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Children, Schools and Families
Committee

The Review of Elective Home Education

Second Report of Session 2009–10

Volume II

Oral and written evidence

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The Children, Schools and Families Committee

The Children, Schools and Families Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Children, Schools and Families and its associated public bodies.

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The majority of these memoranda are available on the Committee's website at www.parliament.uk/csf

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Judi Wilson, on behalf of West London Home Educators
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A Home Educating Parent
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Professor Carole G Mundell and Dr David L Shone
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Worcestershire Home Educators
Gary Brown
Rainbow-Leaf Lovejoy
Gill Bowden
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Autonomous Education UK
Office for Standards in Education, Children's Services and Skills (Ofsted)
Dr Gavin Jordan
Ruth Gray
Dr Ben Anderson
Annette Taberner, on behalf of Sheffield Home Educators Network
Susanna Matthan and Chris Rogers
Jeremy Yallop
Coventry Home Educators
Paul Michael and Julia Paulman Kielstra
Mary MacIntyre
Millie Redshaw
Karen Rodgers
Institute of Education
Dave Bennett-Jones

Clare Murton
Penelope Stanbridge
Lisa Price
Robert Nock
Ray Neal
Marie Vijendran
Maya Toney

Oral evidence

Taken before the Children, Schools and Families Committee on Monday 12 October 2009

Members present:

Mr Barry Sheerman (Chairman)

Annette Brooke
Mr David Chaytor
Paul Holmes
Mr Andrew Pelling

Mr Graham Stuart
Mr Edward Timpson
Lynda Waltho

Memorandum submitted by the Department for Children, Schools and Families

SUMMARY

- The review was commissioned on 21 January 2009 following concerns raised by local authorities (LAs) and other organisations about the current state of the law relating to home education, and concerns raised by home educators about the difficulties they have in accessing support from LAs and other public services. Graham Badman, former Director of Children’s Services at Kent LA, was appointed to undertake the review.
- Graham Badman’s report on his review was published on 11 June along with the Government’s initial response. Both the report and the Government’s response reaffirmed support for home education as a well-established part of the education system in England.
- The recommendations in the report strike a careful balance between giving parents the right to decide how and where their children should be educated, and ensuring that every child is safe and gets an education that will prepare them to take their place in the world as adults.
- The report recommended that the home education framework should be strengthened significantly by introducing a system of compulsory registration and monitoring. We are taking these recommendations forward through a formal consultation which is open until 19 October and can be accessed via the DCSF website. We plan to legislate at the earliest possible opportunity.
- The report also called for better access to support services for those home-educated children who need it, particularly the relatively high proportion of home educated children with special educational needs and others who require services they would otherwise receive through school. We made it clear in our initial response that we accepted these recommendations in principle and would set out in the autumn how we intend to take them forward.
- Graham Badman’s report both respects the rights and freedoms of home educators, and reinforces the responsibilities of local authorities, who have to fulfil their statutory duties and operate efficiently in the best interests of all taxpayers. It sets out arrangements for keeping home-educated children safe and for strengthening the quality of education they receive, while respecting parents’ rights to choose to home educate, if they wish to do so.

BACKGROUND

1. The Government believes that all pupils, whatever their background or circumstances, are entitled to an education which reflects their individual needs, enables them to achieve their potential, and equips them with the knowledge and skills they will need to play their full part in society as adults. The Government also believes that all children should grow up in an environment in which they are safe and well.

2. Where a child in England is of compulsory school age, his¹ parents are under a legal duty to ensure that he receives efficient full-time education suitable:

- (a) to his age, ability and aptitude, and
- (b) to any special educational needs he may have,

either by regular attendance at school or otherwise.

3. Opting to educate a child at home rather than send them to school has been a freedom that parents have enjoyed ever since publicly funded education was established. They do not require permission to home educate and if their child has never been to school they do not need to inform anyone of their decision. They do not need any qualifications. They do not need to teach a specific curriculum and their children do not need to sit tests or gain qualifications.

¹ Throughout the document “his” should be taken to mean “his or hers” and “he” to mean “he or she”.

4. There is no legal duty on a LA to monitor home education on a regular basis, although it has a duty to identify children in its area who are not receiving a suitable education. The effect of the current requirements is that LAs may not be aware of all those children that are being home educated in their area, or be able to assess whether they are receiving a suitable education. As LAs are under a duty to act where a child is not receiving a suitable education, they are in the unsatisfactory position of being under a duty that cannot be discharged if home educators choose not to identify themselves, or refuse to allow monitoring to take place.

5. There is also a question as to whether existing arrangements take sufficient account of a child's right to education which is expressed through Article 2 of Protocol 1 of the European Convention on Human Rights (ECHR). The article states that no person shall be denied the right to education. It also specifies that the state should respect the right of parents to educate in accordance with their convictions. Case law from the European Court of Human Rights and the Commission makes it clear that this second part of the article—whereby the state must respect parental convictions—does not guarantee the right for parents to home educate. Where a child's education is inadequate, then it is our view that the State should intervene in a way that is proportionate and appropriate to the circumstances.

NEED FOR A REVIEW

6. In November 2007 the then Department for Education and Skills published guidance for LAs on home education. The guidance was non statutory but brought together in one place the current laws that related to home education and explained to home educators and LAs what their respective responsibilities were. The guidance encouraged co-operation between LAs and home educators.

7. Since the guidance was published LAs have repeatedly raised serious concerns about the legal framework for ensuring that home educated children receive an acceptable standard of education and the difficulties of establishing whether home educated children are safe and well. Home educators have also expressed their concerns about LA practices.

8. Broadly speaking, the concerns of LAs are:

- The absence of any requirement to notify LAs of home education means that LAs may not know that children are being home educated: those most at risk are likely to become invisible;
- There are no educational standards covering home education which needs only to be “suitable”. LAs claim the concept of “suitability” is nebulous and that it is impossible to secure a school attendance order except in the most extreme cases;
- Parents may not cooperate with monitoring and are increasingly aware that it is a lengthy and time consuming process for LAs to get to the point where they can issue a school attendance order. LAs with limited resources cannot monitor effectively; and
- Home education might be used as a cover for child abuse or neglect which is less likely to be picked up by the LA because a child is not seen on a regular basis by teachers.

9. Broadly speaking the main concerns expressed by home educators are that:

- LAs take a heavy handed school-centred view of education and do not appreciate the level of flexibility the law currently allows;
- LAs often presume that home educated children are more vulnerable than those attending school and automatically treat the children as a safeguarding problem;
- The lack of additional support, especially for children with special needs and young people who need access to public examinations.

TERMS OF REFERENCE

10. The terms of reference of the review are attached at Annex B.² The focus of the review was to find out what lay behind the continuing concerns of LAs over their inability to intervene where a home educated child in their area is not receiving the education to which they are entitled, or to establish that the child is safe. Equally, it would examine the concerns of home educators who were often critical of the support they received from LAs and other public services. Following an analysis of the available evidence, the review could then consider whether changes to either the guidance or the underpinning law were needed and make recommendations accordingly.

11. The terms of reference also asked the review team to establish the extent to which home education could be used as a cover for child abuse. We wanted to establish whether the existing arrangements could allow children and young people to come to harm because they were not seen regularly by trusted adults in school, and measures that would prevent this.

12. In drawing up the terms of reference we were mindful that the review would need to take into account the concerns of the many home educators who provide a good quality education for their children, as well as identifying proportionate arrangements to support the diverse home educating community.

² Not printed.

CONDUCT OF THE REVIEW

13. As the two key stakeholders were LAs and home educating parents, it was important to appoint someone with a strong background in LA policies and procedures and who had a wide experience of responding to parents and members of the public. Graham Badman, recently retired Director of Children's Services at Kent, was the most suitable person identified and was appointed to lead the review. In line with standard practice, a DCSF civil servant was appointed to support him and an internal Departmental steering group was set up to allow him to evaluate the impact his developing ideas had on relevant DCSF policy areas. The steering group kept Ministers abreast of developments and their impact on wider Departmental policy.

14. Graham Badman was free to determine how the review was carried out and there were no limitations on the scope of the recommendations he could make. He collected evidence through a public call for evidence, a questionnaire circulated to all local authorities that 90 voluntarily completed, submissions from many stakeholders, a review of the existing law and guidance, a literature review and a wide range of meetings with individuals and groups. He decided who to gather information from and in what form, who to meet, and the members of the expert reference group (set out in Annex F to the report).

INTEGRITY OF THE REPORT

15. The Report was published on 11 June. The Secretary of State's initial response was published the same day with a commitment to provide a full response by the end of September. A copy of the Secretary of State's initial response is attached at Annex D.³

16. The review confirmed many of the concerns that had been expressed to us by LAs and home educators. It presented an overview of the current system with its benefits and drawbacks as perceived by children, parents and LAs. It made a number of recommendations for improving current arrangements, which fall into three broad categories: registration; monitoring and support. Our proposals for bringing registration and monitoring arrangements into line with the review are the subject of a public consultation that closes on 19 October.

Registration

17. The report confirms that one of the main shortcomings of the current arrangements is that LAs cannot reliably identify home educated children in their area not receiving a suitable education. The new ContactPoint arrangements should identify those children not in school, but there is currently no statutory backing for routine monitoring by LAs of home educated children. Local authorities have to rely on parental cooperation which is not always forthcoming. Registration is a proportionate response to this problem as it will help local authorities distinguish between those children not receiving any education, and those that are home educated.

18. The Review recommends that parents submit a statement of their educational approach and desired/planned outcomes for their children over the following 12 months. It also recommends that we issue guidance on preparing this statement and parents receive support from LA officers in drawing up these plans. The purpose of any statement would be to assist parents in demonstrating the effectiveness of the education they intend to provide.

19. Home educators have expressed concern about the requirement that they must produce an education plan, some of them explaining that their "autonomous" education approach means that learning is pupil led, and that the material covered depends on the interests and preferences of their children. They argue that a planned approach would stifle autonomous learning.

20. The Review came to no conclusion about the definition and effectiveness of autonomous learning. It recognised that home educators argue the benefits of allowing children to develop at their own pace and expand their talents and aptitudes through pursuing their personal interests. On the other hand it questioned whether untrammelled freedom would always provide a balanced outcome. It recommended that further research into the efficacy of autonomous learning was needed, which would include close scrutiny of the outcomes for home educated children.

Monitoring

21. Many home educating families are known to their LA and co-operate with the LA's existing monitoring arrangements. Where this works well it is likely that home educators will experience little change. However, evidence presented to the review team found that relationships between some home educators and local authorities can be poor, particularly where there are disagreements about the philosophical approach taken, or where children have been withdrawn from school as a result of bullying or other concerns about aspects of school life.

³ Not printed.

22. Given the wide range of arrangements for home education, LA officers need to be well trained, and able to respond to the diverse circumstances of home educators. They will also need a broad discretion in determining the appropriate level of monitoring. In addition, they will need to have good links with the wide range of support services that home educators might call upon, and to be sufficiently influential and persistent to ensure that access to these services is provided where appropriate.

23. The proposal that has generated most public interest is whether a LA should have the power to see a home educated child alone, or with a trusted adult other than the parent where necessary, to ensure that the child can give an account of their education which confirms any evidence that the parent has presented. We recognise that this is one of the most sensitive recommendations in the report, and something that needs to be handled sensitively. We will take careful account of the responses to the consultation underway before deciding how to proceed.

Support

24. The report recognises that some home educators would like better access to public services. Their main concern is access to the public examination system, where there are no systematic arrangements for learners who are not registered at schools or FE colleges to sit examinations. We also know that some home educators would like better access to work experience, after school clubs, sports and music services and specialist education facilities. Home educating parents who have children with SEN may want access to a range of services that are usually accessed through school.

25. The review envisages that monitoring and support will go hand in hand. We share the report's vision of LA support giving far better access to public services for home educated children, integrating them into the wider educational system where it makes sense to do so. An integrated approach to registration, monitoring and support will give home educated children better access to services and opportunities which will support them in achieving the five Every Child Matters outcomes.

THE CASE FOR CHANGE

26. There are sections of the home education community who contend that LAs already have sufficient powers to intervene where home education is poor and that the report did not provide evidence that change was necessary. We disagree, and support the careful analysis set out in this review which makes a compelling argument for change.

27. First of all, we have placed a duty on LAs to ensure that all children in their area receive a suitable education. While we have no doubt that most home educating parents are doing a good job, many local authorities issue school attendance orders to a minority of home educators who are not providing a suitable education. More needs to be done to act speedily where home education is inadequate. The review also accepts that a significant number of home educators may not be known to the LA and that there is no information about the standard of education these home educated children receive.

28. Second, we accept that home education has been used to mask safeguarding issues although we note that there is no evidence that elective home education was a particular factor in the removal of children to forced marriage, servitude, trafficking, or other abusive activities. While many home educated children are seen regularly in the community, those who are most at risk may rarely if ever be seen outside the home. As the NSPCC said in its evidence, "if a child who is being abused is not afforded opportunities outwith the house, then the slim chances of them being identified become even smaller than they already are.....no concern is raised because the child or the environment in which they are cared for is not seen".

29. Third, the review sets out the difficulties home educating families experience in accessing services that are often organised around schools. It finds that only the more wealthy, persistent or well-connected can do so. And much more needs to be done to reach out to home educated children with special educational needs, particularly where they need specialised services.

30. Education in both maintained and independent schools is conducted under a set of legal constraints that balance freedoms and responsibilities, recognising that schools, parents and children all have their part to play in sustaining a viable community. We believe that the approach in this review puts in place a parallel set of arrangements for home education.

INTERNATIONAL COMPARISONS

31. A paper outlining the requirements in different countries is attached at Annex F.

32. Wales has broadly similar arrangements to England as has Scotland except that prior approval is required if the parents want to remove the child from school. Germany does not permit home education while in Sweden, Netherlands, Austria, Greece, Spain, and in parts of Switzerland, school attendance is normally compulsory except where home education is permitted in limited individual circumstances.

33. In Norway and Finland the LA oversees the education provided and can require the child to sit tests. Australia and Ireland require registration and approval of the education plans for the child to be approved. France requires registration, home visits and more closely specified areas of study that children are required to follow. In the USA the arrangements are determined at individual state level. Many require registration and some also set out a specific curriculum requirement that must be followed.

34. Even after these reforms are implemented, the British approach to home education will still be amongst the most liberal in the developed world.

CONCLUSION

35. The report prepared by Graham Badman raises the status of home education, recognising that it is a significant part of British education. It recognises that home education should be considered positively, and supported by the wider education system. Introducing a system of registration and monitoring will build confidence in home education and dispel ignorance and suspicion of those people within the wider education system who do not understand what it can achieve.

36. Our broad proposals for a registration and monitoring scheme are currently out for consultation, and we will respond in full to the other report recommendations at the end of September. We are receiving a high volume of representations from different stakeholders and will take account of the full range of views once the public consultation closes on 19 October.

ENCLOSURES⁴

- Annex A Guidance to Local Authorities on Home Education
- Annex B Terms of Reference for the Review of Home Education
- Annex C Graham Badman's Report of the Review of Home Education
- Annex D Secretary of State's Initial Response to the Report
- Annex E Consultation of the Registration and Monitoring Scheme
- Annex F International Comparisons
- Annex G York Consultancy report on home education

September 2009

Annex F

INTERNATIONAL COMPARISONS

SUMMARY

- Legal status of home education—Many countries allow parents to educate their children at home, although it is compulsory to attend school in some countries (eg Germany). There are differences in the degree to which home educators are regulated and monitored.
- Registration and monitoring of home educators—Many countries (eg Australia, Sweden, Ireland) require home educators to register with local government authorities. The registration is often time-limited and subject to the assessment of the educational programme. By contrast, there are no requirements for home educators to register with local authorities in England.
- England—There is no legal requirement for children to attend school. Home educating families are not currently obliged to register with local authorities or follow the National Curriculum. The lack of registration means that it is not possible to identify accurately the number of children educated at home, although 2007 estimates range between 45,250 and 150,000. There are, however, some indications that the number of home educators is rising. Parents in England choose to educate their children at home for a variety of reasons including: dissatisfaction with schooling, religious beliefs, special educational needs, health reasons and risk of exclusion. Home educators are not currently exempted from conditions related to the receipt of welfare benefits.
- Australia—home education is legal throughout Australia, though the degree of regulation is different in different states and territories. In New South Wales, home educating parents must gain approval from the Office of the Board of Studies, subject to an assessment based on a home visit. The registration period lasts between six months and two years. Home Educators are exempted from the activity requirements that lone parents are normally subject to if they are in receipt of the Parenting Payment benefit.
- Sweden—Home education is rare in Sweden, only 95 children are registered as home educated in 2007–08. Parents can be allowed by the local education school board to educate their children at home for one year at a time. There are no exceptions from social benefit regulations based on home educator status.

⁴ Enclosures not printed except for Annex F. See <http://www.dcsf.gov.uk/everychildmatters/ete/independentreviewofhomeeducation/irhomeeducation/>

- Ireland—Since the Education (Welfare) Act came into effect in 2002, home educators have been required to register with the National Educational Welfare Board (NEWB). Parents are required to submit a written application and the educational programme and environment are inspected by the NEWB. The Department of Social and Family Affairs' guidance on benefit receipt does not specify any exemptions relating to home educator parents.
- Performance of home educated children—A review of eight recent studies comparing the academic performance of home-educated and schooled children in the US noted that all but one study found that home educated children had higher average scores than their comparison group. These findings should be treated with caution as the results may be attributable to parental characteristics (eg better educated, higher incomes). Some of the studies were also based on small samples and therefore of limited generalisability. A small-scale UK study (n = 35) of home educated four-year olds reported better performance among home-educated children; however, the scale of the research means that generalisations are not appropriate. The diverse characteristics of home educated children makes it difficult to generalise about their academic performance.

BACKGROUND

Available Evidence

3. This paper is a short evidence review, based mainly on published research sources, but also including information provided by relevant organisations' websites (eg Home Education Network Ireland; Home Education Association Inc. [Australia]) and also via communication with officials in other Government departments and other countries. This paper does not aim to provide a comprehensive review of the body of research on home literature, which is extensive. It considers a small sample of available evidence to provide information on the status of home education in a variety of countries.

4. It is relevant to note that home education is quite a contentious issue internationally. Although published as academic articles or books, some of the available information is written by researchers who implicitly support the home education movement. For example, while Brian Ray's survey reports that on average home educated children are in the 87th percentile, or top 13% of children in the USA, based on the results of standardised academic achievement tests, his work is sponsored by the Home School Legal Defense Association and families were contacted through home school organisations, thus potentially creating a sampling bias.⁵ It is therefore necessary to be aware that many of the academic papers, while relevant and informative, may also be ideologically inspired.

5. It is also important to note that the research on home education focuses on issues such as the academic and socio-emotional impacts of home schooling on children. The published evidence does not include information on the benefit status of home educator parents and whether home educators are exempt from conditions attached to benefit receipt in different countries. I have provided this information, where available, based on information provided on the Government websites of the respective countries.

Defining Home Education

6. Before examining the international evidence on home education, it is first necessary to offer a definition of "home education" and provide some general background on the issue.

7. The Department for Children, Schools and Families (DCSF) uses the term "elective home education" *"to describe parents' decisions to provide education for their children at home instead of sending them to school. This is different to home tuition provided by a local authority or education provided by a local authority other than at a school."*⁶

8. A more general definition is provided by Petrie:

*Home education is the education of children in and around the house by their parents or those appointed by the parents. It can be seen as a temporary or permanent alternative to the education which is provided by the state or by private schooling.*⁷

9. Further consideration of the definition of home education is relevant when considering its legal status and the statutory obligations of the authorities with regards to home educated children. This issue is considered below in relation to the status of home education in different countries.

⁵ Ray 1997: 79, x, 18.

⁶ DCSF 2007: 3.

⁷ Petrie 1993, cited in Taylor and Petrie 2000: 49.

⁸ I refer throughout the document to England rather than the UK, as the legislation refers to England and Wales and the evidence is based on English Local Authority Districts.

EVIDENCE

*England*⁹

Regulation and Population

10. There is no legal requirement for children to attend school in England. Section 7 of the Education Act (England and Wales) states that:

*The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable: (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise.*¹⁰

11. There is little regulation of home educators in England. They are not obliged to register with local authorities or follow the National Curriculum. Table 1 in Annex A provides details of the legal status of home education in England and also summarises local authorities' statutory obligations regarding the identification and monitoring of home educators.

12. In England, there are no reliable data on the number of children educated at home. The most recent study, published by the Department for Education and Skills in 2007, notes that:

The statistical evidence on the incidence of home education is inconsistent and there is no official recognised source. Numbers quoted in the literature vary widely and suggest the figure lies between 45,250 and 150,000.¹¹

13. The lack of any legal obligations for parents to register their intentions to home educate their children means that there may be home educated children who are unknown to local authorities. It was for this reason that the authors concluded that it would not be possible to ascertain reliably the number of home educated children in England.¹² There is some evidence to suggest that the numbers of home educated children are rising. There are 1,245 children in receipt of EHE known to the nine local authorities sampled. Based on the total number of children in school in England, it is possible to extrapolate crudely that the number of home educated children known to local authorities could be around 16,000. Comparing the figure of 16,000 to similar estimates given in 1999 suggests that the number of home educated children known to local authorities may have increased almost three-fold. However, this may be due to improved recording rather than an actual increase.¹³

14. Although it is not currently possible to provide a reliable figure for the number of home-educated children in England and Wales, it is worth noting that provision has been made to record information on all children in England, which will provide this information in future. Section 12 of the 2004 Children Act set up the legal framework for the operation and maintenance of ContactPoint, a database which will contain basic demographic and contact information on all children in England, including "contact details for services working with a child: as a minimum, educational setting (eg school) and GP practice, but also other services where appropriate."¹⁴ ContactPoint will be set up in local authorities in Northwest England in September/October 2008 and then in all other local authorities and national partners by May 2009. The aim is to provide a co-ordinated response to children's needs.¹⁵

Motives for Home Education

15. A 2007 feasibility study examining the prevalence of home education in England¹⁶ based on a sample of 18 home educating parents, nine local authorities and six home education organisations, noted the most common reasons for home education in England as being:

1. Dissatisfaction with school discipline and safety (including issues such as bullying, school phobia and dissatisfaction with the standards of behaviour in the school).
2. Dissatisfaction with the quality of education and/or the curriculum.
3. Religious or ideological beliefs. These included home education by Gypsy, Roma and traveller parents due to concerns over discrimination and erosion of their culture. Religious backgrounds (Muslim and Christian) were cited by several parents as a major reason for home educating. Several parents expressed an ideological opposition to the school system.
4. Children with Special Educational Needs (including dyslexic, autistic and gifted and talented children)—some parents felt that their children's needs were not being adequately met in school.
5. Choice of secondary school—some parents decided to home educate their children because they felt that the allocated school was unsuitable.

⁹ I refer throughout the document to England rather than the UK, as the legislation refers to England and Wales and the evidence is based on English Local Authority Districts.

¹⁰ Rothermel 2003: 74.

¹¹ Hopwood et al. 2007: 2.

¹² Hopwood et al. 2007: iv, 11.

¹³ Hopwood et al. 2007: 21–22.

¹⁴ DCSF 2008 <http://www.everychildmatters.gov.uk/delivering-services/contactpoint/about/>.

¹⁵ DCSF 2007: 7.

¹⁶ Hopwood et al. 2007.

- 6. Health reasons—in one case, a child was home educated due to having missed substantial periods of schooling due to chronic illness.
- 7. Local authorities also cited risk of exclusion or prosecution as reasons why some parents opted to home educate.

16. This range of reasons indicates that the population of home educators within England is diverse. It is for this reason that Rothermel suggests that traditional taxonomies of classifying home educators by motivation are insufficient.¹⁷ Many of the taxonomies are based on surveys of home educators in the US, where a Christian faith-based rationale is far more common.¹⁸ Examining a sample of 491 home educating families in the UK, Rothermel noted the following parental rationales for home educating:

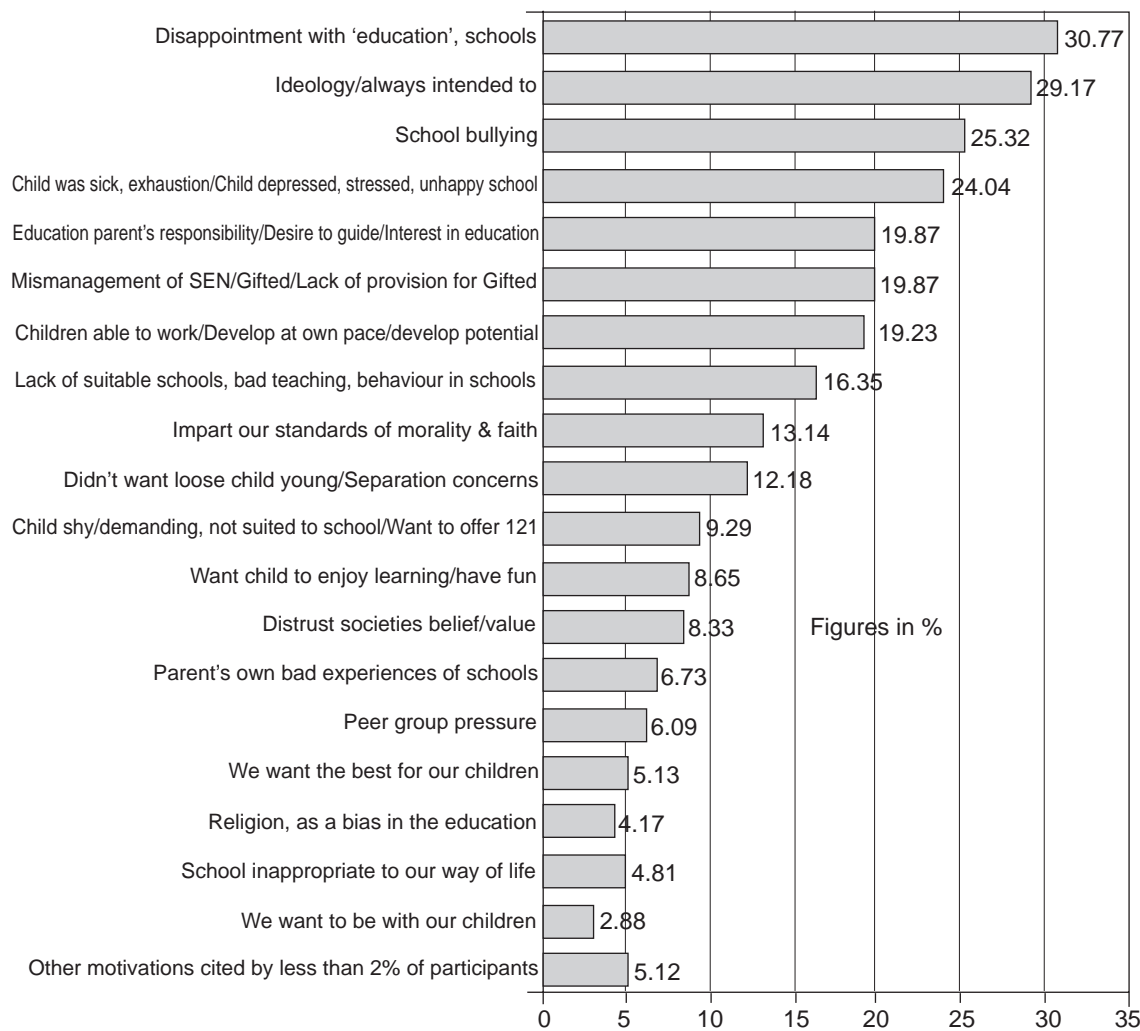


Figure 1: Parents' descriptions of what had motivated them to home educate (n = 412). Participants could give more than one answer.¹⁹

Rothermel notes that, "Overall, the motivations could be divided very approximately into two groups, those concerned with school and those concerned with family ideology."²⁰

Benefit Status

17. Home educators are not currently subject to any special status or exemptions from conditions placed on welfare-to-work benefit receipt. Home educator lone parents are on Income Support (IS) due to their lone parent status rather than because they educate their children at home. In this regard, home educating lone parents on Income Support will lose their IS eligibility in line with the increased conditionality linked to the age of youngest child, which is to be phased in from November 2008. Lone Parents who move onto Jobseekers Allowance (JSA) will then be subject to the full JSA regime, including a requirement to actively

¹⁷ Rothermel 2003: 87.
¹⁸ Ray 1997: 31.
¹⁹ Figure 1 is taken from Rothermel 2003: 81.
²⁰ Rothermel 2003: 81.

seek work. During the consultation on the In Work/Better off: next steps to full employment Green Paper (July 2007), feedback received from external stakeholders indicated that: “It was strongly felt that increased conditionality was not appropriate for... parents who choose to home educate.”²¹

Australia

Regulation

18. Home education is legal throughout Australia, although the law varies in different states and territories regarding the degree of regulation required in terms of the registration and monitoring of home education arrangements. A summary of the legal status and regulatory requirements on home educators in New South Wales is provided in Table 1 in Annex A below.

19. In New South Wales, parents who decide to educate their children at home must have the approval of the Minister for Education and Training, an authority which has been delegated to the Office of the Board of Studies, in order to be registered. Application forms are submitted to the Office of the Board of Studies and a visit to the home is made by an authorised officer, who assesses the application, considering:

- Whether the teaching/learning programme meets the minimum curriculum requirements;
- Whether the programme is suitable for the child;
- That the time allocated is sufficient and comparable to the time spent in school;
- That the learning environment is suitable;
- Whether the learning resources are adequate to support the child’s needs;
- That an adequate system of recording the child’s progress is in place.²²

When the period of registration (between six months and two years) expires, the parents must renew their application for registration, which can be done either through a visit or through submitting documentation.

20. Home educators are eligible for some subsidies such as the Educational Textbook Subsidy Scheme and the Back to School Allowance.²³

21. A similar process for registration is in place in the Australian Capital Territory, which includes Canberra. Parents wishing to homeschool register with the Department of Education and Training. In the first instance a parent applies for provisional registration for six months followed by registration for up to two years to bring the period of registration up to 31 December of the next year. Provisional registration is done by completing an application form and attaching a programme, assessment strategies and summary of record keeping. Continued registration is done through a registration visit.²⁴

Benefit Status

23. Lone parents in Australia can receive a “Parenting Payment” (PP). The basic criteria for receipt of this benefit are that:

- You must have a qualifying child aged under six if you are partnered, aged under eight if you are single, or aged under 16 if you have been in receipt of Parenting Payment prior to 1 July 2006.
- PP can be paid to only one member of a couple.
- When youngest qualifying child is aged six or over, must enter into Activity Agreement allowing participation in a broad range of activities.
- Customers who were granted Parenting Payment before 1 July 2006 will (subject to continuing eligibility) remain on this payment until their youngest child turns 16 and will have participation requirements when their youngest child turns seven.²⁵

24. Being a home educator automatically exempts a welfare recipient from the participation requirements related to receiving this benefit. The guide to the legislation notes that “there are a number of circumstances where an automatic exemption from participation requirements due to special family circumstances can be applied for PP recipients: [including]...if the PP recipient is providing home schooling to one or more of the children for whom they are the principal carer.”²⁶

²¹ DWP 2007: 117.

²² Office of the Board of Studies 2006: 10.

²³ Office of the Board of Studies 2006: 14. The “Back to School Allowance” is \$50 provided by the New South Wales government to “each school child” to help buy educational basics such as shoes (see <https://www.det.nsw.edu.au/newsroom/yr2002/jan/allowance.htm>, accessed 23/6/08).

²⁴ http://www.hea.asn.au/resources/disp_res.asp?type=4&id=141, accessed on 23/6/08.

²⁵ [http://www.centrelink.gov.au/internet/internet.nsf/filestores/co032_0803/\\$file/co032_0803en.rtf](http://www.centrelink.gov.au/internet/internet.nsf/filestores/co032_0803/$file/co032_0803en.rtf), accessed on 23/6/08.

²⁶ http://www.facsia.gov.au/guides_acts/ssg/ssguide-3/ssguide-3.5/ssguide-3.5.1/ssguide-3.5.1.270.html, accessed on 23/6/08.

Sweden

Regulation

25. In his article on “Home Education in Northern Europe”, Beck notes that, “Sweden has Scandinavia’s strictest official regulation of home education”,²⁷ with the number of home educated children remaining at around 100 since statistics were first collected in the 1990s (95 registered in 2007–08).²⁸ A summary of the legal status of home education in Sweden is provided in Annex A below.

26. For exceptional reasons, parents can be allowed by the local education school board to educate their children at home for one year at a time. The school board has to assess that the education will be equivalent to compulsory school education and is also responsible for monitoring the home education and the results.²⁹ The Swedish Education Act states:

S. 4 A child subject to compulsory schooling may be permitted to complete this otherwise than as provided in this Act, if it appears to be an adequate alternative to the education otherwise offered the child in the provisions of the Act. The requirement of insight into activities must be fulfilled. Permission may be issued for up to one year at a time. During the validity period, the result of the activities shall be assessed. The permit may be revoked with immediate effect if necessary insight into the activities is not provided or if it for other reasons may be assumed that the conditions for approval are no longer present.

S. 5 Matters referred to in s. 4 shall be considered by the local education board for the school where the child would otherwise have undertaken its compulsory schooling.³⁰

27. In principle, there should be no difference between municipalities stance on home education, however, they may differ in practice. Kenny Peterssen, an official in Statistics Sweden noted that there are two main categories of children who are home educated in Sweden: A. Children who have tuition at home only short periods for health reasons or while visiting parents abroad etc, and B. Religious groups promoting home education among their members.³¹

28. It is the Municipal Education Committee (MEC), composed of lay politicians, which makes the decision whether an application for home education status is approved or not. There are no set criteria defining the content of applications or for the standards by which municipal committees consider the application.³²

Financial Support

29. Parents who have been allowed to educate their child at home have no right to receive financial support, for example, subsidies for lunches when the child does not make use of the free school lunches, or financial support comparable to a “school voucher” when the child does not attend and make use of the teaching and other resources at school.

30. Also there are no exceptions from normal social welfare benefits’ regulations for these parents, for example, if you are unemployed and benefit from the unemployment insurance scheme, home education of your child is not a reason for not actively seeking a new job.³³

Ireland

Regulation

31. Article 42 of the Irish Constitution sets out the relationships between the family, parents, children and the State with respect to education. It says:

1. “The State acknowledges that the primary and natural educator of the child is the Family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children”.

2. “Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State”.

3.1 “The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or in any particular type of school designated by the State”.

3.2 “The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social”.

²⁷ Beck 2002.

²⁸ Information provided by Birgitta Andrén, Director of Education, Analysis and Coordination Unit, Swedish National Agency for Education (email to Kris Chapman, sent on 25/6/08).

²⁹ Information provided by Birgitta Andrén, Director of Education, Analysis and Coordination Unit, Swedish National Agency for Education (email to Kris Chapman, sent on 25/6/08).

³⁰ Swedish Education Act, available on-line at: <http://www.sweden.gov.se/content/1/c6/02/15/38/1532b277.pdf>, page 31.

³¹ Information from Kenny Peterssen (email sent to Kris Chapman on 11/6/08).

³² Vilallba 2003: 194.

³³ Information provided by Birgitta Andrén, Director of Education, Analysis and Coordination Unit, Swedish National Agency for Education (email to Kris Chapman, sent on 25/6/08).

4. *“The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation”.*³⁴

32. The Education (Welfare) Act 2000 came into law in the summer of 2000 and repealed the School Attendance Acts 1926 to 1967 with effect from 5 July 2002. A National Educational Welfare Board (NEWB) has been established, to which parents are obliged to report their intentions to home educate. The educational programme and home environment are also assessed by an authorised person from the NEWB. A summary of the role of the NEWB is provided in Table 1 of Annex A.

Benefit Status

33. Lone parents in Ireland are eligible to receive a One Parent Family Payment, similar to Income Support in the UK. The on-line guidance from the Irish Department of Social and Family Affairs does not state any work availability-related conditions related to eligibility for this benefit.³⁵

34. Active benefits in Ireland include a “Jobseeker’s Allowance”, which is means tested and a “Jobseeker’s Benefit”, which is paid weekly to insured people out of work, and a “Jobseeker’s Allowance”, a means-tested benefit which is available to those ineligible for (or choose not to take up) Jobseeker’s Benefit.³⁶ To qualify for Jobseeker’s Allowance, the person must meet several criteria, including being capable, available and genuinely seeking work.

35. The circumstances listed on the guidance for Jobseeker’s Allowance (dated 21 April 2008) in which a person may be deemed to be, or is exempted from the requirement to be, available for work, does not include any reference to home educators.³⁷ While this may suggest that there are no special exemptions relating to home educators on Jobseeker’s Allowance, I have not been able to confirm this directly with Irish officials.

Evidence on the relative performance of home educated children

36. Block³⁸ provides a review of recent studies comparing the educational outcomes of home-educated and schooled children, based on seven studies conducted in the US and one in Canada. These studies surveyed an aggregate total of 46,609 home educated children aged between six and 19. All but one of the studies used scholastic tests covering a range of basic subjects in the school curriculum (language, maths, social studies, science). Seven of the eight studies reported that home-schooled children had higher scores than average than their peers in school, only one found that home-schooled children did not have an advantage. I have included Block’s table summarising the studies and their reported outcomes in Annex B.

37. It is, however, necessary to consider these results with caution. Block notes that the better achievement of home-educated children in these surveys is likely to be attributable to the characteristics of home educating parents, who are better educated, have higher incomes and are strongly committed to their child’s development. It is unclear, therefore, whether the children’s better performance can be attributed to their advantaged background, to being educated at home, or both. Caution must be taken when generalising from these studies as many of the surveys used small samples from specific populations; Block also suggests that more sophisticated comparison methods such as matching would be better than the general group comparisons used in the research cited.³⁹

38. Block also reviews papers which compared the social and emotional development of home educated children to those of school pupils. The studies considered found either no differences between the two groups or that home educated children had better-developed social skills or sense of self.⁴⁰

39. In her UK-based study of 35 four-year old home-educated children from diverse socio-economic backgrounds, Rothermel reported that 75% of home-educated children scored over 75% on the Performance Indicators of Primary Schools (PIPS) baseline assignment compared with 5.1% of children nationally.⁴¹ It is important to emphasise that these findings were based on a very small sample, so it is not appropriate to make generalisations on the basis of this research alone. Rothermel’s research does, however, report a similar general trend to the studies examined by Block.

³⁴ Home Education Network Ireland (April 2007) “The Legal Issues”, available on-line at: http://www.henireland.org/he_ireland.html, accessed on 25/6/08.

³⁵ <http://www.welfare.ie/foi/onepfp.html#qualcons>, accessed on 25/6/08.

³⁶ A similar distinction between contribution-based JSA (JSA (C)) and income-based JSA (JSA (IB)) in the UK.

