to teach their own children. This belief is also reflected in the current *Education Act 1990 (NSW)*, where section 4 affirms the principle that

⁵² Department of Education, Queensland. Home Schooling Review. Brisbane; 2003

⁵³ Varnham S. Home Education in New Zealand and Australia: State responsibility and parental choice. *International Journal of Education Law and Policy* 2008;1-2:54-66.

⁵⁴ Harding T, Farrell A. Home schooling and legislated education *Australia and New Zealand Journal of Law and Education*. 2003;8:128-129.

“the education of a child is primarily the responsibility of the child’s parents”. Other theoretical motivations may be educational. For many parents home education is a natural extension of their parenting philosophy⁵⁵, such that enforcement of institutional school or institutional school methods would require a complete change in parenting and household style, beyond that which the government has an interest in affecting. Additionally, a large number of home educating parents are former or current school teachers who recognise the limitations of the system. Some home educators follow particular educational theories such as Montessori, Charlotte Mason, Steiner or Classical education and find these inconsistent with the school model. Others like the freedom to include natural learning styles, outdoor education, practical education or other elements to their child’s education. Home educated children have a greater opportunity to read a variety of books, engage in practical interest-led projects, learn about topics not covered by the curriculum, and explore individual interests at a deeper level. For such parents the ability to supplement the rather narrow prescriptions of the curriculum is important.

Practical motivations occur when the institutional school context is demonstrably inadequate for an individual child. This may be because the child has special needs which cannot be addressed by the school. For example, many parents of children with Attention Deficit Hyperactivity Disorder (ADHD), Autism Spectrum Disorder (ASD) or other learning difficulties may choose to home educate to give their child the individual attention required for them to learn in the most appropriate way. Similarly, parents of gifted children often find that schools are not able to deal with their child’s difference. Gifted children are often not uniformly gifted and often work at multiple grade levels across various subjects; this is not well suited to a system of lock-step grade progression. Although pull out and acceleration programs are sometimes available, these are often not suitable or not sufficient for the child. Other children suffer from anxiety and/or depression, which is exacerbated by an institutional context. In each of these instances, the very nature of educating children in large groups brings about a necessary level of procedure and uniformity which is harmful to some groups of children. These motivations are discussed in detail later.⁵⁶

Another practical motivation is the prevalence of bullying in institutional school settings. As described later⁵⁷, the HEA has supported many families who have withdrawn their child from school after severe bullying, often in the context of inadequate school response. Many of these instances include physical assault; sadly, some also include sexual assault. In these contexts parents may

⁵⁵ English RM. Use your freedom of choice: Reasons for choosing homeschool in Australia. *Journal of Unschooling and Alternative Learning*. In Press.

⁵⁶ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

⁵⁷ (b)(iv) The current context of home schooling in New South Wales including: (extent of and reasons for unregistered home schoolers

consider that moving their traumatised child to another school setting is not an appropriate action and therefore choose to home educate. Although many instances reported to the HEA involve an alarming lack of support from the school employees, it is important to note that even schools with excellent bullying programs can have incidents of bullying and even where schools have been supportive of victims the child still may not feel safe in an institutional setting. Whilst the HEA supports efforts to address bullying in schools, such measures can never eliminate the possibility that a child will be traumatised through bullying. The growth in incidents of removal due to bullying and the urgency of the required response is a key reason that the HEA would like to see the introduction of automatic preliminary registration, so that parents in crisis may focus on their children and proceed to deal with administration in due course.

An additional practical motivation for home education is the ability of children engaged in elite sports or music to undertake education in a more time efficient manner, leaving room for training and practice without forgoing free time or sleep, as many school students engaged in such activities might be required to. This motivations are discussed in detail later.⁵⁸

“I like spending time with my children. When I thought about sending them to school I knew that no teacher, no matter how good, would love them like I do, and care that they have absolutely the best education possible, tailored to their interests. Now I have been home educating for over 15 years, I am so proud of my children - their conscientious natures, their relationships with siblings, and others, and their maturity, as well as their ability to learn whatever they need to know.”

“The main reason we decided on home education for our children was due to the limit in other educational choices. Our eldest would have done well in a school that uses the Montessori Method however there are none where we live. The public education system has not incorporated the 100+ years of research into this method, which is to its own detriment as there are far better ways of running a school and providing an education for children. Our youngest child thrives far better outside of any system and so home education was the only viable choice for him. Both will go on to University where they have autonomy as learners. As a former public school teacher I understand the limitations of the education system and that it doesn't meet the needs for many children, including my own.”

⁵⁸ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

"I home educate because of: lack of support for my child's learning needs in school and I ran out of options, traditional school doesn't fit my child, fed up with generic cut and paste school reports, he is easily bored and moves too much, happy children who want to learn and engage vs miserable and bullied children who were walking around the playground in tears and regressing before my eyes, because home educating our children is serving their best interests, to foster a love of learning, to help them find and follow their passions, to provide individualised programs, to be able to be more flexible eg long camping trips, to school outside or at the beach or on a bush walk."

"Fed up with a system that is quick to want to get kids diagnosed and labelled so as to cover up the fact that the education system is just not working for many children. Fed up with a system that puts kids in a box and won't work outside that box and generally an uncaring, unsympathetic system that treats kids as carbon copies of each other rather than as individuals."

"My kids motivation motivates me!!! They were bullied out of the local school and when we started HS it felt natural and right and suddenly I had kids wanting to learn all about everything and they were happy, a far cry from the previous two years!!!"

"We had issues at school and made the leap to home school. Now in our second year and loving it. For our family it means so much more time to learn what the kids actually want to learn instead of trying to fit these things in around school. They are so much more inspired about learning now they can take some ownership of their own journey. I am just thrilled to be a part of it."

(b)(iv) The current context of home schooling in New South Wales including extent of and reasons for unregistered home schoolers

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The HEA recognises that the NSW government is concerned with the number of home educators who are not registered with the BoSTES. The HEA is not in a position to make definitive statements regarding what future actions individuals may choose. However, consideration of regulatory theory in conjunction with the experience of home educators suggests that a reasonable, system of appropriate regulation which was administrated with respect and consistency would encourage significantly improved levels of engagement with registration. This section will canvas the possible extent of home educators who are not registered with the BoSTES before considering the general theory and NSW policy regarding regulation and the potential impact on home education registration engagement in NSW.

Extent of unregistered home educators in NSW

It is widely recognised that there are many home educators who do not register their children for home education. Statistics on the number of registered home educated children in Australia are available, but there are no reliable mechanisms for collecting data on the total home educating population. Estimates of unregistered home educated children vary widely. The HEA does not collect data from its members or the wider home education community on the registration status of

families, but suggests that “*an estimate of several thousand unregistered home educated students in NSW is not unreasonable.*”⁵⁹

	ACT	NSW	NT	Qld	SA	Tas	Vic	WA
Registered home educated children per 1000 school-aged children	2.2	23	1.2	1	3	6.4	3	3.9

As discussed previously, there are various methods of estimating the home education population. The table above (developed from Drabsch⁶⁰) shows the number of registered home educated students throughout Australia, demonstrating the difference in registration rates between states. There is no reason to suggest that different states have significantly different home educating populations when taken as a percentage. Therefore it is likely that registration rates provide an insight into the level of engagement with the regulatory regime in each jurisdiction. Consideration of the above table suggest that jurisdictions in which the regulatory regime is onerous and/or provides no perceived benefits experience lower rates of registration. NSW has one of the lowest rates of registration in the country.

It is important to note that being unregistered does not equate being uneducated. For most families, the decision not to register is a result of a philosophical objection or practical difficulties with the current regulatory regime rather than an objection to providing children with a high quality education.⁶¹ Under educated children exist in the school system, and well educated children exist outside the home education registration system. Registration and education are demonstrably separate and distinct.

Reasons for lack of registration

There are two approaches to the explanation for the low level of engagement with registration in NSW. Firstly, we will consider the theoretical characteristics of rules, which encourage compliance. Modern regulatory theory and practice suggests that consultation, respect and appropriateness are among the important elements of a regulatory system, which encourages high levels of compliance. Secondly, we will consider the stated reasons for compliance or non-compliance with the current regulatory regime for home education in NSW. These comments strongly support the theoretical

⁵⁹ <http://www.hea.edu.au/articles/general/how-many-home-educators-in-australia/>

⁶⁰ Drabsch T. Home education in NSW. *NSW Parliamentary Research Service e-brief*. 2013;7.

⁶¹ Also note the discussion in the term of reference (b)(iii) The current context of home schooling in New South Wales including: demographics and motivation of parents to home school their children regarding the important distinctions between US and Australian home education communities.

predictions in advocating consultation, cost/benefit analysis, consistency and respectful administration of policy.

The current NSW registration system is onerous and counter-productive. The only current motivation for compliance is a fear of legal consequences. Some families have no choice but to comply with registration regardless of its costs or benefits. Families who are externally compelled to register include those who are involved in family court proceedings, who receive Assistance for Isolated Children, who receive Parenting Payment or Newstart and require exemption from the requirement to look for work, or those who have withdrawn their children from school in circumstances of animosity.

A small number of families object to registration on a philosophical basis because they do not agree that the state has any interest in their parenting choices or moral right to intervene in parenting choices. In between these extremes are the majority of unregistered home educating families, who choose to comply with other laws in daily life but must make a decision regarding registration of their children for home education.

Features of legitimacy and engagement in laws

Lack of engagement with regulatory regime is the result of poor regulatory design. Although individuals have specific reasons for making a choice not to engage with home education registration, it is generally the case that poor regulation results in poor engagement. The failure of a regulatory regime cannot easily be improved by increasing coercive measures⁶², indeed such action will often have the opposite effect.⁶³ There may be some families who will refuse to register under any circumstances, but the HEA experience is that the vast majority of home educators would be willing to engage with a fair, consistent and reasonable system. Such a system is not currently experienced in NSW.

One difficulty faced by those seeking to design a regulatory system for home education is that education is intangible and not easily subject to cost-benefits rationales. Typically, the level of regulatory intervention in a given area is determined by measuring compliance costs against the benefits to the individual, state and community. Thus, regulatory intervention is frequently justified on the basis of market failure. However, in the instance of home education there is no market failure

⁶² Murphy K, Tyler TR, Curtis A. Nurturing regulatory compliance: Is procedural justice effective when people question the legitimacy of the law? *Regulation and Governance*. 2009;3:1-26.

⁶³ For example the recent case of an Irish mother being jailed for refusing to apply for permission to home education. The negative attention gained by this case undermines the legitimacy of both the regulatory process and the administering authority. <http://www.breakingnews.ie/ireland/mother-faces-jail-for-refusing-to-pay-home-schooling-assessment-fine-638006.html>

– which in this instance would be families attracted to home education for reasons other than commitment to educational quality – and has never been any evidence of market failure. The regulatory regime has been developed without a coherent aim or purpose, it has not been subject to cost-benefit considerations and has not been reviewed for effectiveness.

A potential solution to the issue of unregistered home educators is to increase monitoring or and/or increase the penalty for non-compliance. However, this is unlikely to be effective. Research into reactance, has shown that the use of threat and legal authority, particularly when perceived as unreasonable, can produce the opposite behaviour from that sought.⁶⁴ Conversely, there is growing evidence to suggest that cooperative enforcement approaches increase compliance.⁶⁵

Legal compliance relies heavily on the perceived legitimacy of a rule, not merely the legal pedigree of a rule. That is, people may obey a law simply because it is a law but they are more likely to obey a law which they perceive to be legitimate. Legitimacy involves both the authority and the rule itself. Legitimacy of authority relates to the person or group administering the rule and the perception of whether they are the proper person or group to do so. Legitimacy of the law relates to whether the law itself is considered reasonable, moral or otherwise necessary. Home education regulation in NSW suffers from a distinct lack of perceived legitimacy of both authority and law.

The perceived legitimacy of the rule itself will depend on the relationship between the aim of the rule and the content of the rule. This is recognised by the NSW state government in various guidelines regarding the improvement of regulation. Unfortunately, the BoSTES has chosen to use an Information Package as a form of ‘soft-law’ measure to escape the proper consideration of parliamentary oversight required of regulations. However, the *Home Schooling Information Package* is regulatory in nature and content and is applied inflexibly. It is quite inconsistent that guidelines, which are supposed to be more flexible and less coercive than regulations, should be used as a way to implement a harsher and less flexible system of rules than could be implemented through regulation. The NSW government *‘Better Regulations Guide’* includes a requirement that consideration be given to “*administrative compliance costs associated with demonstrating compliance with a regulation (such as paperwork and record-keeping costs) as an example of red tape to be avoided in regulations*”. Clearly this has not been considered in relation to the current home education regulatory regime. We note in particular that the principles of better regulation are said to be “*the cornerstone of the Government’s commitment to good regulation*” and therefore

⁶⁴ Murphy K, Tyler TR, Curtis A. Nurturing regulatory compliance: Is procedural justice effective when people question the legitimacy of the law? *Regulation and Governance*. 2009;3:1-26.

⁶⁵ Murphy K, Tyler TR, Curtis A. Nurturing regulatory compliance: Is procedural justice effective when people question the legitimacy of the law? *Regulation and Governance*. 2009;3:1-26.

“must be followed in the development of every regulatory proposal [so that] it is demonstrated that the proposal is required, reasonable and responsive.” This approach is further emphasised in the Premier’s memorandum on red tape and regulatory compliance burdens.⁶⁶ The guidelines on regulatory regimes suggest that high consultation and low compliance costs are valued, but in the example of home education, high compliance costs and low consultation has been imposed. The guidelines provide that government intervention be justified by reference to the risk and likelihood of harm but in the example of home education, there is intrusive intervention despite a very low likelihood of serious harm. Comparison of the requirements of home education registration with the requirements of ‘better regulation’ demonstrates that the current policy is outdated not only in educational approach but also in regulatory approach.⁶⁷

The perceived legitimacy of the authority depends partly on the authority’s legal delegation of power and partly on the manner in which the authority wields that power. The three main approaches noted are referred to as ‘the carrot’, ‘the stick’ and ‘the sermon’. The carrot is an accommodative response, the stick is an antagonistic response and the sermon is general provision of information. Braithwaite et al have observed that a trusting approach by regulatory authorities is more conducive to compliance.⁶⁸ By contrast, an antagonistic approach, where regulatory disapproval is articulated in such a manner as to denigrate the professionalism of the recipient, may lead to the development of a defiant, calculating identity.⁶⁹

An authority with high perceived legitimacy may encourage compliance even where a particular rule has a low perceived legitimacy, TR Tyler, in his work *Why people obey the law*⁷⁰, explains that perceived legitimacy is one part of the engagement between individuals and the law, the other part depends on the way a regulator relates to the regulated. Tyler calls this ‘procedural justice’. Procedural justice requires that the authority behave in a respectful manner towards the individuals and groups being regulated, that communication is open, policies are consistently applied and decisions are based on relevant facts and purposes. Tyler’s research found that compliance with legal injunctions is higher where the process yielding those injunctions is experienced as fair. In this work he found particularly that importance was placed on *“having an opportunity to participate and provide input, the neutrality of procedure, and being treated with dignity, respect, and honesty”*.⁷¹ Valerie Braithwaite similarly notes that procedural justice reflects formal processes that are

⁶⁶ http://www.dpc.nsw.gov.au/announcements/ministerial_memoranda/2009/m2009-20_guide_to_better_regulation

⁶⁷ Please see the term of reference (c)(i) Regulatory framework for home schooling including: current registration processes and ways of reducing the number of unregistered home schoolers for further detail of the onerous and counter productive elements of the current policy regime

⁶⁸ Braithwaite, John and Makkai, Toni. Trust and compliance *Policing and Society* 1994 4(1):1-12

⁶⁹ Grabosky, Peter N. Counterproductive regulation. *International Journal of the Sociology of Law* 1995 23(4):347-369.

⁷⁰ Tyler TR. *Why People Obey the Law*. (2006) Princeton University Press, Princeton

⁷¹ Licht AN. Social norms and the law: Why peoples obey the law. *Review of Law and Economics*. 2008;4(3):715-750.

impartial, transparent and accountable, but the aspect of procedural justice that appears to transcend all these things is respect for the person being regulated.⁷² It is of vital relevance to note that these are the very same features which the home education community has reported as missing in the current regulatory regime. There has been no opportunity for the home educating community to participate through consultation or feedback. The procedure is experienced by home educators as extremely volatile and dependent on the individual Authorised Person with virtually no neutrality or explanation. Yet in some areas the Authorised Person's discretion is fettered by the detail of guidelines which are imposed without consideration for individual circumstances. Importantly, throughout the registration process and especially throughout the recent period of change, the home education community has not been treated with dignity, respect or honesty. Instead, dismissal of concern and layers of misleading communication have been experienced by individual home educators and by the HEA. The failure to be honest about changes made has compounded the damage done by refusing to consult or to consider the impact of regulatory changes. It is also important to note that this is not entirely a recent phenomenon in the BoSTES, Hansard records debate surrounding the introduction of regulation in 1998 which noted that the BoSTES, then Board of Studies, *"tried to put forward a hopeless case that since their regulation changed nothing and was not controversial, no consultation was required. They attempted to claim that their regulation had wide community support but were unable to table one single sheet of paper giving tangible proof that they had asked anybody about the form or content of the regulation."* These ongoing behaviours by the BoSTES have led to a situation in which there is a very low level of procedural justice and the legitimacy of the BoSTES as an authority is very low. Procedural justice increases the level of compliance with rules, even where the legitimacy of the rule is unconvincing. In Australian research, Murphy, Tyler and Curtis⁷³ have found that, even where there is concern regarding the legitimacy of the law itself, procedural justice in the application of the law can enhance compliance. Based on this research, the HEA reiterates its call for open communication, consultation and consistency in the policies applied by the BoSTES. Indeed, it may be the case that the BoSTES has thoroughly destroyed its potential for legitimacy in the area of home education and has instead become a central cause of non-compliance in the home education community.

The OECD has also recognised the importance of appropriate regulatory design⁷⁴, noting that compliance with policy is affected by three things - understanding of the rules, perceived benefits of compliance with the rule as well as enforcement activities. Rules must be seen to be beneficial and

⁷² *Ten Things You Need To Know About Regulation But Never Wanted To Ask*, Valerie Braithwaite
<http://regnet.anu.edu.au/sites/default/files/ROP10.pdf>

⁷³ Murphy, Kristina, Tom R. Tyler, and Amy Curtis. "Nurturing regulatory compliance: Is procedural justice effective when people question the legitimacy of the law?" *Regulation & governance* 3, no. 1 (2009): 1-26.

⁷⁴ <http://www.oecd.org/gov/regulatory-policy/46466287.pdf>

palatable and comprehensible by those a policy is designed to affect. The current system of home education regulation in NSW fails on each of these measures: people find it hard to understand the educational jargon of the policy document, there is absolutely no benefit to registration and compliance is difficult and counter productive. The Queensland government recognised similar issues in its own home education regulations as the result of a review in 2004. The report noted that high levels of unregistered home educators are a sign that regulation does not meet the needs of those being regulated.⁷⁵ *“The current processes and practices surrounding home schooling approval are not aligned with the existing Order-in-Council, and parents, in the absence of a supportive environment, are choosing in increasing numbers to operate outside of the law. This they do with great reluctance as for all intents and purposes, they are otherwise law-abiding citizens.”*

Overall, the current regulatory regime for home education in NSW may be a case study in what not to do and how not to respond to concerns raised by stakeholders. It is entirely unsurprising that engagement with registration is very low in NSW, indeed it may be considered a testimony to the law abiding nature of home educators that so many do persevere in the registration process despite the high costs and low benefits. Educational theory and regulatory theory, stakeholders and the government’s own policy on regulation all oppose the current system. If the home education regulatory regime were to be presented in a way that was purposeful and proportionate, then the HEA considers that compliance would dramatically increase.

[Experiences of home educating families in the NSW context](#)

There is limited research examining the motivation of home educators to avoid registration processes. However, the experience of the HEA is that there are four main reasons home educators choose not to register their children for home education.

- Conscientious objection: won’t register because of philosophical beliefs
- Difficulty interpreting policy and regulations: don’t register because they view the registration process as inappropriate, onerous or intrusive
- Lack of perceived benefit: don’t register because there’s no perceived benefit to registration
- Issues with compliance: don’t register because of travelling, or other difficulties in meeting requirements

⁷⁵ Department of Education, Queensland. Home Schooling Review. Brisbane; 2003

This experience supports the theoretical approach in suggesting that simple, appropriate and beneficial rules experience high levels of compliance.

Conscientious objection

There are a small number of home educators who do not register because they do not consider the state to have any legitimate cause to interfere in parental choices. It is likely that many in this group would choose not to register regardless of the regulatory regime. These parents have a conscientious objection to government regulation of what is recognised in the *Education Act 1990* as primarily the parents' responsibility. They consider that they are exercising their inherent parental rights and responsibilities with relation to the education of their children. This group also includes home educators who do not want their names listed and/or home educators who do not want any government involvement with their children's education.

While this attitude may seem to be thoughtlessly flouting the law, it is important to note the theoretical discrepancy between government involvement in education and government involvement in other areas of private life. It may be fair to suggest that home educators ought not be required to comply with the same type of regulation as schools. For example, a restaurant is required to maintain compliance with health and food safety regulations but a home kitchen is not. Similarly, a child care centre is required to maintain certain safety standards, staffing ratios and specific facilities but a child's home is not required to be inspected as to that compliance.

In principle, parents can have a conscientious objection to the BoSTES registration process on religious grounds. However, in practice, they still undergo exactly the same BoSTES registration process. Parents stating a conscientious objection receive a certificate which denotes conscientious objection rather than registration, but they must fulfil every element of the registration process in the same way a registering family must. Families who have an objection to this may choose to not register as a form of civil disobedience in support of what they see as their legal right. This lack of a genuine option for conscientious objection continues to be a reason why some home educators choose to not register. Others have a conscientious objection, but not on religious grounds, and this is currently not an acceptable reason for objection.

"We conscientiously object to registration on philosophical and political grounds. I am strongly disappointed that there is not an option to conscientiously object unless it is on religious terms...We believe that the school is actually answerable to the parents, therefore we, as parents are NOT answerable to the government - the government, as elected by the people and paid for by us, are supposed to be

answerable to US. I strongly object to the state overstepping its bounds and responsibilities.”

Although there are some parents who would not register under any circumstances, the HEA is aware that some home educators in the ‘objection’ category, would register if a very ‘light’ registration system were adopted. For example, in Victoria, registration involves one or both parents signing an undertaking that the child will receive ‘regular and efficient instruction’. Indeed, it is not uncommon to hear of people relocating from NSW to another state, especially Victoria, as a result of the unnecessarily onerous NSW registration process which is considered to undermine home education and learning outcomes. These families consider that the unnecessary quantities of documentation, contradictory registration processes and Authorised Persons that have little to no experience in home education have created excessive stress for some families. It is remarkable that families would rather relocate, causing loss of social capital and safety networks, than submit to the current regulatory regime.

Difficulty interpreting policy and regulations

“If I was starting again I wouldn’t register because the stress brought about by the process had me close to breaking point.”

A large number of home educating parents find the present home education policy documents and syllabus documents to be verbose, jargonistic and bordering on incomprehensible. Teachers in the school system are provided with regular extensive (and expensive) training in the language and application of syllabus and curriculum documents, yet home educating parents are expected to interpret and apply such documents prior to being permitted to provide any education to their school aged children. It is crucial to note the distinction between translating curriculum documents and providing an education. Many parents who struggle with the curriculum documents do not struggle at all with planning and delivering a quality education.

This difficulty lies not only with the curriculum documents but also with the regulatory regime itself. As discussed later⁷⁶, the *Education Act 1990* is very poorly and inconsistently drafted with regard to home education, the policies which are supposed to be made pursuant to the *Education Act 1990* significantly overstep their power and the ‘Questions and Answers’ document published to assist actually confuses the matter even further.⁷⁷ It is inevitable that families would often choose to avoid the registration process rather than commit untold hours to administrative tasks which are

⁷⁶ (c)(i) Regulatory framework for home schooling including: current registration processes and ways of reducing the number of unregistered home schoolers

⁷⁷ <http://www.boardofstudies.nsw.edu.au/home-schooling/home-schooling-info-qa.html>

uncertain, unnecessary and counter-productive. Indeed, such a decision might be considered in the best interests of children, given the finite time and resources which must be divided between administrative tasks and the provision of education. Many home educators, both registered and unregistered, report that the Authorised Person is not assessing the quality of a child's education, but rather are assessing a parent's ability to create paperwork that looks like school paperwork.

Parents who do not register for home education commonly cite reasons such as difficulty understanding the requirements, the high level of paperwork, inappropriate documentation, and the time necessary to be spent on fulfilling requirements that do not add to the educational program, and would be better spent with children. There have been ongoing problems for many years, however in recent years with the hiring and training of new Authorised Persons, as well as the new *2013 Home Schooling Information Package*⁷⁸ and the contradictory 'Questions and Answers'⁷⁹ on the BoSTES website, the inability of parents to comprehend what is required of them, and the perception of requirements becoming onerous has led to more people reporting a desire to avoid registration.

"I wouldn't [register] because naturally I can follow the curriculum to a tee without BoSTES. But I am having some trouble trying to navigate and prove what we do by following their system. I agree that it definitely seems that it is made to be confusing to shy us away from doing what we are passionate about – providing for the absolute loves of our lives. I can't imagine why the government would be so hard on the families who home school."

"I wouldn't register in NSW because I am not a school-at-home. My child learns a lot more than in school through basic things such as going shopping, learning about money in the real world, as opposed to [looking at] a copied \$1 coin in a textbook. Registering in NSW would not allow me to give my child a quality education. As [BoSTES] NSW does not see that learning can happen in other ways than a textbook and they ask for proof."

Lack of perceived benefit

Another key reason for families to choose not to register is the lack of perceived benefit, especially in light of the intrusive and onerous nature of the registration procedure. For some home educators who can do so without being detected by the BoSTES there is little incentive to register. It is a stressful and arbitrary procedure that does not assist families with home education on the whole,

⁷⁸ http://www.boardofstudies.nsw.edu.au/parents/pdf_doc/home-edu-info-pack-13.pdf

⁷⁹ <http://www.boardofstudies.nsw.edu.au/home-schooling/home-schooling-info-qa.html>

further it undermines learning. The registration process is not a means of accessing any support, resources, assistance or means of improving educational quality. The lack of perceived benefit strongly interacts with the difficulty of registration. The BoSTES do not currently provide families with assistance during the registration process or ongoing support with home education. They do not consult with home educators to improve the registration process or their practices. They do not include a home educator on the Board of Studies nor are home educators involved with the recruitment or training of Authorised Persons.

“I would follow a similar learning plan regardless of if I were registered or not. Registration doesn't make any difference to my educational outcomes for the children because I ensure the children's needs are met .”

“We would consider registering with any group that uses persuasion rather than coercion, and offers us something beneficial.”

“It is hard to navigate their website to see what is required. I wonder if the registration process is just as hard through them. I wonder what is required to prove that I've taught him what is required. Do I really need to satisfy someone else that I have taught him? Surely as his parents we have the highest standards for him already.”

“Considering how extensive the documentation requirements are in NSW, they should fund our students just as they do in schools. Either drop the requirements or give us some funding!”

Issues with compliance

Some families do not register because the present regulatory regime does not permit them to register. A common example of such a situation is families who travel. The current BoSTES policy ties registration to a fixed address. This prevents travelling families and families with impermanent residence situations from registering. Some parents allow their registration to lapse as they are in the process of relocating and are waiting for a permanent address with which to register. Other families travel because one parent's work requires them to and rather than separate as a family they move where the work is. Some families home educate specifically in order for their children to learn on the road, experientially, as it provides them with a 'rich learning experience'. The BoSTES instructs such families to undertake distance education, however the process and practicalities of distance education are highly incompatible with impermanent residence. This requirement is also difficult to reconcile with the fact that most home educating families are prevented from accessing

distance education. Further, educational quality is far better served by taking advantage of the rich local resources in a specific region rather than ignoring the real learning opportunities within reach so that mediated information may be gleaned from books. The misunderstanding that 'home education' occurs only in the home⁸⁰ and that a permanent address is required discriminates against these parents who may prefer to register but cannot.

"We can't register because we travel full time, although technically based in NSW due to family connections. Distance education is not appropriate, as it doesn't fit with our educational philosophy."

Another example of families who do not register due to compliance issues are families who recognise the need for a period of recovery after a child has been severely traumatised through an experience in the school setting. This necessary practice is not recognised by the BoSTES. In fact, some BoSTES representatives have been known to deliberately threaten traumatised children with a forced return to school if they do not undertake enough work.

Another issue with compliance is the inflexible application of the policy that students must be present to meet the BoSTES representative. Students who are recovering from abuse or who suffer from severe anxiety may be unable to cope with the strain of perceiving a moment of judgment from an authority figure.⁸¹ Parents of such students will understandably choose not to subject their children to harmful situations and will therefore be unable to register for home education under the current regime. Prior to the *2013 Home Schooling Information Package*, families could register by documentation. This practice has been withdrawn without consultation or explanation. This choice allowed families who had already proven themselves to be competent home educators, to report assessments and future plans without disruptive home visit. Although in principle the inclusion of registration through documentation exists in the *2013 Home Schooling Information Package*, the circumstances in which registration via documentation would be available are literally impossible.

Some families who are experiencing opposition, by a non-custodial parent, to the home education of children, may have difficulty complying with registration requirements due to the requirement that both parents must sign registration application forms in the case of court orders providing shared parental responsibility. This is further discussed elsewhere in this submission.

⁸⁰ We refer to the term of reference (c)(i) Regulatory framework for home schooling including: current registration processes and ways of reducing the number of unregistered home schoolers which provides discussion of Administrative Decision Tribunal matters in which it has been decided that the BoSTES should not adhere to such fixed notions regarding location of educational facilities.

⁸¹ We also refer to the case study presented in term of reference (c)(ii) Regulatory framework for home schooling including: training, qualifications and experience of authorised persons, in which an Authorised Person was abusive and exacerbated the anxiety of a vulnerable student during a home visit.

Summary of families' reasons for not registering

There are many reasons for not registering; while some parents may never engage with a registration process for philosophical reasons, most unregistered students are unregistered due to a failure in the regulatory regime.

The HEA conducted an anonymous survey asking unregistered NSW home educators why they do not register with the BoSTES. Families reported the following reasons:

- *“Under the current requirements I would prefer not to register. It is a massive stress that takes time away from teaching and parenting. If the process was simpler, less strict, gave me access to support and resources and let me maintain my parental authority then I would happily register.”*
- *“Too much documentation per child (more than a classroom teacher is required to show); time required for planning and record keeping is prohibitive, especially for families with many children; visits by stranger into the home - seen as an invasion of privacy, and sometimes causing difficulties for children; a culture of policing rather than support.”*
- *“The requirements for content, delivery and record keeping conflict with parents’ and children’s needs and are too restrictive.”*
- *“State expectations overriding parental responsibility.”*
- *“I think the worst thing is that we take on our right to educate our children and then have to jump through irrelevant hoops to satisfy a government body that we are doing it 'properly'. This feels like lying at best and at worst changes the educational approach we instinctively see is needed.”*
- *“I wouldn't register if it wasn't a legal requirement, basically I only registered because I had an ex-husband and Community Services (I am a registered foster carer so FACS visits my house and would notice biological children being out of school).”*
- *“It can be very overwhelming trying to organise plans for each child based on their individual needs, ensure all outcomes are covered and that the plan covers at least 12 months. The homeschooling application form says it can take up to 3 months for registration which is not helpful for those who feel their children need to be home as soon as possible, or for creating the child's plan as a start date is unknown. For someone who plans to move interstate (within the year) it would look like a much better option to home educate unregistered than to spend time planning a program for NSW Curriculum and waiting up to 3 months for*

approval to only spend another 3-6 months in NSW before moving state where your plans need to be altered to reflect the Australian Curriculum.”

- *“They want us to create school at home but we don't send our kids to school because school hasn't worked for them, has caused them pain, they are not having their needs met etc. so why do they think that the same way they teach in school should be enforced at home when it just doesn't work for some kids. We pulled them out of school to try something different not just make the same mistakes the BOS has made with them in school already. They had their turn and their way didn't work; she didn't learn, was psychologically damaged and scarred for life so let us try something else. Let us try to achieve what you could not.”*
- *“On the website they advertise the Scootle program builder [for helping create a program of study] but that is not available to parents until [after] they are registered - the whole registration process is made more difficult and time consuming.”*
- *“These are MY children and MY responsibility - the state is not funding us so why should it get to dictate how we run, and even if it was funding us we are providing individualized often changing educations - possibly providing a retrospective report at the end of the year is workable but trying to preempt is a waste of time, we aren't a school we shouldn't be forced to function as one. Home educators do ALL of teacher's paperwork - there is a lot, my sister is a teacher, she must to justify not only outcomes but the \$10,000++ they receive per child from the government – but we don't receive it!”*
- *“Because my son learns much more, and much more easily when he is following his own interests at his own pace, in his own time, not as dictated by Government workers who know nothing about home education, learning styles, and individuality.”*
- *“If the regulations were changed to allow travelling families to register it is highly likely that we would still not register. Because we unschool the whole process of having to submit learning plans, endure visits from potentially hostile Authorised Persons, and submit progress reports are non-productive. Time that should be spent facilitating our children's learning will instead be spent on administrative tasks.”*
- *“Far too stressful and harms the child and/or learning process; inauthentic and doesn't illustrate the realities of home education life; a waste of time; is assessed by Authorised Persons with little to no knowledge of home education.*
- *Authorised Persons rely on their school experience and therefore fail to assess learning that is occurring naturally outside of a school context.”*

Conclusion

Regulatory systems which are harsh, onerous, illogical and unrelated to the purpose for which regulation is intended are often considered to lack legitimacy and therefore suffer from a low level of engagement and compliance. Conversely, a respectful, consultative approach which gives careful consideration to the aims of regulation and the costs of compliance is likely to engender a high level of engagement and compliance. There is evidence that the experience of home educators in NSW corresponds closely to this theory. Therefore, both theory and experience suggest that the best way to address the issue of unregistered home educators would be to ensure that the regulatory system was based on a costs/benefits analysis of the need for regulation such that regulatory intervention was limited to that which was necessary to achieve stated aims. Such a system should be developed in consultation with home educators and administered with respect for all involved.

(b)(v)The current context of home schooling in New South Wales including characteristics and educational needs of home schooled children

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Summary of Research

There is little demographic information available on home educated children in Australia. However, research has identified that child-focused reasons underpin many parents’ decisions to home educate and so provide information relevant to understanding the characteristics and educational needs of home educated children. In the most recent BOS (now BoSTES) Annual Report it was stated that information received from parents indicates that “the most common reasons for home schooling have been philosophical preferences for home schooling and individualised approach to address special learning needs”.⁸²

Jackson⁸³ studied families who had moved in an out of school-based education and home education in Victoria. She found that families removed children from school in order to alleviate academic and social tensions for children with giftedness, advanced learning abilities, learning difficulties or health needs. It was identified that students fell into four ability groups- gifted,

⁸² <http://www.boardofstudies.nsw.edu.au/administration/annual-report.html>

⁸³ Jackson G. *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*: Faculty of Education, Monash University; 2009.

advanced learners, average and students with learning and/or health difficulties. Students were defined as gifted when they had been assessed by professionals as such and/or had been promoted above their same-age peers several grades or had achieved early entry into university. Students were considered to be advanced learners when they regularly achieved A and A+ grades while in mainstream institutions. Students were considered to have learning disabilities, when they struggled to achieve average grades and/or had professionally diagnosed disabilities. Learning disabilities were associated with children having dyslexia, dysgraphia, ADHD, chronic fatigue, epilepsy and having been born prematurely. Less than a quarter of the students were identified as average students.

Home education was reported as providing a more effective education for children than they had experienced at school. Learning difficulties in children were said to have been improved or even corrected. Children who had been unable to learn basic skills, such as reading, at school were able to master these skills at home. Individualised and contextualised learning was recognised as facilitating learning. For example, *“He was unable to read...[at school] ... picked up concepts a lot faster [at home].”* Families were able to tailor education to their child’s strengths. For example, *“[Our son] is severely learning disabled ... and no ... amount of talking to the school about his particular learning disability [worked] ... the school actually told me to stop wasting my time ... on my son because he was going to disappoint me ... that he would never achieve ... it was time that I backed off and let them educate him their way and I left and he’s never been back to school. ”*

Children who were gifted or learning advanced were reported as benefiting from home education as they were no longer restricted to the pace of learning in a class and were able to pursue advanced studies suited to their interests. Mothers said, *“My kids have really discovered who they are within themselves outside of school. My son’s giftedness has never been a problem since he left school. When he was at school ... because he was different and because his abilities were far greater than the rest of the kids, it was always an issue,”* and *“I think [my son] needs to be challenged, so that he can be supported if he fails (he had been getting 20/20 [in spelling] all year). Teacher – “why would you want him to fail?’ I felt like they weren’t actually listening to me, or responding to his IQ test and psych recommendations.”*

The health of children with health problems improved. Thus, *“Epilepsy people know you put pressure on a child with epilepsy and you...stop them from functioning basically and that’s what was really happening [at school].”* It was also reported that children developed learning independence and avoided problems found in mainstream institutions such as bullying. For example, *“One of the reasons why we left the system ... Sam was suffering from bullying ... and it concerned me ... short term effects were bad enough, but the long term effects were a real worry as well.”* Parents stated

that one of the benefits of home education was that they reduced stress in the family because they did not need to support children who were unhappy at school.

