Pestalozzi Trust (IT6377/98)
the legal defence fund for home and community based education
die regsfonds vir tuis- en gemeenskapsonderwys

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Kliek hier vir Afrikaans

New Home Education Policy steam-rollered through

Last week the Basic Education Ministry and the Department of Basic Education found they had triggered an avalanche of protest from home-schooling parents when they tried to quietly steam-roll a new Policy on Home Education through the Council of Education Ministers (CEM). This is a body that consists of the Minister of Basic Education and provincial MECs.

As many as 1000 parents wrote to the Ministry over the weekend of the 14/15th July, and into the subsequent week, in a last-minute attempt to get the Minister to release the Policy on Home Education to the public for study, and to delay any discussion of the Policy at the Council of Education Ministers meeting until that had been done.

Bouwe van der Eems, Chairperson of the Pestalozzi Trust explains: *"The Pestalozzi Trust requested a copy of the final version of the Policy in order to confirm that the DBE listened to the comments of the nearly 700 homeschooling families who had made submissions on the draft Policy. After multiple attempts over more than the last six months to engage with the DBE, the Trust was merely informed that all comments were analysed "in a fair, just and a credible manner" and will be submitted to Council for Education Ministers for approval. Members of the home education movement wanted to verify if their fundamental concerns were addressed".*

He also stressed that home-schoolers wanted to be aware of the contents of the Policy to allow them an opportunity to engage with their elected representatives before the Policy was finalised.

Secrecy was the order of the day

Not only was the DBE unwilling to release the final version of the Policy to the public, it was not even willing to divulge to those parents who called in whether a CEM meeting would take place, or whether home education was on the agenda. Other parents struggled to get hold of officials.

A home educator, Mrs Anelle Burger, states "*I sent an email and tried to follow up with phone calls. Despite numerous tries my calls were never answered. Many fellow home educators reported that they received notification that their emails were deleted without having been read. I wonder if the same happened to my emails?*"

This is not the first time that home educators have inundated the DBE with requests to be involved in the regulatory and legislative process. Despite learners engaged in home-based education being approximately one percent of the total number of learners in South Africa, submissions by home educators accounted for a significant portion of the comments received on the controversial Basic Education Law Amendments (BELA) Bill when the DBE called for public comment late last year.

Chairperson of the Association for Homeschooling, Shaun Green, stated, *"Throughout the flawed consultation process there has been an unprecedented response from the homeschooling community to both the Policy and proposed amendments to the Act. Input from the people this affects most has been substantially ignored. It is amazing to witness policy-makers ignoring what the DBE Director General Mathanzima Mweli in November 2017 said 'the word avalanche would not describe'. One can only assume that the DBE believes that their steamroller is bigger than an 'indescribable avalanche'."*

Adv. Megan Puchert of the Eastern Cape Home School Association sees significant legal battles ahead: *"I place the legal validity of the Policy in question, as there are problems with the empowering provisions. This is very serious. It also seems as though the findings of the 2001 Constitutional Court case,* Minister of Education v Harris, *were never considered when this Policy was drafted and approved. I foresee that the Minister of Education will now have to deal with these issues through very expensive, and unnecessary, litigation."*

She goes on to state, *"It seems as though the cart was placed before the horse. Changes to the SA Schools Act are still being debated and discussed, whereas several of these proposed changes have been incorporated into the Policy through a back door."*

Van der Eems claims, *"a policy based on a flawed public participation process will merely increase conflict. A policy based on a law that does not yet exist will cause chaos. The correct way forward is that the drafting of the Policy is postponed until the BELA Bill passes through Parliament and an amended Schools Act is promulgated. Only the Minister can stop the promulgation of a Policy that will merely promote conflict and chaos and instead initiate a drafting process based on the rule of law and meaningful public participation."*

The Department of Basic Education could not be reached for comment.

For media enquiries and interviews please contact the following:

Chairperson of the Pestalozzi Trust: Bouwe van der Eems – 012 3301337/082 907 9696 / defensor@pestalozzi.org bouwe@pestalozzi.org
(The Pestalozzi Trust is the legal defence fund for home and community-based education)

Chairperson of the Association for Home Schooling: Shaun Green –
083-277-7174 / shaungreenspost@gmail.com
(The Association for Home Schooling is a national body representing home educators.)

Chairperson of the Eastern Cape Home Schooling Association: Adv. Megan Puchert –
072 207 8226 / echsa1@gmail.com
(The Eastern Cape Home Schooling Association represents home educators in the Eastern Cape)

The following provincial associations/persons can also be contacted for comment:

Chairperson of the Cape Home Educators: Victor Sabbe –
072 782 4918 / capehomeed@gmail.com
(The Cape Home Educators represents home educators in the Western Cape)

Chairperson of the Gauteng Association for Homeschooling: Jacs Lemmer –
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(The Gauteng Association for Homeschooling represents home educators in Gauteng)

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Nuwe Beleid vir Tuisonderwys Gestoomroller

Verlede week het die Ministerie van Basiese Onderwys en die Departement van Basiese Onderwys (DBO) probeer om stil-stil ‘n nuwe Beleid oor Tuisonderwys deur die Raad vir Onderwysministers (Council of Education Ministers of CEM) te druk. Hulle is deur ‘n vloedgolf van protes deur tuisskoolouers getref. CEM is ‘n liggaam wat bestaan uit die Minister van Basiese Onderwys en die provinsiale Ministers van Onderwys.