³⁷ Night workers, people on rehabilitation training and those on approved training courses are deemed to meet the availability criteria under specific circumstances. See “Special provisions regarding availability” on “Freedom of Information: Jobseeker’s Allowance”, available on-line at: http://www.welfare.ie/foi/ja_jobseekall.html#condsumm, accessed on 25/6/08.

³⁸ Block 2004.

³⁹ Block 2004: 48–49.

⁴⁰ Block 2004: 47–48.

⁴¹ Rothermel 2004; see also Hopwood et al. 2007: 27.

40. It is worth noting also, that recent Government research raises some concerns regarding the monitoring and quality of education received by Gypsy, Roma and Traveller children. Ivatts notes that Gypsy, Roma and Traveller communities are among the most excluded in British society, which results in increasing numbers of children from these communities being removed from mainstream provision. Concerns are raised, however, because:

Many parents have very low level literacy skills, have limited and negative experiences of attending school themselves and are among the least qualified to be able to make a sound and informed judgment on the quality of the education that they are managing to provide or organise for their children. There is little doubt that few Gypsy/Roma and Traveller parents are providing their children with a suitable education. As either consumers or providers parents are thus seriously disadvantaged.⁴²

It is necessary, therefore, to be aware that it may be difficult to generalise about the performance of home-educated children given the diversity of the population of home educating families both within the UK (see the section above on “motives for home education”) and internationally.⁴³

CONCLUSIONS

(a) *Is home education regulated or formalised in any way?*

The evidence reviewed suggests that in comparison to other similar countries, England has minimal regulatory requirements relating to home educators. This in turn limits local authorities’ ability to identify and monitor the education received by children being home educated.

(b) *Are home educators exempt (or not) from JSA-style conditionality?*

While other countries have stricter registration and monitoring requirements relating to home educators, the examples considered above suggest that there is not necessarily a relationship between increased regulation and any exemptions from activities related to welfare benefit receipt. Of the four case studies considered, only Australia seems to specifically exempt home educators in welfare legislation.

(c) *Is there evidence on the success or failure of home education?*

While existing surveys indicate that home educated children may outperform their counterparts in school, many of the studies rely on small samples or are drawn from specific populations (US-based surveys often draw samples from a largely Christian population, eg Ray 1997). UK evidence suggests that parents home educate their children for a number of reasons, so it may be difficult to generalise about the impact of home education on academic and social outcomes.

Annex A

Table 1

THE LEGALITY OF HOME EDUCATION IN DIFFERENT COUNTRIES

The information included in this table is derived from published research and relevant websites, including those of home education organisations. While efforts have been made to include up-to-date information, it is important to note that given that some of the material cited was published several years ago, legal changes in different countries may have occurred since the date of publication. It is for this reason that I include publication dates and dates of access in the references. The level of detail of the information sourced on different countries varies according to the sources available.

<i>Country</i>	<i>Legal Status of Home Education</i>
Australia	Home education is legal in all Australian states and territories. However, the law varies between different Australian states and territories regarding registration and the State’s authority to oversee home education arrangements. ⁴⁴ An index of legal considerations in each state can be found here. As an example, home education is regulated by the Office of the Board of Studies in New South Wales. The guidance on home education in New South Wales notes that under the Education Act 1990, parents are required to ensure that a child between six and 15 years of age is either enrolled in a government school, a registered non-government school, or is registered for Home Education.

⁴² Ivatts 2006: 21.

⁴³ For example, it is worth noting that the population of home educators in the USA has a very high proportion of religiously motivated home educators (cf. Ray 1997: 31).

⁴⁴ Home Education Network Inc. (16/6/08) “Frequently Asked Questions” in the Home Education Network Inc. webpage, available on-line at: <http://www.heanet.org.au/faqs.asp#16>, accessed on 16/6/08.

Country	Legal Status of Home Education
Austria	In order to register, an “Authorised Person” contacts the applicant to discuss the plans for the child’s education, including the learning programme and environment. If approved, the period of registration lasts from six months to a maximum of two years. ⁴⁵
Belgium	Have not permitted home education sometime in the past but now do so. ⁴⁶
Denmark	Accommodates home educators and have always done so. ⁴⁷ There is in Denmark a legal requirement for formal education, but no specific requirement to attend school. There is no financial support for home education. Home Education is governed by laws on independent and private primary and secondary education. ⁴⁷
England	Accommodates home educators and have always done so. ⁴⁷ Guidance published by DCSF for local authorities provides the following summary of the law relating to home education in England: The responsibility for a child’s education rests with their parents. In England, education is compulsory, but school is not. Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that: <i>“The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable— (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise.”</i> An “efficient” and “suitable” education is not defined in the Education Act 1996 but “efficient” has been broadly described in case law as an education that “achieves that which it sets out to achieve”, and a “suitable” education is one that “primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child’s options in later years to adopt some other form of life if he wishes to do so.” Local authorities do not have a statutory duty to identify home-educated children or monitor the quality of home education on a routine basis. However, authorities shall intervene if it appears that parents are not providing a suitable education. ⁴⁸
Finland	Education, but not school attendance is a legal requirement in Finland. The law states that the local authority is required to oversee pupils’ progress. No financial support is provided for home education and home-educated pupils are required to sit tests. ⁴⁸
France	Accommodates home educators and have always done so. ⁴⁷ Home education has been limited in France since 1998. Prior to this, home educators had been able to educate their children at home and were monitored when the children were eight, 10 and 12 years old. The Loi No. 98–1865 enforced compulsory registration at the local town hall and home visits by an employee of the Academie de l’Education, sociologists, and psychologists. Non-compliance can result in a fine or six month prison sentence. The areas which children must study are also closely specified. ⁴⁹
Germany	Now no longer permit home education in the word of law but would appear to permit individual instances. ⁴⁷

⁴⁵ Office of the Board of Studies (New South Wales) (September 2006) *Home Education in NSW: information package*, available on-line at: http://www.boardofstudies.nsw.edu.au/manuals/pdf_doc/home_edu_info_package_06.pdf, accessed on 16/6/08: 8, 10.

⁴⁶ Petrie (1995) cited in Taylor L. A. and A.J. Petrie (2000) “Home Education Regulations in Europe and Recent U.K. Research” in *Peabody Journal of Education*, 7 (1&2): 50.

⁴⁷ Beck, C.W. (2002) *Home Education in Northern Europe*, paper to the CESE conference, London 13–19 July 2002, available on line at: <http://folk.uio.no/cbeck/Home%20education%20in%20Northern%20Europe.htm>, accessed 8/6/08.

⁴⁸ Department for Children, Schools and Families (2007) *Elective Home Education: Guidelines for Local Authorities*, available on-line at: http://www.dcsf.gov.uk/localauthorities/_documents/content/7373-DCSF-Elective%20Home%20Education.pdf, pp. 4–5.

⁴⁹ Taylor, L.A. and A.J. Petrie (2000) “Home Education Regulations in Europe and Recent U.K. Research” in *Peabody Journal of Education*, 75 (1&2): 52.

<i>Country</i>	<i>Legal Status of Home Education</i>
	School attendance is compulsory in all German states. Children from the age of six or seven are required to attend a public school or state-approved private school for at least nine years. Home education is not accepted as a reason for exemption from regular school attendance. Home education is regarded as an administrative offence and can be punished by a fine of up to several thousand Euro. The German laws on compulsory schooling belong to the most restrictive in Europe. ⁵⁰
Greece	Now no longer permit home education in the word of law but would appear to permit individual instances. ⁵¹
Iceland	According to the Icelandic Education Act (grundskoleloven, 1995) school attendance is compulsory. Home education is not mentioned in the law. Nevertheless, in 2001 an Icelandic family started educating their children at home and were in discussion with the Ministry for Education. ⁵²
Ireland	Accommodates home educators and have always done so. ⁵¹ The Education (Welfare) Act 2000 came into law in the summer of 2000 and repealed the School Attendance Acts 1926 to 1967 with effect from 5 July 2002. It provides a major reformulation of the law in regard to all matters connected with school attendance and children's welfare in education. School Attendance Officers have become Education Welfare Officers and the Gardai are no longer involved with school attendance matters. A National Educational Welfare Board (NEWB) has now been established on a statutory basis. The Registration and Assessment system for children educated in places other than recognised schools is now in place. Under the Act parents or guardians of home educated children are obliged to provide details of the educational provision to their child(ren) to the NEWB. Under the Constitution children have the right to receive a "certain minimum education". If the application is approved then their child(ren) will be included in the register. Registration is not an automatic process and may possibly be refused. An appeal process has been included in the Act for such an event. ⁵³
Italy	Accommodates home educators and have always done so. ⁵¹
Luxembourg	Accommodates home educators and have always done so. ⁵¹
Netherlands	Now no longer permit home education in the word of law but would appear to permit individual instances. ⁵¹
Norway	Accommodates home educators and have always done so. ⁵¹ Parents can give their children home education if they first notify the local authority by letter. The local authority is obliged to oversee this education and can summon home-educated pupils to sit tests. ⁵²
Portugal	Accommodates home educators and have always done so. ⁵¹
Spain	Now no longer permit home education in the word of law but would appear to permit individual instances. ⁵¹
Sweden	School attendance is normally compulsory in Sweden. There is provision for home education, but permission must be applied for and will be granted for only one year at a time. The local authority oversees home education and usually performs two inspections per year. ⁵²

⁵⁰ Speigler, T. (2003) "Home Education in Germany: an overview of the contemporary situation" in *Evaluation and Research in Education*, vol. 17 (2&3): 180–181.

⁵¹ Beck, C.W. (2002) *Home Education in Northern Europe*, paper to the CESE conference, London 13–19 July 2002, available on line at: <http://folk.uio.no/cbeck/Home%20education%20in%20Northern%20Europe.htm>, accessed 8/6/08.

⁵² Department for Children, Schools and Families (2007) *Elective Home Education: Guidelines for Local Authorities*, available on-line at: http://www.dcsf.gov.uk/localauthorities/_documents/content/7373-DCSF-Elective%20Home%20Education.pdf, pp. 4–5.

⁵³ Home Education Network Ireland (5/4/2007) "The Legal Issues", available on-line at: http://www.henireland.org/he_ireland.html, accessed on 16/6/08. See also the Homeschool Ireland.com website at: <http://www.homeschool-ireland.com/ireland.php>, accessed on 16/6/08.

Country	<i>Legal Status of Home Education</i>
Switzerland	<p>The Swedish Education Act (skollagen 1995) notes: <i>out-of-school education must be an approved and equitable alternative; monitoring by authorities must be arranged; approved applications are valid for only one year; and, official permission can be withdrawn on short notice.</i></p> <p>Home education is considered as an exemption from schooling and the decision to exempt is made by municipal education committees.⁵⁴</p>
USA	<p>Except for two cantons, Switzerland accommodates home educators and have always done so. The other two cantons do not permit home education in law, but appear to permit individual instances.⁵⁵</p> <p>Home education is legal in all American states, except for California, where its legal status is in dispute. Although home educators are subject to different levels of regulation in each state. A summary of the degree of regulation required in each state and an index of state legal requirements is provided here.⁵⁶</p> <p>On 28 February 2008, the California Court of Appeals issued a ruling that effectively made home education (except for tutoring by certified teachers) illegal in California and questioned whether parents had a constitutional right to educate their children at home. The ruling states:</p> <p><i>It is clear to us that enrollment and attendance in a public full-time day school is required by California law for minor children unless (1) the child is enrolled in a private full-time day school and actually attends that private school, (2) the child is tutored by a person holding a valid state teaching credential for the grade being taught, or (3) one of the other few statutory exemptions to compulsory public school attendance (Ed. Code, § 48220 et seq.) applies to the child.</i>⁵⁷</p> <p>The Homeschool Legal Defense Association is seeking a review of the judgment in the Californian Supreme Court.⁵⁸</p>

⁵⁴ Villalba, C.M. (2003) "Creating Policy from Discursive Exchanges on Compulsory Education and Schooling in Sweden" in *Evaluation and Research in Education*, vol. 17 (2&3): 192.

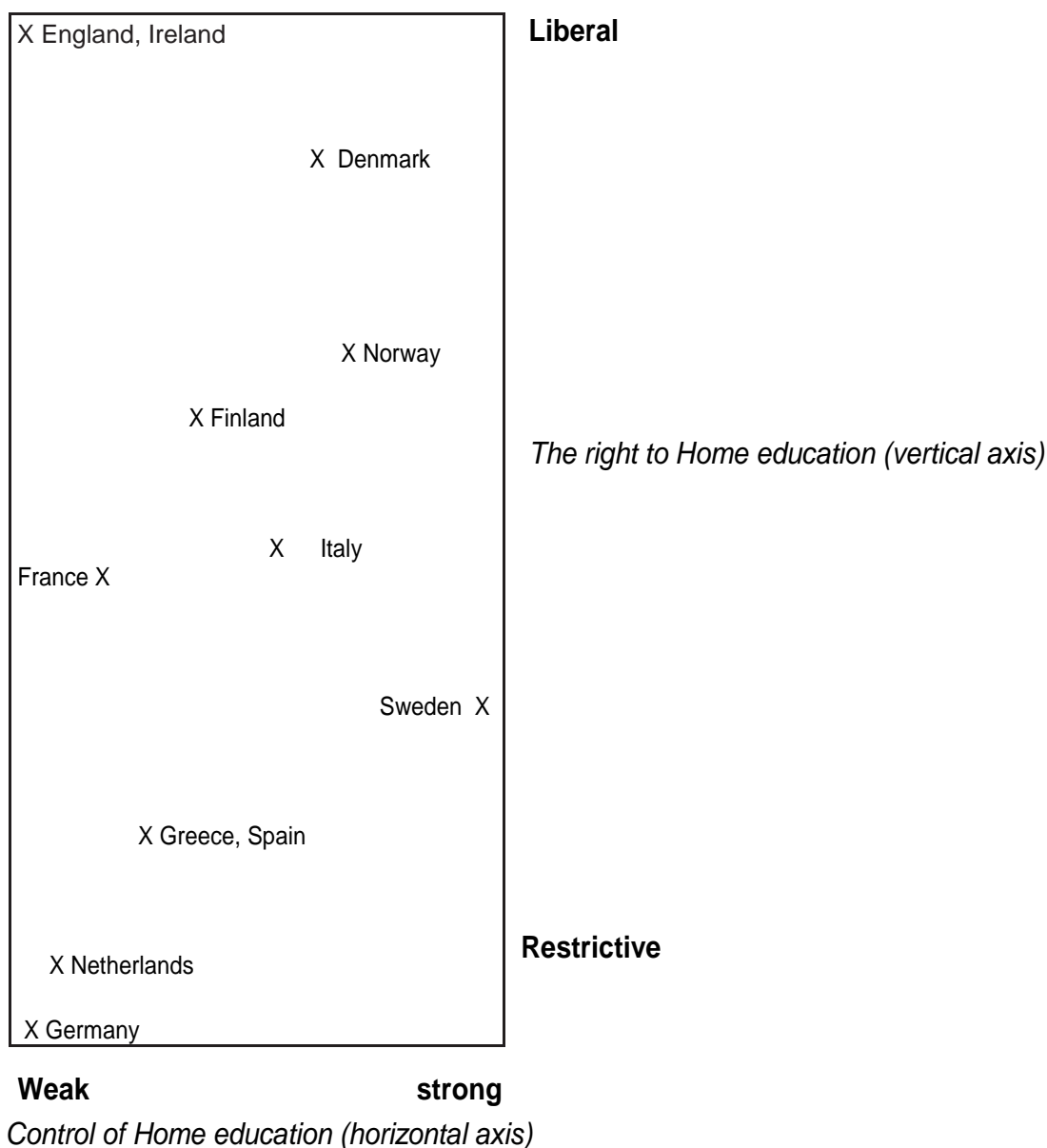
⁵⁵ Beck, C.W. (2002) *Home Education in Northern Europe*, paper to the CESE conference, London 13–19 July 2002, available on line at: <http://folk.uio.no/cbeck/Home%20education%20in%20Northern%20Europe.htm>, accessed 8/6/08.

⁵⁶ <http://www.org/laws/default.asp>.

⁵⁷ Jonathan L. and Mary Grace L. v. Superior Court of the State of California for the County of Los Angeles (28/2/08), available on-line at: <http://www.courtinfo.ca.gov/opinions/documents/B192878.PDF>, accessed 16/6/08.

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Table 2
THE RELATION BETWEEN THE RIGHT TO HOME EDUCATION AND THE CONTROL OF HOME EDUCATION IN DIFFERENT COUNTRIES.



Note: This table is a slightly adapted version of the table included in Beck (2002).⁵⁹ I thought it would be useful to include as it shows the relationship in different countries between the legality of home education and its degree of regulation in different European countries. It is, however, important to note the date of the source. The legal status of home education may have changed in some countries since the publication of this paper. Ireland, for example, had imposed greater controls on registration of home educated children since the creation of the National Educational Welfare Board (NEWB) in 2002. The information enclosed, however, is interesting in that it indicates that England has a very liberal position and minimal regulation of home education compared to the selection of other European countries noted below.

⁵⁹ Beck, C.W. (2002) *Home Education in Northern Europe*, paper to the CESE conference, London 13–19 July 2002, available on line at: <http://folk.uio.no/cbeck/Home%20education%20in%20Northern%20Europe.htm>, accessed 8/6/08.

Annex B**OVERVIEW OF STUDIES COMPARING HOME-EDUCATED AND SCHOOLED CHILDREN'S ACADEMIC PERFORMANCE¹**

<i>Reference</i>	<i>Country</i>	<i>Samples</i>	<i>Tests</i>	<i>Results</i>
American College Testing Programme (ACTP 1997–2001)*	US, nation-wide	17,765 hs-children, ca. 18 years old; break-down below by school year: 1997 ($n = 1,926$); 1998 ($n = 4,593$); 2001 ($n = 5,379$)—and compared with national norm groups of ca. one million per school year.	American College Test (total score based on four subtests covering the core of the high-school curriculum: English, Mathematics, Reading, Science Reasoning.)	Hs-children scored higher than the control group by an average 12 (in 1997) to 15 (in 2000) percentile points.
Clavery et al. 1992	US, Arkansas	42.8 he-children, distributed across three age groups (average mean: 10, 13 and 16 years, respectively) and compared with a total of 90,000 same-age peers in the same state who were being educated entirely in school.	Metropolitan Achievement Test (total score based on five subtests: Reading, Mathematics, Language, Science, Social Studies).	Hs-children scored higher than the control group by an average nine to 13 percentile points.
Galloway 1995	US, South-eastern states	60 hs-children ca. 18 years old (“freshmen” or first-year students at a Christian University) and compared with 120 fellow students who had been educated entirely in school.	American College Test (see above); essay writing included	Hs-children scored higher than the control group by an average 13 (essay writing) to 28 (ACT total) percentile points.
Ray 1994	Canada, nation-wide	524 hs-children aged six to 18 (mostly primary school students) and compared with national norm groups.	Various standardised scholastic achievement tests (including Canadian Test of Basic Skills) covering basic subjects in school curricula.	Hs-children scored higher across all the tests than the control group by an average 32 percentile points.
Ray 1997	US, nation-wide	1,952 hs-children aged six to 18 (mostly primary school students) and compared with national norm groups.	Various standardised scholastic achievement tests (including the Iowa Test of Basic Skills) covering basic subjects in school curricula.	Hs-children scored higher across all the tests than the control group by an average 37 percentile points.

<i>Reference</i>	<i>Country</i>	<i>Samples</i>	<i>Tests</i>	<i>Results</i>
Rudner 1999	US, nation-wide	20,760 hs-children aged six to 17 (66 to 2,876 children per yearly age cohort), throughout the entire country and compared with national norm groups.	Iowa Test of Basic Skills (Administered from age 15 on: Tests of Achievement and Proficiency). In both tests, the total score was based on subtests: Reading, Language, Mathematics, Social Studies, Science.	Hs-children scored higher than the control group by an average of 26 (10-year-olds) to 41 (seven-year-olds) percentile points.
Sutton and Oliveira 1995	US, SE states	58 hs-children, ca. 18 years old (first-year students or “freshmen” at a Christian University) and compared with 789 fellow students who had been educated entirely in school.	California Critical Skills Test (total score based on five subtests: Analysis, Evaluation, Inference, Deductive Reasoning, Inductive Reasoning.	Hs-children scored higher than the control group by an average of 11 percentile points.
Tipton 1990	US, Virginia	62 hs-children, distributed across two age groups 39 nine-year-olds, 23 12-year-olds) and compared with an approximate total of 48,000 same-age peers in the same state who were being educated entirely in school.	Comprehensive Test of Basic Skills (total score based on five subtests: Language, Reading, Mathematics, Science and Social Studies).	Hs-children (in both age groups) scored higher than the control group by 1 percentile point on average.

¹ This table is taken directly from Block 2004: 44-45.

* Internet data source for ACTP: www.act.org.

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September 2009

Witnesses: Graham Badman CBE, and Ms Diana R. Johnson MP, Parliamentary Under-Secretary of State, and Penny Jones, Independent Schools and School Organisation, DCSF,¹ gave evidence.

Q1 Chairman: I welcome Graham Badman, Diana Johnson, the Under-Secretary of State for Children, Schools and Families, and Penny Jones from the Independent Schools and School Organisation, DCSF. Thank you for coming. I am sorry that there has been a delay. One of the problems with trying out something new, such as the appointment of a Children’s Commissioner, is that one does not realise just how complicated the process is, if it has never been tried before. So real apologies to you who have been waiting, and to the people who have taken great interest in our inquiry. It is nice to have such a full gallery. I hope that you will all enjoy the session. The normal rules apply, and we want to get straight on to the questions. Graham, we have chosen this topic for a short inquiry because there is great public interest in it, in terms of wanting to make sure both that every child in our country has the full possibility of a good education, and that they are protected during their childhood. On the other hand, there is a strong movement towards home education, and a significant proportion of our school-age children benefit from home education. You have conducted a swift inquiry into this—I believe it took five months—and you have been doing some further research. That is why we have chosen this topic. We hope that we can help at this juncture, before legislation is introduced. Graham, I shall ask you, the Minister and Penny Jones to say a couple of words, if you wish, about where we are at the moment. Who would like to start?

Ms Diana R. Johnson: Thank you, Mr Chairman,

and members of the Committee. I am pleased to be here this afternoon. I would first like to set out the Government’s position in a basic, plain way. It remains that it is a fundamental right that parents should be free to educate their child at home, if they wish to do so. We acknowledge that views on home education are polarised, with home educators feeling that local authorities do not understand the range of approaches that they can take, and home educators unwilling to accept that in a minority of cases home education may not be up to scratch. In 2007, the Government published non-statutory guidance on monitoring home education which set out the legal requirements, and the approaches that we expected local authorities and home educators to take in working together to ensure that home-educated children receive a good education. However, it became clear during 2008 that neither home educators nor local authorities felt that the guidance was working, and that is the reason for the review. Graham’s recommendations fall into three broad categories: first, registration and monitoring; secondly, providing far greater support to home educators; and, thirdly, mechanisms for home educators’ needs to be considered explicitly in local authority strategies. I need to say at this point that I am not able to go into very much detail about the proposals on monitoring and registration today. As you know, they are out for public consultation, which ends on 19 October. We will have to consider carefully the consultation responses before proceeding. I would like to emphasise that no firm

¹ See further supplementary evidence from DCSF: Ev 105

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decisions have yet been taken. Home educators have repeatedly asked for additional support, and I am pleased to say that we have listened to them. I hope that members of the Committee had an opportunity on Friday to see the response from the Secretary of State to the recommendations in the report. Before January, we will clarify our advice to local authorities on claiming pupil funding to make it clear that they may claim funding for children with special educational needs educated at home in receipt of significant services from a local authority, or those attending college. From 2011, funding will be available for other home-educated children who use local authority services, which might be examination centres, brokering work experience or using the county music service. If we proceed to legislate, we intend to require local authorities to broker arrangements so that home educators who want to take public examinations can do so at centres reasonably close to where they live and at no cost. We will also put arrangements in place for authorities to consider home educators' needs strategically, so that they are systematically considered and appropriate service is provided. Finally, if and when the recommendations of Graham's review are fully implemented, home educators will still have a considerable degree of freedom. They will not be operating outside the law, as is the case in the Netherlands and Germany where home education is illegal. They will not have to sit national tests, as in Finland and Norway, nor follow the National Curriculum, as in Denmark. England will still be one of the most liberal countries in the developed world in its approach to home education, reflecting the careful balance we have to strike between a child's right to education and a parent's right to educate their child in conformity with their beliefs and philosophies. I very much look forward to the report that you will produce after you have taken evidence.

Q2 Chairman: Thank you for that, Minister; it got us off to a good start. Is there anything you would like to add, Graham?

Graham Badman: My thanks for this opportunity. I have not actually said anything about my report since I submitted it to the Secretary of State, and there are some good reasons for that. There were lots of invitations to talk about it, but I chose not to because I thought it would be prejudicial to an open process of consultation. To echo the Minister's comments, if all the recommendations are implemented, there is nothing to stop home educators, many of whom I have met who do a thoroughly good job for their children, continuing. They would be subject to registration and to what I regard as light touch monitoring, but as the Minister has pointed out, in one of the most liberal regimes in terms of a developed education system, we now have greater access to a range of services. I stated in my report that it seems perverse for any government to express concerns about this group of people, yet not offer any resources to them. If I were before you, Chairman, as a Director of Children's Services and you asked me, "What do you know about the 80,000

children in your care?" and I replied, "I'm awfully sorry, but I can't tell you very much about them," I suspect that I would not remain in the post for very long. That, frankly, is the situation in relation to elective home education. That doesn't mean to say that it is bad; it means to say that we don't know. Children have a moral right to education; I place great emphasis on that. My report, I hope, sets out to balance the rights of the child with the rights of parents. It seems timely on the 20th anniversary of the UN convention that we seek to examine whether or not this sector of the community actually honours children's rights as expressed in the UN convention. I spent some time in my report discussing this and placed the recommendations in that context. All that being said, if anything, the report is most critical of local authorities. If implemented, it will hold them to account through an audit regime for their systems of monitoring elective home education. I think it raises real questions about the support they have given and should give to statemented pupils; about their training, or the absence of it, of staff; and it crucially requires them to determine and analyse why those children left school in the first place. Ask that question: why did they leave, if indeed they ever attended? I tried very hard to represent the views of the countless elective home educators who often spoke of their despair—I do not use that word without some caution, but it was genuine despair—at the schooling system. They had concerns about the understanding of local authority officers who did not appreciate the aims of elective home education. Elective home educators often viewed elective home education as a place of last resort where their children could escape bullying. They felt that many young people, particularly those with special educational needs and those on the autistic spectrum, were not being catered for. Added to that, there was a whole group of parents who had a philosophical belief in educating at home. There was a clear conviction on the part of many of them that they could do it better, and I respect that belief. But in turning now, to safeguarding, I recognise that this was the most controversial element of the report. Many parents felt that the initial press coverage of the review found them guilty, and they had to prove their innocence. I regret that, because I don't think that is true, and I cite what they said to me—that hard cases make for poor legislation. Where there was no evidence—for example, on forced marriage, where I actually looked at the report that went to the Home Affairs Committee—where I could find no evidence, I said so. In regard to safeguarding I simply ask two questions about well-being and safety. They are on page 28, paragraph 8.2. Basically, my two questions were, "Are the concerns for child protection over-represented within the elective home educators community; and if so, what could have been done through better regulation to ameliorate those effects?" Finally, with regard to education itself I recommended further work to be done, to determine, in the context of what constitutes not 21st-century schooling, but the 21st-century education system that is required, what is suitable and efficient, now. The definitions that we have are

only defined by case law. They are not legal, and they are pretty woolly. Although I came to no firm conclusions I recommended that further work be done on that. Indeed, in the same way that I recommended that we explore more about autonomous education. We don't know enough; we don't know enough in terms of research, particularly on what are the outcomes for young people as a consequence of that. I began by saying that I'd written this report in seeking to balance the rights of children with the rights of their parents. I hope that, if implemented, it gives children a voice. I know that in itself is contentious. But I have also tried to give elective home educators a voice. I recommended that they be engaged in the process of determining what is efficient in education, that they be involved in training, that they be involved in all the things that follow, and that, crucially, local authorities create a forum whereby they regularly hear from elective home educators about the services that are provided. I believe that the EHE community has much to offer in developing our understanding of the effectiveness or otherwise of the schooling system. It holds a mirror up to the schooling system, and to that end, I have to say, Chairman, I have been somewhat surprised by the reaction of a vociferous minority—and I do think it is a vociferous minority; I can actually count the number of people who have done it. I have found the remarks of some of them offensive, but I draw comfort from an academic friend of mine who says that often personal attacks are made when logic has been defeated. I don't regard those people as a majority. I think that I have benefited enormously from learning of their experiences, but I actually think that the change in regulation and greater scrutiny is essential for the children.

Chairman: Thank you Graham. We are aware that there are great passions on this subject. This Committee, indeed, decided earlier this afternoon that we would make a particular effort to meet a whole group of home educators, and that will be part of our inquiry. Penny, would you like to say something?

Penny Jones: No.

Q3 Paul Holmes: Like lots of other MPs, I am sure, this summer I have met with home educators, in my constituency of Chesterfield, and they were very concerned, as you just pointed out. They feared that your report or the way the press reported it had labelled them as abusers, basically, so it is very welcome that you have gone to considerable trouble just now to say that is clearly not what the report is saying, and that there is lots more in the report about the raw deal that home educators get from the system, and so forth. So that is all very welcome. Just to help further with the process of clarifying that and setting people's minds at rest, one of the concerns was paragraph 8.12 of your report, where you said that "the number of children known to children's social care in some local authorities is disproportionately high relative to the size of their home educating population." What home educators feel is that we need some clarification about this.

Who is classified as being known to social care? Lots of children in home education—certainly lots of children I have met over the years—have left the mainstream system because they have special educational needs, and therefore would be known to the education and social care system, but not because of any danger to them. They're known to the system because they have a problem, and that problem has led to them being bullied at school or not being dealt with properly, and so they've been taken out of the system. So, how do you define "known to social care"? Who comes under that category?

Graham Badman: It is a term in common parlance, "known to social care". I understand why there needs to be some clarity around it. There are three sections. Section 17 of the Children Act 1989 gives a duty to safeguard and promote the welfare of children in need, including disabled children. Section 37 refers to the powers of family court proceedings in which a court can direct an authority to carry that out. Section 47 refers to the duty to safeguard and promote the welfare of children who are at risk of significant harm. In other words, it leads into a child protection investigation. From the original data, what became confused—I want to clarify it now—is that of the original small sample of local authorities, 41 young people were subject to a child protection plan. In other words, we did not take any account of those who were known because of a disability—they did not feature. There were 41 young people who were the subject of a child protection plan. Let us be clear about it—this is the highest level of protection we can afford children. But it was argued that that was a relatively small sample and that there was a glitch in the data, and so we went back and reworked the data. When it originally came out, I said I was cautious about it, in terms of that number from that authority, because proportionately it represents a population of elective home education that is about twice an ordinary population. In fact, on reworking that sample, and I didn't produce it in the first place, I can tell you now, the figure is actually five times. The proportion is five times. But what we did in anticipation of this Select Committee, because I guessed this would come out, we went out to local authorities again and asked for further information about elective home education. Let me stress again that these children are not those who are just known; they are the ones who are subject to a child protection plan. And this time, from 74 local authorities, the figure confirms the original findings—namely, that on the basis of 74 local authorities it is slightly in excess of double the percentage. In other words, there is a significant risk attached to it. What I also recognise from your question is that before invoking a section 47 inquiry, there will be a number of strategy meetings. There will be families that give cause for concern on what is sometimes good evidence, sometimes not. A strategy meeting will be held; there might be a core group that is formed; that strategy meeting might go nowhere. A further strategy meeting might take place again, and then it could be that no section 47 inquiry is held, or if it is held, that there is no finding that there

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is a need for a child protection plan. The ones we are reporting to you are subject to a plan. They have the highest level of protection this land can afford. That is not to say that they are permanently enshrined in that. One point I think it is really important to get across is that assessment is a process—it is not an event—and the mistakes that are causing local authorities to be chastised on their child protection at the moment, I would suggest to you, are often because section 47 assessments have become an event rather than a process, something that is subject to a continual review. So there are two ways of looking at it. One is that this figure is not static, because they are in the process of continual review. Secondly, there might be other families who will come into this as statutory meetings continue to take place. Clearly, what my report does is to draw attention to those five key morbidities that we know are so important in terms of child protection—drugs, alcohol, substance abuse, domestic violence and learning difficulties—as possible precursors to need in regard to the child's education, not of a one-to-one relationship. We are just saying there is a risk. All my report tries to say is that local authorities must be diligent in pursuing that risk and determining whether or not it is a risk that needs action or a risk that can be managed. And so, although there will be, if this report goes through, the power of local authorities to refuse registration, they do not necessarily have to do so. And certainly some of the categories that you spoke about earlier would not invoke that right.

Q4 Paul Holmes: You mentioned disability. Are you saying that the figures for children in home education who are known to social care do not include children who are known because they have a disability?

Graham Badman: That is correct.

Paul Holmes: You are talking strictly about—

Graham Badman: I was talking strictly about those who are on a child protection plan.

Q5 Paul Holmes: Your initial findings, and then the later September wave of requests that you made, showed huge disparities between different local authorities on what these percentages were. How would you explain that?

Graham Badman: Without going back to those local authorities, that is difficult. Not all children's social services departments work in the same way, as we have discovered. I suspect that there will be a variation in terms of the elective home education population because they are not spread universally across the country. There are concentrations of home educators. Equally, I would imagine there are some issues around deprivation that would be important. There are also issues around the quality of schooling in that if you can create a schooling system which satisfies everybody, the movement to elective home education would probably be less. It is a question worthy of further asking. The aggregate figure is correct and I stand by it. It is slightly in excess of double the proportion. But yes, if one of my recommendations is carried out, namely that local

authorities reflect on why children have left, they also might want to reflect on what they don't know about them and whether they are assessing that risk adequately. I said in my report that I had considered serious case reviews. The identification of serious case reviews was quite difficult because it is not axiomatic that serious case reviews name the place of education. It is not always known. There were, in fact, only four where elective home education was a feature. I will not go into the detail because some of it is confidential. Two of them were stark in their concerns for those young people. All of them made recommendations to make changes in regulation to provide greater powers of scrutiny. Some of the evidence, and certainly that offered by local authorities, was that they were hampered in their task. So it may well be that the disparity in local authority figures was because some local authorities don't know what they don't know.

Q6 Paul Holmes: If you are saying that the figures are fairly robust because they don't include children with disabilities or special educational needs, what about false reporting? A neighbour might ring up and say that these children have been kept off school and so forth and it turns out that they are being legitimately home educated. Does that appear as a child investigation?

Graham Badman: There is always false reporting in children's social services. Whenever you get the situation that I have dealt with in another way in terms of Haringey, you always get an increase in that false reporting. But good strategy meetings will sort that out. You won't get that section 47 inquiry on the basis of false evidence. That will be tested by the strategy group. It will be tested by the core group. Remember, too, that when you get a section 47, parents have the right to be there. Authorities have the right to exclude them, but I know of few circumstances where a child is subject to a child protection plan where parents or carers do not have an opportunity to speak. So I would be surprised if false reporting in any way accounted for those figures.

Q7 Paul Holmes: Finally, one of the concerns of home educators is the speed at which all this has happened. They put in freedom of information requests so that they could look at your original data and then they have not had time to do that for the September data. Will all this data be put on the website so that home educators can go through it and come up with counter-arguments? Perhaps the Minister can answer that.

Chairman: Minister?

Ms Diana R. Johnson: Freedom of information requests are being dealt with. I think that more than 150—

Penny Jones: Yes, 150.

Ms Diana R. Johnson: More than 150 freedom of information requests have come into the Department. That is clearly a lot of work. With that volume of requests things have not happened as quickly as they need to. We are well aware of the

need to get on and sort out the freedom of information requests. There has been a huge number.

Q8 Paul Holmes: Can you not just put all the responses up on the website so that people can read it directly anyway?

Ms Diana R. Johnson: As I recall, these FOI requests are all slightly different. There is no common thread.

Penny Jones: FOI requests cover quite a broad range. We have put up an analysis of the second report. That was up with a letter from Graham, so that is all up on the website for everybody to see. We go into quite a lot of detail, giving graphs of the spread of findings and that sort of thing. The general line that we have taken is that we do not release the information that individual authorities have sent to us because the numbers tend to be small, and there is always the danger that an individual child can be identified, and then, of course, there are exemptions that apply for the protection of those children who are vulnerable.

Q9 Mr Stuart: Overall, what percentage of children are subject to child protection plans?

Graham Badman: On the basis of the new data—the new data include issues of concern such as whether a child is in education, training or employment and whether the family is co-operating—the national figure is about 0.2%. The figure among elective home educators is 0.4%.

Q10 Mr Stuart: You have slightly lost me there. Having gone to all the local authorities, I thought that what you were basing the doubled risk assessment on was the very hard measure of child protection plans. In other words, it wasn't anything to do with the expression that has previously been used about contact with social services. This is now very much at the hardest end—although it happened to align with your original position.

Graham Badman: Absolutely.

Q11 Mr Stuart: Just now, you said something about other issues.

Graham Badman: What I was saying is that they were among the data set that was given to the Chairman of the Committee as well as being published. We went out to local authorities and asked other questions as well. Just to be clear, the data sample was from 74 authorities. The percentage of the population of elective home educators from those 74 authorities who are on child protection plans is 0.4%. From the same group of all children, it is 0.2%. So, it is double. It is double proportionally and not double in terms of the actual number.

Q12 Mr Stuart: Sure. As you mentioned in those figures, it is also very important not to give the impression that there is a very high number of children in child protection plans among the home-educated community. Obviously, it did feel as if the initial publicity suggested that home educators should be viewed with suspicion.

Graham Badman: I am not arguing that at all. I am saying that proportionally there is a higher percentage. I do not regard any home educators in that way with suspicion. Indeed I met a number of home educators whose children were so accomplished I thought that they should be justly proud of them. All I am saying is that you cannot say—certainly from the view of those whom I met—that all children are safe, particularly as there is no security about the number of children who are known to us. The best estimates that have been put forward are around 20,000 or so. Most local authorities believe that it is at least double that in terms of those who are unknown and not registered. Certainly members of my reference group put that figure much higher again. All I am saying is, no, you should not treat home education in that way. You should not view it with suspicion, but you should know that the risk factor is proportionally double.

Q13 Mr Stuart: In any case in which a child is known to be on a child protection plan, will it, by necessity, mean that that child is known to the local authorities?

Graham Badman: Yes.

Q14 Mr Stuart: So, if the numbers that were formally known about were approximately double your best estimate, it would take us back to almost precisely where we started, at the average of the population as a whole.

Graham Badman: I'm sorry, I don't understand the question.