Reilly⁸⁴ studied the home education of children with a disability in Western Australia. She identified that parents' reasons for home educating were connected to the negative socialisation encountered in schools, insufficient academic progress and a failure by schools to understand their children's academic and social capabilities or the nature of their child's disability. Most children had been subject to bullying that was directly related to their disability that parents reported had created significant stress for their child and diverted attention away from learning. Parents stated, *"There was severe bullying. He'd always been picked on at high school but he never told us. ... Then there was an incident at school when he was attacked"* and *"She has struggled with negativity right through school. She looks a bit different and kids have given her such a hard time."* Other sorts of negative socialisation were also present as one mother reported that her daughter was *"...learning inappropriate behaviours and self-abusive behaviours within the school system."*

The majority of parents were of the opinion that their child's lack of academic progress justified their removal from the system. They identified lack of resources, misunderstanding of children's capabilities and an inability to deliver education consistent with techniques used at home as behind the poor academic progress. One mother stated, *"I went through some of the work that she had done for the year and she really hadn't done anything ... I realised from the start that we had to go back to basics"* and another described, *"I think they just thought she was capable of more than she was. They didn't know her capabilities. I don't think they had taken the time to judge it actually."*

In contrast, home education allowed the curriculum to focus on the specific and individual needs of each child. As stated by parents in this study, *"One-to-one training, teaching her in her learning style, understanding her and being flexible with what we deliver have been effective ... The program is totally individualised in comparison to the school system"* and *"One-on-one teaching has to be a big advantage. She really needs one-on-one with everything she does as you have to try and keep her on task all the time ... At home there is more flexibility and you don't have to stick to a timetable."* The flexibility of home education was noted as allowing families to work around appointments and illnesses related to the child's disability.

⁸⁴ Reilly L. Home schooling of children with disabilities. *Queensland Journal of Educational Research*. 2002;18(1):38-61.; Reilly L. How Western Australian parents manage the home schooling of their children with disabilities. *Australian Association for Research in Education*. Melbourne; 2004.

Kidd and Kaczmarek⁸⁵ considered the home education of

children on the autism spectrum in Western Australia. It was identified that the school experience had been challenging for the children involved because there was a large discrepancy between the learning needs of the child and the learning programs offered at schools. Thus, one mother stated, *“They refused or were unable to modify the curriculum to suit the needs of an autistic child, they say on an ad hoc basis they have some success with it but they don’t.”* In addition the behavioural inflexibility of children on the autism spectrum was often not appropriately considered.

“The teacher would just say, “Luke you’ve got to stop” and not give him a warning, and just turn the computer off...he always needs to finish what he’s doing... so he would sit there and start screaming and throw himself on the floor and having a tantrum...Because he was having meltdowns all the time and because they weren’t managing his environment or modifying the curriculum to suit his needs, they were still trying to get him to write with a pencil, still trying to get him to play football games, still trying to get him to accept relief teachers without prior warning. All the things that set them off they continued to do and they had a behaviour management plan and there were consequences for his bad behaviour but they were not willing to change and it was always like, we’ll cure him of this by giving him a string of consequences or punishing him... it makes no sense to Mark... he gets angry and upset because something doesn’t work for him, for his brain, punishing him for that, he doesn’t really even know why he’s been punished.”

As a result of the inability of schools to provide an educational environment that was sensitive to the needs of children on the autism spectrum, children were failing to progress academically and were also very stressed. It was the stress and anxiety caused by the school environment that was the impetus for most families to home educate. It was common for children to “hold it together” at school and “melt down” when they got home, *“Sometimes he’d come home from school and after he’d yelled and screamed and threw his bag and punched me he’d then go to bed and cry himself to sleep and sleep for 2 to 3 hours. And that often happened every day.”* Some children self harmed because of the stress and anxiety of school. Bullying also had a negative impact on the wellbeing of some children. One mother described, *“Bullying started rearing its ugly head...so much so that I did actually come upon three boys; two were holding him down while the other kicked him. It was the worst day of my life.”* Some families were advised by their health professionals to remove their

⁸⁵ Kidd T, Kaczmarek E. The experiences of mothers home educating their children with autism spectrum disorder. *Issues in Educational Research*. 2010;20(3):257-275.

children from school. Thus, *"Accordingly the psychs recommended that he never return to school, so when I started homeschooling I was dealing with a really, really distressed boy, who was melting down left right and centre."*

Families noticed a large positive change in the wellbeing of their children after removal from school and (seemingly as a result) a reduction in their autistic behaviours.

Parents stated,

"He used to hit himself in the head ... that's a behaviour that's completely gone now... He's heaps less stressed...I mean he comes up to me all the time and just gives me a hug and goes, I just love you mum you know... he's really happy"

"Just a really happy, thriving boy who ... has left a lot of autistic traits behind" and, "I was astounded at how much better his social skills were within weeks of leaving school...Everybody said that these kids have got to be at school for them to learn social skills, to be able to get on with other people, and my experience is that this is a load of hogwash."

In addition to improved wellbeing, children's academic learning also improved after removal from school. Families believed that this had occurred because they were able to provide their child with an education that was designed around their individual learning needs and learning style. For example, *"[At school] he couldn't write to save himself. To get something on paper was like trying to pull teeth...I taught him how to type...and so he's now written about five books."* Sometimes identifying what will work for children takes a great deal of effort, but this is a commitment that parents were willing to undertake, *"I have to do a lot of research on what will work with them ... that is time consuming."* The flexibility of home education also allowed children to have "time out" if they needed to, *"If I see that that he's getting stressed, I can send him off, and he can have his downtime, which they don't get at school."*

Despite the hard work involved in home educating their children parents often expressed gratitude for the chance to home educate and that it was easier than attempting to deal with the school system. For example, *"I think it's more than what I thought. When people say "Oh it must be so hard" I go "No it's a piece of cake compared to the futile fights I was wasting my time on with school". I've realised I've done a 360 degree and all that effort has been put into something so positive, I think it's more than I could ever have hoped for."* Families often found the experience of

home educating their child on the autism spectrum empowering and of benefit to the whole family. As one mother stated, *"The whole family is a lot happier."*

Stroobant⁸⁶ studied the experiences of families where a child was a "school refuser" in New Zealand. The term school refuser is used to describe children who appear to dislike and fear school (or aspects of school) and persistently refuse to attend or attend very unwillingly. School refusal is often associated with diagnoses of anxiety, depression or phobias. Parents described how difficult school was for their children.

For example,

"I watched Brittany and Sam basically fall apart while they were at school. Brittany just shut down, would have panic attacks, cry and be physically ill at the thought of going into school. Sam was withdrawing and taking his frustration out on his sister at home. They were both losing their willingness to learn," and "Amanda was deeply unhappy. She had nightmares, incredible tantrums and deep circles under her eyes at the end of each school day. She was often outraged and angry (at things which happened at school) and was inclined to be clingy."

As children were removed from school and began home educating it was observed that they changed *"from being sad and sick to happy and healthy."*

Thus parents described,

"After school withdrawal, I saw Jonathan move out from that very fearful core and gradually gain confidence. He slowly embraced more and more things and started to go out socially... He just blossomed"

"Amanda blossomed almost immediately following school withdrawal. Her fears of being left alone disappeared and she became friendly, outgoing, talkative and inquisitive. Her natural pride in a task well done reasserted itself... As a home schooler, Amanda is responsible and self motivated. She volunteers knowledge and enjoys new facts and skills, sets high standards for herself, and sees no problem with adding to her curriculum,"

"Liam changed instantly when we took him out of school. It was like a total unwinding of the spring. He just relaxed, his asthma improved and he had the

⁸⁶ Stroobant E. *Dancing to the music of your heart: home schooling the school resistant child. A constructivist account of school refusal.* Auckland, University of Auckland; 2008.

chance physically to catch up. We noticed a great improvement in his behaviour, especially noncompliance... Socially, Liam's friendships have really grown and developed and he now has a lot more friends than he ever had at school. Even the ADHD behaviour has improved a lot, coming out of school."

A Queensland government review of home education⁸⁷ found that 15% of families home educated because their child had special needs or a medical condition and 16% did so because of bullying their child had experienced at school.

A survey undertaken by the NSW Office of the Board of Studies (now BoSTES)⁸⁸ found that, amongst other reasons, children were home educated because they had learning or personality difficulties or because they just did not "fit in" at school or because they had concerns with their child being bullied in school or their health and welfare in school.

NSW BoSTES collects data on the reasons for home educating as a part of the home education registration application process. The application form includes an optional question that allows parents to indicate that they are home educating because of special educational needs of the child. A further question asks parents to, *"Please indicate below if your child has special needs or if there are any educational issues you would like to discuss with the Authorised Person. If necessary, please attach further comment and/or information."* The HEA does not have access to the data generated by these questions however, HEA officers have been told by BoSTES officers that the number of families indicating that they are home educating because of their child's special needs is significant and that numbers have been increasing over recent years.

Although many families home educate because their children have special needs of some kind, many home educated children do not. In addition, although many families remove their children from school because of problems with the school system or their child's experience in school, other families have no negative experience with school. It may be the case that it is most easily evidenced that home education is best able to meet the needs of children who are different or where the school is not functioning as well as it should. However, this does not mean that freely elective home education does not benefit children.

Croft studied the views of Australian home educators who were also qualified teachers⁸⁹. It was found that teachers who were home educators were predominantly motivated to home educate

⁸⁷ Department of Education, Queensland. Home Schooling Review. Brisbane; 2003

⁸⁸ Office of the Board of Studies. Home Education Study- Report of Findings. 2004.

⁸⁹ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

because they had a desire to provide their children with a meaningful and effective individual learning environment. They wanted children to be able to learn at their own pace and in their own time, free from the restraints of system requirements or being held back by mass presentation strategies. As stated by one mother/teacher, *“My goal is for them to achieve their potential. And that varies from child to child...I want them to achieve what they want to achieve...Without pushing them to be something they don't want to be.”* Parent/teachers viewed home education as a positive choice rather than being pushed from a negative school experience,

“When I was teaching I was asked to do some science sessions for some home schoolers...They had a whole street of home schooled kids. I wanted what they had. They did so well, they were really good at it!...They were a peaceful group, they played well, they were happy, and they were obviously well educated and well-mannered and they enjoyed everything and they appreciated it, and I thought, “I want that!””

Experiences of the HEA

As described, research has identified that a significant proportion of home educated children in Australia have a disability or other special need that makes a successful school experience difficult to achieve. The experience of the HEA mirrors this research. The majority of the calls received on the HEA Helpline are from families who are wanting to home educate because their child is having serious problems at school and this is usually associated with a special need of some kind. The most commonly mentioned special needs on the HEA helpline are attention deficit hyperactivity disorder and Aspergers syndrome. Bullying and concerns for the psychological and physical wellbeing of the child in school are also commonly reported.

Home education and children with special needs

A huge variety of special needs are represented amongst children who are currently being home educated in Australia including: giftedness, autism spectrum disorder (including Asperger's Syndrome), pervasive developmental delay- not otherwise specified (PSS-NOS), global developmental delay (GDD), asynchronous development, hearing impairment (mild to profound deafness), vision impairment (mild to legally blind), visual snow, visual tracking problems, history of abuse/neglect/developmental trauma, reactive attachment disorder, fetal alcohol syndrome, social anxiety, ADHD, generalised anxiety disorder, panic attacks, bipolar disorder, obsessive compulsive disorder, oppositional defiance disorder (ODD), gender dysphoria, suicidal, school phobia, agoraphobia, depression, post traumatic stress disorder (PTSD), trichotillomania, Tourettes Syndrome, facial tics, ataxia, sensory processing disorder (SPD), auditory processing disorder,

hyperacusis, spina bifida, cerebral palsy, brachial plexus injury, dyslexia, dysgraphia, dyspraxia, dyscalculia, dysphagia, Irlen Syndrome, nonverbal learning disorder, selective mutism, phonological disorder, allergy (mild to severe anaphylaxis), chemical sensitivity (mild to severe), Menkes disease, Crohns disease, Fragile X Syndrome, agenesis of the corpus callosum, asthma (mild to severe), croup (mild to life threatening), tinnitus, upper airway restriction requiring continuous positive air pressure (CPAP), central sleep apnoea, obstructive sleep apnoea, epilepsy (mild to severe and uncontrolled), juvenile dermatomyositis, juvenile arthritis, Type 1 insulin dependent diabetes, precocious puberty, myotonic muscular dystrophy, scoliosis, immunocompromised, unnamed chromosomal abnormality, Jacobsons Syndrome, Downs Syndrome, trisomy 9, Ehlers Danlos Syndrome, dysautonomia, orofacial granulomatosis, brain tumour, acquired brain injury, stroke, low cardiac output, chronic fatigue, Ross River virus, hydrocephalus, macrocephaly, secondary Parkinsons Disease, hypotonia, rhabdomyolysis, anorchia, tracheomalacia, systemic autoinflammatory disease, oesophageal atresia, periodic fever syndrome, eczema (mild to severe), psoriasis (mild to severe), Raynauds Syndrome, hypothyroidism, poor muscle tone, hypermobility syndrome, faecal incontinence.

Some examples of experiences of home educators in relation to their child's special need and their education:

"Our daughter is gifted. We had the best case scenario for school: interested student, engaged parents, well resourced school and a teacher with qualifications in gifted education. She was accelerated into year 2 but her class work required more handwriting than her 5 year old hands could keep up with. Although the teacher knew that our daughter was bored (especially in maths), there was nothing more to be done because of her handwriting. Also, other kids in the class were already up to 25 cm taller and 3 years older. So, we home educate. It is absolutely in the best interests of our child, her education is matched to her abilities and interests and her variable skills are irrelevant."

"My son was diagnosed with anxiety disorder and OCD. He was initially given funding but then had it removed. Throughout year 2 he was averaging 2 days a week at school. The school did try, but in the end we were told he could not continue on a partial basis. We would have been happy to keep him there part-time but the options we were given were distance ed or a special unit which was not an option. He was shattered from the experience, felt that he had failed, hated that he was seen as different to the other kids. He completely disengaged from learning, hating it, but we are slowly bringing him back."

“My son has sensory processing disorder, memory problems and speech issues. His gross motor is under-developed. Though I was impressed with how hard his teacher worked to accommodate his needs, he came home 4 out of the 5 days a week with bandages on his legs because he was always tripping on stairs or uneven ground. Every afternoon he would spend hours trying to do the homework. Trying to fit in school around OT, speech, family life and homework was awful. After the first term it was agreed that he would need more help than what they could provide. Now we homeschool and can work at his level and pace, with plenty of time for brushing and speech practice and family time. He isn’t competing against other kids and telling me he is dumb. We don’t have skinned legs all the time. It isn’t that school was terrible, it was just unnecessarily time consuming and unable to meet his needs.”

“My daughter was having up to eight fits lasting up to seven minutes each. She went to bed at 8:30pm but she was so exhausted after her seizures in the morning that she wasn’t getting enough sleep. It wasn’t fair to wake her up at 7am and expect her to go to school when she really just needed to sleep. She can now stay in bed later if she needs to and complete all her tasks for the day. If she were at school she would be in grade 5 but she is now working at grade 6/7 level and loves it. She is no longer tired and enjoys her work.”

“My ASD boy was so stressed and depressed after being a “champagne kid” and holding it together at school that he comes home and “pops his cork” and becomes aggressive and has constant meltdowns. This is accompanied with him telling me that he is dumb and stupid and worthless and might as well kill himself. Those words from a 9 year old!!!! Absolutely heartbreaking”

“My son was in a special unit that we moved towns for him to attend. For 18 months he was picked on by older kids who had behavioural issues. He was sworn at, bitten and taught to swear. I feel like the principal and the teacher swept my concerns under the carpet. Eventually, I took him out, lodged the paperwork to home school and eased in. He has made so much progress in the last term, I am so proud and so pleased that we decided to home school.”

Many children have multiple special needs. Where children have multiple special needs, parents have reported to the HEA that the ability of schools to provide an appropriate learning environment is diminished. For example, while there are speciality classes in the state school system in some

locations for children with a severe hearing impairment and speciality classes for children with autism, there are no classes for children with both a severe hearing impairment and autism. In another example, a child may have severe cerebral palsy and high intelligence but their physical disability prevents them from being able to be taught in a mainstream class and the classes for children with severe physical disabilities may not provide the intellectual stimulation the child craves.

“Our son has a severe hearing impairment and was originally in a support class for deaf students. He was also diagnosed with severe developmental delay and was eventually diagnosed with autism. Applying the best methods for teaching our son was difficult. He required a total communication approach for his language, but the normal approaches for teaching deaf children were not working, he needed the methods of autistic classes. After many meetings between the class teacher, the head of the support unit, our family social worker, the Central Coast disability co-ordinator for the Dept of Ed and ourselves, we were told that we needed to pick our son’s primary disability and he would be placed accordingly. It was evident that there was no acceptable solution in the school system so we withdrew him to home educate. As with all home schoolers, we had good days & bad but overall we had success. So we haven’t looked back.”

Some families determine before their child is of school age that the school system will not work well for them and they start home educating from the beginning. For example,

“As my daughter has a May birthday she could start school at 4 yrs 8mo or 5yrs 8 mo. From age 3-6 years she had crippling separation anxiety. When the 2011 school year started (and she was 4) she had already met all of the Early Stage 1 and some of the Stage 1 outcomes but she could not attend school because of the anxiety. We decided to home educate. At home she follows her own interests and is able to learn at her own pace and she continues to work above “grade level.” She no longer has separation anxiety but there is still enough other anxiety that I think she would not thrive and would likely go backwards in a classroom environment. Her anxiety does not impact her learning at all with home education.”

It is extremely common however, for children to have been at school and for children to have been failed by the system. By the time such parents contact the HEA they are often quite desperate. Most are coming from a very low knowledge base of home education because they had not planned to

home educate. Parents are also often exhausted by the battle they have faced with their child's school. Some families might choose distance education for their child (at least initially) if that was an option that was easily available. However, currently access to distance education in NSW requires the approval of Department of Education employees who may have a history of conflict with the family and may also disagree that distance education is a good option for the child. For example,

"I have a child with special needs where the school cannot accommodate his needs (needs one-on-one direction). His teacher and the supervisor agree that distance education or home schooling is the best option but the Department of Education representative will not allow the school to make the statement needed for distance education. He uses the social argument. He states that many are in the same position and that in his opinion its best for the child's education to be disadvantaged in school than to be better educated but socially disadvantaged at home."

Children are often deeply traumatised by their negative experiences with schooling. Many children have learnt in school that they are stupid and incapable of academic success. Many have also been severely bullied and are evidencing symptoms of trauma in anxiety, depression and self-harming behaviours. Parents commonly feel that their concerns about their children are not taken seriously. Children may also not have a recognised disability or special need but they may be different from other children and thus find the social aspects of school difficult and be subject to bullying and ostracisation. For example,

"My child had suffered from chronic and escalating violence and bullying at school and this, combined with his learning disabilities and social isolation, had left him severely traumatised. He was suffering from severe anxiety and felt ill all the time. He would spend the afternoons and the evenings in a state of misery, thinking about having to go to school the next day. Things got so bad that he began to self-harm, smashing his head against walls because he felt so completely distressed. It was in desperation that I decided to try home education. It took my child at least 6 months just to be able to wake up in the morning without dread of thinking he had to go back to school. It took 6 months for him not to feel sick at the thought of having to socialise with other children after having been severely bullied and isolated from other children for so long. It took that long for him to really recover his sense of joy, by just being able to spend every day without fear, without feeling that he was stupid, without feeling so alone and lonely and sad. That first 6

months we spent doing a very small amount of actual 'school work' and a very large amount of hard work healing all of the deep emotional wounds that had been inflicted in the previous 3 years. After 6 months we were able to get started on doing some school work. My son went from not being able to read at all to reading fluently by the end of our first year of home education. We had been able to proceed with his learning at the rate that worked for him, there had been no pressure and the one-on-one teaching tailored to his needs had worked."

"My child has lost 2/3 of her hearing. Every year I would talk to the teacher about all the ways they could help her cope better in the classroom. I gave them written information to help. In 5 years of schooling my daughter was constantly confused as she wasn't being communicated to. She fell so far behind and was very lonely at school. She was accused of "cheating" (deaf children learn by copying and following). She was punished for not following instructions and not allowed to eat when the other children did. She was forced to complete work on her own with no idea what to do. She had 2 hours of help each week but was taken out for this help during fun activities like art. I am so very very disappointed in how my beautiful girl got treated...so many more things I could say but she still closes down now when we talk maths. For a year she would cry if we did maths. Lots of repair work needed I'm afraid."

It is the experience of the HEA that home education can provide a fantastic education for children who have special needs. Home education allows for the tailoring of the educational program to the individual child's needs, it allows for one-on-one teaching, it allows for strengths to be encouraged and weaknesses to be compensated for. In some cases special needs that constituted a severe disability in a school are unimportant in the home education environment. For example,

"I chose to home educate my child from year 1 as I realised he was struggling to learn to read and felt that he needed one to one attention in this area. It took him about 5 years to become a competent reader but that was no impediment to his overall education. He is now 15 and on track for tertiary study with a healthy self esteem. I believe that home education gave him the opportunity to learn at his own pace and in his own time without the pressure of tests and the comparison to others. To me, home education is nothing short of a miracle."

Probably the most important factor in the success of home education for children with special needs is that the facilitator of the child's education is someone who loves them deeply, knows them intimately and is committed to their long-term wellbeing, success and happiness.

The success of home education in meeting the child's needs is evidenced in the outcomes of home education. Families very commonly observe that children's medical condition improve dramatically after home education is started. It is extremely common for children who had been medications for psychological or behavioural issues to be able to eliminate or reduce their medication. For example,

"My son suffers from a life threatening condition. He required about 6 weekly admissions when he attended school and even when his big brother and twin sister were still at school and bringing home illness. Since bringing him and his siblings home he has not needed medication for his condition and has avoided hospital all together. This has made a huge difference in his quality of life."

"My son was on dexamphetamine from Year 3 until recently. Earlier this year, (15 months into homeschooling and 7 years of taking the medication), after adopting more of an unschooling approach, we have been able to stop the dex as his aggression and anxiety have totally subsided."

"My son was heavily medicated while at school for both psychological and medical conditions. During an attempt to reduced his medications, we were directly told by the school that if he was not put back onto the medication he would not be permitted to attend school. Within 6 months out of the school system we were able to completely withdraw the need for one medication. Within 12-18 months we were able to reduce or in some cases eliminate medications related to his medical conditions as the reduction in stress allowed his immune system to heal itself. His stays in hospital also dramatically reduced, he hasn't had more than an overnight stay in 3 yrs. Previously he would be in for weeks at a time, particularly over May-October when it might be months. He now has not even an eighth of the medications he used to take. Within the school system we were constantly having to increase his medications to manage his psychological and medical conditions."

Children who were failing academically at school or who were pre identified with a learning disability also perform well during home education and so move onto further study and employment. For example,

“We were told by our son’s pediatrician when he was 7 that with his memory processing skills there was no way he would manage in the school system. Fast forward to now, he is 16 and has just been accepted into a Diploma course in IT at TAFE and he also managed to get himself a job after 1 day of work experience in an IT business.”

Home education and children’s interests

Home education may provide the best option for some children for reasons unrelated to a special educational or physical special need. Home educated children may have particular interests that home education facilitates. For example, children may be training for a sport, ballet, acting or dance and benefit from the flexibility that home education allows. Home education can allow parents to ensure that neither their overall education nor their commitment to their passion suffers. As described by parents,

“My daughter is an elite swimmer training twice a day 6 days a week and competing at a national level. Because she is home educated she is able to fit her school work around her training, appointments with her psychologist, dietician and physiotherapist as well as trips away for competition in a way that she could not do if she were at school.”

“Our 11 year old son was able to develop his natural talent in the performing arts from a young age through a home school drama, dance and choir group. This allowed him to excel to the point of a successful audition as Young Simba in Disney’s the Lion King. The flexibility of home education allows him to put all his focus and energy into giving his best performance as Young Simba in every show. He’s able to have a rest and prepare for the late evening shows of an afternoon. He is mixing with and learning from actors from all over the world on a daily basis, so he isn’t being prepared for the ‘real world’ but instead he’s in it! His fellow adult actors have commented on numerous occasions how articulate, confident, polite and dedicated he is, which I believe is a direct result of home education. He’s a very responsible, independent learner, due to always being home educated, and his learning program is tailored to his needs and learning style. Being home schooled allows him the freedom to be himself.”

Home education and travelling

Home education also provides the opportunity for children whose families are travelling to experience learning in context. Families travel for extended holiday, for a lifestyle choice or because their work requires it. Families find the travelling environment an excellent environment for home education as it facilitates the ability to learn in real life contexts. For example, families can study the marine environment while visiting the Great Barrier Reef or the exploration of Matthew Flinders and Nicolas Baudin while visiting Kangaroo Island or Aboriginal culture while at Uluru. Books, films and role plays are a poor replacement for the real thing! As one mother describes,

“We’ve been on the road for six years. We started with distance ed, but are now home schooling (so much better!). The freedom and the life experiences that are kids have you will never get any other way, even home schooling in a house. It is amazing. History first hand, science is everywhere, culture, socialising. We are a very inquisitive family and we all love learning so this helps.”

Unfortunately, BoSTES does not agree that the travelling environment is suitable for home education and refuses to register families who are travelling for any longer than school holidays, despite there being no such restriction provided in the *Education Act 1990*. Thus, most families who are travelling either hide this fact from BoSTES or are unregistered.

Home education and the “average” child

The benefits of home education can be particularly evident for children with special learning needs. However, even children who are “average” in terms of learning, health and experience can benefit from having their education individually tailored and facilitated by committed parents. As described by parents,

“Home education allows children to enjoy learning, follow their own interests, retain their unique qualities and choose their own path. I decided to home educate my son, now 20, because as a teacher I was aware of the limitations of schooling in providing individualised learning. It worked for him. He has developed a good self esteem, a strong character, a mature attitude and good relationships with his four younger siblings. He has gained three TAFE qualifications and a degree in IT and has been in full time employment as an ICT support technician in a school for 18 months.”

“My son, who is 7, has no diagnosed conditions but since he has come home to home-school he is a completely different child. He is calm, polite, inquisitive and

laughs more. Many people have seen the difference and have said to me that I should keep this up, it's great for him!"

Conclusion

Home education is demonstrated to be capable of meeting the educational needs of children with a wide variety of needs. The HEA would support action to better support the educational, emotional and social needs of children in government and non-governmental schools. However we would also urge the committee to consider that it will always be difficult to accommodate the needs of all children in schools and that families who choose to home educate (especially because school was inadequate or harmful for their children) should not be punished by the system for doing so. Furthermore, that home education can provide an excellent education for children who have special needs as well as those who have no special needs should be recognised.

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Table – Different modes of education

	School	Distance Education	Home Education
History	Relatively recent phenomenon – in Australian legislation introduced in all states by 1895 for universal, compulsory schooling.	Most recent phenomenon, though ‘school of the air’ existed since late 1940s.	Most enduring educational form. Existed prior to school, continued with people who learned at home with ‘governesses’ and/or in remote locations. Resurgence since 1970s across Anglophone world.
Place in system	Dominant approach to education; most recognised, supported, and resourced by Government and community.	Accepted as a good approach to meet the needs of children who can’t attend schools.	Least understood, visible, accepted, resourced approach to education by Government and community.
Pedagogy	Subject and topic segmentation; carrying multiple students through common content. Least flexibility and tailoring of pedagogical methods.	Subject and topic segmentation; working single students through common content. Moderate flexibility and tailoring of pedagogical methods.	Highly flexible – responsive to the learning needs and interests of the individual. Able to take opportunities that present themselves.
Values	Accommodates the broadest group values (public school secularised) and pro-social values, but system directed towards competitive individualism. Individual learning; competitive advancement.	Provides a bridge between collective values of school system and those of family. Can accommodate collaborative learning; competitive advancement.	Most highly informed by the values and priorities of individual family, but least focused on competitive individualism. Collaborative learning; collaborative advancement.
Student experiences	Radically variable – embodies the best and the worst of children’s childhood experiences. Research shows bullying, isolation, trauma, drugs and alcohol, violence are common.	Little understood in terms of student experiences.	Least understood from a research perspective. Highly supportive, safe and enjoyable student experiences from scant research and anecdote.

Parent experiences	Relinquish responsibility for education to an external provider. Least control over content, student experience, and safety.	Retain responsibility for education and learning environment. Relinquish control over content and assessment.	Retain responsibility for education, environment, content, assessment, and child/student experience.
Educator/teacher experiences			'Learning as you go' in the early period. Greatest satisfaction over time.
Socialising	Horizontal – same age peers arranged for learning and break-time interactions. Highly artificial arrangements.	Vertical – siblings can be together while learning and interacting during breaks. Relatively artificial arrangements.	Vertical – siblings learning together; group learning activities not arranged by ages but by interests. Social interactions highly flexible and reflect interest rather than age-based demarcations. Most similar to post-'school' interactions.
Supporting diverse (dis)abilities	Often experienced as disabling; difficult to address specific needs of individual students; requires diagnosis to access specific programs	Can accommodate learning needs but curriculum set externally.	Completely adjustable to learning needs of student but access to resources limited on a user-pays basis.
Assessment approaches	Group based; external criteria; standardised; assessed by teacher (separate from parent)	Standardised; individually based; assessment by teacher (separate from parent).	Designed to meet needs of parent/child; limited access to external assessment processes.

Introductory statement

In order to understand the similarities and differences between school education, distance education and home education it is necessary to consider the historical, philosophical, systematic and methodological dimensions of each of these educational options. Such consideration will assist those who are unfamiliar with the systems to understand the means by which home education can meet children's educational and wellbeing needs.

Underpinning Philosophies

School

In NSW, as well as other states of Australia, public schooling is provided on the principle of universal provision as indicated in *United Nations Convention on the Rights of the Child*. It is also enshrined in the *Education Act 1990* which states “the principal responsibility of the State in the education of children is the provision of public education”. The State provides a common, secular education system designed to provide for ‘anyone who comes’. Parents have some capacity to choose the schooling system their child attends, but this is limited by availability of preferred model and ability of parent to pay for different models. Parents are described as partners in the process of a child’s education (see, for example, MCEETA)⁹⁰, but have no control over content or methods.

State-provided schools and state oversight of other school systems seek to ensure public promulgation of a common values base, as well as seeking to achieve a general level of educational quality as the country’s future economic and social capital is seen to depend upon this.⁹¹ In recent times education has become a ‘national priority’.⁹² A feature of this move has been to argue for greater support for diversity and social equality, however, achieving this goal has proved problematic.⁹³

Distance Education

Distance education is also founded on the principle that States are responsible for ensuring access to education for all students (as above) and in NSW distance education is provided almost exclusively via the government school system. Distance education in NSW provides access where physical or personal impediments exist to attendance at a physical school. In NSW, distance education is only available to students in situations of physical isolation or where serious medical or other issues make school attendance undesirable or impossible. Eligibility for distance education is determined by the Department of Education and Communities. Access is often time limited, with the goal being to return children to normal schools as soon as possible.

⁹⁰ MCEETA, Ministerial Council on Education, Employment, Training and Youth Affairs. Melbourne Declaration on Educational Goals for Young Australians. Melbourne; 2008.

⁹¹ Varnham S, Squelch J. Rights, responsibilities and regulation – the three Rs of education: a consideration of the state’s control over parental choice in education. *Education and the Law*. 2008;20(3):193-208.

⁹² Lingard B. Policy borrowing, policy learning: testing times in Australian schooling. *Critical Studies in Education*. 2010;51(2):129-147.

⁹³ Lingard B. Policy borrowing, policy learning: testing times in Australian schooling. *Critical Studies in Education*. 2010;51(2):129-147.; Francis B, Mills M. What would a socially just education system look like? *Journal of Education Policy*. 2012;09/01 2012;27(5):577-585.; Connell R. Just education. *Journal of Education Policy*. 2012;27(5):681-683.

Home education

Home education embodies the legislative principle, and human rights perspective, that the education of a child is primarily the responsibility of the parent. For example, the *Universal Declaration on Human Rights* states that “Parents have a prior right to choose the kind of education that shall be given to their children” and the *NSW Education Act 1990* states “the education of a child is primarily the responsibility of the child’s parents,”. Home education is available to parents who choose this option and have the ability and means to educate their children.

Distinct aspects of these approaches

School

Structures

Mortimore⁹⁴ identified that, in general, schools around the world have some common features. These include age-based stratification of learning groups and socialising, subject-based segmentation of content, and time-delineated learning days. Whilst this formula is not without exception (for example the ‘schools without walls’ approaches of the US and UK in the 1970s)⁹⁵, it is sufficiently common to generalise. This is roughly as things have been since Edwardian times.⁹⁶

Currently, the State makes a substantial financial contribution to education. In the 2014-15 financial year education will be provided 21% of the NSW state budget. Specifically, expenditure on schools will total 11.7 billion dollars, \$1 billion of which will be directed to non-government schools.⁹⁷

Methods

In schools, children are taught in classes with other children of essentially the same age (horizontal age grouping), but potentially different abilities and learning styles. Teachers’ educational practices are adapted to fit these circumstances and to accommodate these factors. Teachers need to plan lessons to teach concepts to large groups and employ classroom management skills in order to manage large groups of children.

Children’s education is based on principles of stepping stones and standardised progress – i.e. basic skills are meant to be mastered before moving on to more complex skills. Learning experiences are managed so as not to expose students to particular content before they are deemed as being able to

⁹⁴ Mortimore P. *Education Under Siege : Why There is a Better Alternative*. Bristol: Bristol : Policy Press; 2013.

⁹⁵ MacBeath JEC. *Education and Schooling : Myth, Heresy and Misconception*: New York Routledge, 2014; 2013.

⁹⁶ Mortimore P. *Education Under Siege : Why There is a Better Alternative*. Bristol: Bristol : Policy Press; 2013.

⁹⁷ <http://www.budget.nsw.gov.au/>

achieve the specified learning outcomes from those experiences. In theory, children's learning needs are meant to be catered to; in practice, however, children are often progressed through grade levels without having achieved basics, or prevented from progressing beyond their specified grade outcomes. This is because they are expected to be exposed to specific curriculum outcomes at specific stages, regardless of whether or not they are ready, or have long since mastered such outcomes. Exemplifying this point, Willms⁹⁸ noted that unless basic literacy had been achieved by the appropriate stage, students will be left behind as their peers undertake ever-greater amounts of written work in the classroom. Teachers often try to meet these disparate needs, but the constraints of the classroom make it difficult to do so.

Whilst there are distinct programs and even facilities to meet different learning needs, these are limited and provided upon a criterion basis. Therefore, it is not sufficient that students *have* distinct learning needs; they have to meet specific diagnostic criteria to access support funding and in-school programs. Many children who need learning support are ineligible for it and those who qualify may find it insufficient.

Students' progress is monitored by teachers within the course of teaching, using a range of assessment methods; student cohort-based assessment methods are highly standardised. The HSC and NAPLAN are the most common examples. NAPLAN testing has inspired much debate because they can contribute significantly to student anxieties and narrow processes of teaching and , thus negatively impacting on educational outcomes⁹⁹ - a consequence foreshadowed by Lingard¹⁰⁰.

Where student and parent fit in

In school settings, both children and parents have limited input into shaping students' learning journeys. This is despite guiding documents such as the *Melbourne Declaration on Educational Goals for Young Australians* identifying that both parents and students, as well as the wider community, share the responsibility for the educational outcomes of Australia's children.¹⁰¹ Additionally, the HEA draws the attention of the committee to the comments of the *Australian Research Alliance for Children and Young People* which states that:

⁹⁸ Willms JD. *Student Engagement in New South Wales Secondary Schools: Findings from the 'Tell Them From Me' Pilot*. Department of Education and Communities, ed. Sydney, NSW; 2014.

⁹⁹ Wyn J, Turnbull M, Grimshaw L. *The Experience of Education: The impacts of high stakes testing on school students and their families, A Qualitative Study*. Sydney, Australia: The Whitlam Institute; 2014.

¹⁰⁰ Lingard B. Policy borrowing, policy learning: testing times in Australian schooling. *Critical Studies in Education*. 2010;51(2):129-147.

¹⁰¹ MCEETA, Ministerial Council on Education, Employment, Training and Youth Affairs. *Melbourne Declaration on Educational Goals for Young Australians*. Melbourne; 2008.; Varnham S, Squelch J. Rights, responsibilities and regulation – the three Rs of education: a consideration of the state's control over parental choice in education. *Education and the Law*. 2008;20(3):193-208.

“While research supports the notion that parental engagement may positively impact student academic attainment, there is an important distinction between involving parents in schooling and engaging parents in learning; it is the latter that has shown to have the greatest positive impact. While involving parents in school activities may have an important community and social function, the key to facilitating positive change in a child’s academic attainment is the engagement of parents in learning outcomes in the home”¹⁰²

This statement provides an excellent description of the sine qua non of home education.

Children who do not easily fit within a school and classroom environment struggle to learn and thrive (for example gifted children, who may be several years in advance of their age peers academically; children with learning difficulties). Many teachers adapt programs and manner of presentation, but some children require one-on-one tuition to learn. This is not possible in the school setting.

Illustrating difficulties with the school system, especially to meet the specific learning needs of a student, one parent described,

“We left mainstream school because I was being told if my child is happy I should be happy as she was never going to learn a great deal. However she was not happy and I was constantly at the school trying to help and provide assistance to her aids. They did not understand her condition and her needs at all. In year 3 the teachers were claiming [she] needed to grow up and have less help; they made it difficult for me to help her. Then, even though she was not up to year 3 level work they claimed she was in year 3 and had to be exposed to year 3 work. Her schooling deteriorated further; her confidence plummeted; the isolation from other children became worse; she was made to sit for assemblies under the loud bell, etc. She did not react at school but retreated into a shell, and the teachers would say she was fine. But at home She started having two hour horrific meltdowns every afternoon; seizures increased. She was a very stressed unhappy child.”

¹⁰² Emerson L, Fear J, Fox S, Sanders E. *Parental engagement in learning and schooling” Lessons from Research*. Canberra: Australian Research Alliance for Children and Youth (ARACY) for the Family-School and Community Partnerships Bureau; 2012.

Distance Education

Structure

Distance education is provided by both state and (uncommonly in NSW) private providers and is designed to accommodate the needs of those students who, due to distance or health needs, cannot attend a physical school. Distance education also provides curriculum (subject) access for geographically isolated schools.

Students enrolled in distance education are provided with materials from the school in which they are enrolled, complete work on an ongoing basis, and are in regular contact with a teacher who monitors the student's progress and undertakes further task development. Students are required to attend fifteen days of face-to-face learning sessions each year.