Soveel as 1000 ouers het oor die naweek van 14/15 Julie en die week daarna aan die Ministerie geskryf. Hulle het inderhaas probeer om die Minister oor te haal om die Beleid op Tuisonderwys aan die publiek vry te stel vir kommentaar, alvorens die Beleid by die CEM-vergadering bespreek sou word.

Bouwe van der Eems, Voorsitter van die Pestalozzi Trust verduidelik: *“Die Pestalozzi Trust het ‘n kopie van die finale weergawe van die Beleid versoek om te bevestig dat die DBO na die kommentaar van bykans 700 tuisskoolgesinne geluister het wat voorleggings oor die Konsepbeleid gemaak het. Na vele pogings oor die afgelope ses maande om met die DBO te konsulteer, is die Trust bloot ingelig dat al die kommentaar “in a fair, just and a credible manner” ontleed is, en aan die Raad van Onderwysministers (CEM) voorgelê sou word vir goedkeuring. Lede van die tuisskoolbeweging wou graag vasstel of hulle fundamentele besware wel aangespreek is.”*

Geheimhouding aan die orde van die dag

Die DBO was onwillig om die finale weergawe van die Beleid aan die publiek bekend te maak, en boonop was die DBO nie eens gewillig om aan die ouers wat ingeskakel het bekend te maak of 'n CEM-vergadering sou plaasvind of nie, en of tuisonderwys op die agenda was nie. Baie ouers het nie daarin geslaag om die amptenare in die hande te kry nie.

‘n Tuisskoler, mev. Anelle Burger, stel dit soos volg: “*Ek het ‘n e-pos gestuur en probeer opvolg met telefoonoproepe. Ten spyte van talle probeerslae is my oproepe nooit beantwoord nie. Baie medetuisskolers het kennis gekry dat hulle e-posse uitgevee is sonder dat dit gelees is. Ek wonder nou of dieselfde lot my e-posse getref het?*”

Dit is nie die eerste keer dat tuisskolers die DBO oorval het met versoeke om betrokke te wees by die regulerende en wetgewende proses nie. Tuisleerders maak maar ongeveer een persent van die totale aantal leerders in Suid-Afrika uit. Nogtans was tuisskolers verantwoordelik vir ‘n aansienlike gedeelte van die kommentare op die omstrede BELA Bill (of Wysigingswetsontwerp op Basiese Onderwyswette), toe die DBO die BELA Bill verlede jaar op 13 Oktober vir openbare kommentaar gepubliseer het.

Voorsitter van die Vereniging vir Tuisonderwys, Shaun Green, stel dit soos volg:
“Throughout the flawed consultation process there has been an unprecedented response from the homeschooling community to both the Policy and proposed amendments to the Act. Input from the people this affects most has been substantially ignored. It is amazing to witness policy-makers ignoring what the DBE Director General Mathanzima Mweli in November 2017 said ‘the word avalanche would not describe’. One can only assume that the DBE believes that their steamroller is bigger than an 'indescribable avalanche'.”

Adv. Megan Puchert van die Eastern Cape Home School Association voorsien dat daar ‘n taai stryd op regsgebied voorlê: *“I place the legal validity of the Policy in question, as there are problems with the empowering provisions. This is very serious. It also seems as though the findings of the 2001 Constitutional Court case,* Minister of Education v Harris*, were never considered when this Policy was drafted and approved. I foresee that the Minister of Education will now have to deal with these issues through very expensive, and unnecessary, litigation.”*

Sy gaan voort: *“It seems as though the cart was placed before the horse. Changes to the SA Schools Act are still being debated and discussed, whereas several of these proposed changes have been incorporated into the Policy through a back door.”*

Van der Eems som op: *“’n Beleid gebaseer op ‘n gebrekkige openbare-deelnameproses sal bloot konflik verhoog. ‘n Beleid wat gebaseer is op 'n wet wat nog nie bestaan nie, sal eenvoudig chaos veroorsaak. Die regte pad vorentoe is dat daar gewag word met die opstel van die Beleid totdat die BELA Bill (die Wysigingswetsontwerp op Basiese Onderwyswette) deur die Parlement goedgekeur en ‘n gewysigde Skolewet gepromulgeer is. Slegs die Minister kan die promulgering van ‘n Beleid voorkom wat bloot konflik en chaos sal skep. In plaas daarvan kan die Minister ‘n konsepopstellingsproses inisieer wat op die soewereiniteit van die reg en op betekenisvolle openbare deelname gegrond is.”*

Die Departement van Basiese Onderwys kon nie vir kommentaar bereik word nie.

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Voorsitter van die Eastern Cape Home Schooling Association: Adv. Megan Puchert – 072 207 8226 / echsa1@gmail.com
(Die Eastern Cape Home Schooling Association verteenwoordig tuisskolers in die Oos-Kaap.)

Die volgende provinsiale verenigings/persone kan ook gekontak word vir kommentaar:

Voorsitter van die Cape Home Educators: Victor Sabbe – 072 782 4918 / capehomeed@gmail.com

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