Q15 Mr Stuart: Well, if there are twice as many children in home education than are formally known about, which by definition includes all those for whom there is a child protection plan, it would suggest that, roughly speaking, you were back to 0.2% of the home-educated population having a child protection plan, which would put them in line with the national average.

Graham Badman: I think that it propels the figures the other way. It would actually make the proportion higher, because they are already included in the overall population and in the subset of the population, which would mean that the percentage will be fractionally higher. It works the other way.

Q16 Mr Stuart: I am probably being rather slow here. Take me through that again. I am obviously not understanding this.

Graham Badman: Well, if 0.2% is all population and that includes elective home educators, then that figure actually depresses the overall figure. If you have them separated out, it would make it proportionally worse. If you take out home educators from the first figure, it makes that figure 0.2% lower.

Q17 Mr Stuart: Ignoring that, because the number of children who are home educated is statistically insignificant in the overall population, so the 0.2% can be left roughly where it is, the point is how many home-educated children have child protection

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plans? If those who are formally known about are only half of the number of children who are estimated by you, the leading expert on the subject, to be home educated—local authorities likewise think that they know about only half—that suggests that, roughly speaking, they are about the national average.

Graham Badman: Forgive me. It is me who is being obtuse. I understand your point absolutely now, but who is to say that they are safe? If you don't know anything about them, a high proportion of those who are unknown may be unsafe.

Q18 Mr Stuart: Absolutely right, and people rightly worry about safety, but first one must deal with data as they are. From what you said, the data seem to be that there are no more children with child protection plans among home-educated children, if it is in fact twice as many as those that are formally known about, than in the wider population. To put in context the previous Minister's remarks about the risks, which caused a lot of offence among the home education community, unless there were very good data to back them up, they were wrongly stigmatised as having a higher incidence of child abuse, or the threat of it within their families. I am putting to you a fairly important point, not least to them, that perhaps on your own numbers a home-educated child is no more likely to be abused than anyone else in the population.

Graham Badman: You are asking me to determine a causal effect that I cannot. All I can say to you is to repeat the evidence that I have, which is that on the basis of the information provided by 74 authorities, twice the percentage of young people have child protection plans among the elective home-educated population than in the general population. What you would consider in terms of an assessment of risk about a family before you decide that you are going to bar them on safeguarding grounds, is a range of other reasons and data drawn from a strategy group, if you had gone to a section 47 inquiry, or whatever you had gained in terms of intelligence from your officers visiting. If you want me to clarify the statistical interpretation of those, I will gladly write to you afterwards.² I also draw your attention back to the second set of data, because local authorities asked us to raise other issues in terms of their assessment of whether children were receiving an appropriate education, whether it was not suitable, whether they were co-operating and, crucially, in terms of the data that we have given you, the percentage of the elective home-educated young children—young people—who were not in education, employment or training. We are concerned about outcomes as well. The report is not just about safeguarding; it is also about the quality of education that they receive.

Q19 Mr Stuart: Sticking with NEETS, I am glad that you raised them because whenever education Ministers are in front of us, I say that the crude proxy analogy is to see whether the system is working. I

normally point out that it is not, because we have more NEETS now that we had 12 years ago, which suggests failure. What is the number of NEETS in the home-educated community?

Graham Badman: I cannot say about the whole community, but I can tell you about the 74 responses that we have.

Chairman: That is about half.

Graham Badman: Yes. In a reported population of 1,220; 270 of those children were not in education, employment or training, which is 22%. The national figure for NEETS is 5.2%.

Q20 Mr Stuart: Is that 16 to 18-year-olds?

Graham Badman: Yes.³

Penny Jones: If I may clarify, that is the count that takes place in September.

Sitting suspended for a Division in the House.

On resuming—

Chairman: Right, we are quorate, so we can get started. Over to you, Annette.

Q21 Annette Brooke: Please excuse me, but I would just like to backtrack if I may, Chairman. I received an e-mail from Home Educators, which is very partial in terms of not identifying the local authority, and of course I have no evidence as to the e-mail's authenticity. However, it said, "Finally, someone got a straight answer from a local authority. A high percentage of children arose from all the data that we have ever had"—this is from the local authority, allegedly—"and therefore that includes people that are now adults. The 9% includes all the children known to social care, so if they are known to social care because they are disabled then yes, it does include disabled children". I imagine that this is allegedly from one of the freedom of information requests, and obviously it is contrary to your answer earlier, Graham. As I received this, I need to check it out for my own sake. Is there any doubt about the basis on which the data that have been collected in local authorities have been submitted?

Graham Badman: I think that the simple answer is, no, there is no doubt. We went back over the data. We made sure the data were clean, and as we have said, these data have been checked by Department for Children, Schools and Families statisticians. The data do not include that group of children whom you talked about; these are children who have child protection plans. While we are briefly back on the data, may I go back, as I was thick in relation to Graham Stuart's question regarding the 0.2% and the 0.4%. I understand the point that you are making, but the reason I would argue against you is that your assumption is that the other unknown half have no children who would be subject to a child protection plan, and that is why I am saying that I think my statistics are right and yours are wrong. But we have undertaken to write back to you, and we will do that.

³ *Note by witness:* The figures are not for 16 to 18-year-olds. The figures are drawn from the Autumn survey of children who left (or in the case of Home Educated children would have left) school the previous summer.

² See Ev 31–35.

Q22 Chairman: Is one of the problems, Minister, that the home educators have become very cross with you and Graham because, in a sense, there is this great focus—we have already had it in this session—on the percentage of children that are in some danger because they have protection orders on them? The home educators would, I suppose, argue that they want to be judged across the piece. They want to be judged on whether the children in home education get a decent education. What Graham is dwelling on at the moment, and you to an extent, Minister, is this quite small percentage—it may be double the national average—that ends up with child protection orders.

Ms Diana R. Johnson: I think that that is absolutely right, in that what the Government are interested in, in this review, is making sure that children and young people who are home educated are getting a good education at home. That is what we want to make sure. We want to know who those children and young people are, and we want to be able to say, “Yes, we are satisfied they are getting the standard of education that they need”. That is what this is really about. Obviously within the review, there are comments and data that have been looked at, and we have had a series of questions now. The media have picked up on this particular issue, and have focused in on it. But a lot of the recommendations that Graham has brought forward are very much about creating a positive relationship between local authorities and home educators to support home education, and I think that the press ought perhaps to focus a little bit more on that particular issue, and not dwell to the extent that they have on this one.

Q23 Chairman: But there are serious issues, are there not?

Ms Diana R. Johnson: Very serious, yes.

Q24 Chairman: I read the report and imbibed as much as I could. On the one hand, as Chairman and member of this Committee, of course I want to make sure that every child who is home educated gets a good deal, and it is obvious that there are some absolutely fantastic experiences for a certain percentage of home-educated children. But there is obviously real evidence that for a significant percentage there are some pretty bad horror stories.

Ms Diana R. Johnson: The worrying thing for me as a Minister is that we do not have full data sets; we do not know about who is educating their children at home. The figures that we are looking at—perhaps 20,000 or 25,000—are estimates. There was work done by York Consulting a few years ago, trying to give figures, and even that body found it difficult. So, I think it would be very helpful to know who is home educating and what numbers we are actually talking about, and then as a Government we can feel confident that we know who these children are and be satisfied that they are getting a good education.

Chairman: That does seem sensible. Annette, back to you.

Q25 Annette Brooke: I want to probe on registration and I will perhaps put my cards on the table: I am actually in favour of a simple registration scheme because I don't want children disappearing below the radar. I think that point is important. However, I wonder if we could just look a bit at the applications for registration. Surely it is going to be fairly clear-cut that a local authority will have a right to refuse registration on the grounds of child protection, and presumably there will be a right of appeal because that would be a British justice situation. Can I ask you about the appeals process that might have been thought of?

Ms Diana R. Johnson: I think you are absolutely right in that any process that is set up needs to be fair. We all know that having a right to appeal would be part of the fairness of any procedure. These matters are out for consultation, which does not end until 19 October. Therefore, I am not at this stage able to give you any definitive view about how an appeals procedure would work. All I can say is that being fair would obviously be a key part of any procedure created.

Q26 Annette Brooke: One of the difficulties in making sweeping statements is that the generic term of “elective home education” covers such a wide range. As you mentioned, I am sure that there are so many cases that we should celebrate, and I would quite like to have seen some case studies of good practice, which I think would have balanced your report out a little, Graham. I take it for granted that there is all that out there. I have certainly met a number of parents who have removed their children from school, possibly because their child is on the autism spectrum—probably a very frequent reason—and the school is not providing, or is not able to provide either protection in terms of anti-bullying or a suitable education. I think those parents must feel very threatened that they are now effectively going to be inspected on what they are doing, which may be working on confidence and self-esteem, against some unknown criteria of what a good education is. Can you comment on that particular portion of home educators?

Graham Badman: Let me pick up on autism first of all. My words were sincere when I described the emotion with which some people tell me their stories, so I accept that for many young people, home education was the last resort. If these recommendations go through, the money, in terms of the age-weighted pupil units, then flows to the local authority, either because that child has been in receipt of School Action Plus, because they are in receipt of significant services, or because they are statemented. The opportunity will now exist for the local authority to commission other services to support those families. As I make very clear in my report, within special educational needs—I have cited at length the Independent Panel for Special Education Advice's evidence, which I think is strongly supportively of home educators' views—when it comes to commissioning support for autism, it may not be the local authority that does so. I am persuaded that some in the voluntary sector, such as

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Autism In Mind, may offer better support and help than local authorities. Under my proposals, they would be able to do that, and could be commissioned to provide those services, with money now going for the first time to local authorities to provide those services. To repeat a word that I have used, I think it is perverse that for many young people, for whom there are quite legitimate concerns related to welfare and education, as soon as they opt out of school, they are cut off from what they would have had in terms of value. To go back to your first comment, Chairman, about the positive sides of this, there are recommendations in the report about access to examinations—if people have not previously had it—to flexible schooling and to better vacation provision, all of which, I think, from what I have seen of the Government's response, have been accepted. Chairman, I think you are right: there is an awful lot that has been said about safeguarding. Most of this report is about ensuring that the rights of children are met within the context of home education—not outside of it—by the better provision of services and the better engagement of home educators in the training of local authority officers and in determining what the services are.

Q27 Chairman: I speak as Chairman of this Committee. Recently we have been inquiring into looked-after children and the training of social workers. The fact of the matter is that in this country, for some reason, anyone engaged, as a family, with social services seems to have a stigma about it—they feel it is a negative thing. Are we not taking the same approach here? What we need to get from the Government and from anyone involved with a local authority is a positive relationship that supports home education, if that is what a parent chooses—a positive framework. There should not be a feeling that there is inspection, and that people will come to see if you are going to do something naughty, but a feeling that if you are trying to do something good, they should help you to do it. Is that not the frame that we want?

Ms Diana R. Johnson: That is certainly the view that the Government have taken on this. It is about creating a much more positive relationship between home educators and local authority officers. You will see examples in the report of good practice, which is already happening, but of course not across the whole of England; we need to spread it.

Q28 Annette Brooke: I welcome the recommendations of support, but I am still concerned that a parent who really understands their particular child's needs and has an alternative approach that will ultimately build up confidence and communication will never fit into the round hole of what formal schooling would advocate. I am concerned—perhaps you can reassure me—that there is not enough flexibility to allow for that approach.

Graham Badman: There is certainly nothing in this report to suggest that there should not be that flexibility. We have had a quite deliberate distinction between the way that youngsters with special

educational needs and others who are electively home educated are treated. I take the view that some people have absolutely prospered through being home educated. Sometimes they are not home educated for the entirety of a normal school career; sometimes they do so to recoup, if you wish, and then they re-enter school, perhaps on a part-time basis. I do not think there is any suggestion that the rights of parents who are dealing with young children, sometimes with quite specific needs, will in any way be negated. On the contrary, what we are trying to say is that it is important that the state knows what is happening to them. Equally, the state has responsibilities to ensure that support is given to them.

Q29 Mr Pelling: Could the flexibility go so far as to drop the idea of registration and just have the approach that there should be an obligation to receive advice? Could you go that far in terms of flexibility?

Ms Diana R. Johnson: I would say on that point that the reason why local authorities need to have numbers on how many children are being home educated in their local authority area is so that they can plan services and make resources available. That would be very difficult if you did not actually know how many children were being home educated. That is part of the problem that local authorities are describing to us at the moment—they do not actually know.

Q30 Mr Pelling: But there is a sanction, is there not, in terms of the local authority having gone through its registration process?

Ms Diana R. Johnson: Are you asking if there will be a sanction?

Mr Pelling: Yes.

Ms Diana R. Johnson: Again, this is the consultation period, so I cannot say what will come out at the end of the consultation. Certainly, a lot of people have been writing in about the registration requirements, but it closes on 19 October and then the Government will have to look at it.

Q31 Mr Pelling: So, in terms of the open-minded approach that is being taken to the consultation, it will still be a possibility not to have registration with sanctioning.

Ms Diana R. Johnson: I don't want to pre-judge things. Clearly, in having a registration process, you would think that if you didn't register, that would have to be thought through. It seems to me silly not to be registering everyone.

Graham Badman: I don't want to fall foul of the trap of forgetting that hard cases make bad law. It is nevertheless the case that registration is a relatively simple process. You are talking about it happening only annually. It is not a great intrusion into families that are conducting a normal process of elective home education. But there are hard cases. There are some tragedies in our country that we need to try to prevent as far as we can. Let me cite something said by Daniel Monk, an expert in the legalities of home education, in the *Child and Family Law Quarterly* of

2009: “Parents who home educate are not simply performing a private duty, but also a public function. For all these reasons the case for compulsory registration is logical, legitimate and compelling.”

Q32 Mr Pelling: Is it not the philosophy of this approach that it is important for the state to intervene in the life of the family to ensure that the rights of the child are protected? Is that not the backbone behind this approach?

Graham Badman: I interpret it in a slightly different way. The UN convention represents the wishes of this country for all the children in it. All I am saying is that there need to be some changes to guarantee absolutely that the rights of children to an education and freedom of speech, so that they are able to give a view about their lot in life, are met. I agree with you, but I argue the case from the point of view of the rights of the child.

Q33 Lynda Waltho: One of the areas on which I and my colleagues have been lobbied by many people is the proposal to interview the child and to enter the home. Many home educators have pointed out that even police officers need a suspicion or a warrant so to do. In your report, you concede that some local authorities are not making effective use of current powers. Will you spell out why local authorities need new powers rather than just a better understanding of what they can do already?

Graham Badman: Let me quote a local authority, which said, “Given that Local Authorities do not have the power to see the child or enter the house, we have no direct way of ensuring the safety and wellbeing of children currently being educated at home. By submitting a report in the post, we cannot guarantee that children ARE receiving the provision identified, moreover, we cannot see if the child is meeting the Every Child Matters outcomes. There is no way knowing that they are even in the country and we cannot be certain that they are living in the address provided. This has huge implications re: the ‘Children Missing from Education’ guidance and procedures. We feel as a LA that we have a duty of care to the children educated in our area and that we cannot fulfil this duty of care if we have no access to the child or the family.” That is an accurate view of the response from local authorities, almost universally, in terms of the feedback on the report. Yes, of course, I understand the sensitivities of interviewing the child and the child alone, but I hope that, given what we have said about training, it is, in a sense, the last resort—that proper relationships are established and that it would only be in extremis that a local authority would want to use the powers. We have those powers, but it does not mean that we need to exercise them. Crucially, I have also argued in the report that there should be the presence of another trusted adult. The person does not necessarily need to be an unknown officer alone with the child. I understand those sensitivities and, again, I make the point in the report, in a direct quote from Jane Lowe, from whom I think you are getting evidence. She wrote a very good book full of case studies on the good practice in home education, and said that, if

you educate at home, it is still first and foremost a home. Whatever training is given, officers need to respect that, and they need to caveat their approach by asking, “Have I assessed the risk appropriately? Do I need to do this?” I am arguing for a greater flow of information that would enable anyone with a quite proper regard for the safety of children to exercise the power without being draconian.

Q34 Lynda Waltho: That is helpful. We have all been talking about the voice of the child throughout today’s proceedings. What if the voice of the child is not to meet with the officer? What do we do then?

Graham Badman: That is the one question that I was dreading from this Committee.

Lynda Waltho: Oh, sorry.

Graham Badman: It is a very good question.

Chairman: As you have been dreading it, can it be repeated?

Lynda Waltho: What if the voice of the child is that he or she does not want to meet, or refuses to meet, someone from the authority?

Graham Badman: My view then would be that it is up to the sensitivity of the officer to judge whether or not that is truly what the child wishes or whether it is a view that has been given to them by the parent that they have repeated. That is quite difficult to determine. That being said, we are making provision that other trusted adults can be engaged, and I repeat that speaking to the child and the requirement to speak to them would have to be used after a whole range of other avenues of approach and co-operation had been explored. I go back to my first statement to the Chairman of this Committee. I don’t think there is anything in the report that prevents good elective home educators from continuing to do what they have always done. All we are going to do is to offer them greater services and greater protection for a minority—but a significant minority. I can well understand that there may be children, particularly on the autistic spectrum, who would be completely fazed by that. I have indicated that within the section on special educational needs as well. I understand that point, but judge each case on its merits. What we cannot legislate for is every single occurrence. We have to trust to the good sense of those involved in the support of home educators, whether they be from the local authority or whether they are commissioned from the voluntary sector.

Chairman: I don’t think you should be so defensive about this, Graham. When we did our inquiry into looked-after children, I don’t think we really got under the surface of that whole inquiry until we met children who had been in care, or were in care, on their own and talked to them. We intend to talk to home-educated children on their own as a group, but I really can’t see how we can evade trying to do that, even though we must do it in a sympathetic and sensitive way.

Q35 Lynda Waltho: Going on from that, I am somewhat calmed by your response, but you’re talking a lot about training and its being the last resort. It seems to me that there’s going to need to be a lot of resources diverted to training or provided for

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training. Is that not going to stymie your overall objectives? It could end up basically being a bottomless pit, because if we're going to train them so well that it is a last resort and everything's going to be—I just wonder where it's all coming from. Sorry, is that another question you didn't want?

Penny Jones: We have talked to local authorities, and we've made an estimate of the amount of time. When we looked at the cost of implementing these recommendations, we did explicitly consider the length of time it would take to train officials, how much it was going to cost to develop training packages and the cost of backfilling when people were off going training. We put a cost in, and that's part of the cost we've given in our full response, so it's in there. We think it's fully costed, and we have consulted, so hopefully the resources will be there. They've been earmarked.

Q36 Mr Chaytor: Minister, if the statistics on numbers of children are so difficult to collate, presumably there are no statistics on learning outcomes. Do we assume we have no information at all on any learning outcomes of the 20,000 to 40,000 children we're talking about?

Ms Diana R. Johnson: I think they would be incomplete, wouldn't they? Because we don't know how many children we're talking about, finding the outcomes for those children, the data we've got is incomplete. You could look at GCSE results, but obviously, that may not encompass all children who are home-educated.

Q37 Mr Chaytor: Do GCSE statistics or Key Stage 2 standard assessment tests indicate whether the child has been home-educated or not?

Penny Jones: I think the difficulty is that we don't have systematic data for the outcomes of these children. There have been a number of academic studies, both here and quite a lot in America as well, showing that generally, home-educated children attain well, but there is always a question as to how representative the sample is. Unless and until we can get a cross-section of the whole population of home-educated children, we actually can't answer the question "How do the outcomes compare with the population as a whole?" The difficulty we've got with GCSEs and the key stage examinations is that yes, the young people may take these tests, but then when we look at our statistics, those individuals aren't recognised as being home-educated, so we can't just lift up the data and look at it. I don't know if Graham wants to add anything.

Graham Badman: One positive thing. Extending examination centres in the way in which I think the report recommends was always at the top when I asked home educators to give me their shopping list. "What do you want from it?" They wanted the access. That will give us better data in terms of entry to examinations and performance, but I think the NEETs data is stark and needs further examination. I suspect that there's an untapped mine of information in Jobcentre Plus that also could be sought. If I can turn the question round, if you're asking me "Do we know enough about the outcomes

of a substantial number of young people?", I think quite clearly and unequivocally no. That is not to say they don't have any; we just don't know. To go back to anecdote and case study, I have met some extraordinarily accomplished young people who've done very well and sailed through university and so forth, sometimes developing very late, and others for whom the attainments are absolutely minimal. We don't know enough about that and therefore local authorities did not know when to intervene to provide something additional that could have improved their attainments.

Q38 Mr Chaytor: Could you tell us a little about the proposal for a statement of intended learning? How detailed is that going to be and who is going to draw it up?

Ms Diana R. Johnson: I've asked about that and I was told—obviously, this is all very provisional at the moment—that people would be required to produce no more than two sides of A4. There are certain issues with autonomous learning that need to be addressed. That's why one of the recommendations is looking at putting some further research into autonomous learning and how that could be fitted into providing a statement on a yearly basis. So there is work to do, including looking at the issue of what is suitable and efficient education. Some further work needs to be addressed to look at that and to flesh it out, but in terms of the statement, my view certainly is it would not be more than a few pages.

Graham Badman: I'm delighted to say it won't be me doing this. We shall leave the space on Facebook for somebody else, which is a blessed relief, but against the background of the demands of 21st-century society, I go back to the UN convention, because the UN convention actually doesn't specify just the right to education; it specifies the right to take part in society and to have that requisite level of qualifications. Although I understand why autonomous educators believe it would be difficult to outline that, equally I cannot conceive of a situation where, for example, a child of middle secondary years does not know something about oriental history, given the world as it is now; does not know something about carbon sequestration, if they are interested in science; and does not know something about the nature of the economy. So, even if you go to the broadest spectrum of what constitutes a curriculum and an entitlement, it would not be difficult to get beyond that definition. I think it's intriguing that the Royal Society of Arts has defined a curriculum in about two pages. I actually tried it on home educators and said, "Well, have a look at this." They in the main rejected that as well, but there have to be some broad-brushstroke elements to what is reasonable in a statement that, as I've said in the report, gives the child choices. If you don't know about something, how can you make a choice? Going back to "Elective Home Education", I cite at the end the court judgment in the Harrison case. What was said at that time—forgive me while I find the right page—was this: "in our judgement 'education' demands at least an element of

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supervision; merely to allow a child to follow its own devices in the hope that it will acquire knowledge by imitation, experiment or experience in its own way and in its own good time is neither systematic nor instructive . . . such a course would not be education but, at best, childminding.” That was the court’s judgment in the case of Harrison and Harrison.

Q39 Mr Chaytor: The logic of that is that the statement of intended learning does have a requirement to conform to certain general outcomes or to work towards certain general outcomes, doesn’t it? It’s not simply tailored to the individual child.

Graham Badman: I will answer that. I am independent and I really am truly independent and it is beyond my brief, but as somebody who has spent more than 40 years in education, whether we like it or not, we have a world defined by systems of knowledge. If you’re going to take part in that world, you need to understand how those systems and knowledge developed. It doesn’t mean to say you have to be equally interested in everything, but you have to know something and so I repeat: it will not be me doing this, which I’m sure will be a great relief to all home educators, but I would go for an education system that if it does not define the outcomes, at least defines a curriculum structure that allows that child to make choices.

Q40 Chairman: All this to-ing and fro-ing between you and David is instructive, but you have not mentioned anything about the other purpose of going to school: mixing with one’s age group, and with those of other ages, socialising and becoming a social citizen and a civic person. A lot of people who believe in home education believe that they produce better citizens than the citizens that go to school. Has any research been done on the qualitative outcomes of these different experiences?

Graham Badman: Not to my knowledge, but I was careful when citing evidence to take the views of the Church of England, which of course is a major provider of schooling in this country, about the benefits of going to school and of understanding how other people live their lives, according to other religions and faiths and so forth. To my knowledge, I have seen nothing that says you can make a judgement about the roundedness of a person who either has or has not been to school. I have met some really nice people who are home educated and some very strange people who have been school educated.

Chairman: Yes, it’s all those posh public schools. You know that’s a joke, Edward Timpson.

Q41 Mr Timpson: That’s not on my curriculum vitae. Graham, can I go back to the point about statement of approach. My concern, which was borne out a bit when we explored this area, is that for a lot of people who educate their children at home, partly because, as I said before, they despair at the schooling system in their area, but also because they want the freedom to teach their children in the way they feel will bring them into the wider world as citizens who we all want, is not this idea of having

outcomes, as you say, or a broad-brush curriculum, just the thin end of the wedge? We must then look at the statutory guidance that will have to be given and the regulations that will have to be put in place, and that provides the state with the opportunity to go into the home and dictate to the parents what they have to teach. My concern is that this is actually a way of ensuring that you regulate the form of education these children are having, as opposed to giving the parents the freedom to provide the education that will provide the outcomes but without being straitjacketed by national strategies and a national curriculum, which started off, as we know, being applied with a broad brush in this country in the late 1980s, but it has now become a very closely prescribed curriculum. The danger is that the same will happen for parents who home educate their children.

Graham Badman: In the report I used the words, broad, balanced, relevant and differentiated. Those who have been around a bit will know that those are taken from the red book that preceded the coming of the National Curriculum—it was the old HMI definition of what constitutes a sensible education. I think that what you heard the Minister say in her opening statement in accepting these recommendations, if they are accepted in full, is that you would not be in the situation that other countries, such as the Netherlands, are in, with compulsory application of national curriculum. So, if anyone interprets what I am recommending in that way, I will not have done my job right and it would be a mistake. I think that it is also fair to point out that if you try to define what home education is about, you will lose. You just cannot pin it down, because there are as many views and models of home education out there as there are home educators. I actually wrote that into the report: in seeking for a system, there is no system. There is an enormous variation, and you see that in the case studies in the books that home educators have written, from those who have a rigid timetable for the day to those who actually take whatever is in the child’s mind and try to develop it over a period of days, or even weeks. You cannot offer a curriculum model that sets out what you want for that range of opinion. I am saying that there needs to be some greater definition of what constitutes an effective education, and a working group should look at that. Going back to David Chaytor’s comment, at the end of that process surely we want all children to have achieved something. That achievement may be to become a chess grand master, to play the cello brilliantly or to play football for England—I do not care what it is—but if you have that ambition for your child and have something you really want for them, you have to have some way of being able to spell it out and you have to have a route map you can take for it. Elizabeth Green, who is sitting behind me and who was the officer who worked with me, and I took evidence from home educators. I actually said at the end of it, “Gosh, I wish I had had that quality of education, in terms of what was being brought in—an understanding of the classics at a much earlier stage, access to music that I never got at school.” So,

12 October 2009 Graham Badman CBE, Ms Diana R. Johnson MP and Penny Jones

I am not arguing for that prescription; all I am saying is beware of that prescription. I actually used the words, “this is not over-prescriptive”. All I am saying, though, is that in terms of getting what is right for your child you cannot leave it, as the judgment in the Harrison case said, to *laissez-faire*. There has to be something which comes from the parent for their child. I am not arguing that the state should write it. I stick to my words: broad, balanced, relevant and differentiated, sufficient to enable a child to make choices.

Q42 Mr Timpson: You spoke about light-touch monitoring and it sounds like you also talked to them about a light-touch curriculum. You have given us examples of countries where home education is illegal, or is made more difficult by their monitoring system, or at least is more closely monitored—Germany, Holland, Finland and so on. Have you got an example of a country where they do have light-touch monitoring, where there are systems in place, where there is registration, but it is left to the home educators to get on with educating their children rather than it being prescribed to them? Because that might provide some reassurance that there is a model that will work and will not continue down from the thin wedge to the thick wedge.

Graham Badman: In the process in Scotland there is of course registration, but if you want the example that I used, it was Tasmania. I looked hard at the Tasmanian model, where they actually involve home educators in the monitoring of home educators. I have to tell you that when I tried that on groups of home educators, it was roundly rejected. They did not want that third party judgement any more than

they wanted local authority third party judgement. I risked their wrath further by including it in the report—even by saying that they rejected it. But it does seem to me that the model in Tasmania offers some reassurance to home educators that they are not being put in the dock; that those who understand it are going to be engaged in their support and advice and monitoring if they wish, but also that they have a view. My line on that would be that if you want to try and guarantee such light monitoring, then home educators should respond to the opportunities, if this report is adopted and taken, to create a reference group in every local authority in this land, which they do not have at the moment. The biggest organisation representing home educators has only 4,000 members. It is not a representative body in terms of a huge body and they admit that. So, there is an opportunity for all local authorities to have a reference group. There is an opportunity for home educators to be engaged in that definition of curriculum; it is not going to be done to them. Our recommendation is very clear that they should be engaged in the process. They should be engaged in the training so if they want, if you like, to come out of the shadows because they feel that the spotlight is now shining upon them, they have an opportunity to shape what happens to them as well.

Chairman: I think that is a good point to draw stumps. I think we have had a very good session and thank you Penny Jones, the Minister and Graham Badman. I apologise to everyone here that this has been a rather disconnected session, first of all because of the overrun in the first part of the session on the Children’s Commissioner, and secondly with the Division, but I thought we got through it after all. So, thanks everyone for being so patient and we will carry on with the inquiry. Thank you.

Supplementary memorandum submitted by Graham Badman CBE

At the Select Committee hearing on 12 October 2009 I offered to write to Graham Stuart about our child protection plan figures.

Graham suggested that there were a large number of home educated children who were not known to local authorities (LAs). He was confident that none of these unidentified home educated children would be subject to a child protection plan (CPP) if they came to the attention of LAs, and he told the Committee that he believed that the number of unidentified home educators could equal the number of home educated children known to LAs. He thought that the combined effect of these estimates was that the number of home educated children with a CPP could be half my figure (0.4%), and therefore approximately equal to the proportion for the wider school-aged population (0.2%).

I think it is misleading to produce figures based on speculation rather than firm evidence, and I disagree with Graham’s assumption that everything is in order in every family who is not known to a local authority: I believe that we simply don’t know enough to make any assumptions about these unknown children and their families. One could equally well assume (in the absence of evidence) that unregistered home educated children are *more* likely to be in need of additional safeguarding support. I think it is safer to stick to hard evidence, so I have based my conclusions on data supplied by a substantial sample of local authorities.

I am grateful for the opportunity to clarify this issue for the Select Committee, and I attach further information about the data collected both during my review and subsequently.

Finally, I wish to reiterate that I am not suggesting that there is a causal or determining relationship between home education and increased safeguarding risks. The numbers of children with child protection plans who are both school and home educated are very small. What is important is that children at risk are identified, and this needs local authorities to deploy appropriately trained and knowledgeable personnel across the range of their work with children and families.

October 2009

REVIEW OF ELECTIVE HOME EDUCATION IN ENGLAND COLLECTION AND USE OF LOCAL AUTHORITY DATA ON CHILD PROTECTION PLANS (CPPS) AND “CHILDREN KNOWN TO SOCIAL CARE”

INITIAL QUESTIONNAIRES

1. Two questionnaires were sent to local authorities (LAs) during the course of the Review (January–June 2009). The first questionnaire was sent in January 2009 to all 150 LAs and covered a wide range of issues relating to home education. The second of these (May 2009, see Annex A) collected safeguarding evidence including “known to social care” data and the number of children having a child protection plan. The second questionnaire was sent to the 90 LAs who responded to the first questionnaire. 25 LAs responded.

1.1 LAs were asked to provide information on the number of home educated children who were “known to social care” as a result of safeguarding concerns in the following categories:

- Section 17 enquiry (provision of services for children in need, their families and others);
- Section 37 (care or supervision orders); and
- Section 47 enquiry (reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm); and
- Number of home educated children with CPPs.

1.2 LAs were asked not to include children who were known to social care for any other reason, for example where the child was disabled and where there was no concern about parenting or quality of home education, nor cases that did not lead to further action (ie when an enquiry was closed without further intervention).

1.3 The data showed that:

- There was a large variation between LAs regarding the proportion of their home educated child population who were known to social care;
- Some had no children while some had significant proportions, with an average of 7% across all the 25 LAs that responded to the survey;
- This data underpinned my conclusion in section 8.12 of the report that “the number of children known to children’s social care in some local authorities is disproportionately high relative to the size of their home educating population”;
- The proportion of 5–16 year olds “known to social care” in the general population⁶¹ is around 3% (this figure includes disabled children so we can assume the comparative figure for children known to social care in the categories we looked at, is lower than 3%). From this information we concluded that, in the basis of the limited sample available, the proportion of children “known to social care” in the home educating population is double that in the general population.

SEPTEMBER QUESTIONNAIRES

2. The initial data collection was drawn from a small sample of LAs, which is why I was cautious in drawing inferences from this sample for my report. Given the level of interest in the findings from the initial data collection, in September 2009 I invited all 152 local authorities⁶² to provide further information on safeguarding and quality of education⁶³ (see Annex B) relating to their home educating and general child population. I asked them to provide information on CPPs, as these are put in place following a rigorous inter-agency assessment process. 74 local authorities responded.

2.2 This data showed that:

- 54 LAs reported that no registered home educated children were subject to a CPP. 20 LAs reported they had one or more children on a CPP, which amounted to 51 CPPs in total in these twenty local authorities. This equates to 0.4% of home educated children;
- The percentage of children subject to a CPP in the wider school-aged population is 0.2%;

<i>Data from 74 sample authorities</i>	<i>Number of child protection plans</i>	<i>Population</i>	<i>Children with child protection plans</i>
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⁶¹ DCSF children in need census <http://www.dcsf.gov.uk/rsgateway/DB/VOL/v000647/index.shtml>

⁶² Following Local Government restructuring in April 2009.

⁶³ Two new local authorities had been created since the original survey in January 2009.

EHE children	51	11,700	0.4%
All children	10,025	4,712,200 ⁶⁴	0.2%

- Therefore, we can say that the proportion of home educated children subject to a CPP is double that in the general population in the 74 LAs who provided information.

Annex A

LOCAL AUTHORITY DATA COLLECTION
SAFEGUARDING QUESTIONNAIRE
SENT TO 90 LOCAL AUTHORITIES IN MAY 2009

INDEPENDENT REVIEW OF HOME EDUCATION

RATIONALE

Vulnerable children who are being home educated may pose an increased concern in terms of their safety, wellbeing and education. The independent review is seeking specific evidence on:

- (i) the prevalence of “vulnerable” children in your current EHE caseload;
- (ii) the type of vulnerability you have encountered in the past and/or are experiencing currently.

Your views as to what measures could be taken to improve the safety, wellbeing and education of these children are also sought.

In relation to (i) above:

1. *What proportion of your current EHE caseload is known to Social Care in the following capacities? Please include open and closed cases.*

<i>Type</i>	<i>Number</i>	<i>% of caseload</i>
Section 17 enquiry ⁶⁵		
Section 47 enquiry ⁶⁶		
Section 37 (care orders)		
Children who are or have been subject to child protection plan (or previously on the child protection register)		
Other (please specify)		
Total number of children		

2. *What proportion of your current caseload do you estimate have safeguarding implications?*

	<i>Number</i>	<i>% of caseload</i>
Total number of children		
Parent with mental health issues		
Child with mental health issues		
Parent with substance misuse issues		
Domestic violence		
Child abuse or neglect (current or previous)		
Other family circumstances		
Concerns but cannot determine due to inability to see the child		
Other (please describe)		
Concerns about parental ability/capacity to undertake home education (not covered above). Please specify reason:		

3. *Request for case studies*

In relation to (ii) above, please provide two or three anonymised case studies (more if you wish) describing

⁶⁴ Mid Year Population 2009—The Office for National Statistics (ONS), includes 17 year olds as some CPPs cover 17 year olds

⁶⁵ Do not include children who are disabled where there is no concern about parenting or quality of EHE.

⁶⁶ Do not include cases that did not lead to further action.

cases where you have specific safeguarding concerns. Within your description please provide information detailing your specific concerns including any issues around obtaining relevant information about the child from the parent or child (including difficulties in gaining access to the child). Your views as to what measures could be taken to improve the safety, wellbeing and education of these children are also invited.

ADDITIONAL INFORMATION

4. In your estimation, what proportion of your current caseload is not receiving any education?
5. In your estimation, what proportion are home educating to avoid prosecution for attendance issues?
6. What proportion of EHE youngsters became NEET (please use the latest data you have available and note the timeframe in your response).

Annex B

LOCAL AUTHORITY DATA COLLECTION
SAFEGUARDING/SUITABLE EDUCATION QUESTIONNAIRE
SENT TO 152 LOCAL AUTHORITIES IN SEPTEMBER 2009

Table 1

CPR3 CATEGORY (REFERRALS, ASSESSMENTS AND CHILDREN AND YOUNG PEOPLE WHO ARE THE SUBJECT OF A CHILD PROTECTION PLAN, ENGLAND)

<i>CPR3 Category</i>	<i>Number of EHE Children</i>	<i>Actual/Estimate (A or E)</i>
Number of home educated children in your authority of statutory school age who were the subject of a child protection plan at 31 March 2009		
Total population of EHE children in your local authority		

Table 2

INADEQUATE EDUCATION (THE NUMBER OF ELECTIVELY HOME EDUCATED CHILDREN OF COMPULSORY SCHOOL AGE NOT RECEIVING A SUITABLE EDUCATION)

<i>Category</i>	<i>Number of EHE Children</i>	<i>Actual/Estimate (A or E)</i>
Number not receiving any education		
Number receiving some education but not a full time education		
Number receiving a full time but not “suitable” education		
Number not cooperating with monitoring so no assessment can be made		
Not yet assessed		
Total number of EHE children not known to be receiving a “suitable” education		

Table 3

SCHOOL ATTENDANCE ORDERS (THE NUMBER OF SAOS ISSUED IN THE PAST 12 MONTHS TO ELECTIVELY HOME EDUCATED CHILDREN)

SAOs	Number Issued	Additional Comments

Table 4
NEETS (FIGURES FOR THE 2008 LEAVERS COHORT WHO WERE HOME EDUCATED)

NEETs	Number of NEET home educated leavers	Additional Comments
	Total no of home educated leavers	
	Percentage of NEETS in whole population	

Table 5
MISSING CHILDREN (RUNAWAYS)

Missing Children currently recorded	Number of children who were EHE prior to their disappearance	Additional Comments
	Total number of missing children	

Supplementary memorandum submitted by the Department for Children, Schools and Families

RESPONSES TO SELECT COMMITTEE FOLLOW UP QUESTIONS

Q1. *Many of those who submitted evidence, including members of the Review's expert reference group, commented on how rushed the exercise was. Given the sensitivity and complexity of the issues involved, why was the Review given such a short time in which to report?*

Reply

We do not consider that the review period was short given the seriousness of the concerns being expressed to us. Graham Badman was able to devote a substantial amount of time to the review as he had recently retired from full time employment, which meant that he was able to carry out the necessary fieldwork and enquiries in a timely fashion. Other reviews have been carried out on similar timescales—for example the review undertaken by Sir Roger Singleton into the safeguarding arrangements for children at independent, non-maintained and boarding schools, which began in October 2008 and concluded in March 2009.