In NSW, a child needs to fulfil certain criteria before s/he is able to be enrolled in a Department of Education distance education school; it is considered to be a temporary option unless the child lives at too great a distance to attend a bricks-and-mortar school. Therefore, for those students who do not fit well within the school system, public distance education is not a permanent solution. Private distance education is relatively uncommon in NSW and may be financially or philosophically prohibitive – more than one family has informed the HEA that they withdrew from distance education providers due to an increase in fees due to increased regulatory requirements.

Funding for distance education within the public school system is provided by the NSW government. In 2011-12 financial year \$68 million was allocated for provision of that educational option.¹⁰³

Methods

Distance education is based on delivery of 'school-like' content – e.g. subject-based segmentation and a heavy reliance on written work. Of the three educational streams discussed, distance education falls in the middle in terms of flexibility-rigidity. However, although it affords more scope to adjust learning methods to meet the needs of individual students, ultimately its flexibility is dependent on the flexibility of the teacher and the child and parent have less control over lesson content and delivery style. The pedagogical preferences and the ideological perspective of the parent are positioned similarly as they would be in a school setting.

Where student and parent fit in

Distance education requires a large commitment from the parent in delivery of the content but the parent is not in control of the monitoring and ongoing planning. The parent and the

¹⁰³ Department of Education. Equity and special education programs in schools: 2011 to 2012. Sydney, NSW: Department of Education and Communities; 2012.

student are both subject to the direction of the teacher attached to the school in which the student is enrolled.

Distance education schools are well resourced, providing materials to families that might otherwise be prohibitively expensive; because they also provide the lesson materials ready to use, time can be saved on preparation, leaving the parent to focus on delivery of those materials. Furthermore, some distance education teachers are willing to include other (parent- or child-initiated) activities in the child's program. Nevertheless, distance education continues some of the constraints of the classroom. Although, distance education students are enrolled in a school the HEA also considers distance education to be a type of home education.

Following are some personal accounts of distance education:

"Mainstream school was horrid for my daughter and it took earth moving equipment to get through the process to enrol for distance ed. Since then, though, we have not looked back. We were very lucky with our first year at distance ed, having a wonderful, understanding teacher. I did send a lot of information once we were admitted to help with [my daughter's] limitations, where she was at in schooling, and my opinions. The work is an amount however we do it at our pace and send back when completed. We do much more than she ever did at school however we are a lot slower than the average child to complete work."

"The teachers are supportive and understanding when we run into problems and are always available to help. Our teacher rings once a week and listens to her reading and they talk about what she has been up to and help with any school work. We are in year 5 however each subject we do is at our level so we don't miss out on parts, which was a huge part of what was happening in mainstream."

"The distance school provides all resources with helpful materials for parents to deliver the lessons, as well as Skype/phone sessions. So far I have found the distance ed school supportive of his special needs; although as he is meeting outcomes they are possibly not as concerned as if they thought he was behind."

"Distance Education also provides much more flexibility than normal school - not being tied to the school bells means that school work can be completed at the times that work best for the child and there are choices about the order that work is done so a child who needs lots of short changing lessons can do that whereas a

child who prefers to work on something till it is finished can spend a day doing all the maths for the week for example and then focus on something else on another day. Distance Education also means that there is more time available for learning from real life contexts such as shopping and no need for homework to be completed after the end of the school day.”

“Distance education still focuses a lot on written work although does allow for things like photos and videos to be used as evidence - probably much more so than a normal school.”

“It's formulaic, doesn't take into account the child's interests and strengths. It's heavily paper based although my understanding is that they are moving towards/trailing delivering curriculum via email. The reporting back process is incredibly onerous and time consuming. Topics/units of work were not engaging and there were a lot of fillers in terms of activities.”

“Distance education was too restrictive, too time consuming”

“We were on the road for 18 months. Distance Education was HELL, we had to cart round 3 big boxes of materials, hand in work every 2 weeks (or you go "on the list") you can't travel too far each day (maybe an hour or 2) because the workload is so huge. Not to mention the mess around getting mail etc and with my son he had to do online lessons (like school of the air) so we HAD to be in internet range.”

Unfortunately, however, the HEA has also heard of situations where the inflexibility of distance education teachers ensured that difficulties faced in school were perpetuated.

[Home Education](#)

Structure

Home education involves one-to-one or small group learning, use of diverse pedagogical philosophies and strategies, and parental commitment to, and responsibility for, each child's education.¹⁰⁴

¹⁰⁴ Jackson G, Allan S. Fundamental elements in examining a child's right to education: a study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

In NSW students are legally required to be registered for home education as outlined in the NSW *Education Act 1990*. The Act requires that registered home educators deliver courses of study that are based on approved NSW Syllabuses, although pedagogical methods are not prescribed. This is discussed in detail later.¹⁰⁵ Beyond the minor costs of administering the registration of home educated students, the NSW government does not provide any funding to this educational sector.

Methods

Home education differs significantly from school. Home education takes place in the family context, is usually embedded in community and children's learning is individually tailored. There are many home education approaches, as shown in the table below. Home education is the most flexible educational stream discussed here. As with other educational options (school and distance education), a range of means can be employed to display or consolidate a home educated student's learning. These may include conversation, writing, art and technology. Distinct from other methods, however, home education can provide these on a student by student basis, in a continuously evolving timetable, rapidly taking advantage of learning opportunities that present themselves.

There are numerous ways to practice home education – perhaps as many as there are home educating families. This is probably in part because home educating parents tailor the experience of learning to the needs of each child and, by extension, to the needs of their family.¹⁰⁶ Allan and Jackson's¹⁰⁷ brief summary of the main pedagogical approaches employed by home educators is included here:

Approach	Description
Structured Approach	A structured curriculum that prescribes textbooks, study schedules, grades and record keeping is followed. Some families make up their own lesson plans and find their own learning materials. This approach may be more akin to school depending upon the 'teaching' and study methods adopted by the home educator(s) and children. Children however are not limited to studying in one location, and may utilise libraries and other community facilities outside of the home.
Unit Studies	Unit studies focus on what a child is interested in and then tie that interest into subject areas like math, reading, spelling, science, art, and history. For example a child who is interested in space might study the history of space travel, read books and do art projects on the solar system, visit science

¹⁰⁵ (c)(iii) Regulatory framework for home schooling including: adherence to delivery of the New South Wales Syllabuses

¹⁰⁶ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.; Harding, T. J. A. (2011). *A Study Of Parents' Conceptions Of Their Roles As Home Educators Of Their Children*. Queensland University of Technology, Brisbane.

¹⁰⁷ Jackson G, Allan S. Fundamental elements in examining a child's right to education: a study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

	museums and space communications centres, and learn about the physics of rockets.
Classical Approach	Classical education depends on a three-part process of training the mind - grammar, logic and rhetoric are taught as tools that students can use to master every other subject. The early years of learning are spent in absorbing facts, systematically laying the foundations for advanced study. In the middle grades, students learn to think through arguments. In the higher years, they learn to express themselves. Classical Education is language-focused; learning is accomplished through words, written and spoken, rather than through images (pictures, videos, and television).
Charlotte Mason	Charlotte Mason's approach was to teach basic reading, writing and arithmetic skills and then expose children to the best sources of knowledge for all other subjects. This included nature walks, visiting art museums, reading real books with 'living ideas' (books which made the subject come alive rather than textbooks). Children are involved in a broad spectrum of real-life situations and given ample time to play and create. They are also taught good morals and habits. Children are encouraged to 'tell' what they have learnt through writing, art, and performance.
Unschooling/Natural Learning	Unschooling refers to a range of educational philosophies and practices which posit that children should be allowed to learn through their natural life experiences. This includes child directed play, game play, household responsibilities, and social interaction with people across age ranges in a variety of settings. It is opposed to conventional schooling and following structured curriculums or teaching. Exploration of activities is child led, facilitated by the adults.
Eclectic Home Education	As the name suggests an approach that combines other approaches including those above and/or a 'blended learning' approach which may involve part-time school attendance, accessing distance education courses, or 'e-learning' using a variety of educational programs available on the internet.

To this list, the HEA adds immersed experiential learning (what has been described as “hack schooling” which can involve activities such as developing a micro-business, undertaking work experience and/or volunteering on community projects.¹⁰⁸ These experiences may allow broad curriculum areas to be covered, as well as developing self-directedness, responsibility and knowledge of external systems that must be navigated in post-‘school’ life.

¹⁰⁸ <http://tedxtalks.ted.com/video/Hackschooling-Makes-Me-Happy-Lo;search%3A/>

As discussed previously¹⁰⁹, travelling is one way that immersed experiential learning can be implemented. In a natural learning framework, the processes of travel, and every site visited, are learning opportunities. In addition, locations can be visited purposefully. For example, a family travelling in Australia can visit the Great Barrier Reef. In addition to ‘learning’ about its wonders from a distance using books, documentaries, discussions, literature, etc. a home educated student who is travelling can embed those understandings through being at that site. Travelling presents multi-dimensional learning opportunities in its own right, while not limiting coverage of other content or subject unrelated to any specific site. Again, as discussed previously¹¹⁰, children with specific interests (a child with passion for an aspect of science such as robotics, for example) and children with commitment to a specific talent (for example, elite sports or performance) are highly assisted by home education. Its inherent flexibility can accommodate training or practice regimes, as well as it being portable enough to be undertaken in different locations (for example, while a child is travelling for sports competitions in different locations).

Additionally, some parent-educators engage in intentional processes of ‘deschooling’.¹¹¹ These may be ongoing (as an overall educational philosophy and method) or short-lived. In the latter situation, deschooling refers to the time it takes a child who is removed from school to adjust to the different learning environment home provides. This can include initial recovery from trauma, followed by regaining self-motivation and self-direction.

All of the above educational methods incorporate “purposive conversations”¹¹² or “conversational learning”¹¹³ as an integral component of the educational process. Not only does this provide a supportive developmental process, but it builds increased relationship between those people involved and allows parents to continually assess their children’s grasp of content and concepts.

In the course of developing this submission a survey of 236 home educators in Australia (175 of whom were from NSW) was conducted. Among other elements, participants in this survey described the approaches they used for home education. The collated table of their results is provided below. This shows the diversity of methods applied within families. An important consideration to note is

¹⁰⁹ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

¹¹⁰ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

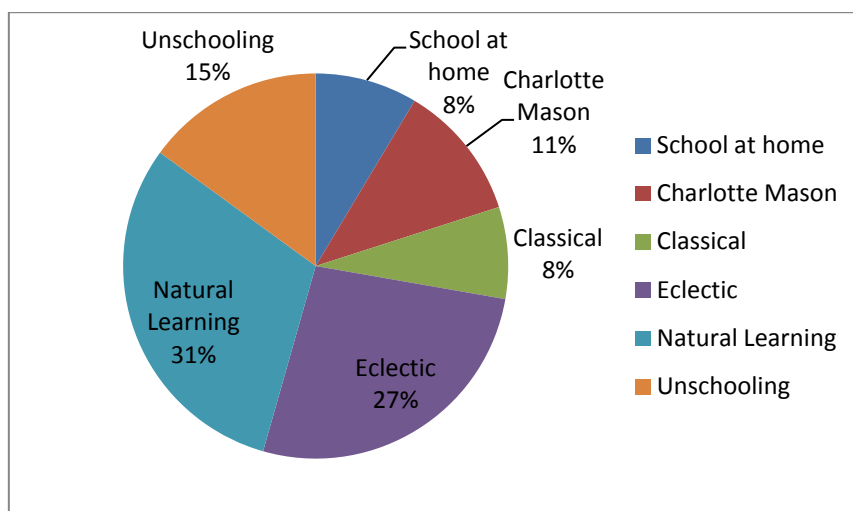
¹¹¹ Illich I. *Deschooling society*. New York: New York : Harper & Row; 1971.

¹¹² Cardinale BR. *Secrets of their success: A multiple case study of mathematically proficient homeschool graduates*, Liberty University; 2013.

¹¹³ Jackson GM. *‘More than one way to learn’: home educated students’ transitions between home and school*, Faculty of Education, Monash University; 2009.

that some families employ a number of diverse methods for different children because each child responds to different educational methods.

One survey respondent said, for example, *“Each child's learning is approached differently in our home”*. Another reported of their approach *““Child Led”, we approach each subject open to whichever style of teaching and learning will suit that child in that subject area. This changes from child to child and subject to subject. I look at the child to see what suits them, and adjust myself to suit”*.



Some families use different approaches for different ‘subject’ areas. This highlights a particular difference between school and home education where methods may belong to a particular school of thought (e.g. Montessori, Steiner, or ‘school’) but are generally not mixed and matched to suit particular children’s needs, interests, styles or temperaments. In research examining trained teachers’ experiences of home education in NSW, Croft¹¹⁴ identified home education’s positive flexibility to adapt to the learning needs of individual children.

In the experience of the HEA home educators often start out using more structured methods of home education and become more flexible as they become more experienced and confident. The home education experience of survey participants is shown below.

Where student and parent fit in

Home education requires an enormous investment of time from parents. As described earlier¹¹⁵, it also involves a financial commitment, which can be as large as affordable for each family. At the

¹¹⁴ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

¹¹⁵ (b)(ii) The current context of home schooling in New South Wales including: financial costs

same time, parents identify that being present as children progress through learning experiences and reach educational achievements is a substantial reward for those efforts.

Home education is flexible and more easily tailored to individual learning needs than education provided in a class of students; as a result, students often experience home education as experientially preferable to school¹¹⁶ and a conducive environment for learning.¹¹⁷ This is particularly beneficial for students with disabilities (see, for example, Kidd and Kaczmarek, and Reilly).¹¹⁸ For example, a dyslexic student, whose learning is often made difficult by the amount of reading and writing required in schools, can find other ways to access materials and demonstrate learning – audio books, documentaries, verbal presentations, and so on. Although the child may still be required to read, write and spell, this need not encompass most of his/her day, thus helping to preserve his/her self-esteem as a learner and improve the processing of what is studied (Allan and Jackson 2010). A child with ADHD need not be still all the time and a child on the autistic spectrum can have a learning environment that reduces anxiety, which would otherwise be experienced in a school setting.¹¹⁹

Thus, as stated, flexible, student-specific educational strategies meet the needs of students with disabilities. 'Deschooling,' as stated above, can be essential for children who have been removed from school due to experienced trauma or school failure and associated loss of self-esteem. This allows those students to be given ample time to regain a sense of themselves as competent learners and thus improve self-esteem; rediscover their interest in learning (which doesn't have to happen in a school-like manner); and improve mental health. It usually takes a significant amount of time to rebuild these vital capacities after a child has experienced bullying (and sometimes associated suicidality) or school failure. In practice, this takes months, but without it very little real improvement can be made.

Socialising in a home education setting can be extensive. This can be specifically for educational activities or as part of life in general. Examples of 'social' learning activities might include group-

¹¹⁶ Meighan R. Home-based educators and education authorities: The attempt to maintain a mythology. *Educational Studies*. 1984;10(3):273-286.

¹¹⁷ Jackson G. 'More than One Way to Learn': Home Educated Students' Transitions Between Home and School: Faculty of Education, Monash University; 2009.; Jackson G, Allan S. Fundamental elements in examining a child's right to education: a study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

¹¹⁸ Reilly L. *Progressive modification : how parents deal with home schooling their children with intellectual disabilities*, University of Western Australia; 2007.; Kidd T, Kaczmarek E. The experiences of mothers home educating their children with autism spectrum disorder. *Issues in Educational Research*. 2010;20(3):257-275.

¹¹⁹ Duvall SF, C. DJ, Lawrence WD. A preliminary investigation of the effectiveness of homeschool instructional environment for students with Attention-Deficit/Hyperactivity Disorder. *School Psychology Review*. 2004;33(1):140. ; Kidd T, Kaczmarek E. The experiences of mothers home educating their children with autism spectrum disorder. *Issues in Educational Research*. 2010;20(3):257-275.

based lessons provided by home educators, group excursions, family-based activities such as preparation for celebrations (including cooking or 'event management') and externally provided classes such as drama or orchestra. 'Life in general' social activities may include church involvement, sporting teams and clubs, extended family events and participation in hobbies. All of these social activities allow, and are valued by home educating families and children for, 'vertical socialising' – interaction with people from a range of ages and circumstances.¹²⁰

Illustrating some overall distinctions between distance education and home schooling, a parent said:

“Home schooling is able to utilise an even wider range of learning experiences and record them as part of the learning. Even distance education fails to recognise how much learning happens for children during times of play and interaction with the broader society. Distance education tends to be more focused on activities that happen at home whereas Homeschooling can access things from the internet, group classes for things like art and music, often with professional artists who as well as teaching skills can inspire students with their passion. Homeschooling also recognises the learning that can take place by conversing with a wide array of people from the local community whether it be shopkeepers, mailmen, tradesmen, professionals. This enables students to interact with adults from diverse occupations on a regular basis and not only those who are in a position of authority over them.”

Distinctions between the different systems and reported experiences

Current place in educational landscape

School is treated as the norm and as the 'right' method of education except in exceptional circumstances. Distance education is much more acceptable to authorities, but can be difficult to access, is not as flexible in delivery and, most importantly, is not what the majority of home educators choose. Home Education is a marginalised educational option that is not well understood by regulators and policy makers. Prejudice is widespread and conclusions based on those prejudices reached have the potential to negatively affect home educating families.

¹²⁰ Jackson G, Allan S. Fundamental elements in examining a child's right to education: a study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

The misinformation regarding home education is exacerbated by confusing terminology such as ‘home school liaison officers’ (truancy officers) who are employed by the NSW Department of Education to address school attendance issues. In other circumstances, ‘homeschool’ is terminology used in the context of distance education documentation such as *Discussion Paper: A vision for distance learning for the 21st Century* and *A More Connected Future*.¹²¹ Also, the Australian Bureau of Statistics uses the term to describe distance education in the *Year Book, 2012*.¹²²

As discussed in several other locations¹²³, home educating parents express wide ranging views regarding its regulation. Many believe that the State has no place in describing, regulating, or otherwise interfering in their implementation of that responsibility. A small minority believe that the State is entitled to prescribe and review all aspects of the education delivered to home educated children. There are also parents who believe in appropriate regulation and minimal oversight, that identifies that education, broadly conceived, is occurring. The HEA is of the view that this group includes the majority of home educators.

System comparison

Schools and distance education are State developed, managed and implemented.. Outside of the expectations of registration, home education is developed at the level of implementation – parent educators, and often students, develop, manage and implement the educational strategies. This ensures the greatest level of fit-for-child learning activities and fit-for-need educational strategies.

Schools (both public and non-government) and distance education are resourced and supported by the Government, whilst home education is not.

As previously discussed, assessment within schools is ongoing through individual monitoring, class-based assessment and externally assessed through measures such as NAPLAN and the HSC. NAPLAN is used to assess cohort progress and school performance and is linked to the *My School* website. As a part of the school system, distance education also applies these monitoring and assessment tools, though the parent is more closely involved in communicating with the external teacher regarding children’s capacities to complete the work provided. Home educators are responsible for the direct and ongoing monitoring, review and assessment of their students’ progress. This is

¹²¹ <http://www.schools.nsw.edu.au/media/downloads/rde/distanceedu/dediscuss.pdf>;
<http://www.schools.nsw.edu.au/media/downloads/rde/distanceedu/demorconnectf.pdf>

¹²² <http://www.abs.gov.au/ausstats/abs@.nsf/mf/1301.0>

¹²³ (b)(iv) The current context of home schooling in New South Wales including: (extent of and reasons for unregistered home schoolers; (c)(i) Regulatory framework for home schooling including: current registration processes and ways of reducing the number of unregistered home schoolers; (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

undertaken on an hour-by-hour, day-by-day basis, through close interaction and knowledge of the child-learner. Thus, home educating parents know their children's capacities intimately and most see no need to engage in assessment strategies such as NAPLAN. Furthermore, given the nature of the home education population (that is, the percentage of children with learning disabilities or who are gifted and talented), population assessments of home educated children using tools such as NAPLAN would be unlikely provide meaningful information.

Pedagogy

While school-based education is the most highly resourced of the education systems described here, it is also the most constrained or 'bounded'. Under this circumstance, the teacher and educational administrators direct the education provided. Students and parents are required to participate in the system but have little capacity to direct or change it. In each setting the parent is relied upon to motivate, assist children in remaining 'up to speed' with their peers through homework for skill reinforcement, and oversee completion of out-of-class tasks.

Distance education presents a middle-ground regarding degree of boundedness. Through home-based delivery of curriculum, distance education provides an opportunity for collaboration between the parent-learning facilitator and the distance education teacher; the parent is able to offer feedback to the teacher, who is then able (although not always willing) to adjust the curriculum to better fit the child. Distance education can, therefore, provide a flexible curriculum and syllabus delivery. The HEA is aware, nonetheless, of one gifted child who exhausted the (private) distance education curriculum she was following (year 12) by the time she reached the age of 14. She then needed to access other appropriately challenging learning opportunities elsewhere:

'I was registered with a private distance educator. I completed diagnostic tests at age 5 and started homeschooling at Year 5 level in most subjects, aged 6. I finished homeschooling, aged 14, as I felt that the coursework was no longer presenting a challenge to me. I had completed a certificate in Horticulture by distance education and was keen for more tertiary education. I applied to a business and was accepted based on my academic record, which, even though I had not sat an HSC, included High Distinctions in the Australian Maths Competition, Geography Competition and the National Geographic Science Competition, as well as 5 consecutive years' worth of Academic Excellence Awards from the distance educator.'

Home education is the most flexible and unbounded learning approach presented here. It is shaped by the pedagogical approach of the parents and the capacity to access desired resources. As described, pedagogy can range from highly structured ('school at home') to unstructured (unschooling), and from educator-directed through to student-directed. Whilst courses, individual tuition and learning programs can be expensive to access, the prevalence of computers and the internet have exponentially increased access to learning resources in recent times.

Educators

School teachers are trained in delivery of curriculum to large groups and are constrained by classroom management issues and class sizes. In both the school and distance education setting the teacher is the 'expert' with regard to education and each child's learning. Professional teachers have discussed the limitations of teaching in schools; some innovative strategies have developed to improve outcomes for all students. The nature of institutional schooling means that it is the most rigid of the three educational streams discussed in this term of reference and it is worth noting that teachers who home educate have stated that their teacher training can be an impediment to good home education practice.¹²⁴

Distance education teachers are required to be able to assess, review and modify learning on a student by student basis, from a distance. Parents are required to implement, but not develop or assess, the ongoing progress of the student.

'Teaching' at home and in school are particularly different experiences and skills in one do not necessarily transfer to the other. Home educating parents who are trained teachers were interviewed in research by Croft.¹²⁵ They reported that teaching skills associated with managing large numbers of students, and managing school systems, were not required for home education and as such, being a teacher was not a requisite for educating children at home.¹²⁶ Additionally, the teachers in this study found that home education provided opportunities for flexible and individualised learning not available in classrooms. They did not view their teaching qualifications and experience as an advantage to them as home educators and in some cases, viewed it as an impediment.

¹²⁴ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

¹²⁵ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

¹²⁶ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

Home educating parents are more likely to be intrinsically motivated to provide an excellent education for those about whom they care the most (their children). In the current school context teachers find themselves under pressure to avoid poor test (NAPLAN especially) result. These become extrinsic motivators for 'teaching to the test'. It is the view of many educational experts that testing regimes such as NAPLAN don't support best practice teaching. Among other things, they can obfuscate excellent teaching achievements if working with children who are struggling academically. This issue as it is faced by Australian teachers at the present time is described by Hardy and Boyle in relation the *My School* website and other aspects of audit-focused educational development.¹²⁷ These authors contrast this with professional development achieved through self-motivation and peer review, encouragement and support. They proposed that educational practice priorities should be set by teachers on the grounds that they have direct experience of, and investment in, that domain.¹²⁸ The same may be argued of home education. That is, home educators are properly placed to bring out the best in other home educators and to set the agenda for development of home education practice. It follows that Authorised Persons who have no personal investment in home education are not best placed to regulate that practice. This is discussed in greater detail later.¹²⁹

Student experiences

Accounts from various sources have provided evidence that some children and young people experience substantial negative experiences in school settings. These include anxiety associated with test regimes¹³⁰, and wellbeing and trauma issues as a result of bullying.¹³¹ As discussed previously¹³², Bullying is particularly the case for those students with a disability or trait that sets them apart from their peers.¹³³ One parent whose child attended school wrote to the HEA stating:

¹²⁷ Hardy I, Boyle C. My School? Critiquing the abstraction and quantification of Education. *Asia-Pacific Journal of Teacher Education*. 2011;39(3):211-222.

¹²⁸ Hardy I, Boyle C. My School? Critiquing the abstraction and quantification of Education. *Asia-Pacific Journal of Teacher Education*. 2011/08/01 2011;39(3):211-222.

¹²⁹ (c)(i) Regulatory framework for home schooling including: current registration processes and ways of reducing the number of unregistered home schoolers

¹³⁰ Wyn J, Turnbull M, Grimshaw L. *The Experience of Education: The impacts of high stakes testing on school students and their families, A Qualitative Study*. Sydney, Australia: The Whitlam Institute; 2014.

¹³¹ Legislative Council N. Inquiry into bullying of children and young people: report. In: 2 GPSCN, ed. Sydney: NSW Parliament; 2009.; Calvert J. *Inquiry into Bullying of Children and Young People: Submission, NSW Commission for Children and Young People*. Sydney, NSW: Legislative Council, NSW; 2009.; Hong JS, Espelage DL. A review of research on bullying and peer victimization in school: An ecological system analysis. *Aggression and Violent Behavior*. 2012;17(4):311-322.

¹³² (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

¹³³ Kidd T, Kaczmarek E. The experiences of mothers home educating their children with autism spectrum disorder. *Issues in Educational Research*. 2010;20(3):257-275.; Skattebol J, Hamilton M, Skrzypiec G, et al. Understanding children's perspectives on wellbeing. 2013.

My special needs child struggled with maths and fine motor skills. She was screamed at and made to cry by the computer teacher for her inability to use the mouse ... sent to the back of the room for not being able to follow instructions ...

Another wrote:

Our 12 y.o. son was bullied by a substitute teacher when he was in year 6.... He has some aspie traits but not enough to meet criteria for a diagnosis. He cannot cope with being yelled at or loud noises. The school knew this but this teacher spent two full days yelling at the class ...He developed two prominent tics since then and has not set foot into a classroom since then.

Some research has been done regarding out of school education of children with a disability, showing positive results.¹³⁴ This is not only regarding positive experiences but also positive contribution after school. One parent reported to the HEA:

Because I took my daughter away from mainstream school she will now be able to contribute to the community and fit in and lead a fulfilling life. If we continued down the main stream line and just kept her happy as the teachers were saying she would have ended up being on welfare all her life.

The small number of studies that have been completed are usually positive about home education from a children's/students' perspective (see, for example, Allan and Jackson; Jackson and Allan; Ray).¹³⁵ Of particular note, home education allows greater opportunity for development and strengthening of parent-child relationships¹³⁶, which is seen as particularly beneficial for educational outcomes.¹³⁷

Socialising

Compared with schools, home education allows children to have social contact, for pedagogical or non-pedagogical reasons, based on common and interests (and intellectual capacity), rather than

¹³⁴ Reilly L. *Progressive modification : how parents deal with home schooling their children with intellectual disabilities*, University of Western Australia; 2007.; Kidd T, Kaczmarek E. The experiences of mothers home educating their children with autism spectrum disorder. *Issues in Educational Research*. 2010;20(3):257-275.

¹³⁵ Allan S, Jackson G. The whats, whys are wherefores of home education and its regulation in Australia. *International Journal of Law and Education*. 2010;15(1):55-77.; Jackson G, Allan S. Fundamental elements in examining a child's right to education: a study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.; Ray BD. Homeschooling associated with beneficial learner and societal outcomes but educators do not promote it. *Peabody Journal of Education*. 2013;88(3):324-341.

¹³⁶ Croft K. *So You're a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

¹³⁷ Varnham S, Squelch J. Rights, responsibilities and regulation – the three Rs of education: a consideration of the state's control over parental choice in education. *Education and the Law*. 2008;20(3):193-208.

age – that is vertical as opposed to horizontal socialising.¹³⁸ This is notably different from the majority of schools where learning and peer relationships are generally age-segmented. Home educated students learn to interact respectfully with people from wide-ranging backgrounds, as well as of different ages. This more closely reflects socialisation in the workplace than does an age-segmented school setting.

As described by one formerly home educated student,

“Being free to jump right in and start studying university subjects (through OUA) was awesome. Having that experience put me a huge step ahead when I eventually went to study at university full time. Having the opportunity to socialise, work with and build relationships with people of all ages and backgrounds was also of immeasurable benefit. By the time I reached adulthood I already had a wealth of experience working with everyone in the community, from the very young to the very old”.

Home educated children are for the most part not subject to the bullying which is a significant feature of schools¹³⁹, but are simultaneously not shielded from ‘real world’ interaction where general social negotiation skills are required. Home educated children who encounter difficulties with social interactions are able to be provided with individual assistance in negotiating relationships and prompt intervention can be made where problems arise.

Distance education provides the potential for synchronous and asynchronous (i.e. group and individual) educational interactions. Synchronous interactions have the potential to be enhanced through technological connectedness¹⁴⁰ and face-to-face learning at ‘residential’ sessions. Outside of the distance education frame, there are similar opportunities for distance educated students to interact with other children, young people and adults as was described for home educated students.

¹³⁸ Jackson G, Allan S. Fundamental elements in examining a child’s right to education: A study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

¹³⁹ Calvert J. *Inquiry into Bullying of Children and Young People: Submission, NSW Commission for Children and Young People*. Sydney, NSW: Legislative Council, NSW; 2009.; Cross D, Shaw T, Hearn L, et al. *Australian Covert Bullying Prevalence Study (ACBPS)*. : Child Health Promotion Research Centre, Edith Cowan University, Perth; 2009.; Hemphill SA, Tollit M, Kotevski A. Rates of bullying perpetration and victimisation: a longitudinal study of secondary school students in Victoria, Australia. *Pastoral Care in Education*. 2012/06/01 2012;30(2):99-112.; Hong JS, Espelage DL. A review of research on bullying and peer victimization in school: An ecological system analysis. *Aggression and Violent Behavior*. 2012;17(4):311-322.; Legislative Council, NSW. *Inquiry into Bullying of Children and Young People: Report*. General Purpose Standing Committee No. 2, Sydney: NSW Parliament; 2009.

¹⁴⁰ NSW Department of Education and Training. *A More Connected Future: Outcomes of the review of distance education*. Education and Training, Sydney: Rural and Distance Education, Equity Programs and Distance Education Directorate: 2010.

Home education and school education are different

Home education remains a predominantly values-based approach to education (whether these are family, religious or wellbeing values) and as such stands, quite consciously, outside of dominant discourses in contemporary school policy. Home education remains largely uncaptured by the neo-liberal marketisation of education, wherein standardisation, competition, and rankings to inform ‘consumer’ choice substantially shape the nature of schools.¹⁴¹ Where schooling discourse considers education to be a matter of concern for the future prosperity and quality of the nation, home educators consider education to be concerned with the experience of, and consequences for, the individuals involved with an expectation that a positive home education will lead to positive contributions to society.¹⁴²

The current education system in NSW is biased against home-based education as the legitimate option for children. This is reflected through the numerous and restrictive eligibility criteria that apply to distance education and the lack of resourcing or support for home education. It is also reflected in the burdensome and restrictive home education regulatory system which will be described in detail later.¹⁴³ Clear understanding of the nature and distinct elements of home education is compromised by the confusing terminology of ‘home schooling’ and a regulatory regime and legislation that seeks to treat schools and home educating families as undertaking similar tasks and in need of similar assessment and regulation.

Such confusion is unnecessary. The HEA draws the attention of the Committee to the effective disentangling of home education and school education within the *Education Act 2004* (ACT) in both its overall principles as well as the specific principles through which home education is supported and upon which it is regulated. The *Education Act 2004* (ACT) acknowledges the diverse approaches within home education, the commitment of parents and carers to their children’s education and parents’ rights to choosing educational options that best fit the needs of their children. Chapter 5 of the Act states:

EDUCATION ACT 2004 (ACT) - SECT 128

Principles on which ch 5 based

The following are the principles on which this chapter is based:

¹⁴¹ Clarke M. The (absent) politics of neo-liberal education policy. *Critical Studies in Education*. 2012;53(3):297-310.; Connell R. Just education. *Journal of Education Policy*. 2012;27(5):681-683.

¹⁴² Jackson G, Allan S. Fundamental elements in examining a child’s right to education: A study of home education research and regulation in Australia. *International Electronic Journal of Elementary Education*. 2010;2(3):349-364.

¹⁴³ (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

- a. parents have the right to choose a suitable educational environment for their children;*
- b. there is a diversity of religious and educational philosophies held by parents providing home education for their children;*
- c. the diversity of educational philosophies reflects the diversity of preferences of parents for particular forms of education for their children;*
- d. home education is committed to—*
 - i. offering a broad range of opportunities that foster in each child the development of the child's unique spiritual, emotional, physical, social and intellectual being; and*
 - ii. valuing the individual needs, interests and aptitudes of each child; and*
 - iii. preparing each child to become an independent and effective local and global citizen.*

Conclusions

The HEA acknowledges that schools have an important role to play in society; not all parents are able to home educate, nor would all parents choose to. However, for those who do, greater recognition and support should be provided. This should start from the principle that home education is a distinct 'third way' in education.

Home education is the most responsive, flexible, student-focused, educational approach described here. It is the embodiment of the local and international principle of parental responsibility for children's education. It provides a substantially safer learning environment for students than schools. Distance education provides a middle-ground in terms of flexibility, being student-centred and safety, and should also be better supported through recognition as a long-term educational option.

The HEA acknowledges the dilemma of providing a system that ensures equal opportunity for all children in a society (as is a consequence of the principle of universal education), whilst also paying full respect to the principle that "the education of a child is primarily the responsibility of the child's parents," as per the *Education Act, 1990*. The HEA asserts that these are not mutually exclusive considerations and that a more supportive home education environment in NSW would contribute significantly to alleviating concerns regarding home education, whilst strengthening the demonstrable benefits of that educational option.

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Introduction

This term of reference outlines the current steps in the process of registering for home education in NSW, as outlined in relevant BoSTES documents and as experienced by home educating parents. Subsequent to this material, ways in which the numbers of unregistered home educators could be reduced will be discussed.

The HEA recognises that registration processes are designed to achieve the provisions of the *Education Act 1990* regarding home education, which are to ensure that all children who are being home educated are registered and that the education they receive is of a high quality. At the same time, it is important to note that the HEA does not start from the position that registration is the most important aspect of the home education process or essential to ensuring children receive a quality education. However, the HEA accepts that registration is a legislated necessity and as such will undertake to provide the committee with options that are both beneficial to its members as well as achieving the goal of the legislation.

This term of reference intersects with many others.¹⁴⁴ It draws on, and refers to, those other term of reference responses as appropriate and attempts to reduce duplication to the degree possible.

Current registration process – BoSTES

According to the current *Authorised Persons Handbook*¹⁴⁵, the steps involved in the home education registration process are:

- application is received by the Office
- the Office allocates the application to an Authorised Person
- the Authorised Person assesses the application
- the Authorised Person provides a report to the Office with a recommendation relating to home schooling registration
- if registration is approved, the Office issues a certificate of registration to the applicant
- if registration is refused, the applicant is advised and may appeal.

The *Authorised Persons Handbook* further states that the assessment of a new application for home education involves a home visit, the purpose of which is to “*determine whether, based on the evidence available, the applicant has demonstrated that the requirements for registration would be complied with if registration was granted*”. In the case of applications for renewal of registration, a home visit is to occur, the purpose of which is to confirm that, in the previous period, the conditions of registration have been complied with and are likely to be so in the future. The Handbook also requires that the Authorised Person determines that the child’s education, across all key learning areas, is occurring within the home. Any tutoring or excursions are considered ‘extracurricular activities.’ The role of the Authorised Person, according to the *Handbook*, is “*not a consultative or mentoring*” one. In this way, the Authorised Person is directed not to provide information to support or assist the registering home education family.

In order to register a child for home education pursuant to the Act, a parent must apply to the Minister (although the Minister has delegated the entirety of this responsibility to BoSTES). Upon receiving the application for registration the Minister is required to seek the advice of an Authorised

¹⁴⁴ (c)(ii) Regulatory framework for home schooling including: training, qualifications and experience of authorised persons; (c)(iv) Regulatory framework for home schooling including: potential benefits or impediments to children’s safety, welfare and wellbeing; (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

¹⁴⁵ http://www.boardofstudies.nsw.edu.au/manuals/pdf_doc/auth-person-handbook.pdf

Person and make a decision to register or not register the child accordingly. If the Authorised Person recommends that registration be refused, the authorised person must advise the parent in writing and the Minister may not advise the parent that the application has been refused until 30 days has passed since the initial written reasons were given. During those thirty days the parent may seek administrative review of the Authorised Person's recommendation. If the Authorised Person recommends that the child be registered, the Minister is to issue a certificate of registration for a period not exceeding two years subject to the continued fulfilment of specified conditions listed on the certificate.

This process implies that the Authorised Person is qualified and experienced to make a recommendation regarding the suitability of home education, which, as discussed later¹⁴⁶, is not always the case.

An important component which is effectively missing from the current registration process, but that was previously available, is '*renewal by documentation*'. This option was available to families who had had a previous two year registration and where Authorised Persons indicated a high level of confidence in the family's home education capacity. Registration via documentation was a 'desktop' review of documents provided by the home educating family demonstrating education that had been occurring and educational planning for the coming period. This option was removed in the *2013 Home Schooling Information Package*. BoSTES have maintained that registration via documentation was rarely applied. An examination of BoSTES statistics for the years 2010-2013 will indicate otherwise. The reasons for its removal have not been indicated in current documentation.