Q2. *Why did the Department announce its intention to take forward many of the Badman report's recommendations before it had costed the recommendations?*

Reply

The report confirmed that the current system is not working—there was strong evidence that some home educated children were not receiving an adequate education and there were child protection concerns about a small minority. It was clear that urgent action was necessary. While more work was needed on the detail of any system of registration and monitoring, it would be wrong to accept that there were serious flaws in the system but not take forward the recommendations while they were being costed. Costings are now in place and estimates were set out in the full response to the Badman Report which we published on 9 October.

November 2009

Wednesday 14 October 2009

Members present:

Mr Barry Sheerman (Chairman)

Annette Brooke
Mr Douglas Carswell
Mr David Chaytor
Paul Holmes

Helen Southworth
Mr Graham Stuart
Mr Edward Timpson
Lynda Waltho

Memorandum submitted by Autism In Mind

EXECUTIVE SUMMARY

1. Autism In Mind (AIM) has several concerns;

- That the elective home education review was conducted by people who had no knowledge, or experience of, Special Educational Needs (SEN) and/or disabilities.
- No concrete recommendations specifically wrapped around SEN/Disability
- Any changes, reasonable adjustments and support that are required by home educated children with SEN/Disability are being left to Ofsted.
- Only two areas of the recommendations are being acted upon: Registration and Monitoring.
- The Government proposes immediate implementation of “Registration and monitoring” but have not expressed the desire to act immediately upon the recommendations relating to “Support”.
- Some effective examples of good practice currently being used in various Local Authorities and informative literature were left out or not looked at.
- Information about the law and legislative framework were inadequate, both from within the UK and European Law. Examples given were used in inaccurate ways which could change the way in which they were meant in the original drafting of those laws and statements.
- Evidence given by AIM was inaccurately recorded.
- No impact assessment was undertaken with regard to the lack of training and absence of support for children with SEN and disabilities.
- ECM outcomes, intended to assess local authority provision, are to be applied to individual children.
- That Graham Badman wrote to Local Authorities on 17 September 2009 in an attempt to strengthen his statistical evidence regarding a disproportionate amount of home educated children being known to social care and a small but significant proportion of home educated children are receiving no, or an inadequate, education in advance of the Select Committee hearing.
- Local Authorities got more time to submit their opinions and submissions and a separate and longer questionnaire, home educators did not get this for the review remit.

Autism In Mind (AIM) recommends that the current consultation on registration and monitoring is halted and a new thorough review carried out by a panel with relevant expertise. AIM would welcome the opportunity to give oral evidence to the Select Committee.

AREA OF INTEREST

2. Autism In Mind (AIM) is a national campaign and support group for parents and carers living with autism, run solely by volunteers. AIM campaigns for greater awareness and better resources and provision for children and adults with an autistic spectrum condition. Carole Rutherford, co-founder of AIM, is currently a member of the Autism and Education Trust and is also a member of the External Reference Group working with the Department of Health on writing the National Autism Strategy for Adults. AIM has also recently produced several reports for the current Brian Lamb Inquiry on the lack of confidence in SEN systems. AIM supports parents who have children who are being educated in school and at home and has written papers about the rise in home education and autistic spectrum disorders which have been circulated to the APPG for Autism as well as the National Autistic Society. This is also something that was discussed in 2003 with Lord Filkin. AIM continues to flag up the rising numbers of autistic children being educated at home and the reasons why parents are removing these children from schools and monitors the home education arena, alerting interested parties to reviews and consultations, and giving advice on them.

REVIEW TEAM

3. AIM is concerned that Graham Badman did not include on his Expert Reference Group, anyone with a depth of knowledge, understanding and experience of SEN, Autism, or any other disability. There was also no-one with sufficient knowledge of the law surrounding the Special Educational Needs Code of Practice or other educational law, making it impossible for the panel to understand the complexities of educating a child with SEN or a disability at home. The lack of understanding is reflected in some of the recommendations, and their possible impact on families' home educating children with SEN.

- 3.1 Carole Rutherford stressed to Graham Badman during the short telephone meeting, that there must be someone on the panel who had experience in these areas.
- 3.2 Beth Reid, Policy Manager for the National Autistic Society (who was also present during part of the telephone meeting mentioned in 3.1) later suggested Brian Lamb might have the relevant experience.
- 3.3 Graham Badman then invited Beth Reid onto his Expert Reference Group. The Expert Reference Group still had no members with experience in SEN law, home education law, and other disabilities and special educational needs such as Downs Syndrome, Visual Impairment and dyslexia.

TERMS OF REFERENCE

4. One of the terms of reference was "Whether local authorities are providing the right type, level and balance of support to home educating families to ensure that parents are undertaking their duties to provide a suitable full time education to their children". However, the consultation that has resulted from the review is only concerned with registration and monitoring and does not address the balance of power between the LA and the family, nor how an LA can best support a family home educating a child with sen/disability.

- 4.1 There is no compulsion within the recommendations for the LAs to provide any support even though support was wanted by the majority of home educators who completed AiM's questionnaire.

5. The terms of reference also state: "Whether any changes to the current regime for monitoring the standard of home education are needed to support the work of parents, local authorities and other partners in ensuring all children achieve the Every Child Matters outcomes." There is confusion about using the ECM outcomes for individual home educated children. The ECM outcomes framework is used to measure LAs and whether they are providing the right services to enable children being educated in their schools to achieve the five aims of ECM. This cannot be used to measure individual children and, therefore, is of limited, if any, use when dealing with home educated children in this way.

6. Under Review Methodology it states that the review will: Map existing practice and consider the effectiveness of different practice "including identifying best practice in England and elsewhere in monitoring home education from an Every Child Matters perspective". AIM feels that although views on effective best practice were sought, the report was biased in its choice of evidence and was also too quick to dismiss evidence. Evidence from other countries was not examined systematically and thoroughly.

7. The Scope included: "The review will gather views and evidence through a literature review, a review of the law and guidance and a series of interviews with key stakeholders representing the range of interests". The literature review was incomplete and some very good books that could have been very informative were not included. In particular *Home Educating our Autistic Spectrum Disorder Children, Paths are Made by Walking*, by Dowty and Cowlshaw.

- 7.1 The review on law was weak. The report seeks a balance between the rights of a parent and the rights of the child. In fact English law does not give parents a right to home educate, but a duty which is defined by the child's educational needs. If local authorities feel that a child might not be receiving a suitable education, existing law gives them powers to make further enquiries and to act if the parent appears to be failing in their duty.

AIM'S EVIDENCE TO THE REVIEW

8. Carole Rutherford, on behalf of AIM, was interviewed as a stakeholder by Graham Badman. Beth Reid (National Autistic Society) also took part in approximately half of the telephone meeting. However, when the notes were presented to Carole Rutherford by Elizabeth Green there was no mention of Beth Reid being involved in the telephone meeting at all. The notes were not only inaccurate pertaining to certain issues they actually stated the opposite of what was said.

9. Carole Rutherford found that some items in the notes were actually not discussed during the telephone meeting at all, but in a later telephone conversation with Elizabeth Green. In particular, a reference to children with a diagnosis of Autism possibly having a key worker (as outlined in the Autism Exemplar which forms part of the National Service Framework for children), involved with any monitoring of the education

and safeguarding of the children. It appears that the notes from the initial meeting were prepared some time after that meeting and, therefore, may have been based on faulty memory. Ms Green did agree to alter the notes.

- 9.1 It was also stated in the notes that AIM believed that the Tasmanian model of home education could work in the UK. Carole Rutherford had actually stated that she did not see how the Tasmanian Model could work in the UK, completely the opposite viewpoint.
- 9.2 Based on the above points, AIM is concerned that Graham Badman's recommendations might have been influenced by inaccurate and incomplete notes, as well as a lack of understanding of SEN and disability issues. The notes were issued to AIM after the review recommendations were made public and the current consultation was underway.

CONSEQUENCES OF THE REVIEW

10. There has been no Impact Assessment for this review or the resultant consultation. There will be significant costs for the implementation of the recommendations, in particular the training that the LA officers will need to undertake in order to understand the vastly differing forms of education that can take place with regards to children who are disabled or have SEN.

11. The vast majority of recommendations have not been consulted on.

12. The recommendations which refer to SEN are confusing, open to misinterpretation and in some cases irrelevant. Statements are only legally binding within a school, and only pertain to a classroom situation. School Action Plus is initiated from within a school when that school requires additional support for a child with SEN. School Action Plus enables a school to access external support services that will see a child in school and where appropriate and practicable can advise teachers on IEP's, targets and accompanying strategies and provide more specialist assessments that can inform planning and the measurement of a pupil's progress. School Action Plus is not applicable to the home educated child, and shows lack of understanding of the Law surrounding SEN.

13. The resulting Elective Home Education Consultation fails to mention children being home educated with SEN/Disability and any reasonable adjustments they will require in connection with monitoring.

14. Parents are already informing AIM that some Local Authorities are already introducing new policies wrapped around the Graham Badman Review Recommendations but using their own interpretations of them.

CONCLUSION

15. In conclusion AIM feels that the Elective Home education Review was not conducted with the level of expertise, reference to specialist literature and knowledge of SEN law that was required to fully understand SEN and disabilities. AIM is concerned that the consultation resulting from the Badman Review does not include any reference at all to children who are being home educated with a SEN/Disability, and how reasonable adjustments would have to be made for these children regarding monitoring and safeguarding. Ofsted play no part at all in the home education of a child but are being given a pivotal role to play in the future for these children. The Consultation has only paid regard to two parts of the review recommendations: Registration and Monitoring. Lastly AIM's evidence was inaccurately recorded.

RECOMMENDATION FOR ACTION

16. AIM recommends that the Select Committee brings a halt to the consultation and further changes to the law, until a thorough review in a reasonable time scale (we suggest a year) is carried out by a panel with relevant expertise. This review should include, but not be limited to, a review of the conflicting laws surrounding home education and children missing from education, SEN and Disabilities, an impact assessment, and a thorough review of all literature.

September 2009

Memorandum submitted by Education Otherwise

ELECTIVE HOME EDUCATION

1. Education Otherwise is the major home education support charity in England and Wales. It was founded in 1976, and offers support and information to members and to the general public. We provide telephone and internet helpline services, respond to all relevant consultations and engage in dialogue with government.

2. Home education has a long history, with the right to do so being preserved in successive Education Acts. Section 7 of the Education Act 1996 makes each parent of every child responsible for ensuring that their education is efficient, full-time and suitable for their age, ability, aptitude and any special educational needs. Parents are able to choose whether to discharge this duty by regular attendance at school or otherwise.

All parents educate their children even when they also attend at school, home educators simply do so all the time. They may do so for a variety of reasons, preserving healthy democratic plurality. Home educators are to be found in every section of society.

3. Since 2006 home education has fallen under closer scrutiny. In that year the Department for Education and Skills carried out research considering whether light touch changes should be made to the law relating to the monitoring of home education. This concluded that no change was required. Following this, the Department established an in-depth consultation on the law, practice and monitoring of home education to which we contributed detailed representations. This resulted in the issuing of the *Elective Home Education Guidelines for Local Authorities*, which aimed “to clarify the balance between the right of the parent to educate their child at home and the responsibilities of the local authority.”¹ However, they also concluded that no increased monitoring of home education was necessary.

4. In comparison, the present Review was unduly rushed. As the terms of reference make clear, it was to be conducted in four months. It is not clear why such speed was required, particularly as the area is a complex one with a long history. There was no apparent need for immediate change, nor did the report discover one. Mr Badman was engaged, at the same time as this Review, in conducting the second Serious Case Review into the death of Baby P. It is impossible that this did not take a great deal of his time. It would have been inappropriate had it not. However, a four month period would have been too short even for a full time, experienced researcher to conduct work of this magnitude. We estimate that a proper survey of local authorities would, by itself, require two to three months. It was, during the course of the Review, clear that pressures of time prevented Mr Badman from fully engaging with stakeholders, and particularly from attending meetings. It is also, unfortunately, clear that the final Report was not the product of sufficient consideration.

5. The extent to which the Expert Reference Group was involved in the Review’s process is unclear. There were only three meetings, and not all members were able to attend. We have heard that meetings of the Group were organised at very short notice, preventing some members from having an effective input. Their minutes have not been released. One of the meetings is said to have taken place on 26 March. However, the Review team indicated, on 31 March, that there was no agreed remit nor confirmed list of its members. It is curious that a useful meeting was nonetheless possible.

6. The Report fails at every stage accurately to summarise and engage with the evidence of consultees. The views of the entire home educating community, from whom nearly two thousand responses were received, are summarised in two paragraphs, with two quotations purporting to reveal their entire range.² More surprisingly, at no time does the Report mention the views of home educated young people. This is despite nearly two hundred responding to the consultation, our having ensured that the author met with several groups and the Report’s apparent concern for their participation. The Education Division of the Church of England is quoted to reveal their ecumenical concern for young people,³ but without the Report’s disclosing that this is in the context of their overall support for the present system.⁴ Our evidence is acknowledged as being “invaluable” and “detailed”, but its contents are not set out, nor are the merits of our proposals discussed. The author merely notes that some home educators disagreed.⁵

7. A related problem is the Report’s failure to evidence its recommendations. Recommendation 1, the Report’s most significant, is reached without referring to the views of anyone except the author and A.S Neill. The detail of the recommendation is set out without any discussion at all as to its merits. The recommendation that parents should, on registration, provide a clear statement of their educational approach and outcomes is incompatible with the DCSF’s 2007 *Elective Home Education: Guidelines for Local Authorities*, which notes that in the early stages of home education parents’ plans may lack detail and fail to demonstrate that the education would be suitable and efficient.⁶ Whilst the Review may have reached an alternate conclusion, it is puzzling that it did not address the conflict with existing government guidance.

8. Recommendation 2 suffers from the same problems. The author feels able to comment on the necessity of a review of the definitions of “suitable” and “efficient” in relation to education despite not having consulted any legal academics or practitioners, nor having a legal background. The Department for Children, Schools and Families subsequently confirmed that no legal background paper was prepared, rather that:

“Graham Badman read the legislation. He also talked to local authorities and other stakeholders about the actual application of the law in practice and the rights of the child.”⁷

¹ DCSF, *Elective Home Education: Guidelines for Local Authorities*, ministerial foreword

² G. Badman, *Report to the Secretary of State on the Review of Elective Home Education in England* (hereafter “Report”) §4.3–4.4

³ Report §4.8

⁴ The Church’s response is available at <http://www.cofe.anglican.org/info/education/electivehomeedu.rtf>

⁵ Report §4.9

⁶ See note 1, §3.11

⁷ Available online at http://www.whatdotheyknow.com/request/badman_review_of_existing_legisl

The effect of this is that discussions of relatively complex legal areas are conducted without full information. The author does not appear to recognise the distinction in status between the European Convention on Human Rights (ECHR) and the United Nations Convention on the Rights of the Child (UNCRC), and discussions of case law are at best partial and superficial, as with Article 2 of the First Protocol to the ECHR,⁸ or entirely mistaken. The latter is clear in his discussion of autonomous education,⁹ where a quotation is mis-attributed and applied entirely outside its context. His assertion that “‘suitable’ education [is] not defined in law”¹⁰ is simply wrong, as s436A(3) (previously s437(8)) of the Education Act 1996 does define the term.

9. Despite its being tasked with considering the effectiveness of different practices, particularly in relation to monitoring, the Report concludes that the present approach “may or may not be sufficient”.¹¹ This failure to make a finding should cause the author to consider the evidence submitted to him which may reveal an answer. Instead he continues by a series of rhetorical questions, concluding with an apparently unsupported assertion of his belief. At no time are any other views, or indeed is any evidence, referred to.

10. Similarly, despite the terms of reference making clear that a literature review would be conducted, no such exercise was undertaken. The Report refers to two studies¹² and mistakenly refers to a guide for home educators as constituting further research although it contains no new findings.¹³ The author expresses his doubts about the merit of existing research, although without mentioning quite which research is affected. This criticism is unconvincing, as any sample group in research of this nature would be self-selecting to some extent and many of the samples involved were large and diverse. This research is helpfully summarised in a research survey for the Cambridge Primary Review,¹⁴ which does not appear to share the Report’s concerns. That the Report does not discuss this is surprising, especially as the lead author was Professor Conroy, a member of the Expert Reference Group.

11. There appears to be some attempt to frame discussion in this area in terms of a contest between the rights of parents and children. This is the only way to understand the somewhat curious choice of quotation which prefaces the report. However, this debate never fully makes its way into the text. It is, only implicitly, dispatched within two paragraphs, which also purport to deal with the definition of “efficient” and “suitable”. Having identified Articles 12 and 29 of the UNCRC and Article 2 of Protocol 1 to the ECHR, and having mistaken the duty in s7 of the Education Act 1996 for plural parental “rights”, the Review concludes that the rights of parents are equally matched by the rights of the child. It does this without ever fully articulating which rights are at stake, their relative weights, and why a presumption that they are in conflict is correct. This debate is important, but the Review fails to engage in it.

12. The Review’s discussion of safeguarding is inadequate. We would respectfully draw the Committee’s attention to the opinion of Professor Eileen Munro (at Annex A). We adopt her views entirely, and will not repeat them here. The number of local authorities who provided information about child protection concerns is small: 25. Further, one would expect those who volunteered the information by completing a lengthy questionnaire to be those with the greatest concerns, and so not constitute a representative sample from which one could generalise. The Review fails to set out the evidence which has been supplied, and concludes that the number of young people at risk “may well be exaggerated”.¹⁵ Despite this, it goes on to assert a “potential additional risk” to young people, without providing any supporting evidence. It is our experience that some local authorities habitually believe cases involving home education to raise issues of child protection, irrespective of the facts of the individual case, and so a higher number of investigations would be inevitable. However, the Review does not consider this, nor focus on the number of cases where suspicion proves to be justified.

13. The paucity of evidence in this area has, in effect, been conceded by the Review team. The DCSF local authority weekly email sent on 17 September¹⁶ requests further data from authorities, saying that the Review only heard from a small sample, and there is a desire to provide “more statistically rigorous information to the Select Committee”. Despite this, it is said that there is persuasive evidence for change. In our submission this is clear policy-based evidence making: the Review has reached its conclusions, but is only now attempting to substantiate them. Even were such evidence now to be forthcoming it cannot rescue the failure of the Review to meet its terms of reference. We are also concerned that the closeness of this request to the Committee’s deadline for evidence places those making submissions in a position where they do not know what further evidence may be presented to the Committee by the Review team, making proper investigation and challenge difficult.

⁸ Report §3.9

⁹ Report §10.1

¹⁰ Report §3.5

¹¹ Report §3.7

¹² Report §4.4

¹³ Report §5.5

¹⁴ J. Conroy, M. Hulme and I. Menter, *Research Survey 3/3: Primary Curriculum Futures*. Cambridge, The Primary Review, ISBN: 978-1-906478-19-3

¹⁵ Report Recommendation 21

¹⁶ Available online at <http://www.dcsf.gov.uk/everychildmatters/news-and-communications/la-weekly-email/laemail17september09/#ms883>

14. The Review, again, fails to consider whether present powers, particularly those contained in s47 of the Children Act 1989 are sufficient. In the case of Khyra Ishaq they would have been, but for the unfortunate conduct of the social workers involved. At the trial of Khyra Ishaq's parents, the deputy head of her former primary school gave evidence that staff had been concerned for some time about the weight loss and apparent hunger of Khyra and her brother. When Khyra was de-registered from school, the deputy head phoned social services three times in 24 hours to express concerns about Khyra's safety. Social workers visited the family home, but they were denied admission and appear not to have taken any further action. Given the professional status of the complainant, this outcome is astonishing. We are puzzled by the Review's assertion that further powers of inspection are necessary when those already available are disregarded despite clear grounds for concern.

15. The recommendation that children's progress be demonstrated through "exhibition" or other means is misconceived. It is arrived at without discussion, and we would suggest that the antiquated and inappropriate terminology employed suggests that it has not been fully considered. The views of young people have again not been taken into account, and we are aware that very many would not wish to see a local authority officer. The apparent presumption of meeting is at odds with the 2007 Guidelines,¹⁷ which make clear that local authorities should be open to receiving information in a wide range of formats. Again, the Review may have reached an alternate conclusion, but it is dismaying that there is no discussion to assist the reader.

16. Access to the family home seems to have been recommended as a by-blow of the above. The Review does not properly articulate the reasons that a meeting with the family is essential. It then fails to consider whether, if this is so, a meeting in an alternate setting would be sufficient. We are especially concerned for those young people who suffered bullying at school, and for whom the home is a valuable sanctuary which should not be impinged upon. Entry to the family home is a draconian power, normally only granted where there is reasonable suspicion that a criminal offence has been committed. It is entirely disproportionate in this situation, particularly as local authorities may already require entry if they consider that a young person is at risk of suffering significant harm. That the author felt able to arrive at such a recommendation without meaningful discussion is surprising.

17. There has been a lack of transparency over Graham Badman's appointment. The Department will not say whether other people were considered for the post. Mr Badman had no experience of conducting reviews, and no academic or research background. Although his professional background is in education, and he has, long ago, worked as a home education inspector, he does not appear to have come into sustained contact with alternate methods of educational provision. It appears from the Report that he has failed to understand the pedagogic theory of autonomous education, and so does not consider it when making recommendations about the demonstration of outcomes. Mr Badman also has no previous experience of child protection. Although he was Director of Children's Services in Kent, he was only in that position for eighteen months, with no prior experience. In addition, Kent employs a system of deputy directors which would have reduced his exposure to the area.

18. In our submission Graham Badman was an ill-advised choice to lead the Review. He lacked expertise in alternate methods of educational provision and in child protection. The Review failed to meet its terms of reference due, at least in part, to its rushed conduct; defective use of evidence; not engaging properly with consultees, particularly young people; failure properly to review the legal or research context to home education; and its apparent attempt to set up a conflict of interest between home educating parents and young people. Its recommendations, particularly those on safeguarding, "exhibition" of young people and entry to the family home are ill-conceived and disappointing.

19. We have been asked to give oral evidence to the Committee, and welcome the opportunity. In the meantime, if we can assist the Committee in any way, please do not hesitate to contact us. We are currently conducting research with each Local Authority, and hope to be able to provide the Committee with a report of our findings as soon as they are available.

September 2009

Annex A

COMMENTS OF PROFESSOR EILEEN MUNRO

A1 A pervasive problem in the section on safeguarding (pp28–34) is that the author wanders between talking of safeguarding and child protection without keeping a clear distinction between them. Safeguarding children relates to ensuring that all children fulfil their potential and covers all aspects of their welfare, including their education. Child protection refers to the specific problem of children suffering, or at risk of suffering, significant harm from abuse or neglect, usually at the hands of their carers. This means that all the recommendations have some plausibility in relation to child protection concerns but are phrased in terms of safeguarding where they seem poorly thought through and overly intrusive.

A2 One result of this muddled thinking is that it fails to consider what current good practice already achieves in child protection. Recommendation 24, for example, wants LAs to be able to deny home education for safeguarding reasons. This seems unjustifiable. This could exclude all low income families

¹⁷ See note 1, §3.14

since poverty is the single biggest factor harming children's development. Nor would it be clear how attendance at a school would counteract the harmful factors. However, if this recommendation were re-phrased in terms of child protection then current good practice would already be active in dealing with this. A child on the CP register, for instance, would have the move to home education scrutinised and, if it raised concern, either the parents would be strongly advised against it or legal powers would be sought to either prevent or supervise such a move.

A3 Recommendation 23 would lead to considerable intrusion into the privacy of family members and is poorly thought through. When recommending new data sharing, one needs to consider the signal to noise ratio—how much of this data will add value to the practice of the receiver in safeguarding children and how much will be irrelevant but causing problems through taking up time that could be better spent. The author does not appear to have made any estimation of such statistics but my suspicion is that it would lead to considerably more noise than signal and, in fact, create risk of harm by obscuring the few “signals” (of true concern) among a storm of noise (irrelevant data).

A4 Recommendation 22 that those monitoring home education should have some knowledge of child maltreatment and the child protection system is sensible and I am shocked that it is not already the case. Basic knowledge is necessary although the staff might then refer on to a more experienced colleague.

A5 Overall, I think this report confuses two overlapping agendas—to promote the welfare of children and protect them from maltreatment. It also overlooks or underestimates two current sources of safety for children: the current child protection system and the importance of community support and monitoring of home education.

Memorandum submitted by the Home Education Advisory Service

1. The constitution of the review team
 - The range of expertise does not equip the members of the review team and the expert reference group to make informed assessments of home education in the time allowed for the review
2. The scope of the terms of reference of the review
 - The terms of reference do not allow for a balanced consideration of both local authority concerns and home educators' concerns
3. The nature of the consultation documents
 - The DCSF press notice: *Morgan: action to ensure children's education & welfare: an oversimplification of the law*
 - The public call for evidence versus the questionnaire for local authorities: inequalities and ill-considered questions
 - The second questionnaire for local authorities: improper methodology
 - Graham Badman's call for more information to strengthen his statistical evidence three months after his recommendations have been accepted by the Secretary of State
4. Comments on the review recommendations

1. THE CONSTITUTION OF THE REVIEW TEAM

1.1 A study of the biographies of the ten members of the expert reference group shows that the professional knowledge of the members is strongly biased towards children's services, early years and child development, disaffected, vulnerable and disadvantaged children, inclusion and safeguarding. Third sector involvement does not include any input from the home education charities. It is clear that this collective expertise, without a corresponding in-depth knowledge of home education, would render the members of the reference group incapable of making balanced judgements. The pressures upon these busy people would have made it impossible for them to reach a proper understanding of the complex phenomenon of home education in three months. In particular it was a disappointment to HEAS that Dr Alan Thomas, the country's leading expert on home education, was not invited to take part. Dr Thomas has studied home education intensively for over thirty years and he has undertaken detailed and rigorous research in Australia as well as in the UK.

1.2 The review may be independent in that it is not a civil service review but Graham Badman's professional background in education and public service militates against an objective assessment of home education.

2. THE SCOPE OF THE TERMS OF REFERENCE OF THE REVIEW

2.1 The terms of reference are limited in scope because they are framed from the perspective of the local authorities; further, they reveal certain fundamental assumptions that have influenced the findings of the review.

The review of home education will investigate:

The barriers to local authorities and other public agencies in carrying out their responsibilities for safeguarding home educated children and advise on improvements to ensure that the five Every Child Matters outcomes are being met for home educated children;

2.2 This presupposes the existence of “barriers” and makes the assumption that advice on “improvements” is needed. These statements, made before evidence was gathered, indicate that the conclusions were predetermined. The review report relies heavily on rhetoric, opinion and hearsay (for example, see the quotation from the submission made by the NSPCC, which has since apologised to home educators for its unsubstantiated claims).

The extent to which claims of home education could be used as a “cover” for child abuse such as neglect, forced marriage, sexual exploitation or domestic servitude and advise on measures to prevent this;

2.3 If the review really represented an unbiased investigation undertaken to ascertain the facts, why do the terms of reference set out to advise on preventative measures before the problems have been shown to exist?

Whether local authorities are providing the right type, level and balance of support to home educating families to ensure they are undertaking their duties to provide a suitable full-time education to their children;

2.4 This statement presupposes that families receive support from the local authority at present, but education law has never given them any such duty. Similarly local authorities do not provide support for parents who send their children to independent schools.

Whether any changes to the current regime for monitoring the standard of home education are needed to support the work of parents, local authorities and other partners in ensuring all children achieve the Every Child Matters outcomes.

2.5 Many HEAS subscribers have expressed anger and alarm at the assumption that there is some kind of partnership between parents, local authorities and “other partners”. The law gives parents full responsibility for the education, welfare and upbringing of their own children; the public authorities have a secondary role in the capacity of public servants in all but a small number of special cases.

3. THE NATURE OF THE CONSULTATION DOCUMENTS

The DCSF press notice: Morgan: action to ensure children’s education & welfare (2009/013)

3.1 Section 436A of the Education and Inspections Act 2006 is misquoted by saying that statutory guidance “makes clear that local authorities have a duty to make arrangements to enable them to establish that every school-age child is receiving a suitable education, ...” (italics ours). Section 436A actually says that the local authority must make arrangements “to enable them to establish (so far as it is possible to do so) the identities of children in their area” of school age who are not receiving suitable education. HEAS deplores such dangerously imprecise statements which by constant repetition in the media will have a powerful effect upon public expectations.

3.2 Baroness Morgan is quoted as saying: “Making sure that children are safe, well and receive a good education is our most serious responsibility”. Many home educators have asked HEAS to reaffirm that the responsibility for children’s safety and education belongs to *parents* and not to the Government.

3.3 The last paragraph contains the claim that *local authorities* are “charged with ensuring that all children are safe, well and receiving an education that is both enjoyable and allows for the expression of all aptitudes and abilities”. This duty belongs to the parents, not to the local authority, and home educators have reacted with anger and dismay at this theft of their natural duty.

3.4 HEAS objects strongly to the distortion of the legal position in the DCSF’s press notice. Removing the all-important qualifying statements places enormous pressure upon the local authorities particularly with regard to safeguarding. These unreasonable expectations are perpetuated throughout the Badman review report and recommendations. In turn, pressure upon the local authorities will cause them to make unjustified demands upon home educating families. Professor David Hoyle makes exactly the same observation in his critique of the development of the Every Child Matters agenda as a practical strategy (see Hoyle, David (2008) “Problematizing Every Child Matters”, *the encyclopaedia of informal education*); HEAS can report that during the past six months there has been a significant increase in the number of calls from home educators who have been referred to social services simply for electing to educate their children at home.

The public call for evidence versus the questionnaire for local authorities

3.5 On meeting the review team HEAS representatives said that there had been many investigations into home education in recent years and asked why this review had been deemed necessary. Graham Badman explained that during recent consultations the Secretary of State had been beset on one hand by local authorities and other organisations calling for more powers and on the other by passionate arguments from home educators against the procedures of some local authorities. The review was represented to HEAS as an exercise in evaluating the evidence for these opposing points of view but it is heavily biased towards the local authority viewpoint.

3.6 The public call for evidence consisted of a derisory and ill-considered six-question document that was only available online. Home educators were rightly offended when they were asked if their children were able to achieve the five Every Child Matters outcomes. No question was asked about families' experiences of local authorities. Further, a very short response time was given and the online questionnaire was not widely advertised; by contrast, the review team wrote personally to every local authority in England asking for their responses via a detailed 60-question questionnaire.

HEAS was concerned about the fact that families who did not have internet access would be excluded. In a Parliamentary Question on 23 February 2009 (Hansard 23 Feb 2009: Column 455W), Damian Green MP asked the Secretary of State for Children, Schools and Families "what steps he has taken to ensure that people who do not have access to the internet are able to respond to his Department's consultation on home educators". In reply Jim Knight MP stated that "Evidence can be supplied to the review team using an online form, through email or by writing to the review team". HEAS asked for the address for written replies and circulated the questionnaire to all HEAS subscribers. Despite Mr Knight's assurance the review team then retracted the offer of receiving written responses on the grounds that it might be unfair to other groups and individuals who had not been included. Around 100 families replied to HEAS' mailing but their views were not counted with the online responses.

3.7 The questionnaire for local authorities consisted of 20 questions about data and tracking, 3 about supporting families, and 28 about assessment and monitoring. The questions on data and tracking included some which asked about total numbers of children not registered with the local authority. These questions invite local authorities to guess how many children were not registered with them when it is obvious to anyone that such "information" is worthless. Question 26 invites the local authority to choose between the following: "yes, we are confident we know about all home educated children in the area/We think we know about the vast majority of home educated children in the area/We probably do not know about a fair number of home educated children in the area/We probably do not know about a significant proportion of home educated children in the area". It is difficult to believe that significant sums of public money were spent in asking these questions, answering them and collating the replies; this is simply "think of a number".

3.8 The questions on assessment and monitoring have expectations of initial assessment visits, regular monitoring visits, sight of the child (and "further action" if the child is not seen) and systems to track children's educational progress. Information is sought regarding how many children are receiving "suitable, full time (20 hours a week) education". None of these presuppositions has any basis in education law and the DCSF document *Elective Home Education: Guidelines for Local Authorities* (DCSF, 2007) confirms that families are not required to provide this information. It is unacceptable for evidence to be gathered—upon which the review recommendations are based—by means of questions about procedures that are not currently required by law.

The second questionnaire for local authorities

3.9 This document was sent to the 90 local authorities who returned the initial questionnaire and 25 local authorities responded to it. The findings of this second survey form a large part of Mr Badman's justification for his registration and monitoring recommendations; by means of a highly improper extrapolation from this very small number of local authority responses he decides that 6.75% of home educated children are known to social care in some capacity. This methodology is fundamentally unsound and it calls into question the integrity of the entire review.

3.10 Mr Badman observes that "the number of children known to children's social care in some local authorities is disproportionately high relative to the size of their home educating population". He omits to say how many local authorities fall into this category; further, this assertion is worthless unless further information is provided about the profile of the areas concerned.

3.11 HEAS considers that if a mere 20 out of the 150 local authorities were the only ones to be troubled enough to submit further evidence this indicates that home educators do not cause much concern in the great majority of local authority areas. Further, it would be improper to draw conclusions from the proportion of home educated children known to social care in the 25 local authorities without researching two related issues: first, what proportion of children in the *school* population in each area is known to children's social care? Second, how carefully is the distinction drawn in each area between *bona fide* home educators and non-educators who are already well known to the Education Welfare Service for failing to ensure that their children attend school regularly? It has been a matter of concern to HEAS for many years that some local authorities do not make a clear distinction between these two groups of families.

3.12 HEAS notes that although local authorities were asked by the review team for anonymised case studies and specific details of their concerns about families, the home education organisations were not asked to provide corresponding evidence of their concerns about the procedures of local authorities. The organisations were, however, asked by the review team on several occasions to provide details of good practice amongst local authorities.

3.13 HEAS representatives have been advising families for the past 15 years; there have been many cases where local authorities have treated families unfairly through lack of awareness of the legal position. Some local authorities adopt draconian policies which cause a great deal of distress to families. Sometimes these problems cause a dramatic drop in the number of home educating families known to HEAS and Education Otherwise in these areas, and localised problems of this kind may often be attributed to the influence of a particular officer.

3.14 Unfortunately some local authority staff do make ill-informed and subjective judgements about families' arrangements; sometimes local authorities will not be persuaded that school criteria do not apply to education at home. It is manifestly unjust that the Badman review failed to make any inquiry into the issue. Paragraph 5.1 of Mr Badman's review report is a clear demonstration of his personal bias. It is certain that Mr Badman's "evidence base" (letter to the Directors of Children's Services dated 17 September 2009) which shows "a small but significant proportion of home educated children are receiving no, or an inadequate, education" will include a number of cases where inadequately-trained local authority officers have failed to make a proper assessment of the home education provision.

Graham Badman's call for more information to strengthen his statistical evidence three months after his recommendations have been accepted by the Secretary of State

3.15 HEAS was astonished to learn of Mr Badman's attempt to improve the quality of the evidence upon which his recommendations were based after they have been accepted and included in draft legislation. We hope that he will be seeking to provide breadth and balance in his evidence by enquiring about the experiences of families who have been unjustly treated by their local authorities.

3.16 Mr Badman is also seeking more information to justify his claim that large numbers of home educated children are not in education, employment or training (Neet). He has appealed for comparative figures for home educated young people and for all 2008 leavers from the local authorities' input to the Connexions annual survey but this information is likely to be misleading. HEAS' information about local authority involvement with young people in the last year of compulsory education has shown that pressure on resources means that very many are not followed up at this stage. Our own information from our membership indicates that it is rare to find a home educated person who is Neet.

4. COMMENTS ON THE REVIEW RECOMMENDATIONS

4.1 Mr Badman is disingenuous in his claim that most of his recommendations have not been challenged because the evidence base for them is sound. The DCSF consultation provides a mechanism for challenging the four "urgent" recommendations concerning compulsory registration and monitoring only (numbers 1, 17, 23 and 24) but HEAS, along with many other home educators, finds that the remaining recommendations are mostly irrelevant and of negligible benefit.

4.2 Mr Badman's highly selective evaluation of the UN Convention of the Rights of the Child, European legislation and education law imposes a crude and totally fictitious polarity between the parents' rights and the child's rights. Legal opinion obtained by HEAS indicates that the registration and monitoring proposals are unsound.

4.3 What would be achieved by making registration compulsory? How would children be kept safe by means of an annual visit from a local authority official? Registration and monitoring will have no benefits for vulnerable children because their identities are already known.

4.4 There is no evidence for the assertion that there are thousands of children who are unknown to the local authorities or to the home education networks. The hypothetical risk that unknown children may suffer harm is outweighed by the real suffering inflicted upon children by local authority staff who do not understand home education; many of these could be forced back into school without due cause.

4.5 LA monitoring staff would be held to account if abuse of a home educated child were to go unnoticed: fear of the consequences would result in a great number of false positives which would traumatise decent families and take attention and resources away from children who are genuinely at risk.

4.6 A study of the financial implications of the review's recommendations commissioned by HEAS has revealed a minimum cost estimate of the need for a £60–£150 million increase in the state education budget. Only 8% of this figure would be attributable to the proposals for support for home educators. A worst case scenario could result in costs of up to £500 million annually if the proposals were to lead to the virtual extinction of the home educating population, if this should amount to approximately 45,000 children.

4.7 HEAS calls for this hasty and ill-considered review and its recommendations to be abandoned; there is insufficient evidence to justify its recommendations and they represent a massive expenditure of public money that will achieve nothing of any significance.

September 2009

Memorandum submitted by the Home Education Centre

SUMMARY

- Local authorities (LAs) need to learn about the culture of EHE and work to develop partnerships with their local home educating communities.
- The EHE community has been the subject of too many consultations and inquiries in the last five years.
- The current review and consultations have been conducted in an irregular manner, on the foundation of allegations, leading to changes in legislation being drafted before the process is concluded.
- The current laws and guidelines concerning EHE are adequate and none of the recommendations in the review are necessary.

THE HOME EDUCATION CENTRE: <http://www.homeeducationcentre.org.uk>

1.1 The group is based in Chard, Somerset. It is a voluntary group, developed and run by home-educating parents. It is a learning centre and meeting place for families from a diverse range of social and cultural backgrounds to share skills, advice and support. We have contact with and share ideas with other home education groups in the South West. The Home Education Centre also works on developing relationships with the local authorities and colleges, so that they may better understand and support the home education community.

1.2 The Home Education Centre has been running since 2004 steadily growing in numbers of members and working to improve the already supportive relationship with Somerset Local Authority.

1.3 The home education community in Somerset has, until recently been supported as a distinct group under the Equalities and Diversity department using the current Elective Home Education guidelines for LAs.

1.4 By the LA approaching us to establish how the home-educating community functions and what support and advice was needed, the Home Education Centre has been able to work with the local authority and a local sixth form college to establish an exam centre for HE students across the region. Somerset County Council have agreed to cover the cost of sitting exams, assessment and support for children with additional needs, for registered Somerset families. This is the first collaboration of its kind in the UK.

1.5 Somerset County Council awarded the Home Education Centre a £10,000 grant for equipment to cover the learning requirements of children aged between 0–16 years old. The centre co-wrote the contract, chose and purchased the equipment. This was the first of its kind in the UK.

1.6 Somerset County Council have recently asked the Home Education Centre to provide the copy for a leaflet about home-education that is to be rolled out to all Children's services, the Police, Primary Care Trusts and the Department of Social Security within the county. This leaflet will be a joint venture.

1.7 Somerset LA recently shared a report with Essex County Council regarding Somerset's working relationship with the Home Education Centre. The Team Leader of EHE at Gloucestershire County Council has also requested a visit to see and discuss how we established such a positive relationship. In addition various other home education groups have visited us to see how they might develop their groups' provisions and relationships with Local Authorities and educational establishments.

THE INTRODUCTION OF THE REVIEW INTO ELECTIVE HOME EDUCATION.

2.1 The review was publicised in a highly contentious manner, with unsubstantiated allegations made through the misguided introduction to the review by Baroness Morgan to the national press: http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn_id=2009_0013

CODE OF PRACTICE ON CONSULTATION, HM GOVERNMENT, JULY 2008

3.1 Introducing the review into home education in this manner calls into question whether "the Government is ready to put sufficient information into the public domain to enable an effective and informed dialogue on the issues being consulted on", (Paragraph 1.2, p.7, *When to Consult*). As key stakeholders in the consultation, it should be imperative to encourage a broad and reasoned response, not a limited one from a point of defence.

3.2 It should be noted that we were only given four weeks to respond to the review as opposed to the recommended minimum of 12 weeks (Paragraph 2.1, p.8, *Duration of Consultation exercises*). There was little or any prior notice that it was going to happen.

3.3 It was also difficult in such a limited time span to consult with and support our members, as despite the recommendations for consultations to be “free of jargon” (Paragraph 4.2, p.10, *Accessibility of Consultation*), the language of the five outcomes from the Every Child Matters document was applied. The language of the five outcomes is not commonly used in the majority of domestic environments and in this context is jargon and open to wide interpretation.

3.4 The Government has had many responses to a large number of previous consultations from the EHE community over the last five years.

3.5 The DfES consulted on a draft Home Education Guidelines for Local Authorities in 2004. The guidelines were shelved and in December 2006 the DfES told Education Otherwise that they were going to introduce “Light Touch Changes to Monitoring”. In May 2007 the DfES returned to it’s original plan and re-issued the 2005 Draft Guidelines to full public consultation. The revised guidelines incorporating references to the Children’s Act 2004 and The Education and Inspection Act 2006 were finally published in November 2007.

3.6 How many ways can the Government ask for the same information in a different context in the hope they get the answers they want? “While interested parties may welcome the opportunity to contribute their views or evidence, they will not welcome being asked the same questions time and time again” (Paragraph 5.1, p.11, *Burden of Consultation*). Regarding this point hadn’t “the Government previously obtained relevant information from the same audience” and shouldn’t “consideration be given as to whether this information could be re-used to inform the policymaking process?”

3.7 In January 2009 the Revised statutory guidance for Local Authorities in England to Identify Children not Receiving a Suitable Education was introduced. In February 2009 the Review into Home Education was announced. Surely our responses will influence the statutory guidance along with the home-educating community’s responses to the consultation regarding these guidelines. Why then are we essentially being reviewed again? Is there any point in consulting us if everything is already settled? (Paragraph 1.2, p.7, *When to Consult*).

3.8 “Consultation makes preliminary analysis available for public scrutiny and allows additional evidence to be sought from a range of interested parties so as to inform the development of the policy or its implementation”, (Paragraph 1.1, p.7, *When to Consult*). As the community is currently responding to the Consultation on *Home Education—registration and monitoring proposals*, the results of which are not due until January 2010, we do not feel it is appropriate to include “improving monitoring arrangements for children educated at home” in the Draft Legislative Programme for 2010 in the Improving Schools and Safeguarding Children Bill.

THE RECOMMENDATIONS MADE BY THE REVIEW ON ELECTIVE HOME EDUCATION

4.1 The many recommendations made in the review cannot all be discussed in detail in such a small report as this. We will consider the main points raised by Mr Badman as those requiring immediate action: Recommendations 1, 7, 23 & 24. These focus on the issues of registration, monitoring, home visits and safeguarding. The few recommendations that offered support such as improved exam access, were not considered a priority in Mr Badman’s report and only the issues highlighted below, which our EHE community do not want or need, were prioritised.

REGISTRATION & SAFEGUARDING

5.1 Why would the Government seek to force a minority group to register with the authorities on the basis of mistrust through unsubstantiated concerns. Compulsion to register starts any relationship with the LA on an uneven footing as EHE parents are forced to co-operate. EHE families are less likely to be forthcoming with anything other than the minimum requirements of contact under these conditions and any partnerships that exist between LAs and home educators, such as in Somerset will be eroded.

5.2 In recommendation 24, Mr Badman suggests giving powers to LAs to revoke or refuse registration on safeguarding grounds. This permits laws that reverse the assumption of innocence. This is seriously in conflict with the basis of English law. Mr Badman has not provided any evidence that reasons exist to make such changes to the law. New laws that could result in prosecution need appropriately strong counterbalancing measures to prevent abuse of these exceptional powers by officials.

5.3 If there are serious safeguarding issues and therefore the parents are not to be trusted with their child, it makes no difference where the education is taking place. If there are serious safeguarding issues the child is just as likely to suffer abuse even if they attend school. When LAs become aware of safeguarding issues in any setting, there are procedures and powers in place for them to take action and instigate care proceedings.

5.4 A common question is, “but how do we know if there are safeguarding issues?” EHE children are not hidden away. If the child has been de-registered from school, then the LA are automatically informed; the child is known. The UK spends around £16 billion a year on databases, children are registered at birth, see health visitors, doctors, dentists, are on NHS files, are registered for child benefit purposes and listed on

ContactPoint. They attend a variety of external clubs, all of which have Safeguarding Children policies. They visit libraries, attend home education groups and spend time in the community with parents doing everyday things. Children that have never been to school or move to a different county are known.

5.5 The “disproportionate” number of children known to social services, highlighted by Mr Badman in Recommendation 21, may well be receiving support for reasons other than home-education. It is an assumption to make the claim that the numbers of children are “disproportionate” when the total numbers of EHE children are not yet known. In some areas LAs and schools are encouraging parents to de-register their child to avoid exclusion. Also, as a result of the ineffective implementation of the policy of inclusion and the closure of some Special Schools, many children who are disabled or receiving support from specialist services are increasingly opting to home-educate. Again these families are often previously known to Social Services for reasons other than safeguarding concerns. There are also many EHE families that have ended up on Children’s Social Care files for the sole reason that they have been “reported” by neighbours who are not aware that EHE is legal.

5.6 If LAs are given the power to refuse or revoke what is essentially a license to home educate, then this implies that it is the state who has the power to register children for their choice of education and not the parents. This would be in direct conflict with Section 7 of the Education Act 1996, The National Children’s plan which clearly states it is “Parents not Government that bring up children” and with the United Nations Convention on the Rights of the Child (UNCRC) namely Article 18(1), which states that “1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.” Parents/legal guardians are responsible for their children and have the duty and the right to determine the efficiency and suitability of their chosen educational provision for their children, within the context of the community that they live in. This may be significantly different to the States current idea of how education is delivered.

5.7 If LAs are given the power to decide whether a family can register as EHE, they will have to ensure they ask everyone the same questions to avoid accusations of discrimination, this in itself will result in a form of standardisation. If the family’s right to choose their education style is to be preserved, there can be no standard form to assess whether a family can register as EHE. If families are forced to conform in the same way that schools do to meet Ofsted requirements, then the UK will lose its last true free-thinkers. As Mark Field MP (Con) said in Westminster on 9 June 2009 “The ability to be free from an all-knowing, all-seeing state’s ideas of education, welfare and standards forms the fundamental appeal for many of those who choose home education for their children. Any attempt to alter what is very much a matter of balance would undermine the entire ethos of education.” It is widely recognised that home educators are a very diverse group with regards the style that their educational provision takes.

5.8 It is suggested that as part of the registration process the parents need to submit a 12 month plan for the education. During home-education and especially in the first year of home-education, families may frequently re-evaluate their approach to education in order to find a style that best supports their individual children’s learning style. In fact good practice suggests that re-evaluation should take place throughout the child’s education. If parents feel they must adhere to the model they first suggest, they could well impair the child’s learning for the sake of conformity and fear of the authority of the LA officer. Insisting on a plan also completely dismisses home educators that choose the autonomous route.

MONITORING AND VISITS

6.1 The problem with needing to “see” home-educated children is that monitoring the educational provision and safeguarding issues have got mixed together. LAs cannot simply presume that just because a family is EHE that there are going to be safeguarding issues. If the LA feels it needs to “see” the child to monitor the educational provision, home visits are not a sensible or cost effective way doing this, nor do they respect the child’s right to privacy.

UNCRC Article 16 states that:

1. *No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.*
2. *The child has the right to the protection of the law against such interference or attacks.*

6.2 Mr Badman proposes to make such interference lawful. He has not shown that the interference is not arbitrary. The fact is that all information that the Local Authorities might reasonably require about the education and safeguarding of children can be obtained in far less intrusive ways than those being proposed by Mr Badman. That means that his proposed home visits and interviews are arbitrary in every sense of the word. A child has a right to feel safe in their home.

6.3 It has been further suggested that in some cases the child should be seen on their own. Regarding good practice in safeguarding children, it is completely inappropriate to allow a stranger to interview a child on their own. The LA officer will be a stranger both to the parents and especially the child. It could also put the LA officer at greater risk of accusation of inappropriate behaviour. Children will not divulge sensitive information to a stranger. A true picture may well not be apparent in a short visit, the local authority will

not achieve what it sets out to establish. When working with children considered “at risk”, it is well accepted that it takes children a long period of time, with regular contact, to develop an attachment or establish a level of trust in any adult.

6.4 Out of 153 Local authorities only three have been identified as demonstrating good practice with regards EHE. All over the country (including a number of Devon and Dorset families who attend the Home Education Centre) home-educators often experience discrimination and are treated unfairly at the hands of untrained professionals. Mr Badman proposes that all EHE children are “visited” and “monitored” in their main educational setting. There already exists a lack of professionals trained in EHE to support the current voluntarily registered home-educators. If all children are to be visited, then large amounts of time and money should be invested in training. Information would then have to be fed down to all the children’s support services. Training to reduce discriminatory views would be a necessity. It would have to involve immersing LA officers in the home-educating community. It could not, and should not, be taken in isolation in conference centres on “Training Days” where case studies based on manufactured criteria are studied. Spending large sums of tax payers money for a “service” that is not wanted by that home-education community would not be well supported by the wider population.

6.5 Assuming that the main educational setting is the home, this calls into question whether the family’s right to privacy is deemed void once they decide to EHE. How parents choose to educate their child should not mean that they have to give up rights that are afforded to others. Home educators have not committed a crime and must surely be presumed innocent of any wrongdoing, unless evidence proves otherwise. The recommendations in this report give LA officers more powers than the police force and challenge our country’s very basis in law and well established procedures of due process that protect people’s civil liberties and rights. Currently the police cannot randomly (or with two weeks notice) enter somebody’s home on the premise that they fall into a demographic group mostly likely to be committing an offence.

OUR CONCLUSION & SOLUTIONS

7.1 In 1.4 of the review, Mr Badman says “...I also recognise that despite the excellent practice of some, there are local authorities who do not discharge their responsibilities properly, make effective use of current statutory powers or use the ingenuity referenced in the good practice illustrated later in this report. Good relationships and mutual respect are at the heart of the engagement of local authorities with home-educating parents...”

7.2 The three models of good practice highlighted in the review demonstrate that indeed the present laws and guidelines for EHE are adequate and do not need any changes, not even “light touches”. If tax payers money is to be spent on EHE, then it needs to be spent on training LAs to better understand EHE and the already adequate statutory powers that they have at their disposal. We would suggest that these models be used as a basis for training for other LAs and support networks. The sweeping recommendations put forward by Mr Badman are wholly disproportionate to any evidence for change given and would shift the balance of power between civil liberties and state intervention. They would completely undermine the current “partnerships” between EHE communities and LAs and make them unworkable.

7.3 From the outset Somerset County Council’s approach differed greatly from other local authorities in our region. They took time to understand the culture of home education and the reasons many families take this route. They have a good understanding that home-educated children and families being monitored and assessed using a current mainstream educational approach is inappropriate. <http://www.six.somerset.gov.uk/equalities/v.asp?level2id=5866&rootid=5866&depth=1>

7.4 Home-education is not just an alternative to state schooling or independent schooling. Educating our children does not occur merely during office hours, it becomes a lifestyle. Hence, the individual approach developed by each family. Introducing regulation in the manner Mr Badman suggests, will have a profound effect on the current breadth of philosophies adopted by families.

September 2009

Memorandum submitted by Simon Webb

- I am a home educating parent who has educated his daughter since birth
- For some years I have thought that more oversight is needed for home education
- Graham Badman’s review was very fair and open minded
- The recommendations of the Badman review are sensible and balanced

1. As a home educating parent myself, I have long had doubts about the standard of education being provided by many parents who have withdrawn their children from school. I was accordingly pleased when the DCSF decided to commission Graham Badman to conduct a review of elective home education.

2. My daughter, who has never attended school, and I both gave evidence to the review. We found Graham Badman to be reasonable, courteous and very open minded and fair in his approach to the question of home education.

3. My worries about home education centre largely around the practice of autonomous education, in which children decide for themselves what they should learn. This is the most popular educational technique adopted by those who withdraw their children from school. I believe this to be an extremely inefficient method of education.

4. Graham Badman collected information from many home educators, as well as statutory bodies and voluntary organisations. At the end of this, he was far from convinced that autonomous education is the best way of educating children.

5. As a home educator I agree fully with the Recommendations of the Badman Review, particularly with regard to LEAs having new powers to monitor and inspect families who do not send their children to school. Without such regular inspections it seems very likely to me, based upon my own experience, that many children would not receive a suitable education at home. My daughter, who is now 15 and has never been to school, agrees with me on this subject. We would both be happy to appear in person before the Select Committee to give evidence.

July 2009

Witnesses: **Zena Hodgson**, Support Officer, Home Education Centre, Somerset, **Jane Lowe**, Trustee, Home Education Advisory Service, **Fiona Nicholson**, Trustee/Chair, Government Policy Group, Education Otherwise, **Carole Rutherford**, co-founder, Autism in Mind, and **Simon Webb**, former home educating parent, gave evidence.

Q43 Chairman: I welcome Zena Hodgson, Jane Lowe, Fiona Nicholson, Carole Rutherford and Simon Webb to our deliberations today. All of you know that following the Badman report we thought that it was the right time to consider home schooling. We started off on Monday. It is a short inquiry, but in the run-up to a general election, Select Committee inquiries tend to be short; we cannot afford the time for the very long ones that we specialise in at other times of the cycle. As our recent inquiry into false allegations against teachers shows, it does not mean to say that we cannot write a very good report and make a difference to what is going on out there. I am going to riff through very quickly and ask everyone to introduce themselves and say exactly what their interest is in this particular issue. I want very fast responses on that. May I start with Zena? I hope you don't mind that we slip into first names in this Committee. However, if you want to be called Dr Webb or Professor Rutherford or Mrs or Ms, we will do so. You must still call me Chair, though.

Zena Hodgson: I am Zena from the Home Education Centre in Chard, Somerset. I am in the fortunate position to be part of a fantastic group of home educators who are located in the progressively thinking county of Somerset. Our concern is that the recommendations put forward by the Badman review will undermine the achievements that have been made between the home education community and the local authority to date, and that any further relationships between the two parties will become unworkable. At the moment, they stand on a very equal footing. The balance of power is very equal, so everything tends to come out of a good balance of collaboration between the two, with no one side.

Chairman: You have a good relationship with your local authority and you don't want the boat rocked.

Zena Hodgson: It's not a case of the boat being rocked. The balance of power is fairly even. Somerset, under the equalities and diversities department, approached us, almost as a cultural minority, and simply said, "We want to help you. Tell us about yourselves and let us see what we can do." From that basic question, a reasonable dialogue has

occurred and many great things have been achieved, including exam access for our children and grants specifically for resources for the home ed community.

Chairman: We will drill down on that in a minute.

Jane Lowe: I am Jane Lowe from the Home Education Advisory Service. I am also a retired home educator. I have two children, aged 23 and 25. I am a teacher and have spent all my life with a passion for education of various kinds. I have been fully involved with home education all the time that my children were educated at home and since. Our Home Education Advisory Service is very concerned about this review. We feel that it has not scratched the surface of home education, that it is hasty and ill-considered, and that the recommendations will be very damaging. They will not achieve what they set out to achieve and they will be far more expensive than anybody has realised. I have done an independent study to give some idea of the costs involved.

Chairman: Which you submitted at the beginning.

Jane Lowe: Yes, it has gone in.

Fiona Nicholson: I am Fiona Nicholson. I am chair of Education Otherwise, a government policy group, and I am a trustee of Education Otherwise. I am also a home educating parent. I have a 16-year-old who has never been to school. I meet with a great many local authorities. I have a good policy relationship with my local authority in Sheffield and I attend regional forums of local authorities. Three, four or five times, I have met with groups of 20 or 30 home education officials in local authorities. We have had all-day meetings. So I feel I have a very broad experience to bring to this. Again, my feeling is, as we put in our submission, that the report was very rushed. Graham Badman wasn't given enough time. We are not being given enough now. I've had a ridiculous number of phone calls and e-mails from people saying, "You must mention this," but I can't possibly do that. So I'm here to say I haven't got enough time.

Carole Rutherford: I am Carole Rutherford and I am co-founder of Autism in Mind. We support parents in school and home educators. We can see the

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pathway that leads parents to come out of the system and into home education. We feel that the review was rushed and that special educational needs were, as always, very much an add-on. We don't feel that they were looked at in the light of what the recommendations could do to children with special educational needs, who are often very traumatised when they come out of the system. We don't feel that we had enough time to input, and I've got to agree that we don't have enough time today either.

Chairman: You know that the Committee takes special educational needs provision very seriously. Simon.

Simon Webb: I have a 16-year-old daughter whom I never sent to school. I taught her all her life.

Chairman: That was very brief. We will come back to that. Let us drill down into the questioning. Graham.

Q44 Mr Stuart: There seems to be quite a discrepancy between the articulate representatives of the home education community and what local authority officers say is a large bulk of people who are perhaps less articulate and less capable, which prompts authorities to believe that the Badman recommendations will provide support. What is your response to that?

Jane Lowe: I also do some work for my local authority. I do freelance work—one-to-one tuition—with some of the children you are talking about. The local authority knows very well who these children are, because they have a track record of problems and attendance issues in school and they are often known to other services as well. There are a number of such children in every local authority—it varies according to the demographic of the authority concerned—but the Badman recommendations are not going to address that issue at all, because the people involved are already known about and they are not home educators—they are the non-home educators. There are many shades of home educator, but the people there are concerns about are not home educators.

Fiona Nicholson: I echo what Jane said, but we must also be aware of the danger of just taking anecdotal evidence along the lines of “I met a home educator once, and they said such and such” or “A number of local authorities have said such and such to me.” Everybody has a completely different experience of the home educators in their local authorities. I have had local authorities say one thing to me, but I have also had local authorities say completely different things to me. As you know, my mantra is that we need to do a lot more research into the home education community. We should start by looking at the home educators we already know about. Local authorities know of 20,000 home-educated children and young people. Education Otherwise has begun to do research in that area, and we are researching local authorities, but if we stick to anecdotal evidence—things along the lines of “Here's a problem that we've defined for you. How would you solve it?”—policy is going to get very skewed.

Zena Hodgson: One of my main roles at the centre is as a support officer because I do the administration, run the website and receive inquiries from home educators and groups looking for advice. Given that our members and the wider community use us as a point of contact, I deal with many home educators who, although they are not as vocal as some, are in contact with those who are vocal and who are the point of contact or the link with authorities. Just because people are not speaking out themselves, they are not out of the loop in terms of support. They have groups and representatives as their points of contact.¹

Q45 Mr Stuart: Before you comment on that, Carole, can you tell us whether you support Fiona's desire to see more research?

Carole Rutherford: Absolutely. There is no research at all that I know of that is wrapped around special educational needs and that is part of the problem, because we cannot come here today and say, “Well, this is what we know for certain about children with special educational needs.” I cannot say to you with 100% authority that all children with special educational needs who are home educated are going to do better. I can tell you what parents tell us of the difference in their children after a very short period of time. With regard to parents not being as vocal, if you are looking after a child with a disability or special educational needs, it is often not as easy to become as vocal or as involved. That is when parents come to the likes of Autism in Mind and the National Autistic Society to fight their corner for them, because they are too busy, embroiled in teaching their own children. So they are there and, yes, they may look like a silent majority, but it does not mean that they are silent, because they are actually contacting groups to do it on their behalf.

Q46 Mr Stuart: Does everybody think there should be more research into the home education community? Would you all agree with the criticism that, essentially, the Badman review has come in without doing that research and that the statistical handling so far looks pretty weak on things like level of abuse and child protection plans? It does not seem to bear much scrutiny. Looking at other Government statistics, it would appear that the level of abuse among home-educated children is lower.

Chairman: Graham, I think you should ask questions rather than tell them the answers.

Mr Stuart: I just wanted to find out whether anyone disagreed with that view.

Fiona Nicholson: It seems to me that Graham Badman was being asked to present findings at almost the time, or later the same hour, as he was being expected to conduct research. That does not seem to me to be a very robust or academic way to go about things. He did not have the evidence base before he started to go out and talk to people, and that work still needs to be done at some point. We need to do that work. Education Otherwise has started comprehensive research into local

¹ See Ev 79.

authorities. We have sent out very detailed questionnaires and we are going to present that research shortly. It is a massive job. I am gesturing at a huge pile of raw data which we have.

Q47 Chairman: But you would not deny, Fiona, that it seems strange we do not really know how many home-educated children there are and where they are.

Fiona Nicholson: Absolutely.

Q48 Chairman: You would have thought that that would be important for us to know in each local authority area. Would we all agree on that?

Fiona Nicholson: It is strange that you don't know, yes.

Zena Hodgson: I think if you look at the situation, in a way, it is just about data collation, because, at the end of the day, I think it is very difficult for children, or for anybody in fact, to be hidden from the system. We are registered in many ways. The birth of a child is registered, you are registered at a GP, you register for child benefit and in all those kinds of areas.²

Q49 Chairman: Zena, as a Member of Parliament, I know children disappear all the time in my constituency. It's a very real concern. It isn't only runaway children, but children who disappear overseas and when you try to track them it is impossible because we don't have the data. I am sorry, I have to correct you on that as a working constituency Member.

Jane Lowe: On disappearing children, the idea of a registration scheme is not going to do anything at all, because if any parent is suitably evil or deranged that they want to abduct and abuse a child, they are not going to take any notice of the minor offence of not registering themselves with the local authority as a home educator if they are that bent on committing a major crime. I think it is going to miss the point.

Q50 Helen Southworth: This is a similar question, but from a slightly different angle. One of the difficulties about identifying children who go missing and who are at risk is finding them among the children who are perfectly safe and happy but you just don't know about. Do you think that the benefit of being able to find those children, probably a very small number, who are at risk is sufficient that we should press to find the information so that we can identify them from among the wider group?

Fiona Nicholson: Since we are actually talking about registration, we need to establish what the purpose of registration would be, and you seem to be saying that the purpose would be that decent people would eliminate themselves from inquiries.

Q51 Helen Southworth: No, not at all. I was asking if it had the other effect that it would enable this to be continued, would that be beneficial?

Fiona Nicholson: If registration would allow?

Helen Southworth: If the fact that you could identify and know who the children being home educated are, that could help to identify some children who were just missing.

Fiona Nicholson: But we have statutory guidance on children missing education.

Helen Southworth: Perhaps I have asked too complicated a question.

Chairman: Let us move on.

Q52 Annette Brooke: I would like a straight yes or no answer from each member of the panel. Imagine a very simple registration scheme that gets rid of all the strings and conditions in the Badman report and literally signs up—given that if a child goes to a local school, there is knowledge that the child is at the local school—just to providing the knowledge that a child is being home educated at X address. Let us start with a very simple principle and at least we would get some indication of numbers, although I accept what you said, Fiona. Do you feel strongly about the simplest of registration schemes?

Simon Webb: I cannot see any possible objection to it, personally. Actually, my daughter went missing because she was born in one local authority area but we moved to another when she was six. Nobody had any idea of whether she was at school and, when we moved, nobody knew what happened to her. I could have done her in and buried her in the garden in Tottenham, and then moved to Loughton and no one would have been any the wiser. She had no official existence in effect, so no, I cannot see any possible objection to a registration scheme.

Carole Rutherford: It depends on what it leads to. We are going to have to re-register every year. When you enrol at a school, you don't go back every year and ask, "Can I continue with my name on the roll?" The majority of home educators with special educational needs children are already known, because you cannot have a child with a disability who isn't seen by somebody at some point. In a way, we are already there; people already know us. If you have de-registered, and the vast majority of them have, you are known.

Q53 Chairman: So if it is already known, you wouldn't mind having a register as well?

Carole Rutherford: The parents who I speak to tell me that yes, they would actually mind that.

Chairman: They would mind having a register?

Carole Rutherford: They don't want to be registered because they feel as if they have been pursued enough by local authorities. That was probably the reason why they have come out of the system; they don't want to have to start all over again with the local authorities.

Q54 Chairman: So your answer to Annette is no?

Fiona Nicholson: My answer is that it is a really bad time to be asking this—at the end of the Badman review. If that had been the question at the beginning of the review, we would have put all our trust issues on the table and said, "Call us paranoid, but we fear that it would lead to a definition of suitable

² See Ev 79.

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education and efficient education and that it would be far more intrusive.” We would have hoped that somebody would give us some kind of reassurance. We have all had a look at the big blue book, the Graham Badman report, and it is really difficult now to answer a hypothetical question about how we feel about simple registration. If we could stop the clock and things such as the Badman review had never happened, and we had not seen what is entrained for us—

Q55 Chairman: I am sorry, but this is a bit hypothetical. Are you against a register or not? Before Badman’s review and now, were you or were you not in favour of a register so that we would know where our children are in this country?

Fiona Nicholson: I thought it was inevitable that it would happen.

Q56 Chairman: But you would not approve of it happening?

Fiona Nicholson: I am not taking a position on whether I think it is a good or a bad thing.

Chairman: Okay, that’s a don’t know.

Jane Lowe: I have thought about this for years and I can see that it is a comforting prospect, but I really don’t think it would achieve what it sets out to achieve, so no, I am not in favour of it.

Chairman: Annette asked for a yes or no answer and I am trying to get it for her.

Zena Hodgson: I echo what Jane said. I can see why you would need to have it, and a pure headcount situation would seem okay on the face of it, but I am sure that it would not simply be that. As Jane said, at the end of the day, if that register is to protect the tiny one or two that happen, if a family is ardently intent on doing something heinous and wanting to hide, you would not be able to compel that person to be on the register. There would be all the innocents, as it were, who would put their hands up and be on the register, while those whom you are worried about would still not be on it.³

Q57 Annette Brooke: May I pursue that question. Obviously, you can now register voluntarily. How many of you are registered, or were registered?

Chairman: Three have their hands up.

Annette Brooke: I think that I am primarily on your side—

Chairman: Sorry. That was Simon Webb, Caroline and Fiona. *Hansard* cannot see hands in the air. For the record, Jane and Zena indicated that they were not registered.

Q58 Annette Brooke: I was hoping that I might achieve a consensus that a simple registration scheme was acceptable, and then work through the great long list of add-ons that come afterwards. I can see how those add-ons are troubling people. There is a general lack of confidence in the ability of local authority officers. We have described how a partnership approach can work. I suggest that it is reasonable that people would want to be confident

that there was a minimum standard to be met. I am totally opposed to making you conform and putting you in a straitjacket, but how in your view can the local authority establish education basics—this is where the local authority should be making visits—without sucking you into the National Curriculum and all the things that we find too restrictive?

Carole Rutherford: It has got to be relative to the child, and that will be the problem. In looking at levels of attainment and what the child can do, we will be taking into consideration their special educational needs or disability. Parents are telling me that many local authorities do not do that, as it is not what they are interested in. Our outcomes and achievements will be completely different from those where special educational needs are not taken into account. That is not to say that we do not educate our children in the basic things; it is just that they need to be taught some things that the system does not teach. Parents who have come out of the system are so often bruised by it—they may have no relationship at all left with their local authority, having fought for provision statements or whatever and failed—that the very last thing they want is to have somebody coming into the home to assess them who fails to provide for their child. How can somebody tell a parent, “This is what your child should be doing,” if they have failed that child? What we are looking at is fear among parents who have children with disabilities. It is not hysteria but fear, because they know where such things can lead. We know how difficult it is to prove that your child has a special educational needs. That sounds stupid, but if a child is autistic or has a hidden disability, they may as well not have the diagnosis, because the schools think they know better. We have paediatricians and other people going into schools and saying, “This is what the child needs,” but then that is promptly ignored or the school knows better. Parents don’t want to have to start again. If a relationship has completely broken down, as often happens, where can you start to rebuild faith? There is no mention of training for special educational needs. Yes, safeguarding is mentioned, and it is vital, but if you don’t understand—

Chairman: Carole, would you stick to the question? I know that you want to go on to other matters, but hold fire for a moment. Who else wanted to answer our question?

Simon Webb: Leaving aside children with special educational needs, I am against an over-prescriptive approach. I have never had any dealings with the National Curriculum, but if I met a child of 12 who was completely illiterate, it would not be hard for me to know that something was amiss educationally. If I met a child of 14 who was unable to work out in his head the change from a £10 note, I could be reasonably sure of guessing that he was not receiving a proper education. It should be a fairly simple matter. They should not be testing children in a formal way, but it is fairly easy to guess whether a child is receiving an education.

Fiona Nicholson: I would like to address the issue of why people would not want to have a relationship with the local authority, do more research in that

³ See Ev 80.

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area, and actually answer your question by saying, “Go to people who haven’t wanted to do it. Go to people who were pushed into it and found that it didn’t work for them, and ask them what would have made things better.” I think you will get a whole range of answers, but I think that should help to inform any kind of training programme that is brought in for local authority officers. Ask people what they want.

Jane Lowe: Over the past 20 years, I have been supporting families all over the country—by phone and sometimes by visit—who have had problems with their local authority in getting the local authority officer to understand what they are doing. This is a real issue. We often get inquiries from local authority officers themselves who have just been given the task of monitoring home educators. They haven’t a clue what they’re doing, and they say so very honestly to us. They say, “Can you tell us about home education?” I had one two weeks ago. We cannot ignore this one, because the people who are doing the job are cast in the school mould. A lot of them are retired head teachers. A lot of them are very willing and very kind, but they simply don’t know what they’re looking at.

Zena Hodgson: That is where I would like to reiterate how Somerset actually is different with this. As far as I am aware, it is the only county in the country where this was under equalities and diversities, and therefore approached almost as a cultural need rather than an educational or an educational welfare need. Coming with the very open question of “We want to help; tell us about yourselves and what you need” allows that learning process for the local authority as well so that it understands what its particular community wants. Through that openness, the achievements that have been made through it—that equal dialogue of “Help us understand what the picture is”—and seeing that it has worked for us has meant that, again, we have been approached by other counties. We have been asked to go to meetings with Devon and Dorset, and we even had a Gloucester lead come into the visitor centre to try and get some clues on how they could get in touch with their community in a more meaningful way. In fact, a new lead for Dorset has just been appointed, and he is now coming from a position of inclusion and complex needs, which again is similar to the equality point of view. He very much disagreed with some of the Badman report, because he felt that it was not open enough to invite all the questions from the community about what they need.

Q59 Paul Holmes: On the Badman report’s suggestions about requiring a statement of learning, I know that a number of home educators—both nationally and the ones I’ve met in Chesterfield—have been very concerned about that and the implication that it might be imposing all sorts of very restrictive prescriptions. Does anybody want to elaborate on that?

Simon Webb: I can’t imagine that any parent educating their child did not have at least some vague idea of what they would like to see that child

doing in a year’s time. For example, if you had a child of 11 who was unable to read, you would surely have at least the hope that by the time they were 12, they would be able to read, assuming they did not have special needs. If you were entering them for examinations, surely you would be wanting to plan, realise what the syllabus for the examinations would be, and know what you would be doing in a year or two’s time. I can’t see any objection, personally.

Q60 Paul Holmes: You have written about that view in *The Times Educational Supplement*. You have home-educated your daughter to a very high academic level—eight A*s at GCSE and so forth—but yours is quite a contradictory view to a lot of other home educators’.

Simon Webb: True.

Fiona Nicholson: I think, again, we need to know much more about what would be involved. I caught some of the evidence given the other day, and the Minister was saying that two sides of A4 seemed to be sufficient. I have talked to local authorities who think that a lot of information would be required. I help a lot of home educators—I must have helped more than 200—to devise their educational philosophy and report. It takes a lot of time to put their ideas across. They are putting in a lot of information, and they repeatedly come back to me and say, “I’m told it isn’t enough. They’re going to serve a school attendance order. I still haven’t given them enough information. They want more of this, they want more of that.” I think that it will be a two-tier situation, where you will have some articulate, confident people who will be able to produce very little and won’t find it very inconvenient at all, and you will have an unquantifiable number of other parents who could be made to feel inadequate. We have a consultation proposal that says it is a criminal offence to provide inadequate information. You could be in a state of limbo for a very long time if you still have not provided enough information and your licence to home educate has still not been granted. Again, we do not know what the statement might look like. When we met the DCSF civil servant, Iain Campbell, to discuss this at the end of June, he thought that a couple of sentences just indicating the approach that you might be planning to take would be all that was required. Now it is two sides of A4, and I have known local authorities that have not been happy with a 30-page report.

Q61 Paul Holmes: So what would you recommend? Should it perhaps be a two-page statement, one paragraph or the detailed academic syllabus that Simon talks about?

Fiona Nicholson: It would depend on what was appropriate in each individual case. I find it very easy to organise my thoughts into paragraphs in my head and then write them down. It does not make me a better home educator; it makes me reasonably good at dealing with authority figures. I talk to a lot of parents who can’t do that and they say, “No, I’d rather meet somebody and talk things through”. But if the object of meeting and talking things through is to come up with a sort of template, I do not think

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that would be helpful at all. There might be a meeting with somebody from a school or a local authority and the object of the meeting is to get some bullet points written down, which are going to be reviewed in six months and in a year, and your child is going to be required to exhibit, and be progressed against, those things that you said in order to have something written down in order to be able to home educate. Graham Badman gave too much information about what he had in the bag for us really.

Zena Hodgson: As I am sure you are aware, quite a proportion of the home education community likes to work in an autonomous way, responding to what their children want to learn. So, if what is required is too much of an academic statement, and you set out a plan for your 12 months that includes a certain amount of academic criteria, because at the time that is what your child is interested in, and they then say, "Actually, no, I've changed my mind. Over the next few months I'd rather be looking at this subject", that won't reflect the plan that you have submitted, even though they achieve many things. Would you then have the fear that the authority would come back and say, "This was your plan though, and you did not stick to it"? I think that that is also an underlying fear, certainly for autonomous educators.

Jane Lowe: There is another issue here, which is children who are withdrawn from school in pieces, some of whom are suicidal. Over the years I have seen a lot of these children, and they are not in a position to get their heads together and think about what they want to do. This can go on for anything up to a year. They are in such a state that if you even mention education they are right back to square one, and that sets up a whole cycle of fear in which they are afraid of the pressure that will be put on them to achieve during that year. They will have this ogre of fear of being pushed back to school, and that is going to be hanging over them for the whole 12 months. I think that's appalling.

Q62 Paul Holmes: What about what Zena touched on: the philosophy of autonomous learning that you let the child follow their interest for however long that particular interest lasts? On the other hand, Simon has written that that might mean that a child, after 10 or 11 years of home education, would not have achieved some of the education that they would need to function in the adult world.

Jane Lowe: That is something that I have watched over the years in families that I have known, families that I have worked with and families that I have advised, and children who are given a free rein with their education nearly always achieve in very extraordinary ways. If they have the resources and the input of a friendly and concerned adult—

Q63 Chairman: Has there been any research on that?

Jane Lowe: Alan Thomas has done a lot of research. He has actually been and stayed with families—

Q64 Chairman: Is he an objective academic?

Jane Lowe: He is not a home educator. He is a fully-fledged academic.

Chairman: He is very positive about home education though.

Jane Lowe: Yes, he is.

Q65 Paul Holmes: Simon wrote "Children raised in this way may well spend months pursuing a favourite topic, but they are unlikely to study a well-rounded curriculum . . . and therefore to acquire formal qualifications . . . The restriction of a child's life chances by the early decision of a parent, sometimes when the child is only four or five, must surely be examined." Some years ago, I was approached by one person in my constituency who had been home educated. In his mid to late-20s he found that he did not have access to the professional qualifications that would allow him to take over his father's accountancy firm. So, the home education choices that were made quite a long time earlier, and that he had thoroughly enjoyed, meant that he now could not do what he wanted to do as an adult.

Fiona Nicholson: Lifelong learning. Obviously, we need more longitudinal studies because there is a paucity of them. The idea that something stops at 16 or 18 and that you cannot access qualifications later is something that we need to tear up. We need to tear up the book that says that. My son has not got formal qualifications at the age of 16 because we do not think that it is necessary. If he needs them in his early 20s, I am entirely confident that he will have the nous to go and get them. If that is a problem and at 24 he is already too old and there is ageism in the workplace, that is another distressing thing. There are a lot of young people coming out of university, and they are 21. A home education parent could say, "We have ticked the box. We have done all we could." It does not necessarily make them fulfilled, successful, productive adults. I was one of those people myself, and it did not get me anywhere; I was working in a shop.

Carole Rutherford: It is well documented that children with autism learn better if they follow a subject that is one of their special interests. That does not mean that once you start with one subject it does not evolve into something else, but the child still feels that the emphasis is on the subject that it likes and it evolves from there. It is much easier to teach a child with autism if you start with something that they enjoy. Then you add on to it, and it is amazing where that can lead to. You are also enhancing things such as social skills and life skills. At the end of the home education of my two sons, if they are well able to look after themselves, I will feel that I have achieved. Yes, I want them to work, but I want them to have life skills.

Q66 Paul Holmes: Some parents who are home educators are very committed to autonomous learning, some are looking at rebuilding a child's self-confidence and dealing with special educational needs. You have others, as Simon was saying, who will get eight A*s at GCSE. There is a vast range. Going back to earlier evidence, what about all those

parents, many of whom we do not know about, who have not got a clue how to cope with any of this? I have always admired home educators because of the amount of work that they do. I am a former teacher, but I could not teach science. So, what about all the home educators who are not in these self-confident, different and contradictory boxes?