There have been indicating comments to the effect that home visits for the purpose of registering for home education are to ensure children are seen by mandatory reporters; there is, however, no indication of this in BoSTES' documents. Whilst the documents state that the child is expected to be present during the visit, and that Authorised Persons and other home education assessors are mandatory reporters, the Authorised Person's attention is directed towards assessing compliance with requirements of registration, not the child(ren)'s safety, welfare and wellbeing. The HEA contends that it is essential to note that compliance with current BoSTES' policies frequently results in a poorer quality education and poorer outcomes for home educated students. This is described

¹⁴⁶ (c)(ii) Regulatory framework for home schooling including: training, qualifications and experience of authorised persons

later¹⁴⁷, through legal argument and case studies and exemplified by the following experience, which was related to HEA representatives:

“A 12 year old with significant special needs and severe language and learning disabilities was removed from school before starting high school. He was unable to read after seven years in school. The parent developed a program, applied to home educate and was given a three month registration. Unfortunately, the registration papers did not arrive for a month, so the child was only taught at home for one month before having to reapply for registration. The mother needed to start teaching her son from the beginning by learning the alphabet. When the Authorised Person arrived for their second registration visit, she was impressed by how much had been achieved. The child was able to read some things to her, whereas at her previous visit two months prior this had not been possible. However, because the mother was unable to fill out all the outcomes achieved in her paperwork, she was advised to withdraw her application to home educate and return her son to school. This advice was despite the fact that the child was learning for the first time. The mother thought it unreasonable that she should have to work out how to use the Syllabuses outcomes when teachers in schools had received training when the new outcomes were introduced because the system was so complicated.”

Changes from the (previous) Information Package 2011

The 2013 *Home Schooling Information Package* includes a number of significant changes from the previous *Home Schooling Information Package*. These changes have been catalytic for the current lobbying undertaken by home educators as they reveal the way in which registration processes have been changed without reference to, or inclusion of, home educators. Many of these changes have had substantial negative consequences for many home educators and some appear to be in contravention of the *Education Act 1990*. These changes include:

- Removal of recognition of different styles of home education
- Addition of a requirement for home educators to provide a written plan for recording, teaching and assessing that is linked to the outcomes of the NSW syllabuses rather than using summaries of the NSW syllabuses.

¹⁴⁷ (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

- Removal of registration via documentation (except in circumstances that are unable to occur within the current system)
- Addition of a requirement to teach only to the years for which children are registered and to seek approval each time a program needs to be revised.
- Initial registrations of no more than one year, with no minimum stipulated.
- Addition of a requirement that all home education occur in the home and be taught by a parent and that external activities be additional to the child's education, not an integral component of it
- Addition of an allowance for spot checks.
- An overall reduction in flexibility
- Requirement that home educators spend comparable time delivering programs as that allocated in schools

BoSTES' subsequent Q&A document contradicts some of these changes, but they remain in the *2013 Home Schooling Information Package*, which is the official policy.

Experiences of registration processes

Some home educators have reported to the HEA that they have had good experiences in the registration process, with Authorised Persons who have taken a positive and supportive approach to home education. There have also been many reports to the contrary. Members have indicated that some Authorised Persons are insisting on a very rigid interpretation and implementation of the *2013 Home Schooling Information Package* and, in some cases, taking the policies beyond their remit. For example, there have been Authorised Persons who have required that the education of children be provided only between regular 'school' hours of 9am to 3pm and have requested families provide timetables to demonstrate the time they will be spending on 'school' work throughout the week. Of great concern is the increasing number of Authorised Persons who were once interested in educational quality but are now interested only in assessing predetermined criteria (frequently focusing on criteria unrelated to educational quality) for registration (in particular, compliance) with little or no consideration of actual education. One home educator described a visit from an Authorised Person in this way:

"When the AP came to my home he said that he could see that I was providing a high quality of education, but he wasn't sure how to 'tick his boxes' to show that I was complying."

Unfortunately, the HEA is also receiving an increasing number of distress calls from families who have suffered excessive demands and even bullying by Authorised Persons sent to inspect their homes. The following is a statement from a long term home educator regarding her experience with an Authorised Person visiting her home. This family felt pressured to return their children to school as a result of bullying behaviour by the Authorised Person. Subsequently, they withdrew their children from school and returned to home education, but did not register. This was a direct result of their experience with an Authorised Person coming into their home and behaving in a bullying manner.

“About 9 years ago, I had a Board of Studies inspector come into my home to assess our home school. He was very pleasant, drinking coffee at my table, engaging the children in conversation, encouraging me in my choice to home school, generally letting me know that it was an easy process. He was there to help and there would never be a problem with my application because “that doesn't happen unless you are making them work in a sweat shop all day”. He said he would be back in a few months (I can't remember exactly - less than a year) to peruse my paperwork which consisted of a daily diary, a timetable and records of work done and their progress. NO mention of outcomes, future planning or specifics.

A few months later, he returned and I was confident that I had prepared everything that he required. I was very particular and found joy in schooling and record keeping. My husband happened to be home for this visit and he stayed for the beginning half of the visit to have a coffee with us, then left the room as we got down to the details. The beginning of the visit went well, the AP was chatty and amicable. Then, when my husband left the room, he changed almost instantly. I had to put it down to my husband leaving the room as it was so sudden. He told me that everything I had prepared was useless to him. He told me I needed to prove that we spent a certain amount of time in study eg. an hour a day on maths, English etc. and a certain amount per week. I needed to give him a detailed daily account for each child that I could fill out each night in my 'spare' time and he wanted to see a very detailed plan of what I intended on doing for the next 6 months and he flashed a typed, multiple-paged report from another home schooler that he had previously visited, in front of me, without actually giving me an example of what he wanted. Then, when I said that I don't understand what he wanted and I just don't have time to fill out individual accounts and reports as I

was schooling three primary aged children and had a toddler and a baby, he leant in close to me and said, threateningly, “I don’t care how much you have to do – if I don’t see this in three months time, when I return, I will be recommending to the board that your children be put back in school.” Then my husband walked in and his demeanour changed again to cheerful and professional. Before he left he told me to warn my unregistered friends that ‘they’ were looking for them and would find them and he also wanted me to be teaching in themes by the time he returned. Needless to say, I was so threatened by all this that I enrolled my children in school before he returned.

*Later on, my husband and I realised that we needed to home school our children for various reasons, one being that our son was experiencing behavioural and social problems in school. We decided, after much deliberation, to pull them out of school. The teachers were very supportive; however, we didn’t feel that we would cope with the registration process because of our past experience with the inspector. I had also spoken to others who had had similar experiences and felt that it was too much stress to cope with when I had so many challenges already with a young, large family and two learning-challenged children. **We felt that the extra workload the inspector would put on us would detract from the time we had available to spend actually educating our children.** Many times I have felt that it would be so nice to be registered and clear my conscience as I like to think of myself as a law-abiding citizen, however, **I really feel that my success as a registered home schooler relies on getting lucky with an understanding inspector, not on how I actually educate my children.** To me this seems a little backward and it definitely needs to change.”*

Comments such as this are not anomalies. As described later¹⁴⁸ many families have had detrimental experiences in the registration process. Some families who previously had positive experiences have had negative experiences in more recent times.

Ways of reducing the number of unregistered home educators

The reasons why individuals do not register for home education are described in detail earlier in this submission.¹⁴⁹ It is clear to the HEA that many NSW home educators who are not currently

¹⁴⁸ (c)(ii) Regulatory framework for home schooling including: training, qualifications and experience of authorised persons

registered would register under an improved system. This view is supported by regulatory theory, NSW government policy and the statements of a variety of home educators. The HEA is of the view that taking steps to improve the home education regulatory system as outlined later¹⁵⁰, would not only create an improved regulatory regime overall and be better for registered home educators but also result in many currently unregistered home educators deciding to register. A more appropriate and supportive regulatory regimen would also need to provide home educators with robust assurance that that the system would not be changed without warning and consultation. Specific to reducing the number of unregistered home educators, the HEA suggests:

- the oversight of home education be removed from BoSTES and undertaken by an independent body which includes home educators
- any development of home education policy, including registration processes, be undertaken with active participation and agreement of home educators, with the breadth of consultation appropriate to the scope of the material being developed
- fundamentally, attention in registration processes should be on children's education, not the parent/educator's compliance with regulations and provision of compliance-focused paperwork. This would recognise that home education can take place anywhere, at any time. This would allow, amongst other things, people travelling to home educate as much as any home-based educator
- registration requirements be clearer, including rectification of conflicts between information sources such as the BoSTES' *Home Schooling Information Package* and the Questions and Answers document.
- creation of a home education registration system that provides clear support and benefits to home educators
- a clearly articulated inclusion of a wide range of educational approaches appropriate for home education
- reducing the burdensome and stressful nature of the current home education registration system

¹⁴⁹ (b)(iv) The current context of home schooling in New South Wales including: (extent of and reasons for unregistered home schoolers

¹⁵⁰ (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

These suggestions are discussed in further detail later.¹⁵¹

¹⁵¹ c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

(c)(ii) Regulatory framework for home schooling including training, qualifications and experience of authorised persons

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Introduction

The experiences that home educators have with the registration process is greatly influenced by the attitude, skill and experience of the Authorised Person allocated to them. Additionally, the degree of understanding of the range of potential home education methods and philosophies impacts on the potential for the Authorised Person to identify the educational merits of any proposed learning plan. Without this, suitable plans may not be endorsed. It is therefore extremely important that Authorised Persons have appropriate knowledge, experience, training and support in order to appropriately assess home education applications.

Background on the training, qualifications and experience of Authorised Persons

Authorised Persons are of three types:

- 1) Contracted by BoSTES solely to undertake assessments of home education applications (these personnel constitute the majority of Authorised Persons);
- 2) Employed by BoSTES as Senior Registration Officers with responsibilities beyond assessment of home education applications including the training of contracted Authorised Persons. The HEA has been informed that the development of the *2013 Home Schooling Information Package* was largely undertaken by a Senior Registration Officer;
- 3) Employed by BoSTES as Board Inspectors with other responsibilities including the training of contracted Authorised Persons and development and approval of resources such as the *2013 Home Schooling Information Package* and the associated *Authorised Person's Handbook*.

Appointments of contracted Authorised Persons last occurred towards the end of 2013. The advertised selection criteria for these positions were:

- Formal teaching qualifications
- Evidence of successful teaching experience and curriculum leadership
- Recent experience in supporting the implementation of the Board's curriculum
- Demonstrated understanding of a range of approaches to teaching and learning
- Knowledge of the minimum curriculum requirements K-12 for children in NSW between the ages of six and seventeen years
- Understanding and appreciation of home schooling as a viable educational alternative
- High-level interpersonal and written communication skills
- Capacity to use information and communication technologies to prepare reports and communicate with the Office of the Board of Studies.

While contracted Authorised Persons are required to have an understanding of home education as a viable educational alternative they are not required to have any knowledge or experience of home education.

The position of Senior Registration Officer was also advertised in 2013. The responsibilities of this position are described as: “Provides high-level support for the planning and implementation of the registration and accreditation programs. The Officer also undertakes research; develops policy options and proposals; and develops and recommends new and revised strategies and systems.”

The selection criteria for the position of Senior Registration Officer included:

- Appropriate tertiary education qualifications.
- Understanding of policy and procedures relating to registration and accreditation of non-government schools, registration for home schooling and approval of providers of courses for students from overseas.
- Superior oral and written communication and interpersonal skills.
- Superior project management skills.
- Proven analytical strategic thinking/problem-solving capability.
- Recent sound experience at a senior level in monitoring the compliance of individual school/s or registration systems with registration and accreditation requirements.
- Ability to manage competing priorities and meet strict deadlines.
- Expertise in the use of computers for word-processing and database purposes.

Also notable in the descriptions of selection criteria for contracted Authorised Persons and Senior Registration Officers is the absence of any criteria related to special learning needs, disability or psychosocial issues.

The HEA has not been able to identify recently advertised positions for Board Inspectors and so cannot provide detail of the selection criteria for this position. However, it seems likely that Board Inspectors would also not be required to have any specialist knowledge of home education or specialist knowledge of special learning needs or disabilities.

The need for specialist knowledge of home education

Home education is different from school education. Home educators apply techniques in their education program that are not employed in school environments. As previously described¹⁵², the

¹⁵² (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

educational philosophies applied to home education are distinct and often very different to those applied in schools. Again, as previously described, the population of children who are home educated is also atypical, with children with special needs being over represented (see the term of reference.¹⁵³ The motivations of families to home educate are not generally understood outside the home education community. Home education is not simply a change in location from a school to the home.

Those who have knowledge of and experience of school education cannot be assumed to have knowledge of and expertise in home education. This point is clearly illustrated by the research of Croft¹⁵⁴ who studied home educating parents who were also teachers. She found that teacher-parents were of the view that, *“While teaching background provided confidence when beginning home education, and knowledge of educational jargon, it was often detrimental when home educating due to differences between learning which occurs within a framework of classroom instruction and that which occurs individually in a home environment.”*

Experiences of the HEA with poorly equipped Authorised Persons

Given that Authorised Persons are not required to have knowledge of or experience with home education it might be considered important that they receive training about home education from those who do have such knowledge and expertise after their appointment. However, the involvement of home educators in training Authorised Persons is extremely limited; the HEA has been asked to speak to Authorised Persons on average once every few years for a couple of hours. It appears that contracted Authorised Persons are primarily trained by Senior Registration Officers and Board Inspectors who have extensive knowledge of and experience with school education but whose primary knowledge of or experience with home education is undertaking registrations. The BoSTES Annual Report 2012-13 indicates that Authorised Persons received three training sessions in that financial year.¹⁵⁵ This report states:

“During the 2012-2013 reporting year, the Office’s Authorised Persons participated in three professional learning forums. The forums provided opportunities for professional dialogue on topics relevant to home schooling registration, including the new Board of Studies Kindergarten to Year 10

¹⁵³ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

¹⁵⁴ Croft K. *So You’re a Teacher, and You Home Educate? Why Would You, and How Does That Work For You? Exploring Motivations For, and Implementation Of, Home Education by Qualified Teachers in Australia*, Avondale College; 2013.

¹⁵⁵ <http://www.boardofstudies.nsw.edu.au/administration/annual-report.html>

syllabuses, the Board's Assessment Resource Centre (ARC), the nature of evidence and strengthened procedures. One of the learning forums involved input from the Student Welfare Directorate of the NSW Department of Education and Communities (DEC). This session was valuable in furthering the relationship between the Office and the DEC's home school liaison program."

It should be noted that none of the professional learning forums were directly relevant to home education. Indeed, the home school liaison program is specifically not available to home educated children.

Furthermore, it appears to the HEA that Senior Registration Officers and Board Inspectors are coming not just from a standpoint of low knowledge of home education, but they are coming from a standpoint where they hold erroneous beliefs about home education. In the experience of the HEA, Authorised Persons often lack knowledge in the: process of home education, experiences of home educated children, special needs of children and home education philosophy and methods. These inadequacies are demonstrated through unrealistic expectations and detrimental interactions with home educating families.

[Seeking to enforce "school-at-home"](#)

A lack of knowledge of home education leads to inappropriate interactions between Authorised Persons and home educators to the detriment of families. It appears that Authorised Persons are not provided with training that allows them to understand and be confident with the different educational philosophies and methods that are commonly applied by home educators. Given that the experience and expertise of Authorised Persons is with school education it is not surprising that in many cases they might attempt to enforce a school-at-home model onto home educators. This is a common complaint of home educators.

For example,

"I was told I had to spend the same amount of time they spend at school on each subject, and that they are meant to be learning "taught" between 9-3. And all this has to be shown clearly subject by subject on a detailed timetable"

"She was unable to understand that our learning was not confined to the hours of 9am-3pm"

"She told me I had to do a new timetable each week to cover what we do in case there is a change like an excursion or a homeschooling meet up. If my daughter

wants to do a different subject to what is written in the timetable or wants to work longer on a project I have to change it.”

“She said that our studies of English and History were unacceptable since they were combined, saying that they could ‘only count for one subject, not both’, even though it was clear that the material being covered was both extensive and relevant to both subject areas.”

“Throughout the visit I found the AP to be extremely officious, expecting that we would be doing ‘school at home’”

“The AP told us that we had to use a textbook for PDHPE, doing activities and having discussions was not enough”

“We were told that spelling must be done daily - because it would be if the kids were going to school and for at least 30 minutes. I did show a spelling program we had but it was dismissed as being not adequate as it would not take the child 30 mins to complete.”

“I was told I needed to basically run my home like 'school at home' and that way I could just leave my children to get on with their work and I could concentrate on looking after the little ones. However, one of our reasons for homeschooling is to learn as a family not to segment children off as they do in schools”

“I was told that discussions, conversations, observations did not count- everything must be written down. Integrated (across subjects) knowledge does not count”

“There seemed to be an assumption that because our teaching philosophy was different from what you would find in a school (being student driven and designed to take advantage of the child’s interests), that our child would not learn.”

[Focus on compliance with paperwork rather than quality of education](#)

The training of Authorised Persons in recent years appears to have focused primarily on how they might ensure that home educators are compliant with paperwork requirements of BoSTES rather than on how to assess the quality of the child’s education. This has been a source of much conflict and distress amongst home educators who are primarily concerned with providing a quality education to their children. Home educators are of the opinion that those assessing their application to home educate should be similarly interested in the quality of education being

provided. It appears that a lack of knowledge and experience with home education, combined with BoSTES training focusing almost completely on compliance, has resulted in an unhealthy over reliance on paperwork.

For example,

“The AP was much more interested in ticking boxes and matching everything to outcomes than in assessing the quality of the education I was providing. It was my impression that she would have preferred a display folder with samples of work neatly arranged with outcomes noted down the sides. She was not interested in the special needs or talents of the children, nor in what we might be doing to mitigate or foster these. She was simply interested in ascertaining if I had covered the outcomes for the age appropriate years of education, even though these were not the most appropriate years/stages for these children.”

“When he gave me six months again I was frankly incredulous. I asked him if he was saying that the standard of my daughter’s education was inadequate, all he could say was that he was a regulator, only there to tick off the boxes.”

“I felt like I was under a forensic microscope, and a task to be processed. The Authorised Person was eagerly on the look-out for anything that didn't comply with her understanding of the registration requirements. She acknowledged that the development of our son’s artistic and writing talents was great, but it didn’t count towards our registration. She said we needed to spend more time on other subjects. In particular, we were criticised for not spending enough time on formal studies in science, geography and history. This was despite proof of the adequacy of our science education in the form of an above average ICAS test result and a top band in the NSW Essential Secondary Science Assessment, and the fact that, at 16 years of age these subjects would have been electives for many others his age anyway. Our son has received a well rounded, quality education and we had external proof of this but, in the Approved Person’s assessment, very little of what we had done satisfied the requirements for re-registration. The impression was given that unless a learning experience was noted in a diary there was no proof that it actually happened. Test results were not considered as proof that an education program in that subject had been delivered. We were given a three month registration period.”

"I felt the meeting was awful, it took me a long time to recover from the confrontational feeling of it. I went into the meeting thinking that I would be able to show our big picture plans and goals we have for our children's education and explain our methodology and approach. But it wasn't like that at all it was very much a "hmm ahh well what boxes are you ticking here.....can you explain that differently so I can turn it into BOS 'lingo' and change it a bit to fit into how we think you should educate?" The ideas and big picture plans we had for our daughter's education and the quality of the resources we had invested in were of little to no interest."

"I was told that for single day I should look at what we had done that day and work out which outcomes of each subject of the Syllabus those things had covered. I should then write these outcomes in a diary and make sure that I tick the ones that she had achieved. This is ridiculous! We are busy educating our children and generating all this paperwork (let alone spending hours trying to translate the gobbledygook of the Syllabus Outcomes into actual English) in order to be compliant with BOS requirements hampers the education of our daughter. We want to educate our children, we don't want to be spending unnecessary time and energy on paperwork that doesn't prove anything, it doesn't prove that our children are loving learning or even that that they are learning anything. It's just paperwork. I don't object to keeping decent records but my records are meaningful in terms of showing what our children are learning and in celebrating their learning. "

"Only 5 weeks after our registration certificate had arrived and we had started home schooling, we had our second registration visit. I was very worried about it - I couldn't sleep at all the night before. I showed the AP how my son [aged 12] was now beginning to read and she was impressed by how much progress we had made. However, when I told her that I had not been able to fill out the outcomes, her whole demeanour changed (and after that point she wasn't interested in seeing anything else of the work we had done, she didn't see my plans, she saw barely anything). She said that she'd been worried that I wouldn't be able to do the paperwork and she said, "I can't pass you, I can't re-register you, my recommendation is that you withdraw your application." At this point I started crying. She got me to sign a form saying I withdrew from home schooling. I was crying so hard I couldn't read it and I just signed where she told me to; I didn't

even know what it said - the AP said she would fill in the rest. My son was devastated, he didn't understand why he couldn't keep home schooling."

"We didn't have a good experience with our initial rego and have been dreading having this AP back in our home. My daughter (11) has also expressed that she doesn't want this AP in our home. The AP seemed to be more interested in my daughter's previous mainstream schooling and on doing everything like she was still at school with timetables and term reports. I wasn't impressed that she didn't seem to understand that mainstream school wasn't working for my child and that we were going to do things differently."

Lack of understanding of children's special needs

It is the inappropriate treatment of children who have been removed from school because of learning difficulties, bullying or anxiety and depression that has been the most distressing to parents and alarming to the HEA. Furthermore, the ways in which children's special needs impact on their learning is not always appreciated. The HEA has received reports of, for instance, an Authorised Person who did not know what dyslexia was.

As described earlier¹⁵⁶, home educated children often have special needs that have made school an extremely traumatic environment for them. By the time they come to be registered for home education, many are vulnerable emotionally and are not able to enter directly into a demanding learning schedule. It is the experience of the HEA that children in this position should be given time to recover from their negative school experience. The process by which children recover and come to a position where they are willing and able to learn is called "deschooling." This process has been recognised and described by those who have studied home education.¹⁵⁷ A lack of knowledge and understanding of this process and the vulnerabilities of children who have been traumatised and who have mental health issues has led to Authorised Persons granting short registration periods. This has placed great stress on children to engage in challenging academic work before they have recovered. Some children have felt that they are being threatened with return to school. This has been extremely detrimental to their wellbeing. For example,

¹⁵⁶ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

¹⁵⁷ Wray A, Thomas A. School refusal and home education. *Journal of Unschooling and Alternative Learning*. 2013;7(13):64-85.

“The AP visit had a terribly negative impact upon my son. He remains terrified of being forced back to school. Before our registration visit he expressed anxiety about the visit. He asked me on several occasions, ‘What if they say no to me being home schooled?’ ‘Will I have to go back to school if they say no?’ ‘Will they make me go back to school?’ He needed reassurance from me that everything would be okay. During the registration visit, the AP spoke to my son in ways that fed into his fear of being forced to go back to school. She communicated directly to him that he must do much more writing, across all subjects, to meet the outcomes. She indicated that his current level was not sufficient, regardless of his learning disability, and made it clear that this improvement would need to be evidenced at the next registration. After the meeting, my son again expressed fear that if he could not write enough he would be forced to return to school. That was extraordinarily stressful for him. “

Case Study 1: In the following case, the inability of the Authorised Person to understand the needs of the traumatised student, and allowing for her to recover from her negative experience, not require her to produce any quantity of written work, actually led to the great distress of the parent, and exacerbated the students anxiety, and other issues, so that she ended up in hospital.

“My teenage daughter was removed from high school earlier this year because of severe bullying. My daughter was in poor emotional shape when we applied for registration for home schooling because of this bullying. My first registration visit resulted in a 3 month approval, because the AP said that my plans were not detailed enough in terms of objectives and outcomes. I was directed to download all the curriculum documentation off the BOS website, but wasn’t given any other help. Over the next months I focused really hard on getting the paperwork right. In the plans that I wrote up, I had details of what she would be learning in each subject; daily, weekly, monthly timetables; lists of websites and software; lists of textbooks; and pages and pages of objects and outcomes with a column for date completed and comments. It was still not good enough. The AP wanted my daughter to do more work. I told the AP that I was concerned that my daughter’s mental health was not good - she was not eating, not sleeping, had lost a lot of weight, was very ‘down’ most of the time and was finding it difficult to leave the house. However, this didn’t seem to matter- it was all about not enough work being done. I tried to explain that my daughter’s health was more important than covering individual parts of the syllabus right now. However, when the AP was

leaving, she told my daughter (and not so politely in my opinion) that she had to get more work done, she wanted more evidence that she was working. The AP wasn't at the bottom of the steps before my daughter was in tears. I was distressed too - what would we do if not approved? There was no way she could go back to normal school. My daughter worked really hard and long for the first few weeks after the visit, then everything just went belly up. She just stressed out. I made it worse by saying that she had to get the work done or she wouldn't get approved. The result? My daughter ended up in emergency at the hospital. She had chest pains and shortness of breath that resulted from severe anxiety, plus low potassium and magnesium levels from not eating. Seeing your daughter hooked up to a heart monitor, tubes everywhere and all the rest when she has only ever been to the doctor's three times in her whole life is very, very scary and it was a result of the pressure that we were both put under by the home schooling registration process."

Inability or unwillingness to assist home educators

Authorised Persons are encouraged not to assist families in any way (although some do). The unwillingness to assist goes so far as to even being unwilling to provide assistance with understanding the outcomes of the NSW Syllabuses that the Authorised Person has told the family they must use in the planning, assessing and reporting of their educational programs. As explained by one mother, "When we asked for clarification about one of the outcome statements under the maths KLA, he stated that he was not a mathematician and was unable to tell us what it might have meant." This student was a primary school student and the Authorised Person was a Board Inspector.

Not all Authorised Persons are poorly equipped for assessing home education applications

Despite a lack of experience and knowledge of home education being required for appointment as an Authorised Person and despite the lack of training in home education received by Authorised Persons, there are Authorised Persons who do a great job in assessing home education applications. These Authorised Persons understand that, unlike with the registration of schools (where it is only possible to assess for compliance with process), with home education assessments it is possible to examine the quality of the education that is being provided to individual children. Some of these Authorised Persons have personal experience of home education, others are ex-principals who understand that school education does not work well for every child. Others have developed an in

depth understanding of home education via listening to and respecting parents over many years of assessing applications and seeing children thrive and learn in a variety of home education circumstances. Having a suitably knowledgeable and supportive Authorised Person makes an enormous difference to the registration process for home educators. In relation to the recent changes that have been made to the registration process by BoSTES, it appears that more experienced Authorised Persons have taken on board the new procedures from BoSTES to a lesser degree. As a result, the HEA has received fewer reports of problems with experienced Authorised Persons than with newly appointed Authorised Persons.

For example,

“What impressed me most about our AP was that he could see from talking to us that education was important and we knew what we were doing. He didn’t need reams of paper to see that.”

“My AP was wonderful. An ex-principal, he was full of knowledge and advice if needed. He also saw hidden flaws in school systems and was supportive of homeschooling.”

“The best AP I’ve had came into my home and sat down with a cuppa and had a chat with me. He got to know what kind of person I am, what kind of family we have and the learning that is going on. I asked him if he wanted to see my plans and assessments and he said that he would look it over but that it’s his job to assess me using his own knowledge of the Board of Studies requirements, not my job to mimic a school. He said that anyone insisting on just red tape and paperwork doesn’t understand what home education is really about.”

“At the time of my first application for home education I was successful and given a 2 year registration. I had been very nervous about the registration visit but the AP reassured me saying that there was no need to be nervous, that his job was to support us through the process. I talked with the AP about my plans with my child. I told him that I would be taking it slowly with my son, that I would be needing to go back to kindergarten level and that I would be working to attend to my child’s needs on all levels, not just focusing on schoolwork. The AP was incredibly supportive. He gave me the go ahead to work at the pace needed and encouraged me to get into contact with other home educators. He was not at all prescriptive; he clearly understood the situation.”

“Our AP was fantastic. She had just finished her masters in special ed and was understanding, sympathetic and very encouraging. She acknowledged our difficulties and was very supportive in terms of our attempt to create an individual learning approach to cater for our child’s needs.”

Improving the quality of Authorised Persons

Leaving aside the issue of whether the current system of regulation of home education is appropriate, the HEA believes that undertaking the following actions would improve the quality of Authorised Persons.

- 1) Contracted Authorised Persons should be required to have an in depth knowledge and experience of home education in order to be appointed to the role and should understand home education before they start assessing home education applicants. They should have knowledge of the common special needs that home educated children have. They should understand the processes through which home educators pass over time including deschooling and the development of individual educational philosophies. They should be prepared and equipped to assist families. These criteria could be added to those currently required. Authorised Persons need to be able to be confident in the decisions that they make about the registration of children for home education and they can only do this if they are appropriately qualified and equipped.
- 2) Board Inspectors and Senior Registration Officers should also be required to have a high level of knowledge and extensive experience with home education. A larger than expected proportion of the complaints the HEA has received about Authorised Persons in recent times have been in relation to Senior Registration Officers and Board Inspectors. This is particularly concerning in that Board Inspectors and Senior Registration Officers are those responsible for the training of Authorised Persons and the development of policies and procedures in relation to home education. The HEA is of the view that a lack of experience and knowledge of home education by these personnel has been largely responsible for the difficulties that home educators have experienced with the registration process in recent years.
- 3) Interview panels for the recruitment of Authorised Persons should include a consumer representative who is an experienced home educator.
- 4) Experienced home educators should be involved in the training of all Authorised Persons.
- 5) Authorised Persons should be trained, equipped and supported to assist home education applicants where families wish assistance.

Conclusion

The current system of appointment and training of Authorised Persons is flawed; Authorised Persons are appointed who have little to no knowledge of or experience with home education and are effectively being trained on the job. This is an unacceptable situation. The potential for harm to be done to vulnerable children and their families is great and the HEA has noted several instances of real harm. Any home education regulatory system should be sensitive to the needs of home educating families and should appreciate that many families have been through a lot before deciding to home educate. School experiences may have been traumatic for both the child and the parent, and parents as well as children may have been subject to bullying from the school system. It is questionable whether those who are experienced and skilled in the inspection of institutions such as schools, necessarily have the appreciation and sensitivity necessary to assess individual families' ability to home educate their children. It needs to be understood that even where Authorised Persons are wonderful, the registration experience can still be difficult for families. It is intrusive for families to have someone come into their home to judge their parenting and to check their home. Home educators deserve to be treated well by those involved in home education registration.

(c)(iii) Regulatory framework for home schooling including adherence to delivery of the New South Wales Syllabuses

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Although BoSTES currently implements a policy requiring home educators to deliver the NSW syllabus, this policy is

- contrary to sound educational practice.
- unclear and inconsistently applied
- not consistent with the proper construction of relevant sections in the *Education Act 1990*

In addressing this issue of the regulatory framework for delivery of the NSW syllabus, the HEA has considered the legal aspects of requiring home educators to deliver the syllabus as separate from the practical and educational aspects of applying a school oriented syllabus in the home education context. Educationally, requiring delivery of a lock-step, detailed syllabus undermines the inherent flexibility of home education. The government's oversight of home education is predicated on the 'duty to ensure every child receives an education of the highest quality' and yet current policy specifically and knowingly hinders educational quality in the administration of that duty. Legally, the BoSTES policy of insisting upon implementation of detailed syllabuses in the home education context

has developed without any change to the *Education Act 1990*, requiring a new and unsupported interpretation of the provisions of the Act.

Educational aspects of requiring home educators to implement BoSTES syllabuses

There appears to be a misinterpretation of the learning that occurs in schools and that which occurs outside of schools in a Home Education context, and how different these learning environments are. Schools require a curriculum, or body of knowledge, skills and attitudes that must be learnt in order to prepare a student for life after schooling years. That curriculum is derived through consultation with educational professionals, and other stakeholders, by examining the world in terms of culture, economy, society etc. The curriculum is then developed into a sequence of delivery, which is not always 100% agreed upon by teachers, however it is then published as a Syllabus, as mentioned above. The purpose of the learning of this Syllabus is for preparation for life outside of school, however the Syllabus content was originally sourced from the gathering of information that occurs outside of school.

Home education occurs outside of school. It is conducted in a social environment, with everyday events, various cultures, and interaction with the local and global economies and in general is life without schools. The Syllabus enlisted by schools to provide students with these experiences is limited by time and resources. The ability to provide 'real world everyday examples' in a classroom environment requires careful planning. Students must be engaged in the syllabus however not all students in a classroom may be ready, interested or willing to learn the content at the same time.

"I have taught for 19 years and have had plenty of time to observe what goes on in a classroom. I know that an average teacher has little time or inclination to give full attention to the educational needs of individuals in the classroom. The teacher:student ratio is too high, the demands of the syllabus too great, and the school system too inflexible, to allow learning to progress in a way that will really impact students." (Kroft, 2013, p 147).

By examining research into the home education that is conducted by qualified teachers, who have worked in classrooms prior to home educating their own children, the confusion becomes clearer. Comments such as *"I'm now educating in a way I only dreamed of as a teacher"*, *"The syllabus gets covered using everyday experiences and I don't need to plan lessons like I did when teaching my class. My children tell me their interests and we go ahead together and learn whatever, whenever. I can see they are covering outcomes. I could never plan for these learning experiences, they happen*

spontaneously” are common for parents who have an education background. While they acknowledge that preparing to teach a class with lesson plans and resources to be used is necessary in a classroom, it is not necessary when ‘the world is your classroom’. This can be summed up with this sentiment;

“If my son was in a room all day with same aged children I would want him to have a motivated and inspirational teacher who could bring in exciting learning opportunities and materials for him. My son is free to learn with children of many ages outside of a room and he are free to follow his interests and learn anything when he is ready, in a way that is naturally exciting because he discovered those things himself. He never has to wait for someone to make learning exciting, he already finds learning exciting, and he never has to wait to be taught because he’s constantly teaching himself. When he doesn’t know something he asks or researches it for himself even though he is ‘only 10’. Removing those four walls opened up learning for him. That’s why I believe ‘learning outside the box’ is such a strong statement. Unfortunately for those who haven’t experienced it, it seems unrealistic. The people who criticise what we do simply don’t live outside the box. I use to live inside that box when I was a teacher, and I’m ashamed I limited the learning of so many children. The system simply doesn’t allow for this type of learning. The saddest idea as a mother and as a teacher is to now limit my son’s learning by forcing him to keep to the Syllabus. It would be like placing that box over our home. It’s hard to explain to people who haven’t been in my shoes what that is like, personally and professionally. In the box, yes I must keep to the Syllabus; those children need to be sequenced for practical reasons. Outside the box my conscience wouldn’t allow it. There is no practical reason to do so.”

The 2013 *Home Schooling Information Package* has removed the flexibility for parents to create plans individually tailored to meet their children’s learning needs. Previously, plans were to ‘cover’ the Key Learning Areas ,which were explained briefly, and now *“the educational program for a home schooled child must be based on the six Board of Studies syllabuses.”* This has significantly altered the registration requirements. Further, in 2006 it states, under the *“requirement for registration”* that it must be *“consistent with the guidelines”* and provides the definition of minimum curriculum guidelines as *“courses of study in each of the Key Learning Areas (KLAs) which are to be studied by children at primary and secondary level”*; however, in 2010 and 2011 the *Home Schooling Information Packages* stated that the minimum curriculum guidelines are *“in accordance with the BOS syllabus and identifies learning outcomes”*; then in 2013 the *Home Schooling Information*

Package states that home educators must have a "written plan based on BOS syllabus; intended learning outcomes and content" and that it "must be complied with at all times." Redefinitions have been added although there has been no change to the *Education Act 1990*. The BOS claim "the curriculum guidelines in the previous package were not, and are not, the minimum curriculum in NSW. The updated Information Package makes this clear." In spite of this significant change, the Minister and the Board of Studies have maintained, in recent letters to home educators, that "The BoSTES has not changed the requirements for registration".

Whereas a Curriculum is a prescriptive body of work to be learned, a Syllabus sets out the order or procedure for that learning. The delivery of a syllabus is necessary in order to monitor the consistency of awards and qualifications such as the HSC. Home Educating Students are not eligible for the HSC, therefore one core reason for the detailed implementation of the syllabus is removed. The content of the NSW Syllabus is easily achieved through everyday educational experiences, especially when unlocked from strict sequence. However, the addition of the need to plan educational activities and outcomes two years in advance is contrary to common sense and educational best practice.

In addition, many home educating families report that the reasons they give for choosing to home educate include a greater flexibility to the sequence of learning, that is the curriculum is covered but not according to the sequence of the NSW Syllabus. In practical terms this means a student could be learning many different Stages at the same time, in different Key Learning Areas. The flexibility afforded to home educating students is not only beneficial to their learning it is also required for registration, as stated on page 10 of the *2013 Home Schooling Information Package* "the educational program is suitable to cater for the identified learning needs of the child." A program that is designed for an individual child may use as its basis the NSW Syllabus however a strict adherence to that syllabus may be counterproductive to the learning process.

"I find it unrealistic to expect home educators to teach from a Syllabus that has been specifically written for a classroom situation. For example: "PSES1.5 Seeks help as needed when faced with simple problems", when not in a classroom situation it is entirely unnecessary to teach this. Seeking help from their parent or carer was taught in infancy. I used the Syllabus when I planned the current school year thinking it was a mandatory requirement. It created weeks of extra work and restricted the learning I was going to be able to provide my children. I have since thrown that planning in the bin. It is far too restrictive and inflexible. We achieve a much higher academic standard by following interests and teaching where they're

at. The Syllabus is much better used as a travel guide book, giving some idea of things to explore but leaving you free to create your own itinerary.”

“I have been a K-6 teacher in NSW since 1996, and am now a registered homeschool parent. In the first private school where I taught (in NSW) we used the WA syllabus to guide most of our planning and assessment for English and Mathematics. I found it easy to follow and use in my professional programming. In subsequent positions at other (also independent) schools we followed the NSW syllabus.

I had a small break from classroom teaching to have children, but continued to read about educational methods and issues around the world. I am interested in educational diversity so I often read about alternative schools in Australia, read the syllabus of other states purely out of curiosity and read about the education systems of many other countries.

After a few years of casual teaching whilst my husband stayed home with the children, I came home. We decided to home educate our children, who were well into achieving Early Stage 1 and Stage 1 outcomes in most subjects, but were not ready for 'drop off' school. In the 6 years since then we have not come to a point where we believe school would serve them better, so we continue and enjoy the opportunities we have.