Simon Webb: As far as not being able to do science goes, we did our GCSE science in the kitchen. It is not necessary to have a well-equipped laboratory to study science; anybody can do it from materials that they buy from the chemist shop. It is honestly not a problem. As far as autonomous education goes, the problem is that we know that conventional teaching works pretty well with most children, and that it fails some of them. We do not know the same about autonomous education. It is possible that it is very successful with a few, and that a few will get to Oxford, but it might fail more than it succeeds with. That is why there is a need for more research.

Fiona Nicholson: I would like to address the issue of support. Paul, you said that you had met home educators, or you felt that there were home educators who would benefit from more support or who need more support. I agree with you. I have not met the same people, but home education support organisations and home education local groups are contacted all the time by parents who want more information about absolutely everything. They will come back and check. They test out anything that you have said with any other groups. I know that they do that with the local authorities as well. They will ask masses of questions about what they can do. Home education support organisations do what they can, but there has not been much from local authorities. The Badman report has been presented as something that offers more support. To say that I am sceptical would be an understatement, but if more of that could be available, that would be excellent. It would be good to have more resources and places where people could go to for information and non-judgmental support—the equivalent of a constituency surgery for an MP. I know that that does happen in some areas. North Yorkshire, for example, does it.

Q67 Paul Holmes: But Graham Badman said on Monday afternoon that that is a lot of the intention of his report. He would argue that unless you register everyone, and unless you ask for a statement of learning, whatever that is, there might be a lot of home educator parents who don't know what they don't know, what they might need to be doing or how to ask for help.

Jane Lowe: I am sure that there are some parents who would like support, and there are other parents who are perfectly happy to do it in their own way without support. If registration is somehow necessary for providing support, why can it not be voluntary, so that if anyone wants support, they can sign up for it?

Q68 Paul Holmes: But how do you reach home-educating parents who don't know what they're not delivering because they are not articulate, well-educated or self-educated people?

Jane Lowe: I don't think you have to be articulate, confident or particularly well educated. I think if you are desperate as a family, and if you have a problem, you will work at it and solve it. We find people coming to us all the time, who are in that situation. You give them a little bit of help, and off they go. The first parent I met, nearly 20 years ago, was a woman whose husband was a lorry driver. She had four children, one of whom was in deep trouble at school. She took in ironing and paid a lady down the road, a teacher, to come in once a week. That child is now in their 20s, working and happy. They can do it.

Q69 Mr Carswell: I have a general question for the panel. In Clacton, the parents of 16 children have, rightly in my opinion, refused to send their children to a school that they believe is not able to provide the children with a proper education. They have successfully demanded that they receive a home education grant from the local education authority. Is this something that you welcome, and do you think that the sort of extra regulation and oversight demanded by Badman could be conditional on receiving the grant? If you get the grant, you can be overseen by the state, but if you do not, it should leave you alone.

Zena Hodgson: I am from the Home Education Centre, and we were approached by Somerset, who said that it had managed to put aside some sums to assist home educators. It asked whether we would accept it, as they felt that they were not able to give it to individual families, but could give it to a group to spend the money best to benefit as many home educators in Somerset.⁴

Chairman: Zena, you are not answering his question.

Q70 Mr Carswell: Would you like a legal right so that home educators could say to the local authority, "It is my money—give it to me now"?

Zena Hodgson: As a family?

Mr Carswell: As an individual. My child, my money—give it.

Zena Hodgson: Yes, I suppose. There will always be things that your children would want to better their education.

Fiona Nicholson: My understanding about the situation in Clacton was that the parents were setting up a small school. If there is a political party that supports groups of parents setting up small schools, that would be an option that some home educators will want to take.

Q71 Chairman: That is not home education, though, is it?

Fiona Nicholson: No, I don't think that is home education. When we look at the incredibly small amount of money, Education Otherwise is doing research into the money that local authorities are able to spend at the moment on home education.

⁴ See Ev 81.

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There is a local authority that has 269 children on their books and they spend £17,000 a year in total on staff, training and support for those 269. There is another local authority that will spend £125,000. We are getting those figures about the money in now. There is a lot of money that is not in home education, and so to try to decide where we will put the money that we do not have is very hard.

Q72 Mr Carswell: So you would not like to see a legal right to allow home educators to control their child's money?

Fiona Nicholson: I don't see that you could possibly have a situation where the money follows the child, politically.

Carole Rutherford: It is difficult to believe that the money would be there because, when we fought for support in the system, the money was not there to support us. Some parents may say yes, but I think the majority of parents home-educating special needs children would say no, because they just want to be left alone to get on with it. We don't necessarily want to be invisible—we just want to be able to get on with educating our children.

Simon Webb: I live in Essex, so I have an interest in this. I had to pay £120 for every GCSE that my daughter took. It cost me nearly £1,000. I tried to get the money from Essex, but there was absolutely nothing doing. I pay council tax, but I cannot get the services from the education department.

Q73 Mr Chaytor: What interests me is that those who are confident about the quality and value of home education as it stands are so reluctant to consider a registration scheme or a process to assess their children by the same criteria as other children. If people were nervous or unsure about the quality of what was going on behind closed doors, I can see that they would be nervous about registration, but what is the objection if you are confident about the quality of what is being done?

Jane Lowe: The problem is that the local authorities don't leave people alone—they interfere with what is being done.

Q74 Mr Chaytor: But there is no registration scheme in place yet, so how can you make that assessment?

Jane Lowe: Children who are withdrawn from school are known to the local authority, and the authority normally makes inquiries as to the education that is being provided—

Mr Chaytor: Because parents have a responsibility to ensure that their children are properly educated.

Jane Lowe: Because parents have delegated that duty to the school and then taken that duty back. The local authority knows about them, so it checks up to see whether education is being provided—that is what happens. The parent has taken a child out of school and often faces a problem because of the situation that has led to that child being withdrawn, so they cannot just switch seamlessly into some kind of delightful arrangement at home—it takes a while to set things up, to sort things out, to calm the child down, to find out what resources you have and to find the way forward. Obviously, parents will not be

happy about the demand that we prepare a statement, that we should be seen within x days of withdrawing our child from school and that everything should be in place. That is not reasonable, and it is no wonder that parents are worried about it.

Q75 Mr Chaytor: Do you think that parents should be able to give their children medical attention at home without any registration? What is the difference between setting yourself up as a teacher or as a doctor at home?

Jane Lowe: All adults can learn, but not all adults have the technical expertise to do brain surgery at home—that is just not reasonable.

Q76 Mr Chaytor: I agree, but should there not be some objective assessment of levels of capability? Is there not a wider issue for the community in that the child is not the personal possession of the parent, but a member of the wider community?

Jane Lowe: The child is not the possession of the State, for the State to impose its rules on.

Mr Chaytor: No, but the child is a member of the wider community.

Chairman: Can we have just one question at a time and no comments on questions? David, get on with your questioning.

Q77 Mr Chaytor: I am just curious as to why you are so reluctant to demonstrate the quality of what you are doing. You are happy to assert it, but not to demonstrate it.

Carole Rutherford: It is not the quality of what we are doing that we are worried about; it is local authorities coming into our homes and seeing our children, who are often traumatised and suicidal. I have a good relationship with my local authority and I want it to continue, but when we took our son out of school, he had cyclical vomiting syndrome as well as autism. He would wrap himself in a duvet and lie under his bed if anybody so much as knocked on the door, because he didn't want anybody to come in. If I'd had the home ed people at my door three or four weeks after we took him out of school, they would have seriously worried about what was going on. Now, six or seven years down the line, it is different. So it is not about the quality of my provision; it's about everything that comes with that—it's about the intrusion into the home. They are not even saying that you can be seen somewhere else—it has to be the place of education, as if we were running a business. We're not talking about a place of business—it's our home. We are trying to do the best that we can for our children.

Mr Chaytor: I understand that point completely.

Carole Rutherford: But the law, the way it is at the moment, says that it is my responsibility to educate my child. It does not say that I have a responsibility to minister to him in a medical capacity, but it does say that it is my responsibility to educate him.

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Mr Chaytor: I understand completely the point about the initial period of withdrawal from school and the trauma, and about the difficulties of children with special educational needs, perhaps, but surely over a period of time—

Carole Rutherford: It does not go away if you are autistic. Over a period of time, you are still autistic, and it is still going to be the same 10 years down the line.

Q78 Mr Chaytor: Lots of children in mainstream schools and special schools are on the autistic spectrum, so is it your argument that under no circumstances whatsoever should there be any objective assessment of the progress a child has made or of the achievements of particular children who are educated at home?

Carole Rutherford: Not unless the person we were involved with knew specifically about the condition and was trained about the condition. Having another person that just knows my son would not be enough for me: it would have to be someone I trust to understand an answer my son gave them, because often children with special educational needs, especially those with autism, give the answer that they think adults expect from them. It is not necessarily the right answer, but if they can give an answer that they think will shut the adult up, even if they are autistic, they will give it.

Q79 Mr Chaytor: But isn't this issue dealt with by one of the recommendations in the Badman report—

Carole Rutherford: No.

Mr Chaytor: Can I tell you what recommendation I think it is? Isn't it dealt with in the recommendation that recognises that there is a need for further training?

Carole Rutherford: But it doesn't mention special educational needs.

Mr Chaytor: Well, that doesn't say very much about the nature of the training.

Carole Rutherford: It mentions safeguarding and puts that at the top. If you put safeguarding at the top, the safeguarding has got to include children with special educational needs and how you would approach those children.

Chairman: This is becoming a dialogue. Fiona, what is your answer to David's question?

Fiona Nicholson: When we first came in here we were being asked whether we objected to a simple registration scheme, and I imagine that we might have sounded quite paranoid when we said it would not stop here. It has already not stopped here, about 15 minutes later. This is on the level of an "If you have nothing to hide, you have nothing to fear" line of questioning, which we get all the time. It is extremely difficult to answer on that negative basis, and that is why you are finding very well-defended positions.

Chairman: Let me put this down very straight: this is a Select Committee. There are 14 members and they have their own opinions and ask their own questions. You interpret us as having moved position in 15 minutes, but that is not the collective view of the Committee. This is a group of very distinct individuals who want to find out the facts, and that is

why we are asking the questions. It may be that questions from David are from a different angle than those from Graham, but that is the nature of Select Committees.

Mr Stuart: That is certainly true.

Q80 Mr Chaytor: If you are asked these questions all the time, surely it must become easier, rather than more difficult, to provide answers. You have voluntarily registered, as you told us before, so what is your objection? Do you have a profound objection to an external assessor coming to discuss with you the progress of your child or the achievements of your children? I genuinely do not understand the basis of the objection. I of course understand some of the specific points that Carole has made about children on the autistic spectrum and the issue of the period of time after the withdrawal from school, but how can you justify locking the door against the world outside over several years? I don't understand that.

Fiona Nicholson: I don't see why we have moved to "locking the door against the outside world". In my local authority in Sheffield we have a group of home educating parents who meet regularly with the local authority, and in some of those cases the parents are not known officially and are not on the books, but they are not hidden. They will go and talk to the councillors, line managers and individuals who are the home education visitors, and their children will be there as well and there will be that level of interaction. We have invited them to visit our groups and they have been to visit groups and talk to people. They are not checking in names at the door. They are aware that they will be talking to people who are not officially known and register them. It is very active outreach work that they are doing and I think it is very good. In the local authorities that I have applauded, such as those North Yorkshire and Somerset, the same things are happening. If you are focusing in on a one-to-one inspection with somebody interrogating, questioning or interviewing individual family members, that is something that I would want to move away from. I did it for myself and my family for specific reasons. I am a single parent and my son's father, at that point, was concerned because he felt that my son was not being tested in any way. Because my son is not at all good with surprises, I did not want somebody to knock on the door and say, "You have got nothing to hide and nothing to fear. We are going to come and test you now." So I voluntarily made contact. People do not voluntarily make contact and we need to look at why they would not want to make contact with the local authority. That seems to me the central issue to address. Why are people given the choice? Why is it so bizarre that I made the decision to grass myself up? That is really what you need to look at.

Chairman: Let us hear from Zena and Simon, and then we are really running out of time.

Zena Hodgson: Can I just add that I am not officially registered, but I am evidently not hidden. The duty for my children to receive an education lies with me, not with the State. I know that that duty is being

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fulfilled. I know that my children are progressing and developing in a way that they are happy with and we are happy with as a family. I do not believe that that emphasis should change and that the state should have more of a say about how well my children are progressing, over how I feel they are progressing.

Simon Webb: Parents might have responsibility for their children's education, but all the rights in this case are with the child. The child has a right to a suitable education. If it is not receiving suitable education and it is not getting that right, society has a stake in establishing whether the rights of the child are

being respected in regard to receiving an education. In that case, the parents would have to give way to society's legitimate interest in the case.

Chairman: This has been a very interesting session. I am sorry that we have run out of time, but we have another session before 12 o'clock, when people have to move across to Prime Minister's Question Time. Thank you very much. This is not the end of the dialogue. If you go away and think that there are things we didn't ask you or things that you didn't have a chance to say, we are very open to dialogue. Thank you all for your attendance.

Supplementary memorandum submitted by Autism-in-Mind

I would like to thank you for giving Autism-in-Mind (AIM) the opportunity to give evidence to your committee as part of your Inquiry into the Elective Home Education Review. At the end of our session you very kindly said that if there was anything else that we wished to share with the committee you would welcome our contributions.

I would like to take the opportunity to do so and would like to comment about something that Graham Badman said to the Committee during his session, and also to add depth to a question that was asked during the session that I myself attended. Comments made by Graham Badman added to the concerns of parents who are currently home educating their SEN/Children and the reason why they are so unhappy with the EHE Review Recommendations.

The EHE Recommendations are already making their presence felt even though we have only just finished a consultation wrapped around those recommendations to see what home educators felt about them. AIM is already aware of parents who have been contacted by their LAs demanding entry into their home for safe and well checks on their children. We also know that some LAs are not allowing children with a SEN to be taken off roll until they have held a panel meeting to decide if the parents are fit to home educate. These LAs are currently breaking the law. However, as ever, the balance of power is weighted in favour of the LA. Parents who make too much noise are already finding themselves being investigated by Social Services. LAs making referrals to Social Services are in fact nothing new this has been happening for some years now. Parents who have children with disabilities already feel as if some LAs pursue them when they opt out of the system.

While we realise that children with disabilities and SEN are viewed as being vulnerable children, so then are their parents, it appears that no one is particularly interested in the emotional well-being of the parent and how, their often disintegrating relationship with their schools and LAs, are affecting them. It is all too easy to build an unfounded case against a parent who has fought long and hard for the provision that a child requires in the system, to find that that fight has been used against them. Parents are told that their attitudes are disabling their children. That they are impacting on the emotional well-being of their children and probably the worst accusation of all is that parents are fabricating their child's disability in an attempt to gain the support that they believe that their child requires.

When Graham Badman gave evidence to your Committee last week he heightened the concerns of already worried parents that LAs would be encouraged to build a case against them and find reasons to stop them from home educating. In response to a question asked by Paul Holmes about children with child protection plans and who may be at risk, Graham Badman said that not all children's social services departments work in the same way, as he had discovered and that he would imagine there are some issues around deprivation that would be important. Graham said "It is a question worthy of further asking. The aggregate figure is correct and I stand by it. It is slightly in excess of double the proportion. But yes, if one of my recommendations is carried out, namely that local authorities reflect on why children have left, they also might want to reflect on what they don't know about them and whether they are assessing that risk adequately."

AIM, along with several parents who I have since spoken to, felt that this was an open invitation for LAs to use what they "perceive" to be evidence against parents who have fought long and hard battles for the provision to meet their children's needs. Although Graham Badman made his comments about a possible action which could be triggered as a child is about to leave the system, parents are very concerned that LAs will also use the yearly registration process as a means to building a case as to why they may not continue to home educate. We believe that these concerns are not unfounded. It is very worrying to hear someone advise an LA "to reflect on what they do not know" especially if this question is asked of an LA who does not favour home education.

Please allow me to explain why we are so troubled by the thought of an LA reflecting on things they did not know. If a parent has declined a service for their family/child offered by an LA or Social Services because it was an inappropriate service and would not address their needs, it is simply stated that service provision was refused with no reason being added as to why. It is totally inappropriate to ask a parent whose child has an Autistic Spectrum Disorder to attend a parenting class which is being aimed at parents who have children with behavioural difficulties.

While children with autism can have behavioural difficulties those difficulties can have very deep rooted psychological reasons and are often brought about because of extreme stress or anxiety because their complex and specific needs are not being met. The family requires help to discover what the cause of the behavioural issues is and not a parenting class which will effectively treat the symptom and not the cause. Refusing a service has already been cited by some LAs as a cause for concern on their behalf as to why a parent may not home ed.

If LAs are being encouraged to reflect and maybe find concerns about families that they “did not know”, how sure can we be that those concerns will be born from fact and not from a lack of understanding and awareness about the condition that a child has and how that condition impacts on them?

I would like now to return to a question that was asked by David Chaytor, and a subsequent point that arose during my own session, about our apparent unwillingness to allow anyone into our homes to assess the quality of our provision. It is important to understand that it is not the quality of our provision that presents parents with a problem. It is the issue of having untrained officers come into our homes, who have not received the appropriate training to enable them to understand our children and how we often differentiate and personalise a curriculum to wrap around our children. Doing this enables us to meet not only their academic needs but also their emotional and social needs. I have yet to speak to a parent whose desire is not to enable and empower their children to live as independent a life as is possible for them to live as adults.

As a community we have very real fears that defining a suitable education will stop parents from being able to teach their disabled children the skills they are going to require in a mainstream world as an adult. While academic success is of course important it is of little value if the person who has a string of qualifications does not possess the effective communication or social skills that they require to put those qualifications to use in a working environment.

At the moment only 15% of the adult autistic population are in employment compared with 48% of the whole population of people with disabilities. A big factor in not being able to work is lack of appropriate skills due to problems in accessing education and training, including social skills and work skills training. This is something that is being flagged up to the Department of Health by the External Reference Group (of which I am a member) assisting the DoH in the drafting of the Adults Autism Strategy.

We understand that children who are attending schools are seeing professionals every day of their school lives. Seeing a professional/teacher/therapist is built into their routines and so becomes an every day part of their lives. However, we assist families who have professionals working with their children in school who then ask to observe that child in their home and even though the child is familiar with the person who would be doing an observation, taking that person out of an environment where the child is familiar with seeing them and bringing them into their homes can be a very distressing experience for the child. Children with autism find change very difficult and often hold fixed and rigid views about people and the places where they are used to coming into contact with that person. If a child is used to seeing a professional/teacher/therapist in school then bringing that person into their home places that person out of context in their minds, and they can find it very difficult to interact with that person even though they are well used to doing so in school.

Some autistic children, my own sons being two of them, were never able to speak to children who they attended school with outside of the school gates, because those children only existed inside of school inside of their minds. Autism is indeed a very complex condition and one that requires a great deal of specialised training to be able to understand.

The Autism Exemplar states that families living with autism should be offered the opportunity to have a key worker who could build a relationship with a family and help them to access other professionals and provision for their children without the need to speak to many different people. If families living with autism were offered a key worker they would be seeing someone who they were comfortable with. At the moment the only families that AIM knows who have key workers are families who have reached crisis point and have been given (as opposed to being offered) a Key Worker to assist them during their crisis.

 IN THE AIM EHE CONSULTATION RESPONSE TO QUESTION 11

Do you agree that the local authority should visit the premises and interview the child within four weeks of home education starting, after six months has elapsed, at the anniversary of home education starting, and thereafter at least on an annual basis? This would not preclude more frequent monitoring if the local authority thought that was necessary.

“Relevant expertise on the part of advisors is essential in the case of children with special educational needs and/or developmental disorders. Inclusion into mainstream for children with SEN has been, and still is for many, not only unsuccessful but a far from positive experience with children leaving the system to be home educated scared and scarred by their experience. AIM believes that the biggest reason why inclusion has not worked for so many children is because these children were added to our mainstream schools and classroom before teachers had had the appropriate and accredited training that was always going to be necessary for inclusion to work successfully. The National Children’s Plan for Autism published in 2003 gave clear recommendations wrapped around the importance of training for anyone who was working with or coming into contact with ASD.”

TRAINING (GRADE C) (SEE 4.6 FOR FURTHER DETAILS)

Joint multi-agency programmes of ASD awareness training on a continuous basis are necessary for all professionals working with children in the community and for parents/carers. All those providing assessment and diagnosis should undergo regular ASD specific training.

4.6.1 Locally available ASD training (including distance learning) is a requirement for all those who come into daily contact with children with ASD including parents/carers, adults, early educators, teachers and all support staff.

Until very recently, teachers have not been required to have training in SEN and school SENCOs have not been required to be qualified teachers; lack of suitable training has been a significant factor in SEN provision in schools being found to be not fit for purpose, and in parents removing their children from school, so finding people with appropriate expertise might be difficult. It would be counterproductive for the education of a child with SEN to be assessed by an untrained local authority official.

Lack of training and awareness within EHE Teams is exacerbating the concerns that home educators who have children with autism and other disabilities have at this time. A Local Authority needs not only to reflect on what they do not know about a family, who are about to or who are already home educating their child, they must also reflect on what they do not know about the disability that that child, and therefore their family, are living with and how that disability impacts on the child and family.

I am enclosing a copy of the AIM Report which was written last year for The Lamb Inquiry which was asking the question “Why parents have a lack of confidence in the system and the statementing process”¹⁸ The information for this report came solely from parents who are now home educating because they lost confidence altogether in the system, and also a report that AIM wrote to the All Party Parliamentary Group for Autism in 2003 detailing the rise in the numbers of children with autistic spectrum disorders being home educated and the reasons why parents were removing their children from the system.¹⁹

Carole Rutherford
Co-Founder of Autism-in-Mind.

October 2009

 Education Otherwise Response to the DCSF Proposals for the Registration and Monitoring of Home Education Consultation

Question 1: *Do you agree that these proposals strike the right balance between the rights of parents to home educate and the rights of children to receive a suitable education?*

Selection: No.

Comment: In English law, parents have a duty to cause their children to receive education. The question presents a false dichotomy and betrays a lack of understanding of the law. These proposals categorically do not represent a positive move towards greater rights for children. The parent is the child’s best advocate and home education is an expression of the rights of the child. It would be ill-advised disproportionate and extremely damaging for the Government to proceed to legislation on the basis of a tiny minority of serious cases where the parent was not acting in the best interests of the child.

The proposals shift the decisions about education from the parent to the Local Authority in the case of home educated children and are in conflict with section 7 of the 1996 Education Act and with statutory guidance on Children Missing Education.

Barrister Ian Dowty states:

¹⁸ Not printed. See <http://www.autism-in-mind.co.uk/>

¹⁹ Not printed.

“If as the Badman Report says in 3.5 and 3.6 the Talmud Torah test causes a further problem for local authorities, it cannot be solved by changing the position for home educators. The Talmud Torah test applies to schools and it is in that context that it is an expression of the law. A private or faith school supplies education suitable to age aptitude ability and special needs and within logistical limitations also to the preferences and values of the parent. If a parent can discharge their s7 responsibility by sending a child to such a school, then why should they not be able to home educate in accordance with the same principles. To decide otherwise would unfairly discriminate against home educators.”

It is clear from the proposals to involve schools in the planning of provision that school pedagogy will be imposed on home education. This is inappropriate for settings with a much higher adult:child ratio. Many families home educate because they disagree with the imposition of the National Curriculum, the constant testing of children, the lack of a child’s ability to shape their own provision and be a full participant in directing their own learning. The proposals negate the right of parents and children to define for themselves an appropriate education suitable to the age, ability, aptitude and any special needs of the child. The proposals will remove richness and diversity in current provision and instead will bring ever-increasing prescription and direction over the child’s education at home.

The requirement for a twelve month plan in advance flies in the face of best practice in terms of encouraging reflective and responsive provision. This point was made in oral evidence to the Select Committee on 14 October.

The Badman Review has damaged innovative and constructive joint working between local authorities and home educators which does nothing to benefit children or to promote the rights of the child. Some families have felt compelled to withdraw voluntary co-operation with local authorities as a result of the Review. The Review places the relationship between home educating families and local authorities in an adversarial context, institutionalises mutual suspicion and does nothing to establish and address the reasons why some families choose not to have a relationship with their LA. This point was raised in Select Committee oral evidence by Education Otherwise on 14 October.

The emphasis on producing work for inspection and the requirement for a child to “exhibit” learning show a fundamental lack of understanding of home education and the dignity and respect afforded to children by home educating parents. There are good reasons why some families choose not to have a relationship with local authority officials who undermine their provision and destroy the self confidence and self esteem of children through a lack of appreciation and awareness and a lack of respect for the child.

There appear to be a number of conflicting reasons for home visits and interviews with children: a safe and well check by observing the child, ensuring that the child is receiving suitable education and verifying that the child is able to answer questions about academic work undertaken during the year.

It also appears to be envisaged that the home interview would give the child an opportunity to disclose abuse to a trusted and familiar adult. These four objectives are counter-productive and wholly incompatible.

Should these proposals be implemented, we predict a barrage of complaints throughout the country, escalating through local council complaints procedure to Ombudsman level. Many home educating families have already been to talk to their MP about these proposals.

The present law is sufficient but there is no established framework for liaison between home education representatives, local authorities and the Department at a local authority level. Nor is there a framework or mechanism or channels of communication between the Department at a national level and home education organisations and local authorities. We suggest that regional and national conferences should be organised to bring together practitioners and stakeholders to investigate, discuss and disseminate best practice.

There has been inadequate central government guidance and a failure to educate local authorities in home education. Elsewhere in this consultation submission, Education Otherwise proposes that the Government take powers to put the 2007 Home Education Guidelines on a statutory basis.

The parent has a duty to cause the child to receive education via section 7 of the Education Act 1996. This can be done through school or outside the school system.

Since February 2007 the local authority has a duty via s.436A of the Education Act 1996 to make arrangements to identify children missing education. Paragraph 87 of the statutory guidance on Children Missing Education states that:

“local authorities should make inquiries with parents educating children at home about the educational provision being made for them. The procedures to be followed with respect to such investigations are set out in the EHE Guidelines, 2.7–2.11 and 3.4–3.6.”

Section 437 of the Education Act 1996 requires the local authority to seek information from parents if it appears that a child is not receiving education. Ultimately if the local authority is not satisfied, it has a duty to serve a School Attendance Order.

The authority has further duties via the Children Act 1989 sections 17 and 47 in relation to establishing whether a child is in need of services and a duty to step in if the child is at risk of significant harm.

Section 10 of the Children Act 2004 obliges the local authority to co-operate with statutory partners to improve wellbeing of children in the area.

Question 2: *Do you agree that a register should be kept?*

Selection: Not sure.

Comments: We have answered “not sure” because the question is ill-conceived and cannot be answered in the context of the Badman Report. Is this a question about the principle of voluntary registration, of compulsory registration, or of the specific licence-to-home-educate registration scheme proposed by Graham Badman and the DCSF? We are implacably opposed to the compulsory registration scheme proposed by Graham Badman. In the few areas where the local authority has been able to offer access to services and non-judgemental support to home educating families there has been an increase in the take-up of voluntary registration and a far more positive working partnership between home educators and the local authority.

We should like to query the term “register” rather than “database.” These proposals would create the offence of having an unregistered child. We are not clear whether the parents or guardians of a child entering the country for a holiday would have to register the child as home educated, since the proposals refer to residence but a timeframe is not defined. Nor is it clear how asylum seekers between the ages of five and 16 or children of no fixed abode might be brought into the scope of the proposed registration scheme. We would also have grave concerns about registration and disclosure for the children in families where there has been domestic violence since there has been no guidance or reassurance about shielding.

The proposals appear to be incompatible with recent statutory guidance on Children Missing Education which directs local authorities to follow procedures set out in the Government’s Elective Home Education Guidelines. The complexities of a compulsory registration scheme create the potential for legal challenge.

On a technical point, there are security issues with locally administered databases which may not conform to a central agreed standard. All the security, data protection and data cleansing issues raised by ContactPoint are equally applicable to home education databases.

Question 3: *Do you agree with the information to be provided for registration?*

Selection: No.

Comments: Education Otherwise does not support compulsory registration or conditional registration. We therefore object to all the information outlined in the proposal for compulsory registration.

We take particular issue with the statement of educational approach and the requirement to produce a 12 month plan as a condition of registration. We believe that this proposal was conceived in haste and we understand that Graham Badman’s Expert Reference Group had serious reservations.

Registration and monitoring as specified in the Badman Report would be extremely costly. There has still been no Impact Assessment for the Government’s proposals. In particular there has not been a Race Impact Assessment or Disability Impact Assessment or Equality Impact Assessment.

The Review did not adequately assess the benefits of voluntary engagement nor the corresponding danger that families will disengage if forced into an adversarial relationship with their local authority. We have also addressed this issue in our answer to the first question of this submission and in our oral evidence to the Select Committee on 14 October.

A lack of engagement with the authority is not an indicator that there are difficulties, that the family is isolated or that there should be concerns for the children.

Question 4: *Do you agree that home educating parents should be required to keep the register up to date?*

Selection: No.

Comment: It is not possible to keep such a register up to date and the question betrays a lack of understanding of home education. The place of education may change from day to day and the educational approach may of necessity and principle diverge from the statement contained in the 12 month plan. Under the Government’s proposals parents would be committing a criminal offence if they failed to supply any part of this information to the authorities at the earliest possible opportunity in order not to break the law.

The proposals are in conflict with recent statutory guidance on Children Missing Education which directs local authorities to follow procedures set out in the Government’s Elective Home Education Guidelines. The complexities of a compulsory registration scheme create the potential for legal challenge.

In the few areas where the local authority has been able to offer access to services and non-judgemental support to home educating families there has been an increase in the take-up of voluntary registration and a far more positive working partnership between home educators and the local authority.

Question 5: *Do you agree that it should be a criminal offence to fail to register or to provide inadequate or false information?*

Selection: No.

Comment: We would strongly oppose any move to impose a criminal record on parents and we feel that the question is offensive.

Would local authorities be liable in law for failing to keep a comprehensive register and how might this be determined or enforced?

It is difficult to imagine the legal input to the Department in drafting this question since “inadequate information” is an impossibly subjective criterion for prosecution.

It is simply not possible to keep such a register up to date and the question betrays a lack of understanding of home education. The place of education may change from day to day and the educational approach may of necessity and principle diverge from the statement contained in the 12 month plan.

Home educators are not the only people to object to this proposal. Select Committee witnesses from the National Children’s Bureau and the Association of Directors of Children’s Services stated on 14 October that the case had not been made for criminalising parents and that other options were preferable.

How is it envisaged that the Government might enforce registration especially for highly mobile families?

It makes little sense to legislate for increased intervention in the area of home education and to appear to promise a menu of support to home educating families, without first assessing the cost of implementing these proposals. The Government is clearly not able to do this until the total number of home educated children is known. Therefore it is not logical to proceed to legislation in the absence of any reliable data.

There has still been no Impact Assessment for the Government’s proposals. In particular there has not been a Race Impact Assessment or Disability Impact Assessment or Equality Impact Assessment.

This proposal should be withdrawn.

Question 6 a): *Do you agree that home educated children should stay on the roll of their former school for 20 days after parents notify that they intend to home educate?*

Selection: No.

Comment: This will cause undue stress to families as the school puts pressure on the child to attend school during this period in order not to prejudice Ofsted-rated attendance targets, particularly persistent absence figures. The proposal undermines children’s rights and is damaging to the welfare of the child.

Schools will seek to persuade parents not to take children off the school roll and to remain as pupils. Local authority officials will become involved in discussions over whether the parent is capable of producing a detailed 12 month plan at this stressful time. The potential for conflict and legal challenge is considerable.

This proposal is also in conflict with section 7 of the 1996 Education Act and with recent statutory guidance on s.436A of the Act and with the 2006 Pupil Registration Regulations.

This proposal is ill-conceived and should be withdrawn.

Question 6 b): *Do you agree that the school should provide the local authority with achievement and future attainment data?*

Selection: No.

Comment: The case has not been made. We are unable to see why this is necessary or desirable. Schools do not routinely provide home educating parents with this information. It is not proposed that consent be sought from the parent or from the child. The reason for taking this information could only be to judge the parent’s educational provision against school standards and projected school attainment targets.

We have feedback from members indicating that in some cases schools under-estimate a child’s ability and future attainment, stating that the child will never be academically successful, that the parent is deluded or biased to think otherwise.

In other cases, members have been routinely misinformed by schools about the child’s actual level of attainment and understanding based on the curriculum material covered in class which may not have been understood or assimilated by the child, necessitating a great deal of one to one remedial work at home once the child has been removed from the state system.

Moreover, the parent may not wish to adopt school-based values and a school-type curriculum but would come under pressure from the local authority to base the home education on the framework set out by the school. We already see this in many cases where the local authority interprets the statement of special educational needs as imposing a requirement on the parent to deliver a particular form of education or to reach specific attainment targets.

Question 7: *Do you agree that DCSF should take powers to issue statutory guidance in relation to the registration and monitoring of home education?*

Selection: No.

Comment: The Government should not take powers to issue statutory guidance on registration and monitoring. This is the wrong question about statutory guidance. We should have been asked for our views on statutory guidance regulating the rights and responsibilities of the parent and the local authority which was the focus of the Government non statutory Guidelines in 2007.

<http://www.dcsf.gov.uk/everychildmatters/publications/elective/>

The Badman Review did not seek comprehensive reliable information about local authority practice and procedure. Education Otherwise has begun much-needed research in this area. Philip Noyes giving evidence on behalf of the NSPCC to the Select Committee on 14 October noted that the Badman Report was lacking in this respect.

The 2007 Government guidelines on home education were published after wide consultation and deliberation. The problem is that these non-statutory Guidelines were not publicised by the Government. Many local authorities either remained unaware of their existence or treated them as merely advisory since they were not statutory.

In oral evidence to the Select Committee on 14 October there was some discussion of what constituted suitable education and the local authority witness suggested that in home education there should be the consistent involvement of parents or other significant carers; recognition of the child's needs, attitudes and aspirations and opportunities for the child to be stimulated by their learning experiences.

These proposals are of course already contained in the Government Guidelines at paragraph 3.15 further demonstrating that there is no need to reinvent the wheel.

<http://www.dcsf.gov.uk/everychildmatters/publications/elective/>

The Review did not have sufficient time to investigate models of good practice nor did the Department for Children Schools and Families consider pilot studies. Much more work needs to be done in this area.

There can clearly be no headlong rush to legislation as there is no Impact Assessment for the Government's proposals. In particular there has not been a Race Impact Assessment or Disability Impact Assessment or Equality Impact Assessment.

Question 8: *Do you agree that children about whom there are substantial safeguarding concerns should not be home educated?*

Selection: Not sure.

Comment: We have answered "not sure" since a yes/no answer is not applicable to this question and the subject demands further consideration. Recommendation 23–24 of the Badman Report propose that any "concerns" not otherwise specified could also be grounds for refusing home education registration. This is prejudicial to any meaningful discussion of question 8 and recommendations 23 and 24 should be withdrawn and redrafted. The current proposals are open to legal challenge.

If the child is considered to be at risk of significant harm there is legislation and guidance in place via section 47 of the 1989 Children Act and Working Together to Safeguard Children which sets out procedures to be followed. The mode of education is irrelevant. A child is either safe with the parent or not safe, yet this proposal would create a third category of child who is "safe to go to school."

Members tell us that where the child has special educational needs the school or local authority often raises "safeguarding concerns" as an obstacle to the family's home education, in some cases leading to a section 47 referral which remains on the family's record. The value and legality of home education is not adequately understood.

Children and families may be known to social care services for a variety of reasons. In some cases the child may be in need of services and therefore the family has approached social services or health services. This take-up of services is surely to be encouraged and not to be adduced as evidence that the educational provision made for tens of thousands of other children is in urgent need of inspection.

Question 9: *Do you agree that the local authority should visit the premises where home education is taking place provided two weeks notice is given?*

Selection: No.

Comments: The Badman Report conflates education, welfare, child protection and safeguarding. No justification has been given for imposing a duty to visit the home and question children without the parent present. The proposal is operating on the assumption that any and every child could be at risk and is a wholly disproportionate response to a minority of cases. The proposals also burden the local authority with additional liability in law in cases where the official has signed off the family and reported that there is no cause for concern.

It is illogical that the local authority should only visit the homes of children who are educated at home and not the homes of all children. Children spend more time at home than they do at school and are of course based at home for relatively long periods during the summer holidays, where the parent may be working away from home.

There appear to be a number of conflicting reasons for home visits and interviews with children: a safe and well check by observing the child, ensuring that the child is receiving suitable education and verifying that the child is able to answer questions about academic work undertaken during the year.

It also appears to be envisaged that the home interview would give the child an opportunity to disclose abuse to a trusted and familiar adult. A moment's thought should reveal how unlikely this would be.

These objectives are mutually incompatible.

A mass home visit scheme for 80,000+ home educated children would be astronomically expensive and would represent an extraordinary priority for the Government when there is still no funding for support or services to home educating families. There has been no Impact Assessment for the Government's proposals. In particular there has not been a Race Impact Assessment or Disability Impact Assessment or Equality Impact Assessment.

Question 10: *Do you agree that the local authority should have the power to interview the child, alone if this is judged appropriate, or if not in the presence of a trusted person who is not the parent/carer?*

Selection: No.

Comments: The proposals to interview and question children in their home without a parent present have met with widespread and determined opposition and are unworkable.

The civil rights organisation Liberty has stated: *"Any power of access to the home must be tightly regulated and a full explanation as to the power's necessity should be given."*

There appear to be a number of conflicting reasons for home visits and interviews with children: a safe and well check by observing the child, ensuring that the child is receiving suitable education and verifying that the child is able to answer questions about academic work undertaken during the year.

It also appears to be envisaged that the home interview would give the child an opportunity to disclose abuse to a trusted and familiar adult. We believe that these proposals lack clarity and that these objectives are counter-productive and mutually incompatible.

Should this proposal be implemented, we predict a barrage of complaints throughout the country, escalating through local council complaints procedure to Ombudsman level. Many home educating families have already been to talk to their MP and hundreds of home educating families visited Parliament on 13 October to raise awareness of this issue.

There is absolutely no information about the procedure if the child does not want to be questioned without a parent present and it was this very question which Graham Badman said he most dreaded in evidence to the Select Committee on 12 October.

This proposal is causing a huge amount of concern, anger, distress and outrage. For children who have been bullied at school the home is a place of sanctuary and safety. The Badman Report does not address the issue of recommended procedure and the rights of the child if the child refuses to be interviewed. The proposal is open to legal challenge.

For safeguarding reasons we believe that many parents would not be prepared to allow children to be alone with an unknown adult in a position of power and authority. The child seems to be viewed both as a witness against the parent and also as evidence for the efficacy or otherwise of the parent's educational provision. A third view of the child is as potential abuse victim in all cases until proved otherwise. This is an extraordinary way to segregate and objectify children while allegedly promoting the child's right to be heard. Meanwhile parents are viewed with suspicion and mistrust, being characterised as likely to mislead or deceive the authorities or as being the last people who might know what their child actually needs.

Graham Badman does not want the parent present as an advocate for the child. Nevertheless the child needs an advocate chosen or approved by the parent and the child. An independent advocate is also necessary for the professional reputation of the local authority officer who should never see the child alone.

We note that there has been no Impact Assessment for this proposal.

Question 11: *Do you agree that the local authority should visit the premises and interview the child within four weeks of home education starting, after 6 months has elapsed, at the anniversary of home education starting, and thereafter at least on an annual basis? This would not preclude more frequent monitoring if the local authority thought that was necessary.*

Selection: No.

Comment: The proposals to interview and question children in their home without a parent present have met with widespread and determined opposition and are unworkable. There is absolutely no information about the procedure if the child does not want to be questioned without a parent present and it was this very question which Graham Badman said he most dreaded in evidence to the Select Committee on 12 October.

The civil rights organisation Liberty has stated:

“Any power of access to the home must be tightly regulated and a full explanation as to the power’s necessity should be given.”

A mass home visit scheme for 80,000+ home educated children would be astronomically expensive and would represent an extraordinary priority for the Government when there is still no funding for support or services to home educating families. There has been no Impact Assessment for the Government’s proposals. In particular there has not been a Race Impact Assessment or Disability Impact Assessment or Equality Impact Assessment.

There appear to be a number of conflicting reasons for home visits and interviews with children: a safe and well check by observing the child, ensuring that the child is receiving suitable education and verifying that the child is able to answer questions about academic work undertaken during the year.

It also appears to be envisaged that the home interview would give the child an opportunity to disclose abuse to a trusted and familiar adult.

Since February 2007 the local authority already has a duty via s.436A of the Education Act 1996 to make arrangements to identify children missing education. Paragraph 87 of the statutory guidance on Children Missing Education states that:

“local authorities should make inquiries with parents educating children at home about the educational provision being made for them. The procedures to be followed with respect to such investigations are set out in the EHE Guidelines, 2.7–2.11 and 3.4–3.6.”

Section 437 of the Education Act 1996 requires the local authority to seek information from parents if it appears that a child is not receiving education. Ultimately if the local authority is not satisfied, it has a duty to serve a School Attendance Order.

The authority has further duties via the Children Act 1989 sections 17 and 47 in relation to establishing whether a child is in need of services and a duty to step in if the child is at risk of significant harm.

Section 10 of the Children Act 2004 obliges the local authority to co-operate with statutory partners to improve wellbeing of children in the area.

The present powers are sufficient but poorly understood and the Department has not taken a lead in promoting the 2007 Guidelines.

Education Otherwise recommends that the Government should take powers to put the 2007 guidelines on a statutory basis.

<http://www.dcsf.gov.uk/everychildmatters/publications/elective/>

October 2009

Further supplementary memorandum submitted by Education Otherwise

POLICY BASED EVIDENCE MAKING

The Government has announced that the law on home education will be changed via the Safeguarding Bill to be announced in the Queen’s Speech on 18 November. Government proposals to introduce a compulsory licensing scheme for home educators were put to a public consultation which closed on 19 October with over 5,000 responses.

In order to justify new legislation with respect to a compulsory licensing scheme and mandatory access to the child alone in the family home, Graham Badman and the Department for Children, Schools and Families have made 3 attempts to collect evidence against home educators.

Home educators have been subjected to nine months of policy based evidence making which has seriously damaged trust in the political process. Members of Parliament have received countless communications and representations from home educators, culminating in over 400 home educators visiting their MP on 13 October and followed by Education Otherwise parliamentary event on 20 October.

Following each onslaught, home educators are able to deconstruct the data and to demonstrate the lack of solid reliable evidence. However, the damage has already been done because the general reader is left with a blur of media headlines which give the impression that home educators are twice as likely to be defective.

Graham Badman has consistently dismissed home educators’ repudiation of his Report as “a vociferous minority”. It is possible that the Department will continue to maintain this view even after receiving 5,000+ consultation responses.

It is all too easy to lose the plot in sifting through a mass of information, trying to understand the basis for Graham Badman’s varied assertions about home educators, being only too well aware that the goalposts are probably being dug up and moved at this very moment.

As stated here and elsewhere, Education Otherwise's position is that the present law is entirely sufficient but is inadequately understood and badly implemented. We have also recommended that the 2007 Government Guidelines on Home Education be put on a statutory footing.

A few days before the Select Committee hearing, Graham Badman returned to the fray and announced that home educators were more likely to be NEETs, Not in Employment, Education or Training and that home educated children were disproportionately represented amongst those children with a Child Protection Plan.

As far back as April, Graham Badman presented anecdotal evidence about NEETs from Connexions to a group of home educators in Kent and the validity of the data collection method received robust challenge from home educators. It is disappointing but not altogether surprising that this methodological error has now been repeated on a national scale.

In terms of Child Protection Plans, with reference to Graham Badman's own authority of Kent, Education Otherwise has written statements from Kent asserting both that there are 10 Child Protection Plans and that there are no Child Protection Plans.

It doesn't matter that each separate allegation or concern can be unpicked because by then it is too late; once more, smoke has been used to prove fire and a montage of evidence has been hastily assembled to justify Departmental policy.

Giving oral evidence to the Select Committee on 14 October, Sir Paul Ennals stated that we need to be satisfied that change is proportionate and that he had not been persuaded that a new criminal offence was required since the legal framework on school attendance orders is already in place.

Another witness, Phillip Noyes of the NSPCC said that when he looked at the Badman Report he was "surprised at some of the lack of detail around how the relationship between the home educators and the local authority works now". Peter Traves said that "the problem would be if we rushed from this to legislation that was based solely around concerns about safeguarding".

We should like to reiterate Education Otherwise's position which is that the present law is entirely sufficient but is inadequately understood. We have also recommended that the 2007 Government Guidelines on Home Education be put on a statutory footing.

For the past three months Education Otherwise has been conducting our own research into policy and practice in all local authorities and we are presently analysing raw data from over a hundred authorities.

In contrast to the Badman Review, we have asked the same questions of all local authorities and we will not presume to extrapolate or draw sweeping conclusions until all the information has been received and undergone a rigorous checking process.

In further contrast to the Badman Review, we are comparing like with like, in that we have requested information from each authority about all children in the area as well as information about home educated children.

KHYRA ISHAQ AND BIRMINGHAM CHILDREN'S SERVICES

Paul Holmes MP: "What do you think we should be saying as a Committee regarding the legislative process and the Badman report, and whether it is protecting children's interests or trampling all over the interests of home-educated children?"

Maggie Atkinson: "I would give you two words, and they are the first and second names of the child who died / Khyra Ishaq"

Maggie Atkinson, Director of Children's Services in Gateshead, referred to the case of a girl in Birmingham whose mother and stepfather are currently being prosecuted for starving the child to death. The trial of Khyra Ishaq's mother and stepfather began on 3 June and was halted the following month after three members of the jury were discharged. The retrial will take place in 2010.

In July a spokesperson for Birmingham Council said that an executive summary of the Serious Case Review on Khyra Ishaq would be published after criminal proceedings had been completed and Ofsted had scrutinised the report.

What did not emerge during Select Committee questioning of the Director of Children's Services for Gateshead, was that Birmingham Children's Services and the Birmingham Local Safeguarding Children Board have been under sustained attack for a number of serious cases and for failings in statutory services as a quick glance at the Birmingham Post will show.²⁰

Child referrals were screened by inexperienced staff with insufficient management oversight. Lack of senior management has been judged a serious risk. Investigators and inspectors have a high number of case loads and there are a high number of vacancies and sickness absences. An inquiry into Birmingham also highlighted the failure of police, council and health trusts to work together and share information.

²⁰ <http://www.birminghampost.net/news/birmingham-social-services-report/>

Nineteen children from Birmingham have died of abuse or neglect since 2004 and Birmingham Council has confirmed that 16 of those children were known by social workers, police or health trusts to be at risk of harm. Media reports of the trial of Angela Gordon and Junaid Abuhamza indicate that school teachers had repeatedly raised serious safeguarding concerns with the council while the children were at school but that Government guidance on safeguarding procedures had not been followed.

The case cited by Maggie Atkinson is not an argument for more statutory powers with respect to home education, rather it is an argument for Birmingham Council to learn serious lessons and to address the urgent issues of recruitment, retention and training of social workers.

Birmingham Safeguarding Children Board was until recently chaired by Birmingham's Director of Children's Services

On Friday 16 January 2009 the joint president of the Association of Directors of Children's Services wrote about:

"a 24-hour session with the Department for Children, Schools and Families and partners about the Children's Plan. Ed Balls introduces. The event is excellent with a great sense of opportunity and shared commitment. My co-president John Freeman and directors Maggie Atkinson and Graham Badman fly the ADCS flag".

DCSF launched the Badman Review of Home Education on 19 January.

Where is the money coming from?

Graham Badman's Report into Home Education made 28 recommendations for change to the present system. Following the Badman Report, there are two main areas where money could conceivably be required. There could be wages or fees for local authority officers to make house calls to 80,000+ children and there could be payment for goods or services given or offered or otherwise made available to 80,000+ home educated children. At present, local authorities know of around 20,000 home educated children.

The present system is described by the Government's 2007 Home Education Guidelines²¹ which aimed to clarify the balance between the right of the parent to educate their child at home and the responsibilities of the local authority.

Education Otherwise position as stated in our recent consultation response²² is that the 2007 Guidelines should be put on a statutory footing.

If we take staffing costs first, Education Otherwise estimates that around £4 million is currently spent on staffing costs. Local authorities know of around 20,000 home educated children. The Government estimates that there may be 80,000 home educated children. The Government further estimates that the new system would cost £9.7 million a year after initial start-up costs and has undertaken to fund the difference between existing spending and £9.7 million.

This may or may not mean that an extra £6 million will be given to local authorities to assist in implementing the Badman Report.

If we consider goods or services offered or made available to home educated children, the Government appears to be suggesting that local authorities are already permitted to draw down a small percentage of the Dedicated Schools Grant under "Alternative Provision".

The vast majority of authorities do not draw down funding from the DSG possibly because Government Ministers have always proclaimed that home education is a matter of parental choice and that there is no central funding.

In March 2009 Baroness Morgan stated that home tuition would be a decision by a parent and no GUF [Guaranteed Unit of Funding] would be paid in respect of such children and that no other funding would be payable either by the department or the local authority.

On Tuesday 3 November we learned that a home educating parent is taking her case to the Local Government Ombudsman after her son's college place was not funded:²³

"Astrid Jordan, of Moulton Seas End, is making a formal complaint about the LEA to the Local Government Ombudsman after her son Kieran (14) was refused funding to study music at Boston College".

Penny Richardson, the council's interim strategic manager for inclusion, said:

"We have looked at Kieran's case carefully and while we can't provide funding for the further education course, a mainstream school place has been found for him.

A course at FE college will be available to him at no cost when he reaches school leaving age".²⁴

²¹ <http://www.education-otherwise.org/Legal/7373-DCSF-Elective%20Home%20Education.pdf>

²² <http://www.freedomforchildrentogrow.org/EO%20Heregistration%20and%20monitoring%20consultation%20response%20october%202009.pdf>

²³ <http://www.spaldingtoday.co.uk/news/Row-over-college-funding-goes.5784199.jp>

²⁴ <http://www.spaldingtoday.co.uk/news/Row-over-college-funding-goes.5784199.jp>

The Association of Directors of Children's Services does not appear confident that new money will be available, saying to the Select Committee that if the figures of home educated children turned out to be much higher than the present number known to local authorities, then the authority would need to vire resources. In short, if statutory duties were placed on local authorities, then money would have to be found from another area of the council budget.

Essex has told the Government that there is a huge potential cost implication, saying that in the county there are only two paid staff for 700 families.

Supplementary memorandum submitted by the Home Education Advisory Service

I would like to thank the Select Committee for allowing me the opportunity to give evidence on the subject of elective home education at the hearing on Wednesday 14 October 2009. At the end of the time allowed I noted that you were kind enough to say that the Committee would be willing to consider further dialogue on matters that we were unable to raise during the hearing. Accordingly I am writing to ask the Committee to consider three issues that could not be addressed fully at the time. These are:

- Comments on the additional evidence submitted to the Select Committee by Mr Badman
- The Badman monitoring proposals and the United Nations Convention on the Rights of the Child (UNCRC)
- Directors of children's services: their legal duty

I do hope that there is still time for the Committee to be able to consider this information. Unfortunately the pressure of my work commitments has made it impossible for me to communicate with you before now. I remain deeply committed to home education and I continue to support home educators alongside my work for Roman Fields Brokerage Service, a new project that has been set up by Hertfordshire County Council's Children, Schools and Families Department.

I mention this because the Roman Fields project provides individual education packages for children of school age who have behavioural, emotional and social difficulties. Undoubtedly some of these children would have been among the small number who cause concern to the authorities when they end up in home education because there is literally nowhere else for them to go. I believe that they are relevant to the Committee's present inquiry and I would like to recommend the work of the Roman Fields Brokerage Service to you.

As far as we know, the project is unique and it could well provide a model for use in other areas; similar projects might be of assistance to other local authorities as a means of helping children about whom there are justified concerns.

COMMENTS ON THE ADDITIONAL EVIDENCE SUBMITTED TO THE SELECT COMMITTEE BY MR BADMAN

Mr Badman's third round of data collection from local authorities in September 2009 was designed in part to support his earlier conclusion that the number of home educated children known to children's social care in some local authorities is disproportionately high relative to the size of the home education population. The results of his enquiries have had a direct influence on the review recommendations, so it is of considerable importance that both the data itself and Mr Badman's analysis should be fair and accurate. In giving evidence to the Committee Sir Paul Ennals remarked (14 October, Q84) that the request for more research should not be used to defer difficult decisions. I cannot emphasise strongly enough that we are not asking for more research; we are asking simply for an assurance that the information used to justify the review's proposals should be both fair and accurate. We are disturbed to find that the September data collection and its conclusions fail both of these criteria.

It is a matter of grave concern to home educators that Mr Badman's hastily-assembled September statistical exercise contains some serious errors and parents are very troubled about the fact that there does not appear to be any avenue by which their concerns may be communicated to the Select Committee. Some information from freedom of information (FOI) requests on the September data collection has now been obtained by home educators and Mr Badman's conclusions have been scrutinised by experts. Although there are as yet only a small number of responses there are enough to cast grave doubt on the reliability of the data in Mr Badman's September exercise. We would like to ask the Committee to consider the following points:

The September data and its analysis: faults in Mr Badman's methodology

a) Mr Badman is guilty of misusing statistical terms in his information to the Select Committee dated 9 October 2009. He states in the results (paragraph 1) that local authorities (LAs) responded voluntarily. This means that they were self-selecting and were not, therefore, a "representative sample" of all LAs in England as he states in paragraph 5. It is reasonable to infer that the LAs which chose to respond would be more likely to be those with greater concerns (or the ones with a greater degree of institutional prejudice) than the ones which did not respond. If this were the case the negative tendencies will have been overstated. Data from all LAs would therefore be needed to give a fair and balanced picture.

b) Mr Badman gives five reasons why the LAs did not respond to specific questions (paragraph 5) but he gives no figures for these. It would have been a simple matter to have included the actual figures for each reason and this information is necessary in order to put the findings into their proper context. Home educators are wondering why Mr Badman has suppressed this information.

c) Mr Badman states (paragraph 5) that the figures have been quality assured by a DCSF statistician. This assurance gives no guarantee that the raw data itself is accurate, and the information from LAs obtained via FOI requests has shown already that it is faulty. Mr Badman has used unsound data in order to lend weight to his earlier conclusions and this is completely unacceptable.

Mr Badman's results

Child Protection Plans (CPPs)

Mr Badman states (paragraph 7) that LAs were asked for information about the number of CPPs relating to electively home educated (EHE) children compared with the whole population of children. His assertion that the number of EHE children with a CPP is double that found in the whole population of children was discussed in the Select Committee hearing on Monday 12 October. This claim is mistaken as he has made an error in his calculations. For an expert analysis please see the brief paper *Observations on Home Education Statistics* (Appendix 1 at the end of this document).

Education

a) Table 2 in Annex 1 of Mr Badman's findings shows how the LAs were asked to provide information about the number of EHE children who were not receiving a suitable education. The LAs were asked to state whether the figures they gave were actual or estimated, but in section 10 of his findings they are all presented as actual figures. It would be helpful to have some idea how many figures were actual and how many were estimations.

b) Despite requests from HEAS Mr Badman declined to investigate the problem of LAs acting illegally towards home educating families. HEAS receives calls for help regularly from families who have had very unsatisfactory encounters with LA staff. It is likely that some of the small proportion of children who are said to be receiving inadequate provision are not being judged fairly. An examination of individual cases would be necessary in order to ascertain the reliability of this data.

c) There is no legal definition of "full-time" education with regard to EHE. LAs are making subjective judgements and it follows that resulting data cannot be regarded as robust.

School Attendance Orders (SAOs)

a) Although 210 children in the 74 LAs are deemed to be not receiving any education, Mr Badman's figures show that only 73 SAOs were issued. He notes that there is a relatively low usage of these but it begs the question as to why some LAs are asking for greater powers when they are not using the powers that they already have.

b) 26 SAOs were issued by one of the 18 LAs which reported issuing them in respect of EHE children. It would be helpful to know whether or not this was the same LA that had eight CPPs for EHE children; if so, this could indicate either that this LA is particularly draconian or that it is in an area which has significant social problems. It is unacceptable that no attempt has been made to explain this statistical outlier which accounts for one-third of the figures.

Not in Education, Employment or Training (NEET)

a) The fact that Mr Badman asks only about EHE young people who are NEET further demonstrates that his investigation is biased. He is not interested in achieving a balanced view of the outcomes.

b) Mr Badman asked the LAs for the figures from the Connexions annual survey of Year 11 leavers which relate to EHE young people. He referred to the NEETs data as "stark" (12 October, Q37—the uncorrected transcript reads "needs" but the video archive confirms that it should read "NEETs") but he seems to be unaware of the fact that the data on EHE leavers is very patchy.

An internet search reveals that some local Connexions websites state clearly that their data relates to mainstream schools only. Some of them do not hold data for other settings and the data that they can provide is not consistent across the country. Information given to HEAS by many families over the years has shown that few home educators make use of the services provided by Connexions; as a result, Connexions has very little first-hand knowledge of EHE young people. Further, we do not know whether or not Connexions makes an accurate distinction between *bona fide* home educators and young people who are out of school for other reasons.

LAs themselves are the source of most of the data for the Connexions survey and they do not have access to information about all home educated leavers. Quite apart from the fact that not all the EHE leavers are known to them, many LAs do not seek information about all those who are known to them in their final few months of compulsory education. One parent comments: "When I heard about Mr Badman's call for supplementary evidence I tried to update my LA with the destinations of my two sons. Both left home

education in 2008, one to go to college and the other to work full-time. I was told that the LA does not deal with young people when they reach 16 and my information was refused. So my sons will be recorded as NEET when they are not in this category; I suspect that many others will be in the same position.”

c) These facts show that the evidence base for the figures shown in Mr Badman’s findings at Annex C is highly suspect; further, the questionable information on which it is based is from a mere 47 of a possible 150 LAs. 20 of the 47 LAs who answered this question have replied to home educators’ FOI requests to date and their figures and comments are shown in Table 1 (Appendix 2 below). The number of responses is small because the FOI requests have been made only very recently, but enough comments have been made to show consistently that Mr Badman’s question about NEETs cannot be answered with any degree of accuracy.

d) Further, Mr Badman makes the error of not comparing like with like. 13 of the 47 LAs who “were able to provide information” have stated openly that the figures are unknown or unreliable, but Mr Badman goes on to compare this small set of inadequate data with the national figure. This comparison is unacceptable and it has the effect of portraying home education in the worst possible light.

Missing Children (Runaways)

a) Although “missing children (runaways)” in this context has a precise definition which Mr Badman quotes in his document, it is clear from the responses to the FOI requests (Table 2, Appendix 2 below) that the figures from the LAs include children who have moved away from the area with their families. Families who move out of an area have no obligation to inform the LA and their children are not “runaways”.

b) Some LAs stated that “missing” children were retained on the records indefinitely and this procedure would result in the inclusion of children who were now adults. Given that the data is demonstrably confused and unreliable it would be highly improper to draw any conclusions at all from it.

THE BADMAN MONITORING PROPOSALS AND THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)

Home educators have expressed concern that time constraints meant that the legal implications of the registration and monitoring proposals were not raised when oral evidence was given to the Select Committee.

HEAS has been advised that the proposals for universal compulsory registration and monitoring of all home educated children would require changes to be made to primary legislation; further, the proposals constitute an infringement of a significant number of the rights that are accorded to young people by the UN Convention on the Rights of the Child. While it is accepted that major concerns for a vulnerable child’s welfare would allow for these rights to be suspended the same could not be said in the majority of cases where there is no cause for concern at all. Indeed, a civil servant who was conducting one of the recent DCSF investigations into home education observed in a meeting with HEAS that he did not think that ministers were considering the imposition of compulsory visits, adding that under privacy and human rights legislation he thought that this was unlikely to be possible even if they wished to do so.

Monitoring all home educating families by mandatory home visit represents an arbitrary intrusion into the private life of each home educated child and his/her family. If there is no evidence of any problems this is not a proportionate response to a family’s desire to make private arrangements for the education of their children. To judge that children might be at risk in their own homes simply by virtue of the fact that they are not in school would violate their rights under Article 16 of the UNCRC which states that:

No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. The child has the right to the protection of the law against such interference or attacks.

Article 12 of the UNCRC allows the child the right to be heard. This carries within it the right to remain silent. Enforced inspection with an automatic right of access to the child is in complete contradiction to Article 12:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Article 9 governs the child’s right not to be separated from his or her parents. If local authority officers were empowered to insist on interviewing the child alone without any prior independent scrutiny of their reasons for so doing there would be a breach of Article 9:

States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child’s place of residence.

The Home Education Review does not specify any procedure for appeal against this arbitrary interference. Such a power should not be given to local authority officials to use as they see fit; abuses would be bound to occur when over-zealous officials believe that they are acting in the child's interests. Under current legislation officers of the local authority are able to insist on seeing the child if there are significant concerns for the child's safety and welfare, so there is no need for the LAs to seek further powers.

Compulsory monitoring of home education would be contrary to the child's right to freedom of association as enshrined in Article 15:

“States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.”

Children would be forced to associate with local authority officers against their will although neither of the two grounds for restricting their freedom of association given in Article 15 would apply. Given that families whose integrity is unquestioned would still be forced to submit to compulsory inspection and monitoring, this would result in a breach of Article 15 on every occasion.

Compulsory registration and monitoring would, in the majority of cases, override Article 3 of the UNCRC which states:

In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Given that all the above rights of the child would have been violated it would be difficult to argue that compulsory monitoring could possibly be in the best interests of the child. It could also be argued that many children are educated at home because they have been failed by the same bureaucracy that is now seeking to invade their privacy, therefore it could not possibly be in their best interests to seek to drive them back into the school system.

Finally it should be noted that Article 5 of the UNCRC states:

States Parties shall respect the responsibilities, rights and duties of parents...to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

It would not be possible for parents to fulfil their responsibility to guide their children in the exercise of their rights if they are prevented from being present while local authority representatives interview their children.

DIRECTORS OF CHILDREN'S SERVICES: THEIR LEGAL DUTY

Finally I would like to draw the attention of the Select Committee to a most crucial issue which has not been fully explored: what is the extent of the duty which is given to the directors of children's services by the current legislation?

In their oral evidence to the Select Committee both Mr Badman (on Monday 12 October, Q2) and Peter Traves (on Wednesday 14 October, Q113) expressed the opinion that directors of children's services are personally responsible for ensuring the welfare of all children in their local authority areas.

Nowhere in any of the legislation is this level of accountability given to directors of children's services or to any other holder of public office. The legislation governing the responsibilities of Directors of Children's Services is section 18 of the Children Act 2004. This legislation unites the functions of education, health and social services, insofar as they relate to children, under the direction of this individual but it does not put all children in the care of that individual.

The legislation does not and cannot make this person individually responsible for the safety, education and wellbeing of each and every child in the area. This responsibility belongs to the parent of every child. Both Mr Badman and Mr Traves seem to have overstated their responsibilities; they are accountable for the actions of their staff and not for the actions of the citizens for whom their staff are providing a public service.

It is a matter of grave concern to me and to Home Education Advisory Service that the entire review of elective home education and its recommendations are based on a false premise: namely, that the directors of children's services and their staff have a specific and personal responsibility in law towards each individual child to guarantee that they are safe and well. The relevant sections of the Children Act 1989, the Education Act 2002, the Children Act 2004 and the Education and Inspections Act 2006 all require general arrangements to be made with a view to promoting the safety and welfare of children. It was never the intention of the law to impose duties on individuals that are impossible to carry out.

At a time when we hear that court hearings for care applications are taking 14 months and when care applications have risen by 47%, HEAS wishes to make a plea to the Select Committee for the restoration of common sense in the present investigation of home education. Mr Badman says—and I agree with him—that the great majority of home educated children give no cause for concern, but that a small proportion do: it would make a real difference if the public funds required for the implementation of his recommendations were instead to be targeted directly at the children who are known to be in need.

October 2009

APPENDIX I

OBSERVATIONS ON HOME EDUCATION STATISTICS TAKEN FROM THE HOUSE OF COMMONS CHILDREN, SCHOOLS AND FAMILIES COMMITTEE HEARING

Meeting started on Monday 12 October at 4.35 pm

Prepared by Jonathan Camfield

MA (Cantab) (Mathematics) and Fellow of the Institute of Actuaries

Home educating father (believed to be one of those that the local authority do not know about)

SUMMARY

This note explains why Graham Badman's statistical conclusions on the incidence of "at risk" children in the elective home education (EHE) community—apparently broadly twice the incidence of that in the wider community—appear to be flawed. This note has been prepared solely by reference to the discussion held at the Select Committee hearing on 12 October 2009.

DETAIL

At 1:08 in the television recording of the Select Committee, Graham Stuart MP asks some questions about the statistics for "at risk" children in the EHE community.

What is clear from the earlier questions and answers is that extensive work has been done on this by Graham Badman's team. In particular:

- 74 local authorities (around half of all local authorities) have provided detailed figures (providing a helpfully large database); and
- It is clear that children at risk are being defined carefully and quite narrowly in the statistics, ie only those who are subject to a child protection plan (CPP) under Section 47 (that is, it does not include children who are simply disabled; they must have been formally assessed as "at risk" by a local authority and reached the end of that assessment process).

On the basis of the statistics, Graham Badman has identified that 0.2% of the whole UK child population are subject to a CPP whilst 0.4% of EHE children are subject to a CPP. Whilst it is accepted that there is a wide range of statistics from different authorities, Graham Badman has reached the broad conclusion that the risk of a child being "at risk" within the EHE community is double that in the wider population.

However, as pointed out by Mr Stuart shortly thereafter in the discussion, this analysis appears to be statistically flawed. In particular, there are three known figures, and one unknown figure. The following are known:

- The number of children in the whole country is broadly known;
- The number of CPPs in the whole country is broadly known;
- The number of CPPs from EHE families is broadly known (in that, by definition, a CPP must be known to a local authority and that local authority will also know whether or not that child is at school).

However, the number of home educating families is not known. Graham Badman states that the estimate for known EHE children is around 20,000, but that most local authorities believe that there are at least double that number. If there were in fact double, then the crude statistics for the incidence of CPPs amongst the EHE community would revert to 0.2%. If there were in fact (as is believed by local authorities) at least double, then the statistic would fall to less than that of the general population.

After misunderstanding each other for a few minutes, Graham Badman understands this point as it is made by Graham Stuart (at 1:13:20). However, Graham Badman goes on to make a seemingly controversial statement. He says "Who is to say that they [the children] are safe if you don't know anything about them?".

The point he is trying to make is that, in the “unknown” EHE community, there may be more children who, if they were known about, would indeed swiftly find themselves subject to a CPP. (He makes this point again very clearly at 1:34 when the Committee re-sits after the break.)

On the basis of the information available to me, it appears to me that Graham Badman’s logic is statistically flawed. In particular, he is making an assumption that:

- Both “lack of knowledge” to a local authority and being a EHE family;
- Puts a child more at risk (indeed, doubly more) than;
- Both “lack of knowledge” to a local authority and being a non-EHE family (ie child at school).

This appears to be a clear bias in his view.

In particular, it seems clear to me that out of all the unknown EHE families, there will be children at risk who should in fact be subject to a CPP.

However, it also seems clear to me that out of all the non-EHE families whose children go to regular schools, there are also a number of children at risk who the local authority does not know about, and who should in fact be subject to a CPP.

Whilst Graham Badman is clearly entitled to his personal views it seems unreasonable to me for him to suggest that the statistics demonstrate something for which there is no statistical evidence. That is, to suggest that the incidence of being “at risk” is greater amongst “unknown” home educating families than it is amongst “unknown” regular schooling families. This is even more the case when the crude statistics themselves (after doubling the numbers of estimated home educated children) suggest that there is in fact no difference in incidence between the two groups.

This conclusion (that there is no higher risk) is stated clearly by Graham Stuart at 1:13:40. I believe that his statement at this point is 100% correct based on the raw statistics, and that Graham Badman has drawn a statistically incorrect conclusion from his data. He has omitted the fact that the number of home educated children is estimated to be at least double the number actually registered and, at the same time, he is coming to a strongly biased conclusion about unknown children.

After the break Graham Badman states that he will write to the Committee to confirm his statistics, including his view (which I note is a personal view, not a statistical one) that his statistics are correct because not being known to a local authority and being an EHE family puts you MORE at risk. It seems clear to me that it is unreasonable to draw this conclusion from the data he has available to him.

As a final aside, what the whole discussion on statistics also does not take into account is the statistical feature of “cause and effect”. That is, there may be good reasons why a child with a CPP is more likely to be either at school or home educated. That is, even if the incidence of children with CPPs is in fact higher in one community compared with the other (eg in the EHE community), this does not necessarily mean that in general home educating families are in some way more at risk of having a child subject to a CPP (ie it is unreasonable to assume that home education is a causal factor in children being “at risk”). What is far more likely to be true in such a case is that there are other reasons (alcohol, drugs, learning disabilities in the home etc) which both:

- (a) make it more likely for a child to be subject to a CPP; and
- (b) make it more likely for a child to be removed from school (or at school, depending on what the statistics show).

However, given that the statistics appear to demonstrate that there is no difference in incidence of CPPs amongst home educators and the wider population at the crude level, this does not seem to be a point worth exploring further. Normally it would be a crucial point.

In conclusion, it appears to me (and I believe Graham Stuart is of the same view) that Graham Badman’s own statistics clearly demonstrate that the incidence of CPPs amongst both home educators and non-home educators are broadly similar, at around 0.2%, and that therefore government policy should not be formed on the basis of there being a greater incidence of children at risk in the EHE population. Indeed, this sad statistic might suggest that it would be far better to allocate increasingly scarce resources to children who are in fact at risk, rather than to the home educating community or to the schooling community.

APPENDIX 2
INFORMATION FROM FOI REQUESTS

Table 1**NOT IN EDUCATION, EMPLOYMENT OR TRAINING (NEET)**

Comments in italics demonstrate that the data is unreliable

<i>LA</i>	<i>Number of NEET Home educated leavers</i>	<i>Total no. of home educated leavers</i>	<i>Percentage of NEETS in whole population</i>	<i>Comments</i>
Bolton	5	17	Don't know	<i>May not be NEET—destination unknown. The remaining 12 are either attending College (majority) or in employment</i>
Bradford	10	26	not known	
Calderdale	6	17	4.13	<i>Of the 17 home educated leavers 3 are continuing their education at home. Figures were gathered in November 2008</i>
Cambridgeshire	<i>18 unknown</i> 3 actual	32	4.4	
Coventry	1	9	7.3	
Cumbria	7	44	15.9%	<i>The no. of NEETs were calculated from the last visit/report and is not entirely accurate as some youngsters may have belatedly accepted or declined college places</i>
Derby City	<i>0 Estimated</i>	9	5.7%	<i>The number of NEET home educators is estimated (based on local intelligence) as a separate report is not prepared</i>
Lewisham	4	17	5.50%	<i>These are not data formally collected but is an estimate from knowledge of them from Year 11</i>
Liverpool	<i>not measured</i>	5 in summer 2009		<i>We have not had the capacity to follow up NEET for home educated children and parents are unwilling in the main to provide this information. The prevalent view is that they are no longer of an age for compulsory education and so the LA has no power any more</i>
Milton Keynes	<i>data not available</i>	13 in 2008	data not available	<i>Adviser writes to each Year 11 student in January highlighting the Connexions Service and inviting them to notify the Adviser of their future plans. Anecdotally the majority move to college, university or employment or apprenticeship schemes</i>

<i>LA</i>	<i>Number of NEET Home educated leavers</i>	<i>Total no. of home educated leavers</i>	<i>Percentage of NEETS in whole population</i>	<i>Comments</i>
Northumberland	<i>not known</i>	12	not known	We have sent a questionnaire to the 12 families— 3 questionnaires have been returned to date. All of the young people in these are in further education or training
Redcar and Cleveland	0	4	0	Apprenticeship, Further Education College (2) and employment
Sunderland	7*	15		*6 currently awaiting placements and are involved with Connexions—1 leaver no response
Surrey	<i>not known</i>	23 (07/08) 35 (08/09)	not known	<i>Not clear which year you require. Connexions advise that NEET figures 08/09 not due to be released until 04/10/09. For 07/08 ie those who left in June 2008 NEET was 4.1%, 878 individuals. I do not have information on how many were previously home educated</i>
Sutton	<i>not known</i>	14	not known	
Torbay	7	27	2%	
Warwickshire				<i>We are unable to answer this as we do not collate this information on home educators</i>
Windsor and Maidenhead	4			The following information came from Connexions: number of 16–18 NEET 219 out of cohort of 2840 (8% of this population)
Wirral	<i>Unknown to ESWS</i>	10	<i>Unknown to ESWS</i>	Education Social Welfare Service [ESWS] liaising with Connexions Service regarding home educated Year 11s and leavers
Worcestershire	<i>Unknown</i>	28	<i>Unknown</i>	Connexions will hold such information

Table 2
MISSING CHILDREN (RUNAWAYS)

<i>LA</i>	<i>Number of children who were EHE prior to disappearance</i>	<i>Total number of missing children</i>	<i>Comments</i>
Bolton	2	Don't know	<i>The family was moving due to father being in the Army—not notified of the move and been unable to trace the children. Believe that the father's posting was in Germany</i>
Calderdale Borough Council			260 incidents of missing children but many repeat incidents by the same children

<i>LA</i>	<i>Number of children who were EHE prior to disappearance</i>	<i>Total number of missing children</i>	<i>Comments</i>
Cambridgeshire	9	216	<i>Not necessarily runaways—mostly with family</i>
Coventry	0	not available	
Derby City	0	10	Whilst there is an underlying transient Eastern European population who are very mobile (up to 80 children being tracked) the number quoted is the actual number of missing children
Dorset	11	11	(Ed: 11 EHE runaways? I have queried this)
Lewisham	13 since Nov 2002	142	Of the 13, 9 are now above statutory school age, so you probably require the answer 4. <i>Other families who went missing</i> have been tracked by the CME officer
Liverpool	0	118	In the last academic year there were 793 referrals as missing children. Of these 118 were under investigation, but many of these were known. <i>Liverpool does not compile a Missing list but rather keeps them on file until their next place is discovered and therefore the actual number missing and unknown will be less</i>
Milton Keynes	0	2	<i>Number varies on daily basis so not relevant in this context</i> as each case is investigated as it arises. Current cases resulting from another LA enquiry and S2S file not collected
Northumberland	6	8 currently being investigated	<i>Unsure of definitions here. We do monitor children missing or at risk of missing education but these are not usually runaways. What we are aware of is that EHE children are generally 3 times more likely to “go missing” than children who have school places because EHE families can move on without having to notify local authorities of their destination. 8 as at 30 September 09; 6 during 2008–09</i>
Redcar and Cleveland	0	0	
Somerset			Apologies—data not available in time
Sunderland	2	6	<i>Both children tracked to a neighbouring LA and have enrolled in a mainstream school. The children were only active on the list for a few weeks prior to leaving the LA</i>
Surrey			<i>Sorry—I cannot obtain these figures. They are believed to be held by the Police</i>
Sutton			
Torbay	1		
Warwickshire			We are not aware of any home educated children who have been reported as missing (runaways). However, we would not necessarily be.
Wiltshire	2	7	

<i>LA</i>	<i>Number of children who were EHE prior to disappearance</i>	<i>Total number of missing children</i>	<i>Comments</i>
Windsor and Maidenhead	0		<i>I was unable to answer with certainty the number of children who were EHE prior to their disappearance, though I believe it to be 0</i>
Worcestershire	10	39	<i>This is during the period 01/04/2008 to 31/03/2009. Please note that out of the 10, 8 cases have not been resolved. 7 are of traveller ethnicity</i>

Supplementary memorandum submitted by the Home Education Centre

Section 1: As recommended by Helen Southworth, member of the Children, Schools and Families Committee: further written evidence from Zena Hodgson on behalf of the Home Education Centre, Somerset in response to the points raised by the Committee on 14 October 2009

Section 2: As requested by Annette Brooke, member of the Children, Schools and Families Committee: further written evidence from Zena Hodgson on behalf of the Home Education Centre, Somerset in response to points raised at the EO Parliamentary Event on 20 October 2009

SECTION 1

Q44 Mr. Stuart: *There seems to be quite a discrepancy between the articulate representatives of the home education community and what local authority officers say is a large bulk of people who are perhaps less articulate and less capable, which prompts authorities to believe that the Badman recommendations will provide support. What is your response to that?*

There already exists within the home education community itself a very efficient local and national support network in terms of advice and connectivity between families and groups. This support network is easy to find and access, for instance through the internet and local libraries. LAs are often unaware of the extent and efficiency of these networks, as by their very nature they need little or no input from the LA. Many of the questions and support that home educated families seek are addressed by the home education community itself. If and when families require additional support from the LA, dialogue between the EHE community and the LA often occurs through EHE groups/representatives, as the individuals themselves are not always so confident in those situations. It does not mean that the information is not disseminated down to these families.

Since the true numbers of home educators are unknown, then the LAs cannot assume that the families they actually see is a significant number/truly representative proportion of EHE families. LAs are most likely supporting families that have been referred to them by schools, having just left the school system possibly under traumatic circumstances. They are first seen by the LAs, often very promptly after leaving state education, in a possibly distressed state at a point when they have not yet had time to get over the trauma and decide which direction their educational provision should take. LAs should receive better training in how to assist these few families, the reaction should not be to change legislation that will affect the large majority of home educators for which there is no problem.