When I started facilitating my children's learning at home, I found the NSW syllabus quite redundant, in terms of identifying what my children needed to learn. I used it as a checklist for a while simply to assure myself that they were meeting the official requirements for their age, but for planning and assessment, I much preferred to use other, more rigorous and interesting syllabuses. I was not prepared to limit my children to the narrow scope of the NSW syllabus and referred more often to those of other states and countries.

Several years down the track, I am very pleased with how my children are developing. I have received the maximum registration period every time a BOS AP has visited, and the APs have been more than happy with the content and methods we use as well as my planning and record keeping. I still do not 'follow' the NSW syllabus, nor do I find it useful in informing and improving my teaching practice at home. I glance at it a few times a year to make sure we are not

missing something, but when planning I draw upon my unique knowledge of the unique individuals I teach, using my knowledge of more individualised, modern and rigorous education systems around the world. All of the APs I have met have been more than happy with what we do."

"When I first registered back in 2003, I had nothing written down, I had no real plan except to teach my children. I was told then that everything is acceptable and nobody is rejected from registration unless they are doing something horrific that's damaging to their children. I was given 2 years rego that year.

How things have changed! I think the power is being taken away from us. I don't want to follow the syllabus but it's basically something that's forced on us now. Now it's all about having the paperwork in order and doing what they say or pay the consequences. I didn't start this to do "school at home" but that's what the powers that be want it to be. It absolutely is a joke!"

"I think if you are creative enough most learning experiences can be accounted for against the NSW Syllabus. I do feel that many find it difficult to understand what is meant at times and even how a teacher in a school might be expected to adhere to it. I feel that through Home Education we have an opportunity to teach our kids more than the Syllabus and for them to really enjoy and thrive on learning situations set up around them and their interests. I think it is unfair that our kids cannot be assessed especially as we are expected to educate against the same criteria. We are saving the Government who knows how much money by home educating rather than sending them to school to become one of the masses of children being bullied by their peers and struggling with the learning environment whether it be because they do not understand, it is too rigid, or they are too bright for what is being taught."

"Personally I think the basics are all well and good taught in the lower grades. As they stages go up in this day and age of technology much of many of the syllabuses become irrelevant. Ie ...geography that's in the high school syllabus. Kids learn this on the computer...or watching the news...they know our relationships with the rest of the world. A whole syllabus dedicated to it is a waste. The reality is facts are irrelevant. With any subject facts change all the time and information is at our fingertips. Recalling facts is pointless and that's what tests test. There is so much stimulus in our world now and kids bombarded with images

and information that what is in the syllabus is boring. In a world of NO technology it may be stimulating but not to our kids. Theres so much more out there...our kids know more than the writers of the syllabuses...its a fact...they know a whole heap of different things than the generation that wrote them...surely this means something..."

Legal Aspects of requiring home educators to implement BoSTES Syllabuses

The structure of the *Education Act 1990* clearly intends there to be some distinction between the 'minimum curriculum' which is followed by all students in NSW and the potential for syllabus documents to be created by the BoSTES for the benefit of government schools. These syllabus requirements were extended to non-government schools as part of amendments made in 2004, however there is no evidence that these requirements were intended to apply to home educators. Indeed, the overwhelming weight of evidence is to the contrary.

Subsection 73(2)(a) states that the conditions to which registration is subject must "*provide for the child to receive instruction that meets the **relevant** requirements of Part 3 relating to the minimum curriculum for schools*" (emphasis added). Legislative interpretation presumes that all words in an Act will have substantive meaning. Therefore, the use of the word "relevant" means that there must be portions of the minimum curriculum for schools which are not relevant to home educated children. Despite this, the present guidelines assume that the curriculum in its entirety must be imposed upon home educating students, despite the fact that the cumulative effect of amendments has led to the minimum curriculum being anything but minimum. The *Interpretation Act 1987*, which governs the interpretation of legislation in NSW, provides, at section 33, that:

In the interpretation of a provision of an Act or statutory rule, a construction that would promote the purpose or object underlying the Act or statutory rule (whether or not that purpose or object is expressly stated in the Act or statutory rule or, in the case of a statutory rule, in the Act under which the rule was made) shall be preferred to a construction that would not promote that purpose or object.

The explicitly stated *Objects for Administration* of the *Education Act 1990*, include 'provision of opportunities for parents to participate in the education of their children'¹⁵⁸ and 'provision of an education for children that promotes family and community values'¹⁵⁹ In addition, the Principles

¹⁵⁸ *Education Act 1990* s 6(1)(m)

¹⁵⁹ *Education Act 1990* s 6(1)(n)

underlying the Act include that ‘*the education of a child is primarily the responsibility of the child’s parents*’,¹⁶⁰ and that ‘*the principal responsibility of the State in the education of children is the provision of public education*’.¹⁶¹ Most specifically, one of the *Principal Objects* of the Act is ‘*to allow children to be educated at home*’.¹⁶² Each of these purposes would be best promoted by an interpretation which held that the portions of the Minimum Curriculum relevant to section 73 are subsections 8 a-d and 10 a-d. Subsections 8f and 10f should be considered irrelevant and subsections 8e and 10e should be considered relevant only to the extent that any such guidelines are both consistent with the Act and relevant to home education.

This suggested interpretation is further supported by consideration of the legislative history of sections 8 and 10. These sections were amended in 2004 by the *Education Amendment (Non-Government Schools Registration) Act 2004*. The changes introduced by this Act made adherence to BoSTES syllabus compulsory unless modifications were sought and granted. It is clear from the title of the amending act as well as the associated Second Reading Speech that the amendments made to the provisions of the Minimum Curriculum in 2004 were not intended to apply to home educators. The amending Act was a response to the Grimshaw Report, which considered non-government schools.¹⁶³ The Legislative Review Committee expressly considered the provision under the heading “*the introduction of new registration requirements for non-government schools*”. The amending Act is titled with reference to non-government schools and makes provision for non-government schools to have a process whereby the syllabus is modified where necessary. There is no similar modification provision for home educators; there was no consideration of home educators in the drafting or passing of this amendment. There is no evidence that home educators were intended to be affected by this change. Further evidence of the likelihood that home educators were not intended to be affected by these changes is provided by explicit contemporary statements by (then) BoS staff and representatives as well as the fact that the *Home Schooling Information Package* was revised several times between 2004 and 2013, but the August 2013 document contains the first reference to a requirement to implement the syllabuses. Given the other examples of obvious contradictions and oversights with regard to the drafting of the *Education Act 1990* as it applies to home education, it is entirely plausible that an amendment would be made without consideration of its potential effects on home educators.

The asserted requirement that the Minimum Curriculum for home educators includes implementation of all aspects of the BoSTES syllabus is not supported by a proper construction of

¹⁶⁰ *Education Act 1990* s 4(b)

¹⁶¹ *Education Act 1990* s 4(d)

¹⁶² *Education Act 1990* s 5(d)

¹⁶³ Grimshaw WA. *Review of Non-government Schools in NSW*: NSW Department of Education and Training; 2004.

the *Education Act 1990*. If the requirement is not supported by the Act, BoSTES does not have the power to unilaterally implement a requirement of this nature. (This legislative and procedural issue is in addition and separate to the pedagogical conflict and implementation difficulties between the syllabus and home education.)

BoSTES policy regarding implementation of syllabuses is confusing

The August 2013 *Home Schooling Information Package* published by the BoSTES states that “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” and further requires that ‘the educational program identifies the intended learning outcomes based on the relevant Board of Studies syllabuses and relevant content’. When applying to register a child for home education the parent is required to affirm that they have ‘written a plan or outline of the educational program ...including the intended learning outcomes and content’ because during the home visit the Authorised Person will be looking for evidence that ‘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.’

The 2013 *Home Schooling Information Package* makes 16 references to outcomes and HEA has received many reports of parents being required by Authorised Persons to provide documentation as evidence of every outcome planned and/or achieved. The current Questions and Answers published on the BoSTES website (updated May 2014) include the statement that “a parent may demonstrate engagement with Board syllabuses through the integration of syllabus outcomes into the educational program. Alternatively, or in addition, a parent may use the syllabus stage statements as the basis for planning the educational program” which clearly contradicts the requirements as detailed in the 2013 *Home Schooling Information Package*.

This confusion is compounded by the fact that the BoSTES has repeatedly asserted that there has been no substantive change between the prior 2011 *Home Schooling Information Package* and the current 2013 *Home Schooling Information Package*. Despite this claim, there are some significant discrepancies with respect to the level of implementation of curriculum and syllabus. In the 2006 *Home Schooling Information Package* minimum curriculum was defined in the Glossary section as

“... the courses of study in each of the key learning areas (KLAs) which are to be studied by children at primary and secondary level. The minimum curriculum for primary children (Kindergarten to Year 6) must provide courses of study in the six

KLAs of English; Mathematics; Science and Technology; Human Society and Its Environment; Creative and Practical Arts; Personal Development, Health and Physical Education. The minimum curriculum for secondary students (Years 7 to 10) must provide courses of study in six out of the eight KLAs of English; Mathematics; Science; Human Society and Its Environment; Languages Other than English; Technological and Applied Studies; Creative Arts; Personal Development, Health and Physical Education.”

This is consistent with the interpretation of sections 8 and 10 of the *Education Act 1990* explained above. However, the current “Questions and Answers” document states that ‘*The minimum curriculum is the relevant Board of Studies syllabuses...The curriculum guidelines in the previous package were not, and are not, the minimum curriculum in NSW.*’ This is despite the Questions and Answers also claiming that ‘*There are no additional requirements for record keeping. The updated Information Package does not require parents to keep any more records than were required previously.*’

The HEA can report inconsistent implementation of these conflicting requirements, which has caused great concern and confusion in the home education community. Some Authorised Persons require only the level of detail expected prior to the introduction of the *2013 Home Schooling Information Package*, some require detailed outcomes for each student each day, some require reference to the stage statements whilst others claim not to have heard of stage statements. The HEA also notes that a request for clarity does not equate to a request for additional compliance requirements.

Changes made in the *2013 Home Schooling Information Package* require parents to create plans that are not aligned with the Act in order to pass through the BoSTES’ registration process. The HEA and members of the home education community have been concerned with this new requirements of the registration procedure and have written to BoSTES/OBoS and Minister of Education, NSW many times requiring an explanation as to why this change, which is not consistent with the *Education Act 1990*, has been made. All correspondence received from the BoSTES/OBoS and the Minister denies that these, and many other listed changes, have occurred.

Unnecessary confusion and obstruction for home educators has occurred with the BoSTES introduction of the Program Builder. Authorised Persons often ask if parents have used the website to create their plans, theoretically the website might more easily create a plan that meets the minimum curriculum requirements. However, the site is not accessible until after parents are

registered, which means they have already had to show their finalised plans to the Authorised Person.

The *2013 Home Schooling Information package* requires that *“the time allocated to learning is sufficient to allow coverage of the curriculum and is comparable to the time allocated by schools”* This is contrary to the provisions of the *Education Act 1990*, as discussed in detail later in this submission. The HEA is aware that home education applicants have had their applications rejected for not supplying a timetable that indicates the hour of study for each subject as suggested for schools.

[Practical aspects of implementing the syllabus outcomes and content](#)

The *2013 Home Schooling Information Package* also requires that *“the educational program identifies the intended learning outcomes based on the relevant Board of Studies syllabuses and relevant content.”* The terms ‘outcomes’ and ‘content’ refer to specific sections of the syllabus. These sections are similar to stage statements in so far as they refer to the relevant syllabus however the purpose of each of these three parts; outcomes, content and stage statements are different.

Outcomes

Outcomes are coded short phrases that form a general reference to more easily compare syllabus and curriculums nationally and globally. They are used by teachers, educationalists and policy makers. They are heavily laden with ‘educational jargon’ and although refer to learning that is described in both the stage statements and the content, are poor devices in the home education context as they do not explain in simple form what is really implied as learning activities or ‘context’, in the broader meaning of the word. Some examples of outcomes include:

“SSES1 - Identifies ways in which their own needs and the needs of others are met, individually and cooperatively. (This is an outcome for HSIE at the Early Stage 1, Kindergarten level).

ENe-12E - demonstrates awareness of how to reflect on aspects of their own and others’ learning (This is an outcome for English at the Early Stage 1, Kindergarten level).

EN3-9E - recognises, reflects on and assesses their strengths as a learner (This is an outcome for Stage 3, years 5&6, English)

MA5.1-3WM - provides reasoning to support conclusions that are appropriate to the context. (This is an outcome for Stage 5, years 9&10, Mathematics)."

Content

In the example of the Outcome, ENe-12E, the contents is as follows:

"Students:

Develop and apply contextual knowledge

- develop a growing understanding of how a rich text environment underpins learning
- begin to recognise that there are different ways of learning in English
- demonstrate an emerging awareness of criteria to enable the successful completion of tasks

Understand and apply knowledge of language forms and features

- *contribute to guided discussion about how people learn to read and write*
- *develop an appreciation for books, poetry and song and the importance of narrative*

Respond to and compose texts

- *discuss what it means to be an active listener*
- *discuss what it means to be a cooperative group member*
- *reflect on own reading and discuss the pleasure and challenges of learning to read*
- *discuss likes and dislikes after reading texts"*

This is a prescriptive list and while it can be useful to draw on for ideas and/or context, to follow this list directly may prevent a home educator from meeting the educational needs of a child who may require different learning activities.

Home educators who strictly adhere to the sequences and content of the NSW Syllabuses (as is desired by BoSTES) risk failing in their duty to meet the educational needs of their children. This appears counter intuitive to the principles that every child has the right to receive an education, the education of a child is primarily the responsibility of the child's parents, and that it is the duty of the

State to ensure that every child receives an education of the highest quality. Parent educators should be required to prioritise the needs of their children above adherence to the syllabus. It is tempting to consider that the State has a right or duty to educate all children however, the *Education Act 1990* provides that the principal responsibility of the State in the education of children is the provision of public education. By removing children from the sphere of public education and exercising their right to educate their children themselves, a different education is possible, one that matches the unique needs of the child and the unique nature of home education.

The alterations made in section 4 of the *2013 Home Schooling Information Package* removed explanations of the syllabus requirements. This decreases clarity regarding requirements for the registration process as well as the requirements of the *Education Act 1990* and syllabuses. No assistance is given by the Board of Studies with creating a plan for registration in compensation for the removal of these extensive and useful explanations. In contrast the need for teachers to have support when implementing new Syllabuses is well documented.¹⁶⁴ This included the following recommendations

“The Evaluation reached the conclusion that there is a clear and unequivocal need for schools to receive guidance, direction and support about syllabus outcomes for assessment and reporting in K-6 Key Learning Areas and for Stages 4 and 5 in Secondary schools.

Resourcing is a fundamental element in leading schools towards an acceptable level in successful implementation of major initiatives of which outcomes assessment and reporting must rank as the most significant. Given the limited implementation support available, many schools have drawn on other sources of funding such as the NSW Government’s Priority School Funding Project and the Country Area Program. What became clear was that \$10,000 could make a real difference to the extent and depth of effective implementation in an individual school of outcomes assessment and reporting.

5.2.2.1 Training and professional development

Regardless of what might result from a review of the relationship between the Board of Studies NSW and the NSW Department of Education and Training, there will remain a need to ensure schools are well prepared for new syllabuses (or

¹⁶⁴ Eltis, K, Crump S. *Time to teach, time to learn*. 1st ed. NSW Department of Education and Training; 2003.

revised ones, in terms of mandatory requirements) and, when they appear, are able to receive helpful and professional advice on implementation.”

The document, *Time to Teach, Time to Learn*, also revealed a concern from the Teacher’s Federation:

“Just as important an issue, according to the NSW Teachers Federation, is the urgent need to address the mistaken belief that all outcomes are mandatory. The Teachers Federation also argued that the Key Learning Areas had the potential to be too narrow, because the weight of so many outcomes meant teachers are leaving out areas in order to “get through” literacy and numeracy as the unofficial core of the school’s curriculum, and the areas most commonly tested State-wide. The Federation expressed concern at the workload arising from assessment on a broad range of outcomes, especially in K-2. The Federation also saw a potential breakdown of the traditional willingness of teachers to collaborate across schools as a result of an emphasis of having schools more actively market themselves.”

Teachers who become home educators, as evidenced in other sections of this document, report that the stress of being able to cover the syllabus leaves them and that Home Education affords them the opportunity to cover far more than the Syllabus. Adherence strictly and/or only to the Syllabus would negatively impact student’s learning.

[Placing the onus for assessment on home educators](#)

The new home education registration policies, as described in the *2013 Home Schooling Information Package* changed the approach of Authorised Persons to registration assessments. Previously, home educators reported to the HEA that Authorised Persons would examine the plan and records of home educators and use their own knowledge of the NSW Syllabuses to ascertain if the syllabuses were covered. Without notice or reason the onus is now on parents to prove through extensive documentation that the parents can duplicate the syllabus. It is considered ‘harder to register’ in general and this is reflected in the substantial increase in rejected, withdrawn, and short (three month, six month and 12 month) registrations, compared with the period prior to 2013. Home educators have reported increased stress with regard to registering no matter how many years of experience they have had home educating.

[ACARA Approved syllabuses](#)

BoSTES does not provide allowance has been given to parents who use plans that are based on other ACARA approved syllabuses (by the definition these syllabuses meet each other's outcomes and therefore could be interchangeable with the NSW syllabus which is based on the ACARA National

curriculum). There seems to be no justification for the Board of Studies' inability to allow for other ACARA approved syllabuses.

Conclusion

The HEA concludes that published information from BoSTES and advice from Authorised Persons is unclear and often contradictory regarding home educators and the NSW Syllabuses. Some Authorised Persons have inappropriately judged that home education is to be undertaken to the scope, sequence, content and outcomes of the NSW Syllabuses. The changes which have occurred in recent times have created confusion, substantial stress and lead to unreasonably short registration periods. To insist on, or suggest, the use of the NSW Syllabuses in their entirety is educationally detrimental to home educated students. In addition, substantial training would need to be provided to home educating parents as was undertaken with NSW teachers when new syllabuses were being implemented.

(c)(iv) Regulatory framework for home schooling including potential benefits or impediments to children’s safety, welfare and wellbeing

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The need to support the safety, welfare and wellbeing of children, and to protect them from abuse and neglect, are fundamental duties of parents and communities and responsibilities of government. Some have raised the possibility of home educated children being abused unbeknownst to the community because they are not attending school, or even of children being home educated in order to hide abuse or neglect. These possibilities appear to be a contributor to the current system of home visitation associated with home education registration in NSW. Yet, there is much to suggest that the current system is not meeting the aim of protecting children, and through discouraging registration at all, may be counterproductive to it.

In response to this Term of Reference the HEA will include consideration of the *Children and Young Person’s (Care and Protection) Act, 1998*, because ‘safety, welfare and wellbeing’ are the paramount principles dealt with therein. Section 9, paragraph 1 states: “*This Act is to be administered under the principle that, in any action or decision concerning a particular child or young person, the safety, welfare and well-being of the child or young person are paramount.*” The HEA also recognises that these notions may be more generally described in terms of the overall life of a child or young

person. For the purposes of this section, these notions within their child protection context will be addressed initially. Broader conceptualisations of them will be included where relevant.

Child protection concerns

A substantial emphasis of the *Special Commission of Inquiry into Child Protection in NSW*, headed by Justice James Wood, and the child protection system reforms known as *Keep Them Safe* is integrated sharing of information across a range of sectors. This is so that risk of harm to children and young people can be identified and responded to in appropriate ways. The HEA understands that there are individuals and groups who may be concerned that children and young people who are home educated, particularly those who are not registered, may be invisible to agencies which can provide oversight of children's safety and wellbeing. Indeed, there is no certainty that this is not possible.

At the same time, the HEA contends that the vast majority of home educated children are not retained permanently in their homes, but are, to a greater or lesser extent, engaged with communities. As such, they are in the presence of mandatory reporters on a regular basis. For example, home educated children come into contact with mandatory reporters whenever they attend local libraries, swimming lessons, youth groups in their church, doctors' surgeries and other health services. As described later¹⁶⁵, home educators have resisted attempts by BoSTES to restrict home education activities to the home.

The Queensland Review of Home Education in 2003 found that the idea of home educated children being at risk is one of the myths regarding home education and that there was *"no evidence, reputable research or judicial data"* showing that home educated children are at any greater risk than their school-educated peers.¹⁶⁶ That document goes on to say *"The argument often stems from an absence of understanding of what is home schooling and a confusion of this with issues of parental neglect, truancy from a school that a child is enrolled at and should be attending on a full and regular basis, children lost to any system, process or program of education and parental and familial abuse of children."* Whilst that was written in 2003, the situation remains the same. The HEA is of the opinion that this misunderstanding and confusion is perpetuated through current NSW Department of Education terminology such as 'Home-School Liaison Officers' which respond to student truancy and have no connection with home 'schooling'. This goes to reinforce the HEA's call to rename 'home schooling' as 'home education'.

¹⁶⁵ (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

¹⁶⁶ Department of Education, Queensland. Home Schooling Review. Brisbane; 2003

The HEA contends that it is not possible to claim that home educated children are at particular risk of harm (especially in relation to the overall population of children) as such data is not able to be extracted from the NSW child protection information database (known as KiDS). This information was requested from Community Services, NSW, and was not able to be provided by that service. The data that was requested from BoSTES regarding reports of 'risk of significant harm' made by Authorised Persons could not be provided precisely. However, an informed estimate put the number at fewer than 17 between the years 2010 and 2014, out of 11,765 home education application assessments made during that same time. It was also not possible to identify the nature of these reports. If they relate to 'educational neglect', where children are not registered for home education and not attending school, then this constitutes a breach of the *Education Act 1990* but not a clear neglect of education.

An additional potential indicator of abuse that can be extrapolated to demonstrate the lack of abuse suffered by home educated children is in the sequelae of child abuse including criminal activity and incarceration, abuse of, or addiction to, drugs and/or alcohol and enduring mental health issues.¹⁶⁷ The HEA argues that there is no evidence, empirical or anecdotal, that home educated children and young people are represented in drug and alcohol services, prison, mental health services, or receiving social security payments at greater than, or even equal to, their proportion within society.

It is the view of the HEA that there is a substantial difference between families who are actively home educating their children (whether registered or not) and families who are using the label of 'home schooling' as a ruse to avoid engagement with broader social systems, and that do not hold a coherent educational philosophy, nor any form of commitment to their children's education. This issue is addressed by Jennens¹⁶⁸, who notes that in the UK, after release of *Every Child Matters*¹⁶⁹, home educators argued that "*there was a misleading lack of differentiation between children not registered at a school through neglect and children being carefully educated at home by a parent*".¹⁷⁰ The HEA endorses this distinction.

¹⁶⁷ Norman RE, Byambaa M, De R, Butchart A, Scott J, Vos T. The long-term health consequences of child physical abuse, emotional abuse, and neglect: A systematic review and meta-analysis. *Plos Medicine*. 2012; Thornberry TP, Knight KE, Lovegrove PJ. Does maltreatment beget maltreatment? A Systematic Review of the Intergenerational Literature. *Trauma, Violence, & Abuse*. 2012; 13:135-152.

¹⁶⁸ Jennens R. Professional knowledge and practice in health, welfare and educational agencies in England in relation to children being educated at home: An exploratory review. *Child Care in Practice*. 2011;17(2):143-161.

¹⁶⁹ UK Government. *Every Child Matters*. In: Department of Education, ed. London: The Stationery Office; 2003.

¹⁷⁰ Jennens R. Professional knowledge and practice in health, welfare and educational agencies in England in relation to children being educated at home: An exploratory review. *Child Care in Practice*. 2011;17(2):143-161.

Ray¹⁷¹ argues that the charges levelled against home education, including that home educating parents are isolationist, that home educated children are at risk of abuse within their families and that home educated children are not sufficiently prepared for life beyond the 'school' years are predominantly ideological and not supported by empirical evidence. Where evidence does exist, it supports home education as beneficial to children across all these areas.¹⁷²

Home education can provide refuge from institutional abuse

Inherent in the belief that children who are home educated may be at particular risk of abuse is the notion that children in institutions such as schools are in a safer position. However, this belief cannot be substantiated as there is considerable evidence that schools are not a safe place for many children. There are escalating incidents of violence, abuse, threats, drug possession and use, inappropriate and illegal sexual behaviour, and self-harm occurring in NSW schools as evidenced by the Department of Education and Communities' quarterly incident reporting. The data report shows a consistently increasing number of reports to the Department's School Safety and Response Hotline.¹⁷³ Further, the current Royal Commission into Institutional Responses to Child Sexual Abuse has highlighted the problem of sexual abuse in schools. The HEA notes that despite children being within institutions (including schools) that had explicit child protection policies, they were not protected.

The HEA is aware that home education can provide safety for children who experienced sexual, physical or psychological abuse at school. As told by one mother,

"My son has autism and was home educated for three years before I was persuaded that he should be sent to school. This (NSW government) school had a system where children were paired with another child for going to the toilet. My son was subjected to repeated and escalating sexual abuse perpetrated by his toilet buddy (also 8 years old). He told his teacher about it and it was brushed off. He then told me and I raised it with the school; I was not satisfied with their response. They initially tried to brush me off, too. The child was asked about the abuse and denied it, before admitting that it had happened. The school counsellor told me that my child would not be badly affected by what had happened because

¹⁷¹ Ray BD. Homeschooling associated with beneficial learner and societal outcomes but educators do not promote it. *Peabody Journal of Education*. 2013;88(3):324-341.

¹⁷² Ray BD. Homeschooling associated with beneficial learner and societal outcomes but educators do not promote it. *Peabody Journal of Education*. 2013;88(3):324-341.

¹⁷³ <https://www.det.nsw.edu.au/media/downloads/about-us/plans-reports-and-statistics/key-statistics-and-report/Term42013SSReports.pdf>.

he is autistic. We withdrew our son from school and have received no support from the school system because he was being home educated.”

Bullying is a type of violence that occurs frequently in schools. The Australian Covert Bullying Prevalence Study found that between 25% and 32% of students experienced bullying.¹⁷⁴ Bullying can have significant consequences for individual students, as well as the broader school community and is a particularly pertinent issue for young people with disabilities.¹⁷⁵ The recent Inquiry into Bullying of Children and Young People in NSW submission considered the impact of bullying in school settings. A submission made to this Inquiry by the Commission for Children and Young People stated that *“children ... told us that being bullied was the antithesis of wellbeing at school. In our research on wellbeing, bullying was found to be the most consistently negative and singularly most powerful experience at school that undermines wellbeing”*.¹⁷⁶ The Inquiry found that bullying has a significant negative impact on the physical and mental health of children as well as their ability to learn. The HEA receives many requests for assistance with home education from parents who have withdrawn their child from school because of bullying. As described earlier¹⁷⁷, many cases of bullying in schools are not responded to effectively or positively by staff, and children are often bullied because of a disability or special need. In these situations, parents have turned to home education to promote the wellbeing and safety of their children.

“My son was in a special unit that we moved towns for him to attend. For 18 months he was picked on by older kids who had behavioural issues. He was sworn at, bitten and taught to swear. I feel like the principal and the teacher swept my concerns under the carpet. Eventually, I took him out, lodged the paperwork to home school and eased in. He has made so much progress in the last term, I am so proud and so pleased that we decided to home school.”

“My son was bullied at school for nearly four years, including physical violence. We spent four years trying to resolve the issues. In the end we got fed up and began homeschooling to provide a safe learning environment for our child.”

¹⁷⁴ Cross D, Shaw T, Hearn L, et al. *Australian Covert Bullying Prevalence Study (ACBPS)*. : Child Health Promotion Research Centre, Edith Cowan University, Perth; 2009.

¹⁷⁵ Hemphill SA, Tollit M, Kotevski A. Rates of bullying perpetration and victimisation: a longitudinal study of secondary school students in Victoria, Australia. *Pastoral Care in Education*. 2012;30(2):99-112.; Skattebol J, Hamilton M, Skrzypiec G, et al. Understanding children’s perspectives on wellbeing. *Australian Child Wellbeing Project*. 2013.

¹⁷⁶ Calvert J. *Inquiry into Bullying of Children and Young People: Submission, NSW Commission for Children and Young People*. Sydney, NSW: Legislative Council, NSW; 2009.

¹⁷⁷ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

“I withdrew my 14 year old daughter from high school last year, midway through first term due to bullying by both teachers and fellow students. She became very depressed and was starting to self harm. The school did nothing to stop what was going on. Once I found razors in my daughter’s bedroom, that was the sign that I needed to remove her from the school environment where socialisation was so negative and harmful. We sought psychological help and the counsellor diagnosed her with PTSD and school phobia and was fully supportive of my decision to homeschool. Since being home she has returned to her happy self, she no longer self-harms, she is learning daily, enjoying the company of other homeschooled teens and is growing into an independent, lovely young lady.”

The Inquiry into Bullying of Children and Young People in NSW also identified that the outcome of bullying can be student suicide.¹⁷⁸ Although home educated children may be subject to the ups and down of everyday life, this is clearly one potential source of harm from which they can be more easily protected than children at school. For some children, suicidality as a result of bullying was the catalyst for their removal from school and the initiation of home education. As described by these parents,

“My son was bullied for 3 terms. He had a chair thrown in his face, was stopped from retrieving his bike of an afternoon, had his lunchbox stolen, shoes stolen and was called names. This was the start of his severe anxiety and school refusal. My son was talking suicide and was petrified to leave the house. He lived for playing soccer and he couldn’t even enjoy this sport that he loved. It completely changed who my son was and this bully had no consequences. This is why we started homeschooling.”

“My daughter is 13 and has been home schooled since week 8 of term 1. She is on the spectrum [ASD] and had issues with not feeling safe at school after witnessing others being assaulted and then being threatened herself. Her anxiety went through the roof and was manifesting as abdominal complaints and nightmares. She said that she hated life and wanted to kill herself. She was literally so anxious that she could not learn. We are seeing a counsellor and she was talking Post Traumatic Stress Disorder. However, since being home we have little to no anxiety, no nightmares, eating well, learning well and a desire to live life to the full.”

¹⁷⁸ Legislative Council, NSW. Inquiry into Bullying of Children and Young People: Report. General Purpose Standing Committee. Sydney: NSW Parliament; 2009.

“We removed our 6 year old son after consistent bullying by teachers. He went to a very small (50 kids) state school and his teacher managed to reduce his self esteem to nothing. The school refused to assist with his special needs (he has an audio and visual processing disorder). I ended up with a suicidal 6 year old on my hands. When I told him we were pulling him from school he actually cried and said, “Thank you mummy.” It’s a long road rebuilding his self worth but we are slowly getting our beautiful boy back.”

All of the examples above (and many more like them) show children’s traumatic experiences; such experiences must be addressed as part of the process of a child transitioning from school to home. As has been described earlier¹⁷⁹, this process of recovery and reestablishment can be referred to as ‘deschooling’. The HEA asserts that this situation is one good argument amongst many in support of a provisional registration period for people to ‘find their feet’ and re-establish emotional equilibrium.

The wellbeing of home educated children

The Australian Child Wellbeing Project proposes that wellbeing “is broadly understood as comprising a young person’s material and environmental circumstances, his or her relationships, and how he or she thinks about him/herself in the context of those circumstances and relationships”.¹⁸⁰ This definition provides a “child-in-context” view of wellbeing.

A broad review of research on models of effective practice addressing the psychological and emotional wellbeing of children and young people identified that although there was no consensus regarding a single definition of wellbeing, the concept usually “refers to the ability to cope with stressors; the development of autonomy and trust; the development of the self-system (including self-esteem and identity); the development of empathy and sympathy; and the formation of positive social relationships”.¹⁸¹ The review identified some significant challenges to the wellbeing of Australian children and young people in schools, including high levels of bullying and a significant issue with drinking alcohol at harmful levels.¹⁸²

¹⁷⁹ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

¹⁸⁰ Skattebol J, Hamilton M, Skrzypiec G, et al. Understanding children’s perspectives on wellbeing. *Australian Child Wellbeing Project*. 2013.

¹⁸¹ Wallace A, Holloway L, Woods R, Malloy L, Rose J. *Literature Review on Meeting the Psychological and Emotional Wellbeing Needs of Children and Young People: Models of Effective Practice in Educational Settings*. : Urbis; 2011.

¹⁸² Wallace A, Holloway L, Woods R, Malloy L, Rose J. *Literature Review on Meeting the Psychological and Emotional Wellbeing Needs of Children and Young People: Models of Effective Practice in Educational Settings*. Urbis; 2011.

Rothermel (2012) argued that much professional and academic concern regarding the social and psychological wellbeing of home educated children is “intuitive” rather than evidence-based. She found that existing evidence indicates that home educated children progress at least equally with, if not better than, “school-educated” children. Rothermel¹⁸³ cautions, however, against reliance on psychological tests which have been “normed” on school-educated children, as those tests may not accurately translate to the experiences of home educated children.

Whichever version of wellbeing is applied, the overall wellbeing of Australian home educated children is nowhere identified in research. This is primarily because existing survey measures do not engage this portion of the population of children and young people (relying as they often do on school-based surveys or recruitment). For example, the Australian Child Wellbeing Project studied 8 to 14 year old Australians from over 480 schools around the country, across all education/school types other than home education. This is despite interviewing a number of home educated children in the scoping phase of the project.¹⁸⁴ A similar issue can be found with the “5th National Survey of Australian Secondary Students and Sexual Health”¹⁸⁵, and in the national study *Growing Up in Australia: The Longitudinal Study of Australian Children*.¹⁸⁶

In addition to the quotes provided here, the HEA is confident that the Inquiry will receive many submissions that demonstrate the high level of wellbeing of home educated children when considered in relation to the above identified definitions and domains. As described earlier¹⁸⁷, many home educated children have special needs that can be effectively met via home education, which therefore provides for their learning and emotional needs.

Socialisation

The HEA acknowledges that a regular catch-cry of individuals who are unfamiliar with home education is, “what about their socialisation?” The HEA responds to this question with two specific points.

The notion of socialisation in these questions is nebulous and ill-defined. Socialising may be what the questioners mean, but this is distinctly different from socialisation. Whilst the former is contingent

¹⁸³ Rothermel PJ. Home Educated Children’s Psychological Well Being. *Estudios Sobre Educacion*. 2012;22:13-36.

¹⁸⁴ Skattebol J, Hamilton M, Skrzypiec G, et al. Understanding children’s perspectives on wellbeing. *Australian Child Wellbeing Project*. 2013.

¹⁸⁵ Mitchell A, Patrick K, Heywood L, Pitts M. *5th National Survey of Australian Secondary Students and Sexual Health 2013* 2014.

¹⁸⁶ AIFS, Australian Institute of Family Studies. *The Longitudinal Study of Australian Children Annual Statistical Report 2013*. Melbourne, Australia: Australian Institute of Family Studies; 2014.

¹⁸⁷ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

upon spending time with other people (especially children) outside of the family, the latter is often a process of establishing pecking orders and reinforcing social hierarchies and can involve bullying and ostracism, with ensuing significantly detrimental outcomes. Whilst the former is important for extending personal interests, capacities and knowledge, the latter is a scourge of which schools and society are desperately working to rid themselves.

There is extraordinarily little Australian research on the socialising and social capacities of home educated children and young people. However, Allen and Jackson¹⁸⁸ reviewed existing research (including two recent Australian PhD theses¹⁸⁹) and reported that home educated children's socialising more closely reflects post-school experiences of engaging with people of diverse ages through common interest areas. This is facilitated by participation in sport, special interest and volunteering activities, churches, or clubs. Some further research has been undertaken in the United States and the United Kingdom. Whilst both of these countries have home educating cultures distinctly different from that of Australia, the evidence presented to this Inquiry may provide some legitimacy to the observations of researchers from these locations. Specifically, Medlin's¹⁹⁰ recent review of home educated students' 'socialisation' found that parents encouraged their home educated children to be active agents in their own socialising and socialisation, whilst supporting pro-social values of respect and getting along with others.

Medlin's¹⁹¹ review articulated a more specific set of criteria by which to consider socialisation - *Are homeschooled children acquiring the "skills, behaviour patterns, values, and motivations" they need to function competently as members of society?* Medlin argues that the existing research demonstrates that this question can be answered in the affirmative for home educated children. Therefore, the HEA encourages the Committee to keep these criteria in mind when reading the submissions of home educating families and considering the social opportunities and progress of home educated children. If home educated children and young people are invisible to the broader Australian society it is not because home educators hide their children away, but because society does not seek to understand or include them.

¹⁸⁸ Allan S, Jackson G. The whats, whys are wherefores of home education and its regulation in Australia. *International Journal of Law and Education*. 2010;15(1):55-77.

¹⁸⁹ Reilly L. *Progressive modification : how parents deal with home schooling their children with intellectual disabilities*, University of Western Australia; 2007.; Jackson G. *'More than One Way to Learn': Home Educated Students' Transitions Between Home and School*: Faculty of Education, Monash University; 2009.

¹⁹⁰ Medlin RG. Homeschooling and the question of socialization revisited. *Peabody Journal of Education*. 2013/07/01 2013;88(3):284-297.

¹⁹¹ Medlin RG. Homeschooling and the question of socialization revisited. *Peabody Journal of Education*. 2013/07/01 2013;88(3):284-297.

Wellbeing of home educated children and the current regulatory regime

When asked about home educated children's safety, welfare and wellbeing in a recent online survey conducted by the HEA, home educating parents provided a range of responses endorsing the benefits of home education. Primarily, home educators reported that their children are with people who love them and have their best interests at heart. Many commented that they expected the levels of wellbeing concerns are likely to be lower than for children in schools, and that schools do not necessarily protect them from harm. Echoing the previously noted comment by Jennens¹⁹², some respondents suggested that there must be a distinction between those who are hiding behind the guise of home educating without caring for their children and those who are committed to home education as an engaged practice.

Legislation and policy to regulate home education in NSW does not explicitly provide for the aim of child protection, however the current system contains components that appear to be related to both ensuring that children receive a quality education and that children are not subject to abuse or neglect in their homes. The suitability of the current regulatory regime in achieving the aim of ensuring that children are receiving a quality education is discussed later.¹⁹³ The suitability of the regulatory regime in achieving the aim of ensuring that children are not abused and neglected is discussed here.

The HEA contends that the current registration regime is negatively impacting upon some children's wellbeing. Firstly, the system of registration visits is problematic for some children. Specifically, large numbers of families have reported to the HEA that across the past two years (i.e. between mid-2012 to mid-2014) their children and young people found the process of registration visits to be severely stressful. As described earlier¹⁹⁴, such visits have had negative consequences for these children and young people's mental and physical health for reasons related in many cases to poor training and qualifications of Authorised Persons carrying out the visits. Additionally, however, as outlined previously¹⁹⁵, some of these negative outcomes are the direct result of Authorised Persons applying the guidelines outlined in the Authorised Persons Handbook.

¹⁹² Jennens R. Professional knowledge and practice in health, welfare and educational agencies in England in relation to children being educated at home: An exploratory review. *Child Care in Practice*. 2011/04/01 2011;17(2):143-161.

¹⁹³ (c)(v) Regulatory framework for home schooling including: appropriateness of the current regulatory regime and ways in which it could be improved

¹⁹⁴ (c)(ii) Regulatory framework for home schooling including: training, qualifications and experience of authorised persons

¹⁹⁵ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

It should also be recognised that registration visits can be stressful for some children regardless of the sensitivity of the Authorised Person. As described earlier¹⁹⁶, many home educated children suffer from psychological conditions such as anxiety or a history of trauma that can make the registration process inherently stressful. Until 2013 registration visits were not required for every registration process and home educators who were deemed experienced and competent by the then Office of the Board of Studies could register via documentation (in some cases those families were not given the choice of a home visit). This alleviated distress for such children. This option was abruptly removed and registration via home visit is now required regardless of the vulnerabilities of children.

“I have been home educating for 15 years and have always received the maximum duration of registration. I was hoping to be able to undertake my last registration visit via documentation as my youngest daughter, who had come to our family as a foster child, suffered from anxiety and has a great fear of losing her family. I thought it likely that my daughter would find the visit by an Authorised Person not dissimilar to visits by social workers to her previous family prior to her removal from their care. I sent an email requesting that the registration be undertaken via documentation. In reply I received a letter by registered post informing me that I had to re-register via visit and that my children had to be present. It was later confirmed by my AP that the letter was sent via registered post in case evidence of delivery was needed for a court case against me, although there was no history of any conflict between myself and the OBoS. The AP was fine, the visit went smoothly but my daughter fell to pieces after she left in a massive meltdown and could not be comforted for a long time. I will not subject her to this experience ever again. I cannot understand how it is appropriate to unnecessarily traumatise a child like my daughter. There can be no child protection concerns for my daughter as there is ample evidence of our engagement in our community.”

Many home educators believe that the requirement for a registration visit as a part of the home education registration process is primarily a child protection issue and that the visit is therefore a welfare check. Families express distress that they were considered to be good enough parents to be able to care for their children from 0 to 6 years without mandatory home visits to check on their children, but that once they choose to home educate they are no longer considered trustworthy. The HEA is of the view that many NSW families would be unhappy with the idea of a government

¹⁹⁶ b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

official coming into their home in order to sight their child routinely and without any prior evidence of harm.

Given the very low numbers of ‘risk of significant harm reports’ (as shown above), and that the current system appears to be discouraging people from registering, the blanket requirement that visits be a part of the registration system should be reconsidered and the appropriateness of a more targeted response should be explored. Furthermore, the unsuitability of the registration process and exclusion of home educated children from resources as described earlier¹⁹⁷, actively discourages the engagement of home educators with the registration process. The HEA contends that any home education regulatory system should be one that is attractive for families to participate in and that promotes engagement rather than acting as a repellent. The HEA is of the view that the home education regulatory system should be providing families with support that enables them to do their best possible job in educating their children. It should not be adding stress to what can already be an extremely stressful situation; families who have already been traumatised in the school system should not be subject to continuing distress via the home education registration system.

Further, as described earlier¹⁹⁸, a more appropriate regulatory regime is likely to reduce the numbers of unregistered home educated children. Designing a home education oversight body and registration system which provides clear support and benefits from the process of registration and being registered would be one potential way to increase participation and opportunity for deeper understanding of home educated children’s welfare.

[Additional Note: Family Law Implications](#)

The HEA wishes to draw the attention of the Committee to a distinct issue, which is related to the regulatory regime and is resulting in harm to children. The HEA is aware of some family situations where after separation of the parents one parent has wished for the children to continue (or start) home education, whilst the other has wished for them to go to a school. In such circumstances. BoSTES requires that where court orders have given shared parental responsibility, both parents must sign the home education application form or the application cannot be processed.

The consequence of this requirement is that children’s long-established educational arrangements (including their friendship and support networks which are all the more important after a substantial family breakdown) can become fractured, compounding the potentially distressing events they are

¹⁹⁷ (c)(i) Regulatory framework for home schooling including: current registration processes and ways of reducing the number of unregistered home schoolers

¹⁹⁸ (c)(i) Regulatory framework for home schooling including: current registration processes and ways of reducing the number of unregistered home schoolers

experiencing. Alternatively, this policy might result in children being home educated without being registered and, consequently, action being taken against a parent for educational neglect because the child is unregistered (in such cases the quality of the education being delivered is irrelevant) and in children being forced to return to school (against their wishes and with no consideration of their best interests). In circumstances where the issue goes to court, home education is not viewed as an equal educational option and the parents are almost uniformly ordered to enrol their children at a school, regardless of the negative effects this can have on those children. In these circumstances, a parent of child who is suicidal due to bullying, for example, has no way in which to respond protectively.

In the context of ongoing family law issues, threats that consent for home education will be withdrawn are also common. While they sometimes occur in the generally difficult process of separation, these can also be part of processes of control, intimidation and violence within ongoing relationships. This can continue for many years and be a source of enormous stress and distress for parents and children. This situation is clearly destructive; indeed, not listening to the wishes of the child and putting their best interests at the heart of decision making is in contravention of the *United Nations Convention on the Rights of the Child* and the *Children and Young Person's (Care and Protection) Act, 1998*. Such situations are extremely distressing for children, as described by one mother,

"My teenage son was withdrawn from school because of bullying that had left him extremely anxious and expressing that he wanted to kill himself. My ex-husband has not been actively involved in my son's life for many years, there had been no contact at all for 2 years and he did not even know which school he went to. His permission was not required to enrol my son in school. However, because we have shared parental responsibility in a court order, I needed his permission to make the application to home educate. I had to contact him to ask for his signature and was verbally abused, degraded and insulted for 2 hours about how it was my fault that our son was struggling. If I hadn't agreed with all the negative stuff he said to me I would have never have got that signature. It was very draining on me and I felt like I'd been hit by a bus. I find it wrong that he has to give me permission for this when he has no idea about his son or why this is his best option. I was able to get him to give permission, but when my son recently asked to see his dad and spent some time with him he told him that he needed to toughen up and threatened to MAKE him go back to school.

My son just about died with fear (and said he never wants to see him again). I'm afraid that he will withdraw his consent for him to be home educated. If that happens I truly do not know what I will do for my son cannot go back to school."

Although, technically, two parents' signatures are required for enrolment at school also, in practice this often does not occur. It is however strictly enforced for home education applications and it is clear that this enforcement causes great distress. In the absence of evidence to the contrary, this would appear to be discriminatory. This current system allows the perpetuation of abuse against women and children. If a non-custodial parent really disagrees with the child being home educated, the HEA is of the view that they should be forced to go to the family court and that a test of the best interests of the child should take place; the current system does not allow for this. Furthermore, as already mentioned, the court appears not to consider home education an equal alternative and would appear to order children to school regardless of what may be in their best interests. There should be no differentiation between the consent required for enrolment at school and for home education.

Educational neglect and the Children and Young Person's (Care and Protection) Act

One circumstance which may result in a report of "Risk of Significant Harm" to Community Services, as listed in the *Children and Young Person's (Care and Protection) Act, 1998*, is "S23 P1(b1) in the case of a child or young person who is required to attend school in accordance with the *Education Act 1990* – the parents or other caregivers have not arranged and are unable or unwilling to arrange for the child or young person to receive an education in accordance with that Acts". This is referred to as educational neglect. Under this broad and blunt definition, non-registration for home education is classified as "educational neglect." The HEA contends that not registering for home education is not, in and of itself, detrimental to a child or young person's safety, welfare or wellbeing. Not registering for home schooling as per the *Education Act 1990* is a breach of that Act, but does not, by definition, equate to a lack of education. Parents may choose not to register due to a strong opposition to State power or registration requirements, yet still provide a safe environment and a quality education to their children. The HEA would maintain that registration status is unrelated to the quality of education being received.

In order to understand the means by which the neglect of education is assessed, the HEA contacted NSW Community Services and the NSW Department of Education and Communities. That contact

identified that educational neglect is currently defined only in the general terms of the *Children and Young Persons (Care and Protection) Act, 1998*, and no more refined policy or more sensitive assessment instruments exist. As a consequence, children can become caught up in the child protection system on the basis of their parents' administrative failure rather than specifically experiencing safety, welfare or wellbeing issues.

Conclusion

It is not uncommon for people to propose that home education is detrimental to children's safety, welfare and wellbeing, or that home educated children are invisible to society. The inverse proposition located within these assertions is that schools are better at meeting children's safety, welfare and wellbeing needs. This document has shown that neither research, nor data exist to support the negative associations and that there are many illustrations, in research and anecdotally, that home education is positive for children and they are engaged within communities. In addition, home education has often provided for children's safety, welfare and wellbeing in ways that schools have not.

The HEA is sensitive to the bind that policy makers may experience between reducing State intrusion into families, whilst creating the highest level of confidence in the welfare of children and young people. The HEA contends that these two needs are not mutually exclusive. Finally, the HEA would welcome robust, balanced, responsible research to address the gaps identified above and to assist in developing a world's best practice approach to home education support and registration. The HEA proposes that the discussion about protecting the safety, welfare and wellbeing of home educated children should be factually based, collaborative and respectful.

To address the issues highlighted in this section, the HEA requests the Committee implements the appropriate recommendations of this submission.

(c)(v) Regulatory framework for home schooling including appropriateness of the current regulatory regime and ways in which it could be improved

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Introduction

The HEA's consideration of the appropriateness of the current regulatory regime takes a broad perspective and includes consideration of the legislation, policy and regulations under which home education is regulated in NSW. The current regulatory framework involves a parent act, the *Education Act 1990*, and administrative policy. The HEA's response argues that the parent act has been extensively amended in a way which hinders the achievement of the objects of the Act in relation to home education. In many instances this has been the result of amendments made without regard for the effect on home education. Administrative policy in this area has expanded to fill the regulatory gap created by a broad and sometimes contradictory parent act. The policy is not subject to sufficient oversight and has, in a large number of areas, sought to undertake what is effectively regulation by adding inflexible requirements. It should be noted that the BoSTES does not have unfettered jurisdiction over parents, students or education. Only those guidelines which are made pursuant to and consistent with the empowering Act are legally valid and enforceable.

This part will consider legislation, policy and implementation, setting out both content and commentary for each level of the current regime. Subsequent to this legislation/policy discussion, a number of issues regarding ways in which the current policies are overstepping the legislated mandate are outlined. These include the documentation associated with an application to home educate, specified teaching in the home location, family (and other) court orders, restricting registration to compulsory years of schooling, specified years of schooling, inability to combine school and home education, adherence to detailed syllabuses, onus on parent to prove compliance (rather than education), provision of reasons for decisions, and the requirement that the child be present during the visit.

In light of this discussion, the part will then consider ways in which the current regulatory regime could be improved. This will include a consideration of ways to reduce the numbers of unregistered home schoolers.

Legislation

General Comments

The provisions of the *Education Act 1990* clearly demonstrate that every child has an inherent right to an education. The responsibility for educating a child falls on the parent or guardian of the child and the state has a duty to ensure that children receive a quality education which is principally fulfilled through the provision of free public education. Although parents have a responsibility to educate their children, they may choose to delegate the actual educating to a government or non-government school. In this instance, their duty extends to ensuring that the child attends school regularly. If a parent retains the responsibility they are required, by the Act, to register the child for 'home schooling'.¹⁹⁹ This requirement arises because the state implements its duty to ensure that children receive a quality education by creating a corresponding duty for parents to ensure that a child is either enrolled in and regularly attending a school or registered for home schooling.²⁰⁰

One key problem with outlining the 'regulatory framework for homeschooling' is that the relevant legislation was clearly not drafted with home education in mind. For example, home schooling is defined by the Act as '*schooling in the child's home*'²⁰¹, despite the fact that *school* is defined by the Act as '*government or non-government school*'.²⁰² This occurred because the definition of 'home

¹⁹⁹ *Education Act 1990* s 22(1)(b)

²⁰⁰ *Education Act 1990* s 22

²⁰¹ *Education Act 1990* s 3

²⁰² *Education Act 1990* s 26A Although note that although this definition is ostensibly only relevant for Part 5A it is referred to throughout the Act.

schooling' was inserted by an amending Act²⁰³ which made no other reference to home education. Another example is the fact that Part 7, which contains the provisions regarding home education, is headed *Registration Of Non-Government Schools And Of Children For Home Schooling*, but explicitly defined as '*This Part applies to schools other than government schools.*'²⁰⁴ Nevertheless, Division 6 of part 7 purports to deal with home education. As stated above, if a parent applies to the Minister to home educate their child, the Minister must seek the advice of an Authorised Person. Ridiculously, subsection 3 states that the Authorised Person is to notify the applicant in writing of a recommendation that the application be refused, with no mention of a recommendation to approve the application. Importantly, there is no mention of the considerations or process involved in the Authorised Person's advice. The requirement for written notice is restated in s72 along with other measures. These sections are possibly contradictory but certainly confusing and poorly drafted. The implications of this consistent failure to consider home education when drafting amendments to the *Education Act 1990* gives rise to misapplication of policy and practice and is further considered in relation to the definition of Minimum Curriculum.

Specific Issues

Definition of Home Schooling

The definition of "home schooling" was inserted into the *Education Act 1990* as part of the *Education Amendment (School Attendance) Act 2009*. This Act, as evidenced by its content, explanatory notes, reading speeches and Legislation Review Digest related solely to non-government schools. Neither the explanatory note nor the second reading speeches even use the word home in any context. The legislative review digest notes specifically that "[t]he object of this Bill is to amend the *Education Act 1990 (the Act)* to provide more rigorous standards for registration of non-government schools." That is, there is no intention to change the home education registration processes. As a result, the definition provided is not indicative of the purpose or practice of home education and leads to difficulties when applied as a key part of later policy development.

Providing Written Reasons

The *Education Act 1990* provides that the Authorised Person must give written reasons if they intend to recommend that the Minister refuse to register a child for home education. However, the Act fails to foresee the use of short registration periods as an alternative to a recommendation to refuse registration. The HEA made a written request to BoSTES that any applicant who did not receive the maximum registration period be given written reasons to explain why and to enable them to

²⁰³ *Education Amendment (Non-Government Schools Registration) Act 2004*

²⁰⁴ *Education Act 1990* s 37

improve their application on the next occasion. BoSTES confirmed in writing that they refused to provide written reasons unless registration was refused. Recent evidence (cited elsewhere in this submission) clearly shows a dramatic increase in short registration periods since the introduction of the BoSTES new policies. However, applicants are unable to seek administrative review of these decisions, indeed they are unable to obtain reasons for the decision.

Provision of written reasons is an important tool in administrative law. Explicitly stated reasons allow for identification of decisions which are based on irrelevant considerations, or at the very least the avoidance of this perception. Given the increase in BoSTES use of short registration periods it is concerning that BoSTES has refused to provide reasons for decisions made. The HEA considers that written reasons are essential both for fair and open administration and for the assistance of applicants who may need to reapply for registration.

Minimum Curriculum

An appropriate interpretation of the *Education Act 1990* provides that the Minimum Curriculum which applies to home educators does not extend to the implementation of BoSTES syllabuses. This is explained in more detail above.²⁰⁵

Policy

The Minister for Education has delegated responsibility for home education to the BoSTES. The process of registration is applied according to the provisions of the Information Pack published by the BoSTES. The first *Home Schooling Information Package* was published in February 2006 and revised *Home Schooling Information Packages* have been published in September 2006, August 2009, February 2010, October 2011 and August 2013. There are no specific requirements as to content, development or consultation regarding the publication of *Home Schooling Information Packages*. The BoSTES is free to issue, retract, rewrite or amend the policy as frequently or infrequently as it chooses without need for justification or explanation to any external party. It is unclear what the motivation for each revision has been as there has been no significant research undertaken by the BoSTES in relation to home education during the years of revision. In each instance, the BoSTES has insisted that there was no significant change in policy. The HEA understands that a detailed tabulation of the historical changes to the *Home Schooling Information Package* has been provided to the Committee. The key effect of the BoSTES denying a change in policy despite clear evidence to the contrary has been a breakdown in trust between the home education community and the current governing body. The repetition of this adversarial approach by

²⁰⁵ (c)(iii) Regulatory framework for home schooling including: adherence to delivery of the New South Wales Syllabuses

the BoSTES suggests that an alternative body might be better placed for long term stable and efficient administration of the Minister's responsibilities with regard to home education registration.

In 2013 a 'Questions and Answers' (Q&A) document was added to the BoSTES website alongside the *Home Schooling Information Package*²⁰⁶. The Q&A document is referred to by BoSTES as clarifying the August 2013 *Home Schooling Information Package*. However the legal status of the Q&A document is unclear as it has been revised a number of times since publication and specifically contradicts the August 2013 *Home Schooling Information Package* it is supposed to clarify. Further, the HEA has received many reports of Authorised Persons seeking to enforce the August 2013 *Home Schooling Information Package* and having no reference to (or, in some cases, knowledge of) the Q&A document.

General Comments

In light of this confusion regarding the legal status of information provided to home educators and potential home educators, it should be noted that the 'regulatory regime' actually involves no regulations pertaining to home education. Although relevant regulations were made in 1998, these were disallowed as a result of the normal processes of Parliamentary oversight. The HEA recommends that the Committee consider the sections of Hansard which record debate over the 1998 regulations. It is interesting to note that the tenor of the current BoSTES' policy is eerily similar to the content of the regulations, which were disallowed in 1998. However, due to the implementation by means of policy rather than regulation, the democratic supervisory processes have been circumvented. Despite the enormous impact of the BoSTES' policies on home educating families, there has been no Regulatory Impact Statement, no consultation with stakeholders and no opportunity for Parliamentary oversight (until community advocacy resulted in this Inquiry).

The HEA notes that in Australian federal law, policies such as these would be considered to have a legislative character and would therefore be subject to the relevant processes of parliamentary supervision. The *Legislative Instruments Act 2003* (Cth) provides that an instrument of legislative character is one which "determines the law or alters the content of the law, rather than applying the law in a particular case" and "has the direct or indirect effect of affecting a privilege or interest, imposing an obligation, creating a right, or varying or removing an obligation or right". Although NSW has not enacted a similar provision, this does not lead to the conclusion that the separation of powers should be abandoned and administrative bodies should be permitted to have unfettered permission to create rules and policies which affect important rights and obligations without very clear delegating powers being present in the parent Act.

²⁰⁶ <http://www.boardofstudies.nsw.edu.au/home-schooling/home-schooling-info-qa.html>

As discussed above, the *Education Act 1990* provides that the education of a child is the responsibility of the parent, the state has a duty to ensure that children receive a quality education and parents may delegate responsibility for education to government or non-government schools. Current BoSTES policy is not consistent with these principles. In contrast, current BoSTES' policy is based on a contrasting view that the parent must seek permission to be granted responsibility for the education of their child, such permission being delegated to them by the state. This misunderstanding of the premise of the *Education Act 1990* is at the core of many disputes between home educating parents and BoSTES representatives.

A further source of tension is the ever broadening scope of BoSTES' policies, which frequently operate outside the power conferred by relevant statutes. Many operational policies increase requirements well beyond those envisaged by the parent Act and are implemented without consideration of specific circumstances. This is contrary to the precedent noted in various administrative law cases but most frequently associated with *Green v Daniels*.²⁰⁷ *Green v Daniels* concerned both the power of administrative bodies to develop policies and the appropriate application of those policies. In relation to the development of policies, "*attempted substitution of inconsistent departmental criteria for those which the Parliament has enacted*" is considered ultra vires.²⁰⁸ In relation to appropriate application of policies a later case explains that

*"Where a decision-maker's discretionary functions under an Act are delegated, it has been held that the decision-maker may provide guidelines to his or her delegates as to how to fulfil those functions; but if, instead of guidelines, the decision-maker provides inflexible instructions as to how the discretion is to be exercised in every case he or she acts unlawfully, and decisions made in compliance with such instructions may be vitiated (Green v Daniels (1977) 51 ALJR 463 at 467)."*²⁰⁹

The High Court of Australia has also noted the importance of this principle, stating that "*unthinking, inflexible administration can be an instrument of oppression and abuse of power, taking the decision-maker outside the purpose for which the power was granted*".²¹⁰ The current BoSTES' policies with regard to home education are frequently applied without consideration for the individual circumstances, even where such application has demonstrably negative consequences. Furthermore, the language of the *2013 Home Schooling Information Package* and the accompanying *2013*

²⁰⁷ *Green v Daniels (1977) 51 ALJR 463*

²⁰⁸ *Green v Daniels (1977) 51 ALJR 463*

²⁰⁹ *El Cheikh v Hurstville City Council & (2) Ors (07 August 2001)[2001] NSWLEC 175 Lloyd J*

²¹⁰ *NEAT Domestic Trading Pty Ltd v AWB Ltd (2003) 216 CLR 277*

Authorised Person's Handbook makes it clear that the policies are intended to be applied without significant discretion. For example, the Authorised Persons Handbook constrains the role of the Authorised Person to “assessing applications for home schooling registration and for making recommendations to the Office in relation to home schooling registration”.

Specific issues

Documentation

The BoSTES requires that parents make a written application to their office. In this application, the parent is informed that “*An Authorised Person will contact you to make an appointment to assess the documentation you provide to demonstrate that requirements for registration will be met.*” The demand for proof via documentation is not part of the *Education Act 1990*. The parent is required to answer the following questions in writing:

- “*Are you prepared for the assessment visit from an Authorised Person by having read and addressed the requirements for home schooling contained in the Registration for Home Schooling in NSW – Information Package and having:*
 - *records of the child's previous educational history and attainment?*
 - *an educational program based on the relevant BoSTES syllabuses?*
 - *a method for recording learning activities?*
 - *a method for recording student achievement and progress?*
 - *sufficient resources and a suitable learning environment? “*

If the parent does not answer these questions in the affirmative, they will receive a telephone call from the Home Schooling Unit to confirm compliance before an Authorised Person is asked to make an appointment. This is evidence of inflexible application of a guideline which is not prescribed by the Act. Further, some of the information required is beyond the scope envisaged by the Act. For example, the Act gives no suggestion that records of a child's previous educational attainment should be presented along with an application to home educate. The other requirements in this section of the application form refer to written evidence and extensive documentation. The duty to ensure that a child received a quality education does not extend to ensuring that the education is extensively documented. If extensive documentation of this nature were envisaged, such requirements would be included or foreshadowed in the parent Act. It is not appropriate for requirements of this nature to be introduced at administration level.

Family Law issues

The BoSTES Home Education Application Form notes that it must be signed by at least one parent. The 2013 *Home Schooling Information Package* states that where there are family (or other) court orders relating to the child, “the Board of Studies will have regard to the provisions of the court order as part of the assessment process”. This is consistent with the documented conditions that apply to children being enrolled in schools where there are court orders in place.²¹¹ The HEA understands that the need for two parental signatures may be differentially applied in practice with schools being the default option in situations where a child’s education is in dispute. Additionally, where a parent objects to the other parent’s educational choice, they must voice their objection through mediation and/or the appropriate court. This is a further example of how the onus of proof is reversed for home educators, forcing home educators repeatedly and regularly to provide evidence of their innocence on a range of issues. This requirement also has the potential to inflame difficult situations, as BoSTES will also demand documentation from both parents upon re-registration (again, separated families when the children attend school are not required to periodically confirm their agreement in writing). The HEA has documented elsewhere the negative ramifications and opportunity for ongoing family violence as a result of these requirements.

“Case Study 2: Sally was home educating her 7 and 10 year old children, Sandy* and Ricky*, and participating in activities with the local home educating network for many years. The children, although they had never been enrolled in school, were very well-educated, with above average reading abilities and a wide curiosity. Although their father Joe* had disappeared from their lives, and lived overseas for over 5 years, when he returned to Australia, he applied for shared parental responsibility, which was granted. Sally was not opposed to her children resuming contact with their father, but when she attempted to apply for registration with BoSTES, it was refused, as the father did not agree to the children being home educated. Joe contacted the Department of Education, and subsequently Sally was charged with ‘Educational Neglect’ and directed to appear in court. Although the children were demonstrably well educated, this was not taken into account. The court ordered Sally to register the children for home education or enrol them in school. Sally told the court that she was unable to be registered due to Joe’s refusal to sign the application, and so the court directed that she enrol the children in school. Sally then queried if she could choose which school the children attended, as she had been following Steiner principles in her*

²¹¹ <http://www.schools.nsw.edu.au/gotoschool/enrolment/primary.php>.

home education of the children, and the court agreed that she could. Joe objected that he was opposed to the children being enrolled in the Steiner school, but the court disregarded this objection, and maintained that the Steiner school was acceptable, provided the mother was prepared to pay for it. Thus, private schooling was deemed appropriate, although home education was deemed inappropriate, in spite of the father's objection to both. The school enrolled the children without the father's signature. The children and their mother would still prefer to be undertaking home education, but this avenue remains closed."

This has been noted as a reason for non-registration previously.²¹²

Specified "home" location

The August 2013 Home Schooling Information Package includes the following statements:

"The educational program upon which a child's registration is based must be delivered in the child's home."²¹³

If your child's home address changes from the home address specified on the child's certificate of registration, you must advise in writing the Home Schooling Unit providing details of the new home address. On receipt of notice that the home address of a registered child has changed, an Authorised Person will contact you to arrange a mutually convenient time to assess the new home for its suitability for home schooling registration. If suitable for home schooling, a certificate of registration specifying the new home address will be issued."²¹⁴

Additionally, the Authorised Persons Handbook (2013) states that:

"Registration for home schooling requires that the educational program be delivered in the registered child's home. ... The home schooling program may be supplemented by extracurricular activities, participation in tutorial groups and/or excursion type activities."²¹⁵

These documents are directly contradicted by the Questions and Answers document which states:

²¹² (b)(iv) The current context of home schooling in New South Wales including: (extent of and reasons for unregistered home schoolers; (c)(iv) Regulatory framework for home schooling including: potential benefits or impediments to children's safety, welfare and wellbeing

²¹³ August 2013 Home Schooling Information Package p5

²¹⁴ August 2013 Home Schooling Information Package p18

²¹⁵ http://www.boardofstudies.nsw.edu.au/manuals/pdf_doc/auth-person-handbook.pdf

“Many home schooling parents incorporate learning outside of the home as part of an educational program. Activities such as community events, visits to the library, travel to local regions, trips to museums and participation in sporting groups may all contribute to a child’s educational program.”²¹⁶

The requirement that all education take place within a fixed geographical location is both legally and educationally unwarranted. This requirement that all education take place in the home is both impractical and unhelpful. The practical definition of ‘home’ as a fixed physical location is unnecessarily restrictive. Students in schools are frequently set homework, taken on excursions and encouraged to do external projects. Home educated students who obeyed this instruction to remain at home would be limited in their educational opportunities and isolated from the community. This requirement does not contribute to increased educational quality. Most importantly, such detailed surveillance of the family home is neither authorised by the Act nor necessitated by the aim of educational quality.

The requirement that a family submit to further inspections with every new address is especially burdensome on separating families and families who rent their home. Working travelling families are also disadvantaged due to this policy. There are certain sectors of the community where families are involved in work that requires them to travel for much of the year, for example, travelling show people and performers. These families have tried various options for their children’s education, and have found distance education not to work for their families, however, home education is an option that would be effective but is not available to them, simply because they do not have a fixed address. The statement below illustrates these points.

“Distance Education, which we tried for many years, just doesn't work. The constant sending and receiving of piles of workbooks is just too hard when you are not in one location. The work was VERY dry and tedious particularly when we were living in so many rich and varied environments. The resources required (a computer per child, many textbooks etc) for the programs to work were becoming too cumbersome to transport easily. The set up required was just not working either. We found distance education very labour intensive on behalf of the parent for the program to work as well. All this compared to being able to work with our rich and varying environments and use local (as we travel) resources. Home Education is an overwhelmingly better choice but not one we are allowed to have!”

²¹⁶ <http://www.boardofstudies.nsw.edu.au/home-schooling/home-schooling-info-qa.html>

Further, we note that the Administrative Decisions Tribunal found in *Ford and Net Grammar School v Board of Studies*²¹⁷ that the Board was not entitled to insist on a narrow definition of school based on fixed physical location. Therefore it is unreasonable to insist on a narrow definition of 'home' based on a fixed physical location. Insisting on a fixed place of delivery is the premise behind the BoSTES' refusal to register children who will be travelling for more than a few weeks each year. Despite being instructed in 1999 not to do so, BoSTES has maintained an unrealistic attachment to an outdated notion of fixed locality requirements. The HEA suggests that there is no educational advantage to insisting on a fixed locality delivery of education programs and seeks to have registration open to varied programs of instruction and to families who travel. The *Education Act 1990* poses no additional obstacle to the registration of children who are home educated whilst travelling with their families. The BoSTES therefore has no power to impose further restrictions by refusing registration to families who have no fixed address. To illustrate the educational advantages of travelling, one family wrote to the HEA stating:

"Of course homeschooling works best while travelling. Imagine studying the First Fleet while being on the Ningaloo Reef? Or marine animals while in Alice Springs? All topics are important BUT when you homeschool on the road you can cover the topics when you are there! How perfect is that!?! While we were in the Pilbara we read 'Red Dog'. It was terrific to be in the location that red dog wandered and we knew the towns that were spoken of. Not only did the book spark interest in the location we were staying in but it triggered educational experiences in story writing, creative expression etc. as only the dog and his adventures were true in the book, the rest of the story was made up. We also did bird watching, geology lessons, weather surveys and more. The true value we gained from the area was understanding outback station life. We worked and stayed on a cattle station giving the kids a real understanding of how life works on a cattle station, and where and how our beef comes from plus the economics of it all. There was many a discussion about the current (at the time) issue of live export and cruelty to animals. We even 'mapped' out the station and worked in our maths skills to work our distances, areas, perimeters etc."

No registration outside compulsory school age

BoSTES policy states that "*Children who are not of compulsory school-age are not eligible for home schooling registration.*"²¹⁸ This restriction further evidences the assumption that home education is

²¹⁷ [1999] NSWADT 47

²¹⁸ August 2013 Home Schooling Information Package p6

essentially permission not to attend school. Conversely, the *Education Act 1990* clearly envisages home education as an *alternative* choice to institutional education. Therefore, just as children who are younger than 6 or older than 17 may be enrolled in a government or non-government school, the HEA advocates that such children be eligible for registration for home education. Mandatory registration should apply only during the years of compulsory education (just as with schooled children) but registration should be available outside those years (just as with schooled children).

In the NSW and Australian context, many rights and responsibilities are based on schooling. The inability to register after the age of 17 provides some difficulties for home educated students, as discussed later.²¹⁹ For some parents, the lack of recognition of home education as equal to other forms of education creates financial difficulties as discussed earlier.²²⁰

Specified years of instruction

The current BoSTES *2013 Home Schooling Information Package* provides that 'A *certificate of registration for home schooling will specify a Year or Years of schooling.*'²²¹ This is an amendment introduced in the *2010 Home Schooling Information Package* the most recent *Information Package* and was not present previously. The requirement that a child be registered for a particular year of schooling is not required by the Act and is not relevant to home education. Indeed, it contradicts the expressly stated object of "*assisting each child to achieve his or her educational potential.*"²²² In a home education environment, children are able to learn at their own pace and will often follow special talents in a way which leads to subject levels not being in lock step with their age. There is no advantage to educational quality in requiring a certificate of registration to state a particular year of schooling. Further, even if such a practice were necessary, it is unlikely that an Authorised Person would be appropriate to make such a judgement about the child based on a brief biannual visit. The HEA opposes the practice of requiring the registration certificate to specify a year or years of schooling. The HEA notes that some representatives of the BoSTES have acknowledged the irrelevance of noting specific 'school' years on the certificate of registration and have recommended categories of '*primary*' or '*secondary*'. The requirement remains in the published *2013 Home Schooling Information Package* and the BoSTES remains steadfast in their refusal to amend any portion of the *2013 Home Schooling Information Package*.

²¹⁹ (d) Support issues for home schooling families and barriers to accessing support

²²⁰ (b)(ii) The current context of home schooling in New South Wales including: financial costs

²²¹ http://www.boardofstudies.nsw.edu.au/parents/pdf_doc/home-edu-info-pack-13.pdf

²²² *Education Act 1990* s6(1)(a)

Inability to combine school and home education

BoSTES' policy, as stated in the August 2013 *Home Schooling Information Pack*, is that "Part-time home schooling is not possible for children registered for Kindergarten to Year 10".²²³ Where educational quality is the primary concern of both parents and the BoSTES, it is unclear why there would be any limitation on part-time home education. The practice of part-time schooling combined with part-time home education exists fruitfully in other jurisdictions, allowing children access to specialist resources where necessary, whilst also allowing the child to benefit from individualised instruction in other areas. Not all home educating families would choose to take up an offer of part-time schooling and presumably not all schools would be able to offer such a program, but there is no reason to expressly forbid the practice of part-time home education. The HEA advocates the removal of the rule that home education must be all or nothing.

Adherence to detailed syllabus

The current system requires detailed adherence to the NSW version of the Australian Curriculum. The home education *Questions and Answers* document on the NSW BoSTES website states:

"The Education Act 1990 provides the minimum curriculum for all children in NSW. The minimum curriculum is the relevant Board of Studies syllabuses. For children in NSW, the educational program must be based on and taught in accordance with the Board of Studies syllabuses."

Without commenting here on the many debates concerning the curriculum, the HEA notes that providing documentary proof of adherence to all elements and outcomes of the curriculum is extraordinarily burdensome. Home education is broad and thorough, the HEA is confident that the vast majority of home educated students would cover far more than the content and skills detailed in the current syllabus. However, in most cases it will take the parent longer to document than it would take the student to learn. For example, a student purchasing a loaf of bread has achieved (at minimum) outcomes MA4-6NA and EN3-1A but a parent is, at present, required to document the achievement of these outcomes to satisfy the BoSTES. Further, the outcomes are written in education jargon which requires, for example, that a Kindergarten child 'demonstrates awareness of how to reflect on aspects of their own and others' learning'. Despite the counter-productive nature of such requirements in the home education setting, the BoSTES Information Pack asserts that

"The requirements for home schooling registration are that:

²²³ p8

- *the educational program identifies the intended learning outcomes based on the relevant Board of Studies syllabuses and relevant content.*

Also 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”²²⁴

The enforcement of outcome based reporting and specific detailed content undermines the very nature and advantages of home education. The distinct aspects of home education, which mitigate an overly writing-based approach was described in detail earlier²²⁵. Further, reporting outcomes on a per child basis is not required even of school teachers. Home educators are also required to provide future educational plans at an outcome level for each individual student two years in advance. This is not only extraordinarily time consuming, but eliminates the ability to cater to the individual child’s ever-developing and ever-changing learning needs and interests. It is important to be mindful of the fact that there are many hundreds of outcomes included in the syllabus. Not only is the requirement illogical and counter-productive, it is likely to be beyond the scope of the *Education Act 1990*, as discussed above. Inclusion of a syllabus requirement in the decision making process of BoSTES staff and representatives is *ultra vires*, outside the power given by the parent act. The HEA recommends that this requirement is withdrawn and that senior BoSTES staff receive training in the relationship between executive and legislative powers prior to writing any further policies.

Requirement that specific times be reported

The BoSTES August 2013 *Home Schooling Information Pack* is excessively concerned with time allocated to home education.

“the time allocated to learning is sufficient to allow coverage of the curriculum and is comparable to the time allocated by schools”²²⁶

“... the Authorised Person will assess ... the time that has been allocated to student learning during the current period of registration and whether this has

²²⁴ http://www.boardofstudies.nsw.edu.au/parents/pdf_doc/home-edu-info-pack-13.pdf

²²⁵ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

²²⁶ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

been sufficient to allow coverage of the curriculum and is comparable to the time allocated by schools”²²⁷

There is no source of power within the parent Act for any specific time related requirement. Indeed section 14(4) expressly prohibits such requirements: *“Any syllabus developed or endorsed by the Board for a particular course of study may indicate generally the period of time that should be allocated to the teaching of the course, but is not to make a specific period of time mandatory.”* The practice of home education is both more efficient and more fluid than institutional schooling. Working one-on-one a student may complete work many times more quickly as when working in a classroom environment. Conversely, students who are home educated due to learning difficulties or special needs may require increased amounts of time for some activities. Most importantly, one of the key features of home education is the ability to integrate learning and life so that there are no boundaries of demarcation. This makes specific measurement of ‘school time’ versus ‘non-school time’ arbitrary at best and undermining of learning goals at worst. The HEA opposes any reference to specific periods of time in the registration process.

Onus on parent to prove compliance

The tenor of the BoSTES policy is suspicious of home educators. In all issues the home educating family must submit to inspection and questioning, being sure to comprehensively demonstrate their innocence on the unstated accusations of inferior educational quality. The BoSTES Information Pack states that, *“The parent of a registered child is responsible for maintaining evidence of delivery of the educational program in the child’s home including records relating to complying with the requirements for registration.”* This completely reverses the onus provided by the Act and is therefore *ultra vires*. The *Education Act 1990* provides that registration may be cancelled if the parent fails or breaches certain conditions under section 74, thus the legislation places the onus on the BoSTES or any other party seeking to establish that there has been such a failure or breach. This is akin to any other policy dealing with allegations of parental neglect or abuse. BoSTES’ policy inverts this explicit legislative provision by requiring that the parent constantly provide documentary evidence that they have *not* failed or breached in any way and that they will not do so in the future. The HEA does not object to the cancellation of registration where there has been a demonstrated failure *“to ensure that the child receives instruction”* but strongly objects to the administrative persecution of conscientious home educators who are in the vast majority.

²²⁷ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

Maximum period of registration shortened from that noted in legislation

The BoSTES 2013 *Home Schooling Information Package* states that

“Initial registration is generally for a period that is less than the maximum possible so that evidence of the program being taught in accordance with the requirements can be reviewed prior to any longer periods of registration being considered.”

‘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.’²²⁸

These reduced periods of registration are not envisaged by the Act. Rather, as stated above, the option of cancelling registration if requirements are not met explicitly covers this issue. Further, these policies are applied inflexibly and without the specific situation of a given family. For example, many families will have been home educating their young children prior to compulsory school age, such families will be able to provide evidence of past education as well as evidence of future planning and therefore, even by the standards stated in the policy, should be eligible for longer registration. However, this is not the case unless the additional requirements of *“two successive periods of two years”* is also met. This is a clear case of inflexible application of non-legislative policy. The HEA advocates removal of this unnecessary fettering of the discretion of decision makers.

Provision of reasons for the decision

Although the August 2013 *Home Schooling Information Package* states that *“The Authorised Person will outline to you the reasons for recommending a particular period of registration,”²²⁹* the BoSTES has since confirmed in writing that no written reasons will be given to those applicants who receive less than two years registration. This clearly gives rise to the possibility that decisions will be made for discriminatory reasons, or for other reasons which are not relevant to educational quality and the provisions of the *Education Act 1990*. The refusal to provide applicants with written reasons restricts the clarity and openness sought by the Ombudsman (which was the ostensible cause of the amendments contained in the August 2013 *Home Schooling Information Package*). The HEA strongly advocates for the provision of written reasons to any applicant who is registered for less than the maximum of two years.

²²⁸ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

²²⁹ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

Requirement that the child be present

The *Education Act 1990* specifies that a parent is responsible for both the application for registration for home education and for delivery of the educational program. There is no duty legislatively conferred on the child/student. Similarly, there is no power conferred on the Minister, the Board or the Authorised Person to inspect the child in person. Despite this, the BoSTES requires that the child be present for a visit by the Authorised Person. There is no reason under the *Education Act 1990* for this to be required. The only suggested reason relates to child protection, but the relevant acts do not give any power for BoSTES representatives to make inspections of children for such purposes. Indeed, even within the scope of child protection there is no provision for inspection of a child where there is no cause for concern. This is yet another example of both overstepping the power of the parent Act and framing of policy in a way which constantly requires home educating parents to prove their innocence. Further, an interpretation requiring the child to be viewed by the Authorised Person does not promote the purposes and objects of the Act. In many instances such a requirement would entail withdrawing the child from school for a day, especially given the fact that the initial visit must take place prior to the registration being effective. The requirement to be presented to an Authorised Person is likely to cause some children anxiety, as described earlier²³⁰, and/or undermine in the child's view one of the principles underlying the Act, that "*the education of a child is primarily the responsibility of the child's parents.*" Any legislative requirement which impinges on the liberty of an individual, for example by requiring them to be or not be in a certain place, must be based on a sufficiently clear power sourced in the parent Act. As no such clear statement is found within the *Education Act 1990*, it is difficult to justify the imposition of such an impingement through guidelines alone.

Education: but not necessarily by the parent or in the home

The *2013 Home Schooling Information Package* describes home education as "*delivered in a child's home by a parent or guardian*".²³¹ This is also reflected in the *Authorised Persons Handbook 2013*.²³² Many home educators have been informed that any educational programs which are delivered by persons other than the parent will not be counted towards registration. This demonstrates inflexible application of guidelines and also shows that the BoSTES do not understand that home education allows learning to occur in a multitude of locations, delivered by a variety of appropriate people, and that many home educators, rather than seeing themselves as teachers, actually recognise that they are more correctly facilitators of their child's learning. For example, children may work on programs

²³⁰ (b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

²³¹ http://www.boardofstudies.nsw.edu.au/parents/pdf_doc/home-edu-info-pack-13.pdf

²³² http://www.boardofstudies.nsw.edu.au/manuals/pdf_doc/auth-person-handbook.pdf

online, including lectures by leading educators; they may attend specialist classes; they may be involved in group learning activities run by a home educator, not necessarily their own parent, organised on a weekly basis through a home educating network; they may participate in local sports teams; older children may undertake work skills training through part-time employment; and at other times, students may pursue their own training in a particular area, through tutorials sourced via the internet.

The following quotes are from parents who see themselves as facilitators, in this way.

“My son has been playing soccer with local teams for the past 5 years. I have not taught him anything about soccer – and yet he is a competent player on an A Grade team. This is a valuable part of his curriculum. He currently trains 2 nights per week and plays on the weekends. He has had the opportunity to train with the Mariners this season. He walks, catches the train, bus and then walks again to get to training. This is 4 1/2 hours of Soccer per week, plus the hour walking. He is very independent in this aspect of his studies. I am a facilitator – I pay the fees, I watch his games, I encourage him to play, but I am not the teacher and it doesn’t happen in the four walls of my home. My son is 13. This self-motivation and independent learning is an important aspect of Home Education.”

“As she became more interested in dressmaking, my eldest daughter was able to learn tailoring techniques from another home educating mother who had been previously employed in training students in tailoring methods at TAFE. Some of my children participate in weekly drawing classes run by a local artist, as well as swimming, gymnastics and martial arts classes. In addition, all my children have been able to participate in weekly Creative Writing classes taught by another home educator in our network who is passionate about teaching children good writing techniques, through studying a variety of literature, people and places, thus also providing education in the area of HSIE. They also participate in yearly first aid training, delivered by an accredited first aid provider, and a wide variety of other external excursions, classes and activities.”

“One of the most important things that my university studies taught me was that the content of what you learn is often not as important as the process of being able to learn and that learning where and how to access information is an important skill. This view helped to focus my goals within our home learning. I knew that what was important was that my children knew how to access the

resources and information they needed. I was able to see this in action as my son's abilities in some areas surpassed my own knowledge. Together we were able to access opportunities for continuing his learning - this included participating in the Australian Mathematics trust training programs, national competitions, open source university courses as well as Open University. Even though I did not previously (and still don't) have the knowledge that he required, this view of education meant it was possible to access high quality opportunities to expand and consolidate the knowledge he required. Similarly with my other children, homeschooling enabled me to facilitate opportunities for learning both within my own spheres of knowledge and also in areas where I might not previously have had experience. In turn this has helped them to take on a level of responsibility for their own learning and to gain skills in developing goals for their learning and then finding pathways to achieve the necessary skills and knowledge."

As children get older, part time work also allows them to learn skills which will be valued as they move into careers. The flexibility they have as home educated students allows them to fit in part time work and other vocational training, which fits the Work Education Syllabus for years 7-10. As one parent described to the HEA:

"My 15 yr old daughter, has started working at McDonalds this year. Due to homeschooling, she has been able to work 2 full days during the week and still complete all her school work on the other days. McDonalds has been a very important part of her education. As I look through [BoSTES'] Work Education Syllabus I realize that this work experience is exceeding the rationale for including this subject in the 7-10 Syllabus. For example:

'Students will develop employability, enterprise and pathways planning skills. Understanding and development of employability skills will assist students to achieve the flexibility required for the workplaces of today and of the future. These skills will be underpinned by the integration of the key competencies throughout the syllabus. The development of enterprising capabilities will empower students with the skills necessary to succeed in a labour market that is increasingly characterised by self-employment and part-time or casual work. Students will learn to successfully plan and manage life transitions including post-school pathways. This process is assisted by students' self-development, which is enhanced through the application of self-evaluation, goal-setting, and decision-

making skills. Research and communication skills are also a key feature of the syllabus, and students will apply these across various theoretical and practical contexts’.”

TAFE Anomaly

Compulsory schooling provisions in the *Education Act 1990* require that all students must complete Year 10. After Year 10 and until they turn 17, students must be in school, or registered for home schooling, or in approved education or training (eg TAFE, traineeship, apprenticeship) or in full-time, paid employment (average 25 hours/week) or in a combination of work, education and/or training. For home educated students seeking to access TAFE pathways the process of enrolment is more difficult than for schooled students. BoSTES policy states that:

“As part of TAFE’s enrolment procedures for students who are registered for home schooling and seeking to complete the equivalent of Year 10 at TAFE, an Authorised Person from the Office of the Board of Studies must first sign the application form for the TAFE course.

Sections A and B of the TAFE application form must be completed by the parent and then sent to the Home Schooling Unit. An Authorised Person from the Office will contact the parent to discuss the application and to make arrangements for signing the application form. The form will be forwarded to the relevant TAFE by the Office’s Home Schooling Unit.”

Although institutionally schooled students may sign a contract and training plan proposal, the BoSTES requires that home educated children be further signed off to do this by an Authorised Person. This seems very much like an overstepping of the duties of BoSTES which, in regards to home education, are simply to register students.

Ways in which the system could be improved

[Important Note: The HEA starts from the perspective that the breadth of diversity amongst home educators requires extensive consultation to be undertaken in order to understand the views and experiences of home educators. As a result, the HEA does not present the following suggestions as representative of all home educators’ views, but as a perspective built from conversation, input from members, and logical inference from the evidence presented in the rest of the document.]

As has been proposed in other sections of this submission, a regulatory regime in which home educators are active partners is essential to improving the current system. This would cover

involvement at every stage of developing policies through to implementation of registration. The ultimate purpose of the resulting home education regulatory system would be to provide early and ongoing support, development and extension information and resources, as well as being aware of who is home educating.

One particularly useful analogy of such a system is the system of community midwives. Parents taking a newborn baby home are provided with information, linked with other new parents and offered support from a community midwife. Community midwives can be accessed in the clinic or can come to the family home. The support and care offered reduces as the parent feels comfortable with their own abilities to provide for the needs of their child. If a parent requires further support, it is offered, but the principle remains that parents retain the primary responsibility for their children and that best outcomes are achieved through cooperative relationships not regulation of parenting.

Translating this into the home education registration system could result in a system, which is supportive and inclusive, and recognises the principle that parents are primarily responsible for their children's education. Development of this kind of cooperative process would require involvement of home educators, through consultation and training. In contrast with adversarial monitoring of compliance, the registration process may see greater participation if there was wide consultation and an incentive, in part in the form of support, to register.

The HEA advocates for a supportive regime which acknowledges the many and varied approaches to home education and maintains only that oversight which is actually required to be confident of educational quality. This is best achieved through a home education body, which is independent from the BoSTES.

[Specific suggestions](#)

The HEA's concerns about regulation stem from its current form in NSW, not a desire to abandon regulation altogether. Regulation can be supportive, rather than punitive, truly enable home education as an equal educational option, be based on knowledge and collaboration rather than suspicion, and lead to a supportive system that benefits children's education and wellbeing.

Supportive Registration Processes

Whilst NSW should build a home education system that exceeds those in all other states, there is much that NSW could learn from other states' more supportive registration systems. For example, in Victoria, regulation of home education is restrained (and consequently effective) – parents gain exemption for their children from attending school, by letter and provision of a copy of the birth certificate. Parents generally are happy to participate in this system, as they feel it shows that they

are trusted and considered as capable and caring. Some parents have, however, expressed a desire for a greater level of support. In other jurisdictions real support for home educators, both new and experienced, is part of the registration system. In some states this takes the form of home educators having access to school resources and programs. This is the case in Western Australia, where home educated students are not only entitled to the same free swimming classes and school medical and dental services as schooled students, but are also clearly informed of the fact by registering moderators, and the website.

“Students of primary school age registered for home education are entitled to access in term swimming classes by arrangement through the local public primary school (for metropolitan students) or through an education office (for country students). Home-educated students are entitled to access the school medical service and the school dental service provided by the Department of Health. Local public schools can provide the telephone number of the school nurse and the school dentist for appointments.”²³³

In Tasmania, the THEAC, which registers home educators, includes a number of experienced home educators and other education experts. Within this system, those responsible for visiting and registering home educators are, themselves, experienced home educators. THEAC also maintains a library of resources for parents to borrow to help in their home education, and provides new home educators contact with people who will be an invaluable source of support, learning, and experience-based understanding of home education. Whilst much of this is undertaken informally in NSW, to have it integrated into the formal system of home education would encourage more families to participate in the registration process.

Many home educating parents have expressed that at different times in their home education journey they would have appreciated all, or some of, the following:

- financial support
- linking with other home educating parents
- access to both specialist or generalist educational resources
- access to sporting programs
- providing student ID cards so that older students could access concession fares
- Additional specific suggestions are made below.

²³³ <http://www.det.wa.edu.au/homeeducation/detcms/navigation/resources/>

Availability of part time enrolment in school

In some states, such as NT, Victoria and ACT, it is possible for children to be enrolled part-time in school and part-time home educated. This would suit some families and would allow access to school resources, or to group activities such as chess clubs and inter-school sporting competitions.

Automatic provisional registration

In some states, such as Queensland, provisional registration is granted upon receipt of the application to home educate. This lasts from the time of issue until the process of assessing an application for registration is completed. Additionally, it is possible to apply for a 'provisional only' registration which provides a period of 60 days grace from registration and allows children who have had to leave school as a matter of urgency an opportunity to deschool (and begin the recovery process) and their parent-educator the opportunity to familiarise her/himself with home education. In addition, education advisors within the Home Education Unit (HEU) provide assistance and advice to parents during the registration process. This provides parents an opportunity to gain a better understanding of home education registration process, whilst their children have a legal status as home educated students. This would also allow parents to remove children quickly from unsuitable/harmful school environments.

Provisional registration circumvents the need for inexperienced parent/educators to produce a document describing how they plan to go about home education, before even beginning to educate their child at home. Many new home educators are not teachers, and cannot easily understand the 'edu-speak' jargon contained in the *2013 Home Schooling Information Package* and are not easily able to put together a document which fulfils the requirements. They may be quite capable of locating educational materials and learning opportunities appropriate to their child, but cannot easily write down their plan in a document which links to the NSW syllabuses, or they may need help to understand how they can provide for their child's needs in all KLAs. After a time of home educating, and with support from experienced home educators, these parents are able to document their child's learning and provide interesting learning opportunities for their child.

Case Study 3: Anna was a 10 year old child, who was in the sole custody of her grandparents. Although she loved learning, and indeed was already spending time at home reading, studying history, completing maths workbooks, using library books, educational materials and opportunities provided by her grandparents, she was very unhappy in the school environment and becoming extremely anxious. Her grandmother (Sharon*) decided that home education would allow Anna the best educational opportunities and set about investigating the home education option.*

After reading the Information Pack, Sharon became concerned that she was unable to write up the program in a way that would be approved, so she searched for experienced home educators in the local area who might be able to help her. It took a while to find local home educators, but once she did, Sharon was able to meet them and learn how to put documentation together. Although many of the learning activities appropriate to Anna's education were already being undertaken at home, translating that into a document suitable for approval by the AP proved very difficult to one who was not a teacher. In finding an experienced home educator in the local area, Anna was able to connect with other children in the home educating community and make friends. Sharon was able to find out about educational and social activities provided within the local network and obtain support. Although extremely motivated and capable of providing for the educational needs of her granddaughter, the paperwork required seemed overwhelming and gaining approval seemed like a very daunting task.

An experienced home educator met with Sharon (and Anna) on two occasions before their meeting with the AP, in order to show examples of documentation and how the educational opportunities that were already in place, and new ones available within the home education community and elsewhere, could be written into a document that linked to the NSW state syllabus. Sharon was extremely grateful for the opportunity to have support from someone who was aware of the BoSTES requirements and could provide assistance in showing how she was already meeting many of those requirements and in linking her with a community which would support and help provide further opportunities for both of them.

"The decision to homeschool Anna was made with her best interests in mind. She was extremely unhappy at school and suffered anxiety attacks, so I decided to investigate homeschooling as an option whereby she was with me, to ease her anxiety and to also give her the attention she needs, so that she is able to continue her studies in a calm and familiar atmosphere. When I first investigated the Board of Studies website, I found it very daunting, so I printed the information relating to homeschooling from the BoSTES website. I soon realised that I would need help to be able to satisfy the requirements needed to be registered for homeschooling, and I searched for someone who might be able to help me with it. After eventually finding the Home Education website, the HEA, I then searched for [my] area, and was very relieved to find Vanessa* as a contact person. Vanessa has helped me*

enormously. She has freely given me her time and the support I needed to enable me to understand the information needed to satisfy the requirements for registration. Vanessa has given me confidence, and I know that I can successfully homeschool Anna, with support from current home educators. Even though I am determined to home educate, as it's the only solution for this little girl, the registration process has made me feel worried and fearful. I have stayed up some nights, worrying about the home interview and whether I have covered all the requirements to satisfy registration. I feel nervous about the meeting with the authorised person, even though all my paperwork is prepared."

Considerations for better practice in NSW, based on practices in other jurisdictions.

Explicit recognition of different educational philosophies

The understanding of various forms and philosophies of home education, is apparent in many other states, such as ACT, Tasmania, and Queensland. The recent changes to the *2013 Home Schooling Information Package*, removed references to various forms of home education. As described earlier²³⁴, in practice, many Authorised Persons in NSW expect home educators to use school-like educational methods.

Parental responsibility for choosing educational program

Most states allow greater flexibility for parents to tailor their educational program to the needs of their children than is the case in NSW. The recent attempt in NSW to require parents to follow not only the NSW Syllabuses to the level of individual outcomes but to follow the same sequence in delivery of outcomes has been rejected by home educators as inimical to providing individually tailored educational programs. As outlined earlier²³⁵, such an approach is unnecessary to ensure that children receive a quality education and an education that is based upon the NSW Syllabuses.

Financial support

In NSW Government schools receive nearly \$16,000 per student in government funding, and private schools nearly \$8,500. Financial support for home educators, by way of a contribution for families towards the cost of children's education, would help parents access books, educational supplies, and classes, and also provide an incentive to register. Alternatively, this money could be used to fund a new home education support and registration body standing at a distance from BoSTES.

²³⁴ (c)(ii) Regulatory framework for home schooling including: training, qualifications and experience of authorised persons

²³⁵ (c)(iii) Regulatory framework for home schooling including: adherence to delivery of the New South Wales Syllabuses

In New Zealand, home education registration occurs once, and once approved for home education, the process is shown to be continuing via submission of a statutory declaration every six months. In return, home educating families are entitled to funding by means of the Home Education Rebate. This measure would begin to address some of the financial costs of home education as well as providing an incentive for participation in the registration process. In Queensland the Textbook and Resource Allowance enables parents to better resource their children's education. Parents in NSW would greatly appreciate if some form of financial assistance were made available to registered home educators or if a scheme providing reimbursement for some educational expenses were available.

Resources and services

Many home educators would appreciate access to programs available to students in the school system in NSW such as subsidised swimming classes, language other than English classes, instrumental music classes. Parents of children with a disability and/or learning difficulties would appreciate greater access to resources and services for children such as occurs through Special Education Resources Unit in South Australia and Vision Education in Western Australia. Other support might include funding for a NSW Home Education library of resources and books, allowing families to borrow books and other educational resources such as science supplies (online, by mail) with textbooks able to be borrowed for longer periods (e.g. 12 months).

Easier access to distance education

Distance education is a method of providing education which may meet the educational needs of some children. This was described earlier.²³⁶ Easier access to distance education would help many families, particularly those whose children are not adequately learning in the mainstream school environment, but do not have a clear preference for a non-school educational method. For others, distance education could provide a bridge between school and home education.

Representation on BoSTES or equivalent body

As demonstrated above, lack of representation of home educators on the registering body has led to policies that show a lack of understanding of the unique nature of home education, and consequently create unnecessary difficulties for families, and actually discourage home educators from participating in the registration process. Again, learning from other states – Tasmania in particular – allows NSW to see ways in which home educators can be actively involved in registration, ongoing regulation, and overall support of home education and home educators.

²³⁶ (b)(vi) The current context of home schooling in New South Wales including: comparison of home schooling to school education including distance education

Other support

Various forms of other support would be appreciated, such as linking with local home educating support networks, help with getting started in the practice of home education, provision of helpful information about activities, encouragement, access to online education options currently available to school students, access to sporting programs, provision of student ID card etc. Further elaboration on this issue is provided in response to the next term of reference.²³⁷

²³⁷ (d) Support issues for home schooling families and barriers to accessing support

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Introduction

Despite being citizens of NSW and being required to comply with registration processes, home educated children are excluded from support services, activities and facilities available to schooled children. This denies home educated children opportunities available to other children and complicates home educating parents' abilities to provide for the educational, health and wellbeing

needs of their children. Addressing the gaps in support may be one component in creating incentives for home educators to register their children for home education.

Gaps in support currently include:

- lack of access to special needs programs such as hospital schools, disability resources and specialist education centres
- exclusion from School Sports, TAFE-delivered vocational education and training (TVET) and Open High School programs
- home educating parents not having access to supportive information in the early stages of home educating

These gaps and exclusions appear to be based on an erroneous belief that home educators generally wish to separate themselves from all government systems. The gaps are formalised through policies that exclude home educated students from access.

In addressing these issues, the following document presents a summary of relevant research, information from home educators about their children's support needs, and presents options for addressing barriers and improving support for home educators.

Summary of Research

The 2003 Queensland home schooling review²³⁸ considered the issue of state support for home education. Home educating parents expressed to this review a desire to be able to access some of the services and resources that are available to children in schools. Recognising the challenge that starting home education is for many families, they also expressed a desire for specialist support for home educators. The Queensland Commission for Children and Young People's submission to the review stated that inequity of access to government services for home educated children was problematic.²³⁹ The Commission also stated that it was important for government to *seek "to form genuine partnerships with home-schoolers. A cooperative, rather than adversarial approach, will achieve more for the rights, interests, wellbeing and education of children, than monitoring"*.²⁴⁰ Thus the Queensland review concluded that a partnership between home educating families and the state could be of benefit to both. It recommended that a state funded support service be established to facilitate the access to resources of registered home educated children.

²³⁸ Department of Education, Queensland. Home Schooling Review. Brisbane; 2003

²³⁹ Queensland Commission for Children and Young People. *Submission Queensland Commission for Children and Young People on the Review of Home-Schooling* 2003.

²⁴⁰ Queensland Commission for Children and Young People. *Submission Queensland Commission for Children and Young People on the Review of Home-Schooling* 2003.

Reilly²⁴¹ considered the support needs of families who removed their children with intellectual disabilities from school to home educate in Western Australia. Families stated that starting home education was a daunting process and that they could have benefited from more support from government educational authorities. As one mother stated, *“The Education Department gave us absolutely nothing...there was no guidance. Teachers bounce off ideas but it’s harder for us because we don’t have those sort of connections, especially to begin with.”*

The lack of funding to purchase resources, or ability to access resources in the education system, was noted as an issue. As described by one father, *“We’ve never had any financial assistance with resources or anything like that. Sometimes meeting educational needs can be difficult to do at home, as some things require a fair degree of resources and specialised equipment. If the Education Department were really committed to the education of children they ought to be giving us the same resources that they do to schools, even if that’s in the way of providing the option to outsource some things or use local schools as a resource.”*

Families made a direct connection between their child being unable to be educated at school and their disability and thought that there should be some specialist disability support for home education from the government disability support organisation. As stated by one parent, *“They have no role in home schooling ... [disability support] don’t see education as part of their framework. I find that a struggle ... It’s not in the best interest of the child.”*

It is concluded that there should be more guidance available regarding such areas as home education structures, teaching techniques, content and resources made available to home educators and that this support would be especially beneficial to families who have withdrawn a child from school because of a crisis. It is proposed that specialist support staff could provide such support to families. It is also proposed that some of the resources contained within schools should be made accessible to home educated students so that children are not disadvantaged in terms of resources and specialised equipment.

Kidd and Kaczmarek²⁴² described the process by which families came to home educate their children with autism spectrum disorder in Western Australia. It was identified that whilst some families did not feel that they needed additional support, others felt that they did need support. Such families had tried to obtain support, often unsuccessfully. Thus, one mother described, *“Looking at it from a*

²⁴¹ Reilly L. How Western Australian parents manage the home schooling of their children with disabilities. *Australian Association for Research in Education*. Melbourne; 2004.; Reilly L. *Progressive modification : how parents deal with home schooling their children with intellectual disabilities*, University of Western Australia; 2007.

²⁴² Kidd T, Kaczmarek E. The experiences of mothers home educating their children with autism spectrum disorder. *Issues in Educational Research*. 2010;20(3):257-275.

teaching point of view, if you are a teacher in a school, at recess and at lunchtime you get together with the other teachers and can say, 'I'm having a problem here' or 'where could I find ...?' So there is a huge amount of support in the school situation that you don't have as a homeschooler. I've needed it, it's not available." Families commonly noted the enormous financial cost of home educating.

McDonald and Lopes²⁴³ report on a program in Western Australia wherein families who were home educating children with autism spectrum disorder were able to access support from the State Schools of Distance Education. It was found that although families who had withdrawn their children from school experienced great relief from the stress school had imposed on their child and family, home education also created stress. Home education was recognised as creating an additional level of responsibility for the parents. As stated by one mother, *"The only problem with [home schooling] is that it is a double-edged sword, because then you take it all on and then it is your responsibility and you don't have time for the other parts of your life. And I have found by taking on board everything with regard to [my son] and doing home schooling and all the rest of it, I am quite emotionally drained all of the time. "*

However, families who had accessed the assistance of the Schools of Distance Education found that this support lightened the load of home education and helped them in sustaining their efforts in assisting their child. It was noted that distance education teachers and parents working together allowed optimisation of educational fit for the child. It is concluded that greater emotional, social, financial support and respite is needed for parents who undertake home educating their children with special needs. It is also recommended that parents should have the full range of educational options open to them in relation to maximising the educational progress and potential of their child and providing support for their family.

The 2004 NSW Office of the Board of Studies home education survey²⁴⁴ considered the sort of informational support that home educators would like to be provided with. Information about how to home educate and the resources available to home educators was desired.

Experience of the HEA

It is the experience of the HEA that families access support for home education from a wide variety of sources. The ease with which families are able to access resources is dependent upon their location and finances. Sources of support include:

²⁴³ McDonald J, Lopes E. How parents home educate their children with an autism spectrum disorder with the support of the Schools of Isolated and Distance Education. *International Journal of Inclusive Education*. 2012;18(1):1-17.

²⁴⁴ Office of the Board of Studies. Home Education Study- Report of Findings. 2004.

- Extended family
- Friends
- Each other (including formal and informal home education support groups)
- Community organisations (libraries, community gardens, sporting and cultural groups, scouting/other children's organisations, choirs, drama groups, dance groups, etc)
- Member of the community who act as expert resources and mentors
- Online support (via email and social networking sites, online tutors, etc)
- Online courses (for example, Coursera, Khan Academy)
- Websites of all sorts
- Packaged computer-based programs (such as Mathletics, Squirk)
- Health professionals (doctors, psychologists, physiotherapists, occupational therapists, speech therapists)
- Local schools (dependent upon the willingness of teachers and the principal, both government and non-government)
- TAFE, Open University

"Our local home ed network is a great support - such a diverse group of families, all home educating for a variety of reasons and creating a wonderfully supportive community which provides many opportunities for learning and growing together."

"I attend a local group for like-minded homeschooling mums. I can ask questions of very experienced home schoolers and share resource ideas. We encourage each other. Whenever I need support or advice I always go."

"We have been home educating for nearly 15 years and our local council library and librarians have been a fantastic assistance to us. We started attending story time there when the children were preschoolers and ever since we have participated in their programs, from the Summer Reading Program to the Young Adults' Book Club. The librarians have been only too happy to help us find resources that would help the children in their studies. They have helped foster our children's love of learning and reading and have become friends and mentors."

“Our local high school and teachers have been happy to organise classes out of school hours (we pay them) for some of the high school aged kids in our home ed community. We have had photography, woodwork, metalwork, Japanese, IT, robotics and science classes. We really appreciate the willingness of the school and staff to provide this opportunity for our kids. The teachers love our kids because they are very engaged in the learning.”

“People we meet in the community are often really great resources. For example, the random lady in the fruit shop who talks to the kids about the way our fruit gets to us and the guy who takes a few minutes to explain how to do fishing on the pier are a great resource. There’s no shortage of adult-experts who are happy to talk to curious kids.”

“A local private school allowed our home ed group to use their video conferencing system for a link up with a Bell Shakespeare digital masterclass. We were very grateful because there was no other way we could have accessed that experience since we are in the country.”

“Khan Academy is a resource my children have used on and off for maths. I find it particularly helpful when I need help with explaining a high school maths concept. Khan Academy gives us easy access to passionate maths teachers.”

“We are so fortunate as homeschoolers to have access to some of the best teachers in the world. Our family has enjoyed many of the “Great Courses” video series with exceptional lecturers. Another online resource has been the Thinkwell courses, again with engaging presenters and presentations. Open University has provided the opportunity to try out subjects of interest and also to consolidate learning in a subject to gain confidence that a student is prepared for further study. The Australian Mathematics Trust also provided a range of enrichment activities in mathematics and informatics. We really appreciated that they were open to homeschoolers participating.”

The advent of the internet and the ability to connect easily with others who are home educating, as well as easy access to educational resources online has made an enormous change to the practice of home education. The HEA is of the view that the ease of access to support and educational resources via the Internet is partially responsible for the increase in the number of home educated children over the last decade.

“We’ve been home educating for 20 years. The Internet has made a huge difference. It is so easy to access information really quickly. For example, there’s a youtube video on almost any subject, so if one of my children expresses interest in knowing more about something we can usually find something to watch right then. It’s so much easier to home educate than it used to be!”

“Facebook groups unequivocally are a main source of support for me. I’ve learnt SO much from other families online”

“Skype is a godsend. My kids are doing Spanish lessons with a native speaker who is in Costa Rica.”

Whilst some families have a high level of support from extended family and friends, it is not unusual for extended family, including siblings (aunts and uncles of the children) and parents (grandparents of the children) to be ambivalent or even to strongly disapprove of children being home educated. This can have a negative impact on the ability of home educators to access moral and practical support from within their family and can be difficult to deal with emotionally. It’s important to note that a lack of family support is not necessarily indicative of a poor quality of education being provided to children. For example,

“My parents are both medical practitioners and have a particularly high view of the merits of an excellent education. They prioritised education for my siblings and myself , helping us with homework, choosing exclusive private schools and tutoring for all of us and encouraging us all to obtain university degrees. To their dismay, however, I chose to home educate my children from the very beginning. Throughout my children’s education, my parents have been very unsupportive. They considered that they had nothing to discuss with my children as they could not ask about test results or reports. They felt that the children’s careers would be hampered by not having a traditional educational path. It really is a misunderstanding, and their concerns about the quality of their grandchildren’s education have been shown to be without merit, as my older children have succeeded in accessing university education, scholarships and careers. I am proud of my children’s educational achievements, but I am even more proud of their maturity, self esteem and interpersonal skills. Nonetheless, it’s been hard to do without my parents’ support.”

Exclusion from educational and other resources available to other students

Whilst there are many who are happy to assist families who are home educating in the education of their children, home educated children are largely locked out of the education system in NSW by policies of the NSW Department of Education and Communities and the BoSTES. There is a lack of equity for home education in comparison to other education sectors. Home educated children are excluded from educational opportunities that are available to government and private school students in NSW, such as TAFE-delivered vocational education and training (TVET) courses, Open High School, School Sports programs, Hospital School programs and educational resources operated by the Department of Education and Communities.

TAFE-delivered vocational education and training (TVET) courses

TVET courses are short TAFE courses that older high school students (usually in years 10, 11 or 12) can undertake as a part of their studies²⁴⁵. TVET courses give students a “taste” of a particular area of work or study and are designed specifically with young people in mind. These courses are often not available other than as TVET courses. Students from both government and non-government schools can enrol in TVET courses (non-government school students pay a fee). Home educated students are barred from TVET courses. They are thus excluded from an educational opportunity that is available to all other students in NSW. As described by one mother, *“My son was really interested in design and wanted to undertake a course in computer aided drafting at TAFE. This course was not available except as a TVET course; however, because he was home educated we were told that he could not do it.”*

Open High School

Open High School is a distance education language school for students who are in years 9-12 and studying a language that is not offered at their school. Open High School is available to students in both government and non-government schools, not only in NSW but also in the ACT and even in Papua New Guinea. It is not available to home educated students in NSW, evidenced by the following: *“I sent an email to Open High School asking if my children (currently registered for home schooling in year 8) would be able to study Japanese through them. I got this response, ‘Really sorry, but as you have probably guessed we cannot take home schooled students. When your children do join a school we can accept their application through the school.’”*

²⁴⁵ <https://www.tafensw.edu.au/courses/types/tvet.htm>

Hospital Schools

The NSW Department of Education and Communities operates schools within major NSW hospitals including Westmead Children's, Royal North Shore, Sydney Children's, Royal Prince Alfred, John Hunter, Liverpool, St George, Bankstown, Illawarra and Sutherland. These schools provide educational and diversional programs to children who are hospitalised for a period of time. Hospital Schools work with the child's school of origin, their parents and the child's medical team in the development of their program. Children who are normally students of government schools (including schools of distance education) and non-government schools are able to participate in Hospital School programs. Department of Education and Communities' policy prohibits the involvement of home educated children in Hospital Schools.

Hospital School principals have informed home educating parents that the reason for this policy is that the child's parent can continue to provide their educational program in hospital and thus the resources of the hospital school are not needed. However, this assumes a model of home education which is solely desk-based and in which the venue is unimportant - which is usually not the case. Furthermore it denies the reality of the situation in which families may find themselves:

- Families may have many children who need to be cared for and educated, not just the hospitalised child and so may be unable to be in the hospital with their child all day.
- Families may be geographically distant from the hospital and only able to be present at the hospital on the weekend or for a few days during the week.
- Children may be hospitalised in wards that do not allow parental visitation during the day (for example eating disorder wards). In such circumstances, a hospital school principal advised that the parent might facilitate the child's education in the evenings when visitation was allowed, or that nursing staff could assist children with their school work during school hours, whilst the other children were at the hospital school.
- Children experience the effects of this policy as victimisation and punishment. In practice, this policy means that home educated children watch the other children in their ward leave to go to the school program whilst they are left alone, or look on as the other children in the ward are brought craft or other activities in which the home educated children are not allowed to participate (even when parents have offered to pay for it).

The inhumanity of this policy is recognised by some Hospital School principals, who ignore it and allow home educated children to participate in their programs. Principals have indicated to parents that they are potentially risking their job by allowing a home educated child to access the Hospital School.

“This is an unbelievable policy!! No consideration for individual circumstances and NO COMPASSION from the Westmead bullies. My daughter was so lost and bored when I couldn’t get in early for her. It would have been better for her to have the distraction of school so as not to be left alone to think on her illness”

“In my experiences with the Hospital School at Sydney Children’s Hospital Randwick, I have never encountered such unkindness to a chronically sick and innocent child. It was an absolute disgrace the way my daughter was treated for our family’s choice in home educating. My daughter still asks today for the reason why she would be excluded in that way.”

School sport

Schools sport competitions from regional through to a national level (for example, swimming, basketball, netball, diving, soccer) are open to students in state and private schools, but not to home educated students. Local school principals often allow home educated children to participate in their school sports carnivals but if the children are good enough to proceed through to a regional level they are excluded. As described,

“My daughter is a very good swimmer but she has a disability which limits the opportunities for her to compete. School swimming competitions form an important part of the swimming calendar for swimmers with a disability, but my daughter is excluded from participating because she is not enrolled at school. She finds this really hard to understand.”

“We live in the country and our local primary school has been willing to let our children participate in the school swimming carnival. This year they swam really well but the Department of Ed has said that they are not allowed to compete at a district level because they are not enrolled in the school.”

Department of Education and Community learning centres

The Department of Education and Communities operates a variety of specialist learning centres throughout the state. These learning centres provide programs for school groups from government

and non-government schools, but often exclude home education groups. For example, Camden Park Environmental Education Centre offers educational programs for school students such as at the historic Belgenny Farm at Camden.²⁴⁶ Home education groups have been refused access to these programs. As described by one home education group coordinator, *“The Department of Education runs a gold rush education day on the Belgenny Farm property (kids can pan for gold, have currency to buy their supplies, build a tent, etc.). We made the booking in November for the excursion in May the next year. We told them that it was for home schooled kids and would have children ranging from preschool to young teens and that we would have plenty of supervision and assistance for the younger children as the parents are required by us to be in attendance at all times. They said they were fine with that, however we never received any paperwork or an invoice. One month out from the date we rang and were told that they couldn’t do the excursion for any child that was not stage 3. They then rang us back to say that in fact we couldn’t attend at all because it is a Department of Education program and only schools are allowed. We attempted to organise another excursion at a different time to a Department of Education environmental centre but were told again that only schools groups could be accommodated.”*

Policies that exclude home educated children from resources that are available to students in government and non-government schools appear to be designed to be punitive. The HEA is of the view that children should not be punished because they are home educated. Department of Education and Communities’ policies should be changed to provide home educated children with access to programs that are available to school students.

[Support services for students with a disability](#)

Within the school system, students with a disability receive support based upon their individual learning needs. Students may receive support directly (such as in the form of a teachers aid or specialist resources) or indirectly (such as support for their teacher). As described earlier²⁴⁷, many home educated children have a disability, many have previously attended school and many have been unable to be provided with an adequate education in school, or have been unable to be safe in school. Nonetheless, removal from the school system means that children lose any support and are excluded from resources that are available to other students. The issue of exclusion of children with a disability from accessing specialist resources is one that is particularly serious given the disadvantage that these children already face. Such exclusion is hard to understand given how expensive the education of these children would be for the State if the children were attending a

²⁴⁶ www.camdenpk-e.schools.nsw.edu.au/

²⁴⁷ b)(v) The current context of home schooling in New South Wales including: characteristics and educational needs of home schooled children

government school and given that many such students have often already been failed by the school system.

Society bears a great cost when children with a disability are not assisted to achieve their potential. Families who have a child with a disability are those who often struggle the hardest to gain access to resources that their child needs, because such resources can be very expensive and many families cannot afford them. As discussed earlier²⁴⁸, families are often forgoing an income in order to home educate.

“My daughter has just been diagnosed as having dyslexia with a double deficit and working memory problems. The specialist who assessed her has recommended that the online “Easy Read” program would be the best assistant to helping her. Schools can access this program for a one-off cost of \$75 but it would cost me \$40 per week to use the program and as a single parent I just can’t afford this. It’s a horrible situation to be in.”

“Our son has dyslexia and finding resources to help him has been challenging. He was able to trial a computer program which (a little to my surprise) he really enjoyed, but the cost of using the program has deterred us...it would cost \$1377 a year. The irony is that we live directly behind a government primary school that has a licence to use the program with their students, but we cannot use it. Instead we have settled for “Toe by Toe” which is a book that cost only \$35, but he does NOT enjoy it and we struggle through it each day. We have seen a huge improvement but it would be great if we had been able to afford the computer program and it is very frustrating when it is available to the children who go to the school at the end of our garden, for free.”

“I recently went to Westmead Hospital to get developmental assessments done for my twins. The intake officer nearly choked when I told her they were 13. She asked me why the school hadn’t assessed them. I explained that we homeschool and so we didn’t qualify. I homeschool out of medical need. My kids could not be catered for, we tried school for lots of years. For kids with issues there needs to be access to support.”

²⁴⁸ (b)(ii) The current context of home schooling in New South Wales including: financial costs

“My daughter has significant hearing loss. In school she was getting 2 hours per week itinerant support. When we changed to distance ed through the Department we were no longer able to get that help. And now even though we are BoSTES registered we are still obviously not able to get that help either. Before we left the school we were given a number to get private help which we couldn’t access because we didn’t have the money for it on one income.”

“My daughter is legally blind, has an intellectual disability and has been diagnosed with anxiety and depression. She was home educated for many years but when she was in 4th class we sent her to school because she’s a very social child and wanted to be more with other kids. We had also had difficulty in accessing the resources that she needed, like large print photocopying and closed circuit television, because of the expense. She attended school for 5 years and it was okay for her until year 8, when her anxiety and the pressure of performing academically at school became too much and we took her out. The school principal was really understanding and suggested that perhaps she could be home educated for the academic subjects and attend school for the electives, dance and drama, which she loved and excelled at. Unfortunately, the principal was told by the Board of Studies that this was not allowed, which was quite sad for her. Obtaining large print books and print outs also became problematic and expensive with no assistance. She was also informed that she could not attend the annual Vision Camp after she left school. This camp had been fantastic for her as it was the only time in her life that she’d been with a large group of children who were similarly visually impaired. Her Vision Itinerant teacher had offered to take her anyway but this also was not allowed. Whilst homeschooling took some of the academic pressure off in year 9, my daughter felt very socially isolated and this made her depression worse. Had she been able to do electives at the local high school and attend Vision Camp I believe her year 9 experience would have been a much more positive one.”

Other jurisdictions are able to provide support for home educated children. For example,

“My daughter has a serious vision impairment and other disabilities as a result of a brain tumor. She was spending so much time in hospital and sick at home that school just was not working. After it was decided that we were going to home school we advocated for support for our daughter from the Vision Education

Service, which is a part of the WA Department of Education. Vision Education have been wonderful. They have adapted learning resources for our daughter (photocopying books so that they have larger text and binding them for her), given practical assistance (like telling her to hold books up to her face) and provided electronic resources (like an electronic magnifier). It has been fantastic! We could not do without their help”

The cost to society of not supporting children with a disability in NSW to achieve their full potential appears not to have been considered. The NSW government should institute policies that provide for home educated children with a disability to be provided with access to appropriate support, as is provided to children in schools. Exclusion of home educated children from access to support could be considered to be a form of disability discrimination.

BoSTES restricting access to resources from others

Limiting the ages for which children can be registered for home education restricts access to resources for some home educated children. Although children can attend school from 4.5 years of age and it is common for children not to finish school until past their 18th birthday, home educated students can only be registered for the compulsory years of schooling. As stated by BoSTES, *“In NSW the compulsory years of schooling are from the age of 6 years until the minimum school leaving age specified in the Education Act 1990. Children who are not of compulsory school age are not eligible for home schooling registration.”*²⁴⁹ This means that home educated students younger than six years of age and older than 16 years of age are not able to access resources and support that they could if they were registered for home education. Such resources may be as simple as a travel concession pass or as significant as eligibility for some Centrelink payments. The restriction of registration to only the compulsory years of schooling is particularly problematic for children with a disability, whose move to tertiary study and work may be later than that for children who do not have a disability.

“My daughter has psychological special needs. Her needs are such that we receive the Assistance for Isolated Children from Centrelink. She is now 16 years old and doing very well, but she will need to continue home educating past her 17th birthday. However, her home education registration will finish the day before she turns 17. This means that we will lose the Assistance for Isolated Children payment which will greatly affect our ability to access resources for our daughter. It makes no sense to me that there is recognition that most children need to continue their

²⁴⁹ http://www.boardofstudies.nsw.edu.au/manuals/pdf_doc/auth-person-handbook.pdf

school education past their 17th birthday, but home educated children are not allowed to.”

“Once my son turned 17 he was no longer able to be registered and so it meant that even though he continued to be home educated for another year (before starting university) he had to pay full fare on public transport because we could not obtain a student concession for him.”

BoSTES policy should be changed to allow children to be registered for home education from the minimum school attendance age (4.5 years) until their 19th birthday.

Supporting home educating families in NSW

There are a number of other ways in which the NSW government could support home educators to the benefit of children. These include: providing support for new home educators within the registration system, provision for part-time school enrolment and part-time home education, and facilitation of access to resources.

Support for new home educators intrinsic to the registration system

Currently BoSTES does not provide families with any support in either the home education of their children or the meeting of registration requirements. However, families who have removed children from school because of a crisis situation often have difficulty in beginning home education. The HEA provides support to families who contact the organisation via the HEA Helpline, or via any other method. HEA members assist new home educators (regardless of whether they are members or not) in developing their home education program, in preparing for registration and by providing ongoing support. However, the HEA can only assist those who make contact. Many new home educators are not aware of the HEA and of the support available via the organisation, or they assume that the BoSTES would provide the support necessary to home educate.

Unfortunately, there is little to no assistance provided for families in either the home education of their children or in the meeting of registration requirements via BoSTES. Authorised Persons are discouraged from assisting families and in any case, many do not have the skills to be able to assist families. In practice this means that the transition to home education is extremely stressful for families.

“I am very unhappy that the registration system as it stands provides no support for home educators who need it, particularly new home educators. I have been home educating my 5 children for over 15 years. Over the years I have helped

many people who are just starting out. Originally it was about helping them with the practicalities of home educating; people wanted to know the answers to all the usual questions - how do I go about educating my own children, are children able to go into further education, what about social opportunities and high school subjects and all sorts of other questions. However, things have escalated over the previous 2 years and I have spent significant periods of time with scores of home educators, new and experienced, helping them with documentation in order to pass registration. I even have APs referring people to me for help prior to the visit. I am particularly concerned for those new home educators whose children have been withdrawn from school due to the unsuitability of the school system. They are capable of providing appropriate educational opportunities for their children, but the paperwork required by BoSTES presents a real barrier for them. They are in crisis, and they need support, but the current system has no support for them, except that provided on an ad hoc basis by volunteers like myself. It is important that these families are provided with a properly supportive system.”

“I am a long term home educator and over the previous year I have been providing support to home educators by sitting in on their registration visits. I have attended about 20 registration visits with four different APs over that time. Many new home educators are incredibly intimidated by the registration process. I have had mothers weep when I’ve agreed to come to their visit because they are so relieved that they will not be on their own. It has been clear that some of the APs are not equipped for conducting assessments because they do not know the most basic information about home education or about the special needs that many home educated children have. This also means that they are unable to help families. It’s just not acceptable that there is no support in the system. I especially feel for families who have withdrawn their child from school because of severe bullying or a mental health crisis. They often need support and are often quite terrified that they might fail the assessment and be forced to send their child back to school. This should not be the case.”

In addition, there is no ‘best interests of the child’ test applied to home education applications. The response when a child has been removed from school because they are not being adequately educated or they are being harmed, but the parent does not have the paperwork as demanded, is not to assist them but to reject the application. For example, *“My daughter has difficulty in sitting still in class and as a result has been very disruptive and in a lot of trouble - she has been suspended*

from school several times in Kindy and Year 1. She was recently placed on a week long “school-based suspension” where she could not go to class but had to sit in the library and I was required to sit with her. I applied to home school her. When I was visited by the authorised person she said that I did not have enough plans written down for HSIE and PDHPE and I was told to withdraw my application.” It is difficult to see how sitting in the library every school day without an education occurring could be considered to be in the best interests of the child. In a situation such as this, the HEA would maintain that the family should be provided with assistance rather than have their application rejected or be advised to withdraw their application.

Many new home educators are not aware of supports that may be available to them in the community. For example, the federal Assistance for Isolated Children is of great assistance to families who are home educating because a medical condition prevents school attendance, however the BoSTES does not inform families who may qualify for this payment about it. When queried about this situation, home educators have been told that it is not the BoSTES responsibility to tell families about this payment.

The HEA is of the view that support should be intrinsic to any home education registration system. As described earlier²⁵⁰, those conducting assessment of home education applications need to be appropriately trained and experienced in order to be able to provide a meaningful assessment. If this were the case, they would also be well placed to provide support to families who need or wish for their support. The HEA is of the view that the majority of parents who seek to home educate are capable of doing so and that the home education assessment process should be one that is primarily concerned with providing support, rather than ensuring compliance. Home education applicants should be provided with information about supports that may be available to them in the community or via other government departments, such as the Assistance for Isolated Children. Home educators should be regularly informed of educational opportunities and/or services that they could access.

[Part-time school, part-time home education](#)

The ability to attend school part-time and part-time home educate is an option that is available in other Australian jurisdictions and is one that many families in NSW would like to be able to access. Many of the problems that home educating families have accessing support could be solved if part-time home education was an option. Part-time school enrolment could allow home educated children to access other programs that may be difficult to facilitate outside of the school

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environment. For example, school health programs, vaccinations and assessments; inter-school concerts and eisteddfods; music camps; bands/choirs; public speaking/debating competitions, etc

As families from other states describe, the ability to for their child to access school and home education can work extremely well. For example,

“My son enjoys school but I found that in order for him to keep up academically he needed more one-on-one attention than the teachers can offer. So he is part-time home educated, where I can assist him with English, reading, vocabulary and maths.”

“My son is 15 and has diagnoses of ASD and ADHD. His teachers and aids were fantastic but he wasn’t coping well with mainstream school; they suggested we try part-time school, part-time home school. Currently he does his core subjects at school and the electives at home. This works great for him, he has less meltdowns and handles school with more ease.”

“We decided to part-time school when it became legally an option in Victoria. We live in a small locality and the public school is the local hub for making connections, being involved in the local community, etc. Both the primary and secondary school have been very supportive and accommodating. We honour our side of the agreement and they offer us lots of flexibility. Partial enrolment gives us the best of both worlds. It gives more choices in the education of my children. Both the Primary School and the Secondary School have been very accommodating to us.”

“We do 2 days a week at school. They are enrolled at the school and we have an agreement with the school on what areas they cover and we take responsibility for the rest. It’s working well so far. We do it this way because I have health issues, I need a couple of days a week for treatments, etc. It’s a good balance for us and the children are enjoying it.”

“We have chosen for our other children to trial limited part-time schooling for a number of reasons. For our sunny, gentle and people-oriented daughter, it was for exposure to a range of people and access to secondary maths instruction and the year 9 drama production; for our creative sciencey daughter it was the art and exposure to different thinking skills; for our mechanically minded, practical son it

was the exposure to different ways of approaching literacy and numeracy. The arrangement is a mutually agreeable one between our family and the school - it is an independent private school with an underlying philosophy that their role is to support parents in the education of their children. Each of our children has different needs. We constantly assess how best to help them learn and grow. Having access to a willing school gives parents a much broader array of options to educate well. ”

“My son goes to the local public school 2 or 3 days a week for 2-3 hours in the morning. They have a special ed department that is very accommodating. The responsibility of educating him is shared and it’s an attempt at integrating him socially. My son is autistic and I’m a single mum. He enjoys this arrangement much better than full time school. He copes OK with the small window at school and very much looks forward to his time at home. It works for me, too, because I get a break from him. It works well because the principal and teachers are very accommodating and want to provide the best support for the child.”

Part-time enrolment in school/part time home education presents potential logistical problems for schools, however these are managed in other Australian jurisdictions and could be similarly dealt with in NSW. In addition, as described, it is often teachers and principals who raise the desirability of part-time school/part-time home education with parents; a student who is engaged and learning whilst at school part-time is better than a student who is not coping and not learning whilst at school full time.

Were part-time enrolment in school possible it would enable home educated students to access the resources previously described, such as TAFE-delivered vocational education and training (TVET) courses, Open High School, School Sports programs and Hospital School programs, because they would meet the school enrolment requirement for these programs.

It should also be considered that part-time school attendance is not uncommon in NSW schools. Part-time attendance is usually a result of a child having special needs that make their attendance at school intolerable for themselves or difficult for others. In such instances, the goal is almost always to work towards resumption of full-time school for the child, which may be appropriate, but for some children it is likely that full-time attendance may not ever be desirable. In such circumstances, there is no onus on the parent to compensate for missed school time. There is also no formal recognition for parents who are compensating for missed time, by teaching their children themselves.

“My son attends school five days a week, reduced hours in NSW. He has ASD....A full day sends him into shut-down. I see myself as home educating. I’ve taught him to read, maths, life skills, etc. I send him to school so he gets to be around others, for the social interaction. He’s on a partial attendance plan. The school has to meet certain markers, for example, no stimulating behaviours, for there to be a change to increase his hours, from the Education Dept.”

For some children and families, maintaining a situation where the child attends school part-time and is part-time home educated may be preferable to either full-time school attendance or full-time home education. The HEA is of the view that allowance for part-time school enrolment and part-time registration for home education should be instituted in NSW.

Other ways of facilitating access to resources and support

There are many ways in which access to resources and support could be facilitated by the NSW government. The options of allowing home educated children access to programs such as TAFE-delivered vocational education and training (TVET) courses, Open High School, support for children with a disability and part-time school enrolment have already been described. Many families would also like to be able to access distance education full- or part-time.

Additionally, many families wish to be able to access some sort of funding to assist them in the home education of their children. As described by one mother, *“I personally would like to see an acknowledgment from the government that says ‘yes, we can’t manage it, but if you can then we’ll help you.’ The money they would have had to put into our son’s education in a mainstream setting can be put into an account that can be accessed by us for reimbursement of educational costs - much the same way they do FAHCSIA funding now. This need not only be for special needs kids but all students. We save the government thousands every year. This arrangement would benefit so many! I don’t want to be paid an income, but to be able to access the many wonderful resources there are without the burden on our family would be brilliant.”*

A partnership model between home educators and the school system could benefit both home educators (by allowing access to resources) and the NSW government (by facilitating registration). There are many possible models of partnership. In one possible model, home educators could choose to connect with their local school and schools could be provided with a resource allocation based upon the number of home educated children connected with their school. This might allow employment of a resource person to assist home educating families, or access to other school

resources (this system was proposed by the Commissioner for Children and Young People in Queensland in response to the 2003 inquiry).

The responsibility of the NSW government to support home educated children

Some have suggested that since families who home educate have opted out of the system, they should not expect any assistance from the state. This argument is flawed for two reasons. Firstly, the *Education Act 1990* states that, “*the education of a child is primarily the responsibility of the child’s parents.*” Whilst most parents delegate the majority of their responsibility for the child’s education to schools, the responsibility of parents with regards their children’s education is central to NSW legislation. The fact that home educating parents have retained the majority of their responsibility towards their children’s education does not mean that they are rejecting any assistance from the state. Secondly, the *Education Act 1990* also states that, “*it is the duty of the State to ensure that every child receives an education of the highest quality.*” Thus, the state has a responsibility to all children in NSW, not just those in government and non-government schools.

It is antithetical to the *Education Act 1990* for the NSW government to exclude home educated children from supports that are made available to children in schools. The NSW government should be looking for ways to assist home educating parents in the education of their children. It should also be considered that a large proportion of home educated children have attended schools and have been unable to learn, or have been unsafe in that environment. The NSW government should positively recognise parents who have taken full responsibility for their children’s education and wellbeing.

Not all home educators need or want support from the state

Whilst many home educators would be grateful for assistance from the state in terms of access to resources or other support, there are some who do not need or want any support. This is the case throughout Australia and New Zealand; in fact in New Zealand, where financial support is provided to home educators, a substantial number of home educators decline the payment. The HEA believes that the uptake of any support made available to home educators should be voluntary.

As stated by these parents,

“I am not concerned about using state educational resources. Rather, I would like the freedom to be able to use our own resources and ideas when educating my children.”

“We take full responsibility for our children's education.”

Conclusion

The issue of support is another area where the diversity of home educators becomes evident. The support needs that families and students have, and the interest in accessing them, differ from family to family. Many families would welcome significant support, whilst others would prefer to access educational resources and services via different channels. There is a plethora of educational resources, services and ‘school’ activities provided by the government that can be accessed by school age students, but from which home educated students. Students, families and communities are disadvantaged when learning needs are not being fairly met. It is the view of the HEA that the government should make such supports available to home educators and inform them of their availability, but that uptake should remain voluntary.

(e) Representation of home schoolers within Board of Studies, Teaching and Educational Standards (BoSTES)

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BoSTES Stakeholders

Part 2, Section 6 of the *Board of Studies, Teaching and Educational Standards Act 2013*, outlines the objectives of BoSTES:

“(1) The principal objective of the Board is to ensure that the school curriculum, forms of assessment and teaching and regulatory standards under the education and teaching legislation are developed, applied and monitored in a way that improves student learning while maintaining flexibility across the entire school education and teaching sector.”

Home schooling is a component of the “education and teaching sector”, as it is one of three methods of compulsory schooling under the *Education Act 1990* (Part 5, Section 22). Home schooling is also directly affected by the way that the “*school curriculum, forms of assessment and teaching and regulatory standards*” are applied to improve student learning.

The Board also exercises functions that are relevant to home schooling in relation to:

- “(3) (a) the school curriculum for primary and secondary school children,*
- (d) basic skills testing,*
- (e) the granting of Records of School Achievement and Higher School Certificates,*
- (f) the registration and accreditation of schools,*
- (i) reporting on matters relating to the Board’s functions,*

(j) advising the Minister on matters relating to the Board's functions."

It is also the function of BoSTES to register home educators:

"Registration with the Board of Studies, Teaching and Educational Standards NSW (BoSTES) is a legal requirement for home schooling while a child is of compulsory school age and not enrolled in a school."²⁵¹

Home educators should be considered to be primary stakeholders of the Board; however, are given no representation. Home educators are directly affected by decisions of the Board and yet, the Board cannot demonstrate thorough knowledge of home education.

On 7 May 2014 the shadow minister for education and training, Mr Ryan Park, MP asked the Minister for Education, Mr Adrian Piccoli, MP asked:

"Will the Government consider allocating a home schooling representative to the board of BoSTES?"

a. If so, when?"

b. If not, why not?"

The reply, received on 11 June 2014, and published in Parliament's *Questions and Answers* on 17th June, 2014, was as follows:

"It is not feasible to have representatives from every stakeholder or community member on bodies such as the BOSTES. I expect that the BOSTES will enhance the learning outcomes for all children, whether enrolled in a government or registered non-government school or registered for home schooling.

The consultative arrangements established as part of the new BOSTES have proper regard to the interests of all children, including those who are registered for home schooling."²⁵²

Home education is different from school education. Without representation on the BoSTES, necessary input is difficult to achieve, as is the flexibility required by the Act and necessary to achieve quality home education. Currently, the BoSTES board is comprised of:

"(a) the President,

²⁵¹ <http://www.boardofstudies.nsw.edu.au/home-schooling/index.html>

²⁵² Hansard 5545 Home Schoolers, Questions and Answers paper no. 2013

(b) 3 persons nominated by the Secretary of the Department of Education and Communities who together have knowledge and expertise in primary and secondary school education and vocational education and training,

(c) 19 members appointed by the Minister.

(2) The appointed members are as follows:

(a) one nominee of the New South Wales Vice-Chancellors' Committee,

(b) 2 nominees of the Council of the Federation of Parents and Citizens Associations of New South Wales:

(i) one representing parents of primary school children and being a parent of a child attending a primary government school, and

(ii) the other representing parents of secondary school children and being a parent of a child attending a secondary government school,

(c) one nominee of the Catholic Education Commission, New South Wales,

(d) one nominee of the Association of Independent Schools,

(e) one non-government school teacher (other than a principal), being a nominee of the New South Wales Independent Education Union,

(f) one parent of a child attending a non-government school, being a nominee of the Council of Catholic School Parents and the New South Wales Parents' Council,

(g) 2 principals of government schools, one being a nominee of the New South Wales Primary Principals Association and the other being a nominee of the New South Wales Secondary Principals' Council,

(h) 2 nominees of the New South Wales Teachers Federation, one being a primary government school teacher (other than a principal) and the other being a secondary government school teacher (other than a principal),

(i) one person with knowledge and expertise in early childhood education,

(j) an Aboriginal person with knowledge and expertise in the education of Aboriginal people,

(k) 6 other persons having, in the Minister's opinion, the qualifications or experience to enable them to make a valuable contribution to primary or secondary education in New South Wales."

Great care has been taken to ensure broad representation of stakeholders on the BoSTES. As has been shown in many other terms of reference in this Inquiry, home education is substantially different from school education. In contrast to the Minister's expectation that *BoSTES will enhance the learning outcomes for all children...[including] for home schooling...* BoSTES' regulatory requirements and practices have negatively impacted on the outcomes of home educated students. The HEA believes that representation on the BoSTES would facilitate better outcomes for home educated students, as well as being a step towards greater fairness for the home education sector.

Home educators, in their role as parent-teachers, are involved in registration, teaching and assessment of students; they therefore have a significant interest in BoSTES. The Minister's expectation is that BOSTES will *"enhance the learning outcomes for all children" and "have proper regard to the interests of all children"*²⁵³. Achieving this objective in a home education context differs to that of the school context since home education methods, needs, resources and opportunities are different from those of school.

Conclusion

To enable consultation and sharing of professional opinion, a position on the Board of Studies, Teaching and Educational Standards should be made available to a home school representative. This person would be able to advise the Board regarding curriculum, assessment, registration and certification in the home school context. This would be of benefit to the home school community, to BoSTES, and most importantly to the children of our State.

²⁵³Hansard 5545 Home Schoolers, Questions and Answers paper no. 2013

(f) Any other related matter.

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Suitability of BoSTES for administration of home education registration

A serious concern of the HEA is the level of transparency in the practices of the BoSTES, Although clarity and transparency have been cited as reasons for the amendment of the *Home Schooling Information Package* in 2013, the practices of the BoSTES have been quite opaque and misleading. Despite the HEA receiving reports from a growing number of families that registration visits had changed in character from Authorised Persons being supportive of parent’s own plans to requiring a ‘school at home’ approach, when these issues were raised with the Board of Studies all staff denied there were any changes. Subsequently, on 26th August 2013 the *Home Schooling Information Package* was released. Its contents confirmed that there had been a change in registration procedure and many parents again contacted the Board of Studies to query them on these now documented changes. Again the Board of Studies denied there were changes, claiming that the only amendment was inclusion of the new English Syllabus according to the published calendar. A comparison of the *2011 Home Schooling Information Package* and the *2013 Home Schooling Information Package* shows many changes and confirms the reason for concern raised by the community. This unrealistic denial of obvious changes was also followed by the Minister for Education, who refused to respond to questions on the issue and left a meeting with HEA representatives after only fifteen minutes.

BoSTES has continued to maintain and advise the minister that they have not made any significant change. As late as July 2014, the Minister for Education has written to members of the NSW Legislative Assembly advising them that, “*BoSTES has not changed the requirements for registration*”. This is despite BoSTES own statistics revealing massive increases in home education application rejections, withdrawals and short registration periods since 2011, as shown below (this table was constructed using information from answers the Minister for Education, Mr Adrian Piccoli,

provided in response to questions asked by the Shadow Minister for Education Mr Ryan Park).²⁵⁴ The 630% increase in rejections and 2025% increase in 3 month registrations cannot be explained by the increase in number of home educators, it is evidence of a drastic change in policy and implementation. It is worth noting that the number of rejections reported is complicated by the fact that Authorised Persons more commonly direct applicants to withdraw their applications if the Authorised Person intends to recommend that the application be rejected. This is also demonstrated in the figures cited. There is an administrative review process available for application rejections but not for application withdrawals or short registrations.

	2011	2012	2013	% increase 2011-2013
Rejections	10	13	73	630
Withdrawals	184	278	342	86
3 mo	4	32	85	2025
6 mo	102	208	377	270
12 mo	401	611	1131	182
24 mo	1308	1367	1134	-13
Total	1815	2112	2452	35

The committee should be aware that the recent actions of BoSTES in relation to the changes made to home education regulation constitute both a consistent pattern of behaviour and a significant breach of trust with the home education community. This is not the first time that this organisation has attempted significant changes to home education registration without consultation. In 1998 the then OBoS was behind an attempted major legislative change in relation to home education. This change was attempted without any consultation and without warning. As was described in NSW Parliament at the time,

“The home schoolers told me about the attempts that have been made to resolve the matter. That subject has already been touched upon. The Board of Studies set up a consultation group. Several meetings were held and a working party was ultimately formed to examine the guidelines. However, the Board of Studies insisted that the efficacy and validity of the guidelines had to be accepted. The board refused to consider the new draft guidelines suggested by some members of

²⁵⁴ Hansard 5545 Home Schoolers, Questions and Answers paper no. 2013

the working party. At the last meeting on 31 August the Board of Studies clearly stated that no changes to the regulations were imminent. But seven working days later, on 11 September, the Education Amendment (Home Schooling) Regulation was gazetted. On 22 September it was tabled in the Parliament. There was no consultation or notification.”²⁵⁵

As a result of this consistent pattern of behaviour towards home educators, many individuals do not believe that BoSTES can be trusted to act in good faith.

This is unsurprising given that BoSTES regulates Institutional Schools, whereas Home Education differs significantly to the mode of education adopted by schools. Families believe BoSTES are inexperienced and both pedagogically and philosophically inappropriate to oversee what is essentially and importantly a ‘non-school-like’ non-institutional approach to education.

In 2004 the (then) BOS released a report based on surveys of home educating families²⁵⁶. This report noted that common concerns included:

- Acknowledging that home schooling is a legitimate form of education
- Providing information about resources available to home educators
- Knowing exactly what the conditions of registration are
- Providing information about how to go about home schooling
- Being encouraged to proceed

Sadly, a decade later these issues have become worse, not better. This is in stark contrast to the regulatory regime in Tasmania, which has operated without significant issue for two decades.

Home Education Research

The NSW Ombudsman’s Annual Report 2012-13 recommended that the Board of Studies undertake research into the educational outcomes of home educated children and young people, to be compared against the outcomes of ‘schooled’ children. The Board of Studies agreed to undertake the research, the nature of which was described in Parliament, in response to a Question Without Notice, on the 6th May, 2014. The Minister for Education informed the house:

²⁵⁵https://www.parliament.nsw.gov.au/prod/parlment/hanstrans.nsf/V3ByKey/LA19981020?open&refNavID=HA4_1

²⁵⁶ Office of the Board of Studies. Home Education Study- Report of Findings. 2004

The research will explore the academic attainment of students who have been home schooled compared to students attending school. In particular, the research will include:

- 1. A literature review of existing research on academic outcomes of home schooled students, both in Australia and overseas.*
- 2. Achievement of home schooled students in NAPLAN tests.*
- 3. Participation, completion and achievement of students who were previously home schooled and subsequently attended school, including (where applicable) NAPLAN tests, Record of School Achievement and Higher School Certificate.*
- 4. If available, university entrance information for home schooled students.*

The HEA draws the Committee's attention to limitations of this research model and argues that these will cause any picture of home educated students also to be limited. The first particular issue is that the number of home educated children who participate in NAPLAN exams are extremely low. There were 111 home educated students who undertook NAPLAN exams in 2013, which equates to 3.5% of all the registered home educated students in that year. This is in no way sufficient to provide a representative sample of home educated students, or their educational achievements.

Further, tests and assessments such as NAPLAN have been designed to assess the progress of students in school, who have a relatively consistent sequencing to their educational progress. There is not the same consistency for home educated students, especially for those who may be undertaking a 'natural learning' or 'unschooling' approach in their education. This indicates that any such tests seeking to understand home educated students should be built from the circumstance of home educated children, or standardised for that population. On this point the findings and argument of Rothermel (2012)²⁵⁷ are instructive – that measures (in this case psychological wellbeing) not 'normed' on the home educated population will give inaccurate findings if used to study that population.

To remedy these limitations, the HEA urges the Committee to endorse a more rigorous research program with sufficient numbers and appropriate tools to provide a meaningful result.

²⁵⁷ Rothermel, Paula (2012a), 'Home Educated Children's Psychological Well Being (El bienestar psicológico de los niños educados en casa)', *ESTUDIOS SOBRE EDUCACIÓN*, 22, 13-36

Appendix

Excerpts from Education Act 1990

3 Definitions

"home schooling" means schooling in the child's home, other than distance education provided by a government or registered non-government school in which the child is enrolled.

"school" means a government school or a registered non-government school.

4 Principles on which this Act is based

In enacting this Act, Parliament has had regard to the following principles:

- (a) every child has the right to receive an education,
- (b) the education of a child is primarily the responsibility of the child's parents,
- (c) it is the duty of the State to ensure that every child receives an education of the highest quality,
- (d) the principal responsibility of the State in the education of children is the provision of public education.

5 Principal Objects of the Act

- (d) to allow children to be educated at home,

6 Objects for administration of this Act or of education

It is the intention of Parliament that every person concerned in the administration of this Act or of education for children of school-age in New South Wales is to have regard (as far as is practicable or appropriate) to the following objects:

- (a) assisting each child to achieve his or her educational potential,
- (c) encouraging innovation and diversity within and among schools,
- (j) provision of opportunities to children with special abilities,
- (k) provision of special educational assistance to children with disabilities,
- (m) provision of opportunities for parents to participate in the education of their children,
- (n) provision of an education for children that promotes family and community values.

8 Minimum curriculum for primary education

- 1) The curriculum for primary school children during Kindergarten to Year 6 must meet the following requirements:
 - a) courses of study in each of the 6 key learning areas for primary education are to be provided for each child during each Year,
 - b) courses of study relating to Australia are to be included in the key learning area of Human Society and its Environment,
 - c) courses of study in both Art and Music are to be included in the key learning area of Creative and Practical Arts,
 - d) courses of study in a key learning area are to be appropriate for the children concerned having regard to their level of achievement and needs,
 - e) courses of study in a key learning area are to be provided in accordance with any relevant guidelines developed by the Board and approved by the Minister,
 - f) courses of study in a key learning area are to be based on, and taught in accordance with, a syllabus developed or endorsed by the Board and approved by the Minister.
- 2) The requirements of this section constitute the minimum curriculum for schools providing primary education.
- 3) If requested to do so by the proprietor of a non-government school (or, in the case of a school that is a member of a system of non-government schools, the approved authority for the system), the Board may approve such modifications to the syllabus referred to in subsection (1) (f) as it considers necessary to enable any part of a course of study in a key learning area that appears to the Board to be incompatible with the educational philosophy or religious outlook of

the school to be based on, and taught compatibly with, that educational philosophy or religious outlook. The part of the course of study at that school is to be based on and taught in accordance with the syllabus as modified.

- 4) Any modification approved under subsection (3) must be consistent with the guidelines referred to in subsection (1) (e).

10 Minimum curriculum for secondary education (Years 7 to 10)

- 1) The curriculum for secondary school children during Year 7 to Year 10 (other than for candidates for the Record of School Achievement) must meet the following requirements:
 - a) courses of study in 6 out of the 8 key learning areas for secondary education are to be provided for each child,
 - b) courses of study in the key learning areas of English, Mathematics, Science and Human Society and its Environment are to be provided during each Year, but the courses of study in the other key learning areas need not be provided during each Year,
 - c) courses of study in a key learning area are to be appropriate for the children concerned having regard to their level of achievement and needs,
 - d) courses of study in a key learning area are to be provided in accordance with any relevant guidelines developed by the Board and approved by the Minister,
 - e) courses of study in a key learning area are to be based on, and taught in accordance with, a syllabus developed or endorsed by the Board and approved by the Minister.
- 2) The requirements of this section constitute the minimum curriculum for schools providing secondary education for children during Year 7 to Year 10 who are not candidates for the Record of School Achievement.
- 3) If requested to do so by the proprietor of a non-government school (or, in the case of a school that is a member of a system of non-government schools, the approved authority for the system), the Board may approve such modifications to the syllabus referred to in subsection (1) (e) as it considers necessary to enable any part of a course of study in a key learning area that appears to the Board to be incompatible with the educational philosophy or religious outlook of the school to be based on, and taught compatibly with, that educational philosophy or religious outlook. The part of the course of study at that school is to be based on and taught in accordance with the syllabus as modified.
- 4) Any modification approved under subsection (3) must be consistent with the guidelines referred to in subsection (1) (d).

22 Compulsory schooling-duty of parents

- 1) It is the duty of the parent of a child of compulsory school-age to cause the child:
 - a) to be enrolled at, and to attend, a government school or a registered non-government school, or
 - b) to be registered for home schooling under Part 7 and to receive instruction in accordance with the conditions to which the registration is subject.
- 2) That duty is satisfied if the child receives instruction of a kind referred to in section 23 (2).

25 Certificate of exemption from attending school

The Minister may grant a certificate exempting a child from the requirement of this Part that the child be enrolled at and attend a government school or registered non-government school or be registered for and receive home schooling, if the Minister is satisfied that conditions exist which make it necessary or desirable that such a certificate should be granted.

23 Defence to Prosecution

It is a defence to a prosecution under this section if at the relevant time:

- (c) the child was participating in an alternative education program approved by the Minister for children unable, for social, cultural or other reasons, to participate effectively in formal school education (unless the Director-General had previously directed that the child resume formal school education because the child was not achieving the education outcomes required of participants in the program), or ...

37 Registration of Non-Government Schools and children for home schooling**Application of Part 7**

This Part applies to schools other than government schools.

71 Application for registration for home schooling

- 1) A parent of a child may apply in writing to the Minister for registration of the child for home schooling.
- 2) As soon as practicable after such an application is made, the Minister is to obtain advice on the application from an authorised person.
- 3) The authorised person is to notify the applicant in writing of a recommendation to the Minister that the application be refused.

72 Registration for home schooling

- 1) As soon as practicable after receiving the recommendation of an authorised person about an application for registration of a child for home schooling, the Minister:
 - a) is to register the child in a Register kept by the Minister for the purpose, or
 - b) is to refuse to register the child.
- 2) The Minister is to register the child if the Minister, having regard to:
 - a) the recommendation of the authorised person about the application, and
 - b) any decision of the Tribunal on an application for an administrative review of the authorised person's recommendation, is satisfied that the conditions subject to which registration is required to be given will be complied with.
- 3) The Minister may register more than one child of any one parent for home schooling.
- 4) If the authorised person recommends that the Minister refuse to register a child for home schooling, the Minister may not do so unless:
 - a) 30 days have elapsed since the applicant was given written notice of the authorised person's recommendation and no application has been made to the Tribunal for an administrative review of the recommendation within those 30 days, or
 - b) the Tribunal has determined an application for an administrative review (made within those 30 days) of the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it, or
 - c) any such application for an administrative review of the recommendation has been withdrawn.
- 5) The Minister is to notify the applicant in writing of the Minister's decision to refuse to register the child for home schooling.
- 6) On registration of a child for home schooling, a certificate of registration is to be issued for the child to the applicant for registration.

73 Conditions and duration of registration for home schooling

- 1) The registration of a child for home schooling is subject to the conditions specified in the certificate of registration.
- 2) The conditions so specified:
 - a) must comply with the requirements of the regulations, and
 - b) subject to any such regulations, must provide for the child to receive instruction that meets the relevant requirements of Part 3 relating to the minimum curriculum for schools.
- 3) Registration of a child for home schooling is to be limited in its operation to a period (not exceeding 2 years) specified in the certificate of registration.

74 Cancellation of registration for home schooling

- 1) The Minister may, on the recommendation of an authorised person, cancel the registration of a child for home schooling by notice in writing to a parent of the child, if the parent:
 - a) has failed to ensure that the child receives instruction in accordance with the conditions to which the registration is subject, or

- b) has refused or failed to allow an authorised person (in accordance with those conditions) to enter, at any reasonable time, the premises where the child receives schooling or to inspect those premises or records required to be kept for the purposes of this Act, or
 - c) has breached any other condition to which the certificate of registration is subject.
- 2) The Minister may not cancel the registration of a child for home schooling under subsection (1) (a) if:
- a) the child was prevented from receiving instruction by sickness, permanent or temporary incapacity or some accident or unforeseen event, or
 - b) the child has not received instruction for only 3 school days or less in any period of 3 months during which the child has been registered for home schooling, or
 - c) any failure to ensure that the child received instruction was a result of the child's disobedience and was not due to the default of the parent.
- 3) The Minister may not cancel the registration of a child for home schooling written [*sic*] unless notice of the authorised person's recommendation to the Minister has been given to a parent of the child and:
- a) 30 days have elapsed since the giving of that notice, during which time no application has been made to the Tribunal for an administrative review of the recommendation, or
 - b) the Tribunal has determined an application for an administrative review (made within those 30 days) of the recommendation and the Minister has considered any contrary recommendation of the Tribunal and the reasons for it, or
 - c) any such application for an administrative review of the recommendation has been withdrawn.