Q49 Chairman: *Zena, as a Member of Parliament, I know children disappear all the time in my constituency. It's a very real concern. It isn't only runaway children, but children who disappear overseas and when you try to track them it is impossible because we don't have the data. I am sorry, I have to correct you on that as a working constituency Member.*

Children disappearing is not an home education issue. Children that are home educated, but are not "officially" known by the LA have not disappeared. LAs, in our experience, are far more aware of the home educators in their counties than the number officially on their records. The recommendations proposed in the Badman review set out to simply catalogue and monitor law abiding EHE families, it will not solve the problem of disappearing children. If the recommendations are brought in as legislation, I have no doubt that the statistics for this wider social issue will still exist.

Q52 Annette Brooke: *I would like a straight yes or no answer from each member of the panel. Imagine a very simple registration scheme that gets rid of all the strings and conditions in the Badman report and literally signs up—given that if a child goes to a local school, there is knowledge that the child is at the local school—just to providing the knowledge that a child is being home educated at X address. Let us start with a very simple principle and at least we would get some indication of numbers, although I accept what you said, Fiona. Do you feel strongly about the simplest of registration schemes?*

No, there should be no compulsory registration.

The very simple principle we should start with is that forcing any minority group to register with the authorities on the basis of mistrust through unsubstantiated concerns is legally and morally unacceptable. Singling out a minority group in this way is discriminatory and should not be used simply as a method of convenient administration for the Government.

It is proposed that registration of families is automatic “if there are no safeguarding concerns”. Therefore it is *not* automatic. Families are going to be required not simply to register but be subject to scrutiny in their own home before registration is granted. This is shifting the balance of power to LAs, allowing them to decide whether home education is suitable for particular families. In deed it is a shift in burden of proof in law.

As an analogy; it is alleged that it is statistically more likely for a terrorist act to be carried out in this country by a Muslim. Following the same logical path that is being applied to EHE, we should therefore for the sake of national security, force all Muslim families to be registered and check their home every six to 12 months to make sure that they are not potential terrorists. This proposal would be discriminatory and disproportionate to the supposed risk, it would be a waste of tax payers money and an intrusion by the Government into private family life. The same discrimination is being proposed for EHE families.

Q57 Annette Brooke: *May I pursue that question? Obviously, you can now register voluntarily. How many of you are registered, or were registered?*

I feel it is worth pointing out, that now that a good collaborative relationship between Somerset LA and EHE families exists, more families have been voluntarily coming forward to register. Families feel more trusting of the LA, they do not feel that the LA is looking to catch them out or judge them unfairly. They are beginning to feel that there is better understanding and real, unconditional support on offer.

However, many families have clearly asserted that should the Badman recommendations go through they would withdraw from the relationship. Even more important to note is that some of our local EHE advisors/inspectors in the southwest have stressed that they may feel unable to continue under the new proposals.

Q59 Paul Holmes: *On the Badman report’s suggestions about requiring a statement of learning, I know that a number of home educators—both nationally and the ones I’ve met in Chesterfield—have been very concerned about that and the implication that it might be imposing all sorts of very restrictive prescriptions. Does anybody want to elaborate on that?*

Educational plans make no consideration for the child-led approach to EHE; where there is no way to predict a child’s potentially ever changing interests. There can only be a commitment by the parent to facilitate the child’s learning and development. Indeed it would be difficult to come up with a standard criteria for a statement of learning that would be able to encompass the diverse range of learning styles found within EHE.

Whatever the style of approach, during home education and especially in the first year of home education, families may frequently re-evaluate their approach in order to find a style that best supports their individual child’s learning needs.

In fact good practice would suggest that re-evaluation should take place throughout the child’s education. If parents feel they must adhere to the model they first suggest, they could well impair the child’s learning for the sake of conformity and fear of the authority of the LA officer.

Q66 Paul Holmes: *Some parents who are home educators are very committed to autonomous learning, some are looking at rebuilding a child’s self-confidence and dealing with special educational needs. You have others, as Simon was saying, who will get eight A*s at GCSE. There is a vast range. Going back to earlier evidence, what about all those parents, many of whom we do not know about, who have not got a clue how to cope with any of this? I have always admired home educators because of the amount of work that they do. I am a former teacher, but I could not teach science. So, what about all the home educators who are not in these self-confident, different and contradictory boxes?*

The answer to this is the same as for Q44.

There is an extensive and efficient local and national network of support within the EHE community itself. Families ask for and receive support and advice from these sources all the time. Indeed as support officer for HEC, I receive many new and ongoing enquiries on a whole range of issues every week. There are also many, many groups, large and small all over the country where parents come together and share ideas and skills to help further their learning experiences.

Q69 Mr. Carswell: *I have a general question for the panel. In Clacton, the parents of 16 children have, rightly in my opinion, refused to send their children to a school that they believe is not able to provide the children with a proper education. They have successfully demanded that they receive a home education grant from the local education authority. Is this something that you welcome, and do you think that the sort of extra regulation and oversight demanded by Badman could be conditional on receiving the grant? If you get the grant, you can be overseen by the state, but if you do not, it should leave you alone.*

Unconditional financial help can and should be made available to home educators upon reasonable requests for specific support. I find it hard to believe that families would ever have the possibility of receiving direct, standard funds to spend on their child's education as they saw fit. However, I do think that it is possible to set up a system for access to grants in order to gain assistance with specific things such as exams, without having to submit to state control over the family's EHE provision.

In December 2008 Somerset County Council awarded the HEC a specific home education grant of £10,000 for equipment to cover the learning requirements of children aged between 0–16 years old. No conditions of oversight by the state were made in order to receive the grant; the HEC co-wrote the contract, chose and purchased the equipment. This was the first of its kind in the UK.

Home Educators Yeovil, a group developed by two of our members to support the community in the south east of the county were also awarded an home education grant of £2,000 in September 2009.

Jane Lowe: The problem is that the local authorities don't leave people alone—they interfere with what is being done.

Q74 Mr. Chaytor: *But there is no registration scheme in place yet, so how can you make that assessment?*

When families de-register their child from school, the LA is informed, they are registered EHE. At HEC we are currently supporting a number of conscientious HE families in neighbouring counties, with legitimate reasons for home-educating who have experienced discrimination at the hands of poorly informed support services.

Home Education is not necessarily "school" at home between 9am and 3pm. For many home educators it is a lifestyle. In this context it is not the fear of accountability that worries HE parents, but the invasion of privacy; the subjective analysis of where we live, or the appearance of our homes with the potential to influence the LA advisor's assessment.

If the LA officer has a negative opinion of the diversity and breadth of the home educating community, it will ultimately affect the outcome of the visits.

Q77 Mr. Chaytor: *I am just curious as to why you are so reluctant to demonstrate the quality of what you are doing. You are happy to assert it, but not to demonstrate it.*

With regards to English law, it is assumed that home educators are fulfilling their duty to provide a suitable education for their child, unless someone can provide evidence to the contrary. Home educators do not have to demonstrate their provision. Just as in the same way ordinary citizens do not have to demonstrate that they are not committing any kind of criminal act; it is just assumed that they are law abiding unless there is evidence to the contrary.

Q78 Mr. Chaytor: *Lots of children in mainstream schools and special schools are on the autistic spectrum, so is it your argument that under no circumstances whatsoever should there be any objective assessment of the progress a child has made or of the achievements of particular children who are educated at home?*

Parents with children in schools have delegated the duty of educating their child to the school and it is right that the progress of that child is noted and reported back to the parent. Parents who educate their child at home fulfil the duty themselves and are therefore best placed to assess their own child's progress and achievements.

The parents are held legally responsible for the child. Again, English law states that one is presumed innocent unless evidence shows the contrary to be true. Therefore it has to be presumed that parents are fulfilling their duty to their child and unless evidence to the contrary is forthcoming there is no reason for the government/local authority to assess the EHE child or interfere with individual families and their lifestyle choices that are their legal right to make.

SECTION 2

Somerset Approach to supporting EHE Families under the current EHE Guidelines for Local Authorities

- Under current legislation and guidelines a positive relationship has developed between the home educating community and Somerset County Council.

Somerset EHE team originally approached the home educating community from the perspective of being a cultural minority under the Equalities and Diversity department using the current Elective Home Education guidelines for LAs. The LA approached the Home Education Centre to establish how the home-educating community functions and what support and advice was required.

- Under current legislation and guidelines exams can be accessed in our new exam centre at Richard Huish College in Taunton, Somerset.

The Home Education Centre held a meeting with local colleges of FE and the local authority. We were keen to establish an exam centre where home educated children from across the region could be guaranteed to sit exams of their choice easily. Through their previous experience of home educated students' aptitude and attitude, the college was very keen to accommodate EHE children. Home educated children are now able to sit exams in any subject using any exam board.

Somerset County Council has agreed to cover the cost of sitting exams, assessment and support for children with additional needs for registered Somerset families.

- Under current EHE guidelines for Local Authorities the EHE community can receive financial support.

In December 2008 Somerset County Council awarded the Home Education Centre a £10,000 grant for equipment to cover the learning requirements of children aged between 0–16 years old.

The centre co-wrote the contract, chose and purchased the equipment. The remit was clearly set out; the Home Education Centre was to purchase equipment and resources to support children aged 0–16 years across a wide range of subject areas. We bought resources that families found difficult/expensive to provide in their homes. HEC provided the LA with the accounts and copy of receipts for the £10,000. The local HE advisor was then invited into HEC to view the resources in use.

Somerset LA did not ask for information about individual families, they enquired as to the approximate number of Somerset families we support, as the HEC also supports families from Devon and Dorset. Some families are registered with their local authorities, some are not. This was the first grant of its kind in the UK.

Home Educators Yeovil, a group developed by two of our members to support the community in the south east of the county were also awarded a grant of £2,000 in September 2009.

- The Home Education Centre has recently developed a working relationship with Somerset Connexions service.

Like Somerset County Council they are happy for us to set the terms of our access to their service. We are putting together a list of requirements, so that Connexions advisors can tailor their support appropriately.

We intend to work collaboratively on enabling EHE children to access work placements and apprenticeships. Connexions are happy for us to benefit from their database of employers and from the health and safety checks and liability insurance offered by the Connexions service.

October 2009

Memorandum submitted by the Association of Directors of Children's Services (ADCS)

EXECUTIVE SUMMARY

- The recognition of parents' well established rights to home educate children as fundamental to the review is welcomed as is the Government view that it has no plans to change that position.
- It is only right that the Government considers systems to keep children safe and in receipt of suitable education and that they are as robust as possible; ADCS supports this view.
- It is essential that local authorities are enabled to deal with any concerns about the safety and welfare, or education, of a home educated child, with effective systems in place to address these.
- However, ADCS believe that it is important to be clear which of these proposals are intended to ensure a good education and which are related to safeguarding concerns—our response is laid out accordingly. While the Every Child Matters framework clearly encourages services to take a "whole child" approach, this should not cause confusion as to the purpose of any given intervention.
- The recommendations made by the Badman review are proportionate and evenly balance the right of the parent to home educate and the right of the child to receive a suitable education and the duty of local authorities to ensure both an appropriate education and the safety of all children in their area. This includes:
 - mandatory registration, with the provision of basic information;
 - the role of the school in supporting home education;
 - the need for home visits and to see the child alone on a regular basis; and
 - the need for restrictions on freedom to home educate where children are deemed to be at risk of harm.
- There are some details to be further considered, such as the resourcing of home visits and legal technicalities to ensure local authorities have the powers they need.

1. INTRODUCTION

The Association of Directors of Children's Services (ADCS) welcomes the opportunity to give evidence to the Select Committee regarding the recommendations of the Badman review of home education. ADCS is the national leadership organisation in England for directors of children's services appointed under the provisions of the *Children Act 2004* and for other children's services professionals in leadership roles. The Association provides a national voice as a champion for children, with local and central government, and with the public.

2. OVERVIEW OF POSITION ON HOME EDUCATION

2.1 The recommendations made by the Badman review are proportionate and evenly balance the right of the parent to home educate and the right of the child to receive a suitable education and the duty of local authorities to ensure both an appropriate education and the safety of all children in their area. There are some details to be considered, such as the resourcing of home visits and legal technicalities to ensure local authorities have the powers they need.

2.2 The recognition of parents' well established rights to home educate children as fundamental to the review is welcomed as is the Government view that it has no plans to change that position.

2.3 It is only right that the Government considers systems to keep children safe and in receipt of suitable education and that they are as robust as possible; ADCS supports this view. It is essential that local authorities are enabled to deal with any concerns about the safety and welfare, or education, of a home educated child, with effective systems in place to address these.

2.4 However, ADCS believe that it is important to be clear which of these proposals are intended to ensure a good education and which are related to safeguarding concerns—our response is laid out accordingly. While the Every Child Matters framework clearly encourages services to take a "whole child" approach, this should not cause confusion as to the purpose of any given intervention.

3. RECOMMENDATIONS RELATED TO ENSURING A SUITABLE EDUCATION

The aim of any regulation of home education must primarily be to ensure that every child receives a suitable and age-appropriate education, even those who do not attend school. This is the legal basis for the current arrangements and must continue to be so.

3.1 We agree that the proposals strike the correct balance between the rights of parents to home educate and the rights of children to receive a suitable education.

3.2 *Registration*

3.2.1 ADCS support the keeping of registers for home educated children. The information proposed as being required at registration is basic and probably fulfils the minimum requirement which would support local authorities in ensuring a suitable education.

3.2.2 Requiring parents to register and to keep that register up to date is essential in our view, leaving the responsibility of choice for education with parents, and yet enabling local authorities to fulfil their various roles under Every Child Matters and in particular the achievement of educational outcomes.

3.2.3 Converting the requirement to register into a legal responsibility for parents again supports the local authority in carrying out its duties. However, the timing of any legal enforcement should be considered by the local authority in much the same way as the enforcement of the requirement to attend schools is dealt with through current systems so as to allow for ongoing engagement with families.

3.3 *Involvement of schools in home education*

3.3.1 Children should remain on the school roll for a short period after the notification of the intention to home educate. This will allow potential alternative solutions to home education to be explored. The time period should be the same period in which a child should be seen at home after home education begins (four weeks as proposed in the Badman review). Information gathered on the visit, whether on the suitability of the education or the views of the child, may result in the child returning to the roll and it would be helpful if they were still on the roll.

3.3.2 Schools retain a responsibility for pupils and we agree that where parents remove children from school to home education, the school should in the first instance respond to this responsibility, and be required to inform the local authority of the change in status of the pupil from a school roll registration to home educated. Similarly the school holds information on the child and this should be shared with the local authority including the expected and future attainment data. This data should be shared with local authorities to enable them to continue monitoring of educational progression for every child.

3.3.3 One aspect of a school's involvement in the education of children educated at home. The school, via the local authority receives funding for every pupil in school, but when a child is educated at home this funding is removed. It would be useful if the per pupil funding for these pupils could be redirected to resource home visits made by a team in the local authority.

3.4 *Role of central government*

If registration and monitoring of home educated children is to become a requirement, it would be helpful to have some statutory guidance on how this should be implemented. However, as with all guidance, care must be taken to ensure that it does not become too burdensome for the school, local authority or parent involved in the process, whilst ensuring that the system's objectives—to ensure an appropriate education and the safety of home educated children, is achieved.

3.5 *The voice of the child*

The child should be seen, preferably alone, in the first four weeks of home schooling. This would allow the child's views about being removed from school to be taken into account when assessing the suitability of home education. This is as important to ensure a child is engaged with their education, wherever it may take place. This complements provision for a child to stay on the school roll for a short period after removal—the two measures together will provide a more flexible system to accommodate those who want to return to school in this early period.

4. KEEPING CHILDREN SAFE

Schools operate as part of an integrated children's service that allows education professionals to share safeguarding concerns with other professionals so that appropriate action can be taken. While not a school's main purpose, it should be acknowledged that children not in a school environment are less likely to have these concerns identified where they arise, due to their lack of contact with professionals. There is at least one high profile safeguarding case which demonstrates that removal from school was a missed milestone, when if the reasons for removal had been more closely examined, other risk factors would have become apparent. Home education may also impact on other outcomes for these children—for example immunisation records will not be as complete as for those who receive these services through school.

4.1 *Registration*

The information that the review suggests would be required is basic and probably fulfils the minimum requirement which would support local authorities in keeping children safe. Most local authorities keep a register of children who are educated at home, and this is good practice, enabling links to be made with health visitors and other health services for example, which can inform safety and well-being concerns. Making this standard practice would be an advantage. Clearly where the register is used to identify possible risk of harm, the legal requirement to provide true information to the register is of paramount importance.

4.2 *Restrictions on home education for children with a protection plan*

We agree that where there are children about whom the local authority has substantial safeguarding concerns there should be the power and the authority to not allow them to be home educated. This is particularly relevant to those who may be looked after at home and would enable the school to be an integral part of the intervention programme. We have some concerns about whether a change in the law to enable local authorities to insist on school attendance due to safeguarding concerns would be feasible or enforceable. It should be considered in the light of the current arrangements for insisting on school attendance due to concern about a child's education at home—the right exists but is very difficult to enforce.

4.3 *Visits and interviews with the child*

4.3.1 The local authority should visit the premises where home education is taking place, and two weeks notice of this visit should enable parents to be engaged in this process. Regular visits by the local authority to premises and interviews with the child would enable safeguarding issues to be addressed.

4.3.2 It would be helpful and supportive for the local authority to have the power to interview the child, alone if this is judged appropriate, or if not in the presence of a trusted person who is not the parent/carer. We are concerned, however about the legal framework required to give local authorities the right to speak to children alone in this context—as far as we are aware, child protection investigations do not have the legal authority to demand this, even though it is seen as best practice. It is difficult to see how this could be resolved without legislative changes.

4.3.3 Additional resources will be required if home visits are to be required at four weeks, six months and annually, seeing children alone would add an additional resource requirement. In principle, however, this is an acceptable approach. (see paragraph 3.3.3 above)

5. CONCLUSION

The recommendations made by the Badman review are proportionate and evenly balance the right of the parent to home educate and the right of the child to receive a suitable education and the duty of local authorities to ensure both an appropriate education and the safety of all children in their area. There are some details to be considered, such as the resourcing of home visits and legal technicalities to ensure local authorities have the powers they need.

September 2009

Memorandum submitted by the National Children's Bureau

1.0 SUMMARY

- NCB believes that the terms of reference for the independent review into elective home education were appropriate and the methodology sound. However, bearing in mind the complexity of the issues, we would have welcomed a longer time period for the review.
- The subsequent report of the independent review was in our view thorough, and set out a clear rationale for the recommendations made.
- NCB supports the recommendations of the review, including the call for recommendations 1 (compulsory national registration scheme), 7 (regulatory framework for monitoring home education), 23 (information sharing) and 24 (refusal of registration on safeguarding grounds) to be introduced as soon as possible.
- Should the recommendations be implemented, we would hope that local authorities take a measured and partnership approach which minimises the need to use enforcement powers against parents and where the best interests of the child are paramount.
- NCB is supportive of the parental right to home educate. However, we believe that this should be balanced with a child's right to an effective education in a safe environment and for the child's views to be taken into account.
- We believe that the current legislative and regulatory framework is not sufficient to ensure that *all* parents educating their children at home provide an effective and suitable education within a safe environment. Any new framework should, however, allow for a flexible approach, balancing professional judgement with regulatory measures, reflecting the fact that home educating parents are not a homogenous group.
- Any new framework should ensure a greater and more consistent level of support to home educating parents and their children. Local authorities should make greater use of Education Supervision Orders (ESOs), which are predicated on the holistic needs of the child and the notion of partnership between local authority and parent.
- We are concerned by the fact that there is currently a lack of accurate data on the numbers of children who are home educated and their outcomes.

2.0 ABOUT NCB

2.1 NCB has a vision of a society in which all children and young people are valued and their rights respected. We are dedicated to advancing their health and well-being across every aspect of their lives. As a membership and infrastructure support agency, participation and partnership are at the heart of everything we do. NCB not only hosts the many networks, fora, councils and partnership programmes that operate under our charitable status, but also provides essential information on policy, research and best practice across the sector as a whole. Undertaking around 60 projects a year enables us to truly claim that we cover every aspect of children's lives.

2.2 NCB has a history of policy, research and practice development work aimed at promoting the learning and welfare of all children and young people.

3.0 NCB INVOLVEMENT IN THE INDEPENDENT REVIEW

3.1 Following an initial stakeholder discussion on 19 February 2009, NCB was invited to join the Expert Reference Group convened to inform the review.

3.2 NCB's Chief Executive and/or the Principal Officer, Vulnerable Children and Families, Schools and Communities were in attendance at meetings of the review's Expert Reference Group on 26 March, 27 April and 19 May. We were also given the opportunity to comment on drafts of the final report.

3.3 NCB did not make a written submission to the consultation carried out as part of the review.

3.4 NCB's position on elective home education, reflected in all our contributions to the review, is as follows:

- NCB is supportive of the parental right to home educate. However, we believe that this should be balanced with a child's right to an effective education in a safe environment and for their views to be taken into account.
- NCB recognises that the motivations for elective home education are many and varied and that home educating families are not a homogenous group. There should be a flexible approach which allows a balance of professional judgement with regulatory measures.
- It is of concern that we currently do not have accurate data on the numbers of children who are home educated, nor do we have data on their outcomes.
- The current legislative and regulatory framework is not sufficient to ensure that all parents educating their children at home provide an effective and suitable education within a safe environment. In saying this, NCB does not support the view that home educating parents *necessarily* represent an increased safeguarding risk or barrier to their child's educational development.
- In addition to amendments to the legislative and regulatory framework, local authorities should examine, clarify and where necessary improve their practice.
- NCB recognises the very considerable sacrifices that some home educating families make. We believe that local authorities should provide a greater and more consistent level of support to these parents, particularly for those educating children with special educational needs. There should be further exploration of how this might be provided, possibly through extended schools services.
- Current legislation is adversarial and is not sufficiently focused on the needs of the child or the support needs of home educating parent. Where parents are unable or unwilling to cooperate, the current process for enforcement is through the use of a School Attendance Order (SAO).²⁵ This order is wholly focused on whether the parent has failed in their duty to ensure the child receives an efficient and suitable education,²⁶ rather than on ensuring that the needs of the individual child are met. Upon failure to comply with an SAO, parents may be subject to criminal proceedings.²⁷ In our view, the local authority could and should make greater use of Education Supervision Orders (ESOs)²⁸ in such cases. The ESO is predicated on the holistic needs of the child and the notion of partnership between local authority and parent. The ESO is particularly useful where there are a range of concerns about a child's welfare. We would envisage, however, that the use of enforcement measures would be a rare occurrence.
- NCB appreciates that there are many different philosophical approaches to education and judgements regarding safeguarding are often complex. It is essential, therefore, that professionals involved at any point during the process have an appropriate level of skill and expertise and a thorough understanding of educational philosophies and the legislative frameworks in relation to education entitlements and safeguarding. This can be achieved through a multi-agency approach, involving a number of professionals.

4.0 THE CONDUCT OF THE REVIEW AND RELATED CONSULTATIONS

4.1 We believe the terms of reference for the independent review were appropriate and long overdue and that the methodology was sound.

4.2 However, the timescale for the review was quite short, and, bearing in mind the complexity of the issues, it may have been useful to have had a longer period of time.

4.3 Despite the short time available, we believe that the breadth of the consultation as recorded was extensive.

5.0 THE RECOMMENDATIONS OF THE REVIEW ON ELECTIVE HOME EDUCATION

5.1 In our view, the report of the independent review was thorough and provided a clear rationale for the recommendations made. We are in broad agreement with the report and recommendations, and we believe that our issues and concerns were adequately reflected.

5.2 We support wholeheartedly comments made in the report (paragraph 5.5) regarding the importance of mutual trust. The way in which any new powers and accompanying guidance are operated in practice by local authorities will be crucially important and should wherever possible reflect a partnership approach that has the interests of the child as paramount. Should the recommendations be implemented we would hope that local authorities take a measured approach which minimises the need to use enforcement powers against parents, but which involves robust and prompt action where there is clear evidence of a need to do so.

²⁵ Section 437, Education Act 1996

²⁶ Section 7, Education Act 1996

²⁷ Under section 443, Education Act 1996

²⁸ Section 36, Children Act 1989

5.3 We welcome the emphasis throughout the report and recommendations on establishing a clear local authority/children's trust approach. We anticipate that this would, by providing greater scrutiny, improve practice and consistency in the way that local authorities exercise their duties and powers in relation to children and parents.

5.4 We also support the concluding remarks in the report that call for the following recommendations to be introduced as soon as possible:

- Recommendation 1 (the establishment of compulsory national registration scheme);
- Recommendation 7 (the bringing forward of proposals to change the current regulatory framework for monitoring home education);
- Recommendation 23 (requiring local authority adult services and other agencies to share appropriate information with those charged with monitoring of elective home education); and
- Recommendation 24 (changes to the legislative framework to enable local authorities to refuse registration on safeguarding grounds).

September 2009

Memorandum submitted by the NSPCC

1. The Select Committee has invited submissions on the conduct of the review and related consultations and the recommendations made by the review on elective home education. Our submission focuses on the recommendations.

2. We called for and support a number of the recommendations that have been identified in the review. In our response to review, we noted the inconsistencies in approach and recommended that "*there should be consistency with a requirement that all parents should be required to notify a local authority if they decide to educate their child at home (a formal registration scheme).*"

3. We also noted the variation in how local authorities met their legal obligations and support home educators.²⁹ This inconsistency is unhelpful and we recommended that "*it would be helpful if Government was to facilitate discussion between home educators and local authorities in order to identify examples of good practice which can be disseminated and used as a means of developing consistency.*"

4. In essence we support the key recommendations about establishing a register and the monitoring of arrangements. (Further details can be found in our response which we have for convenience attached). We will set out in more detail our thinking in our response to the DCSF consultation on the Home Education: Registration and Monitoring proposals.

September 2009

NSPCC Response to DCSF Consultation on Home Education

INTRODUCTION

The National Society for the Prevention of Cruelty to Children (NSPCC) is the UK's leading charity specialising in child protection and the prevention of cruelty to children. The NSPCC aims to end cruelty to children by seeking to influence legislation, policy, practice, attitudes and behaviours for the benefit of children and young people. This is achieved through a combination of service provision, lobbying, campaigning and public education.

The NSPCC believes that, given the will, all cruelty can be prevented. In order to achieve this, it is vital that all children, whatever their needs, have a range of services that are flexible and offer them support and protection. The NSPCC has a range of services in the UK and the Channel Islands. These services aim to:

- Prevent children being abused by working with parents and carers in vulnerable families to improve their knowledge and skills in safeguarding, and giving children and young people someone to turn to through the provision of our Listening Services.
- Protect vulnerable children and young people from abuse by providing direct services in a number of settings, including schools and young people's centres. We also protect them by providing Listening Services for adults to ensure they have someone to turn to with their concerns; by ensuring that abused children and young people are identified and effective action is taken to protect them, and by working with young people and adults who pose a risk to children and young people to reduce the risk of abuse.
- Help children and young people who have been abused overcome the effects of abuse and achieve their potential.

²⁹ Summary of responses to DCSF consultation statutory guidance in England to identify children not receiving a suitable education. February 2009

CONTEXT

The NSPCC recognises that parents choose to educate their child at home for a variety of reasons and that in some cases this has been because of a child's negative experience at school including the child's safety and well-being within the school environment. Irrespective of where a child is educated it is their right to be safe. We know that abuse can take place in a number of settings at school, in leisure activities and at home and that children are most at risk from those known to the child and it is important that the child is safeguarded wherever they are educated.

In preparing this response we have borne in mind the United Nations Convention on the Rights of the Child³⁰ and specifically:

- *Articles 3:* All organisations concerned with children should work towards what is best for each child;
- *Article 9:* Children should not be separated from their parents unless it is for their own good;
- *Article 12:* Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account; and
- *Article 29:* Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, and their own and other cultures.

Research on the prevalence of child maltreatment published by the NSPCC in 2000 showed that a significant minority of children suffer serious abuse or neglect. This study³¹ of the childhood experiences of 2,869 18–24 year olds found that:

- 6% of children experienced frequent and severe emotional maltreatment during childhood.
- 6% of children experienced serious absence of care at home during childhood.
- 31% of children experienced bullying by their peers during childhood, a further 7% were discriminated against and 14% were made to feel different or "like an outsider"; 43% experienced at least one of these things during childhood.
- Three-quarters (72%) of sexually abused children did not tell anyone about the abuse at the time. 27% told someone later. Around a third (31%) still had not told anyone about their experience(s) by early adulthood.
- A quarter (25%) of children experienced one or more forms of physical violence during childhood. Of this 25% of children, the majority had experienced 'some degree of physical abuse' by parents or carers.

1. *Do you think the current system for safeguarding children who are educated at home is adequate? Please let us know why you think that.*

No. The NSPCC has previously called for a review of the law around elective home education.³² The law currently requires parents to notify a school only when they decide to withdraw a child from a school roll and choose to educate them at home. There is no requirement to notify anyone if a child has never been enrolled.³³

We recommend that there should be consistency with a requirement that all parents should be required to notify a local authority if they decide to educate their child at home (a formal registration scheme).

There are several reasons for this. Currently local authorities have a duty to establish which children are not receiving a suitable education, and if they are not aware that a child is being educated at home, they will have to spend time checking on the child's circumstances. With a registration scheme, whilst other powers apply, the local authority would be able to focus on those who are genuinely missing from or not receiving an education.

ContactPoint when it is fully live will mean that there will be some record of children being educated at home, because the child's place of learning will be recorded. As there is a requirement for all children in a local authority area to be recorded on ContactPoint, there will in effect be a record of children being educated at home. We are advocating a registration scheme because it would set out clearly for everyone what is expected.

There is variation in how local authorities meet their legal obligations and support home educators.³⁴ This inconsistency is unhelpful. It would be helpful if Government was to facilitate discussion between home educators and local authorities in order to identify examples of good practice which can be disseminated and used as a means of developing consistency.

³⁰ UNICEF –summary of UN Convention on the Rights of the Child.

³¹ Cawson, P, Wattam, C, Brooker, S and Kelly, G (2000) Child maltreatment in the United Kingdom: a study of the prevalence of child abuse and neglect. London: NSPCC.

³² NSPCC response to the Revised statutory guidance for local authorities in England to identify children not receiving a suitable education—Department for Children, Schools and Families.

³³ Guidance for Local Authorities on Home Elective Education—DCSF.

³⁴ Summary of responses to DCSF consultation statutory guidance in England to identify children not receiving a suitable education. Feb 2009.

Local authority staff involved in home education, given their legal requirement, have tended to focus on children's educational attainment. We do not have a view on this, but believe it is important that all staff involved should be competent and confident in identifying issues of safeguarding and child protection and be able to manage them appropriately.

2. *Do you think that home educated children are able to achieve the following five Every Child Matters outcomes? Please let us know why you think that.*

Yes. The concern of the NSPCC is that children who are educated at home should be safe from abuse, just as all children should be safe from abuse. Most parents will do as much as they can to ensure their children are safe, healthy, happy and well. We would not seek to differentiate children who are educated at home from children who are educated at school. We do know that a number of home educators make a choice to take children out of school, because they are not achieving or because their child is being bullied. They feel that their child would be safer and more likely to achieve their potential if educated at home, rather than in a school setting. It is not the educational setting per se that enables a child to achieve the five outcomes and to be safe; it is the quality of the relationships and the learning they are supported to experience that are key, as well as being attuned and responsive to the individual needs of the child.

3. *Do you think that Government and local authorities have an obligation to ensure that all children in this country are able to achieve the five outcomes? If you answered yes, how do you think Government should ensure this?*

Yes. This is clearly stipulated in Section 10 of the Children Act 2004. Local authorities and Government have a role to facilitate this through the provision of support to children and their families. We therefore take the view that children's services have a role in ensuring children are safe, irrespective of where they are educated.

Processes that focus on support tend to be more successful in engaging with the majority of families and are more likely to lead to improved outcomes, than a focus on monitoring and prescription. However, local authority staff involved in this process must be trained to identify signs of abuse and know what to do if they suspect it, or if a child discloses abuse. For example our Educare³⁵ child protection awareness programmes enable those who have contact with children through their work or leisure activities to gain the confidence to act upon concerns about children and play a role in preventing abuse.

4. *Do you think there should be any changes made to the current system for supporting home educating families? If you answered yes, what should they be? If you answered no, why do you think that?*

Yes. It is clear from the correspondence from home educators to us, that many have had very poor and negative experiences with the local authority and in some cases this has been very traumatic for children.

The needs of home educating families are very diverse and so any support needs to be personalised to the family. If support is to be meaningful, and taken up then it will require genuine partnership working between the local authority and home educators. In this context the community development approach may be helpful. This approach is about working with communities (in this case communities of interest) on agendas set and led by them. It has been used successfully both by groups who have wanted to become organised and by agencies to engage with various communities.³⁶

5. *Do you think there should be any changes made to the current system for monitoring home educating families? If you answered yes, what should they be? If you answered no, why do you think that?*

In looking across the UK we noted that Scottish government guidance says "We recommend that authorities should ordinarily make contact on an annual basis with those families they know to be home educating in their area. This annual contact is not a statutory requirement. However, it is a suggestion as to how authorities may reasonably inform themselves in order to fulfil their duty to serve a notice on any parent who is not providing efficient and suitable education". Whilst the Welsh Assembly guidance stated, "whilst recognizing that there is no legal framework for the LEA to regularly monitor provision of home education, does recommend that the authority should ordinarily make contact on an annual basis".

We do not agree that the status quo should be maintained and do think that monitoring should be strengthened. We are concerned that the child's safety and welfare should be paramount and that there is nothing in the current guidance or framework that would prevent children being abused by people who may claim to be home educators. The current guidance on Elective Home Education says that the local authority can investigate if they have a concern about the child's education, but they do not have the powers to visit or meet the child. The guidance (paragraph 2.15) refers to the ability to see a child under s47 of the Children Act 1989. In order for a professional to use s47 they "must have reasonable cause to suspect that a child who lives or is found, in their area is suffering, or is likely to suffer, significant harm". If a child who is being abused is not afforded opportunities outwith the house, then the slim chances of them being identified become even smaller than they already are. In such a situation, because there is no education concern, the

³⁵ http://www.nspcc.org.uk/Inform/trainingandconsultancy/EduCare/educare_wda47928.html

³⁶ The Community Development Challenge—DCLG 2006.

local authority does not investigate, as there are no grounds to do so. If a member of the public sees the child (and this would need to be regularly)³⁷ then they are unlikely to contact an appropriate body. It then becomes a Catch 22 as no concern is raised, because the child or the environment in which they are cared for is not seen.

That is why we have concluded that some form of monitoring is necessary and that this should be on an annual basis. What form the monitoring should take should be decided on the basis of tasking a working group of relevant stakeholders including home educators, and former home educated children.

In our discussions some have suggested that a registration similar to child minders should be introduced. This does have a superficial logic in that a childminder may look after children including, sometimes, their own children in their own home and home educators educate children in their own home. Childminders currently need to be assessed by Ofsted in order to register and are then subject to inspection. However, our view is that this would be disproportionate for what it will achieve and so is not an option we would favour.

Another element is to ensure that home educators are afforded opportunities to be supported. We have earlier focused on the need for support and an ability to see the home and the child. If good support is provided, then we would hope that a relationship model would develop that is similar to the one that most families have with GPs or health visitors.

We noted earlier, it is the skills (especially in engaging with parents and children), and the knowledge about children, that are important rather than the professional background. The NSPCC believes that all personnel involved with children should have a knowledge of safeguarding which is appropriate to their role. One way of doing this is to ensure that there is a capable workforce and one which can develop trust with home educators. Another is about being able to set out a range of supports that can be made available to home educators and their children to assist them in achieving their goals. The Welsh Assembly guidance is quite helpful. In para 3.2 it states “Education authorities should provide parents who are, or who are considering, home educating with a named contact within the authority who is familiar with home education policy and practice and has an understanding of the relevant legislation and a range of educational philosophies. The named contact’s role could include liaising on a regular basis with already-established local groups of home educators or developing new groups where these don’t already exist”.

6. Some people have expressed concern that home education could be used as a cover for child abuse, forced marriage, domestic servitude or other forms of child neglect. What do you think Government should do to ensure this does not happen?

The NSPCC is represented on 60% of Local Safeguarding Children Boards in England and Wales and Area Child Protection Committees in Northern Ireland. We are aware, from our representatives on LSCBs, of a small number of child abuse cases where home education has been a factor. For example, a member of staff working directly with children and young people said to us:

In a case with which we were involved, one of the siblings was sexually abused by her adult brother. There were a number of vulnerable children in this household, all of whom were adopted. They were all home-schooled by their mother.

Both parents were resistant to undertaking any work with the Local Authority or NSPCC to assess the safety of the children in the home. In this family, all the children had little contact with the outside world and no social interaction with other children. There was no external monitoring of the children’s social skills or behaviour.

The home education worker who attended child protection conferences did not see the children on his own as his main focus was on the children’s educational progress and he relied on self-report from their mother on how the children were progressing in other aspects of their lives. This inability [to undertake] any external monitoring did, in our view, leave the children at risk following the children’s names being removed from the Child Protection Register.

Clearly one approach is through a better registration and monitoring, as detailed above. Another approach is through ensuring that children who are home educated know where to turn so that they are aware of services such as ChildLine and able to call in confidence.

Through our Helplines and projects we are aware that there have been instances where a young person has been withdrawn from school for the purposes of forced marriage. In this context it is important that schools do consider whether non-attendance is out of character and take follow up action in line with the guidance issued on forced marriage.³⁸

³⁷ Data from our adult helpline shows that people will take on average two to three months between starting to be worried about a child and taking the action of phoning our helpline.

³⁸ More about our views on forced marriage can be found in our response to the Forced Marriage Statutory Guidance Consultation Paper (Foreign and Commonwealth Office/Home Office, 2008).

OTHER COMMENTS

The work of our Safer Communities Project has demonstrated the willingness of communities to engage in safeguarding if they are afforded the opportunity to learn about it. Faith groups especially are more likely to be aware of such children, and if they have a good understanding of how the child protection system works, along with good relationships, they are more likely to come forward to report a concern.

March 2009

Witnesses: **Sir Paul Ennals**, Chief Executive, National Children's Bureau, **Ellie Evans**, Head of Children Missing Education team, West Sussex County Council, **Philip Noyes**, Director of Public Policy, NSPCC, and **Peter Traves**, West Midlands Region Committee, Association of Directors of Children's Services, gave evidence.

Q81 Chairman: May I welcome Sir Paul Ennals, Ellie Evans, Peter Traves and Philip Noyes to our deliberations. Peter, may I say that we were very upset that Colin Green couldn't come and we will take up the fact that he is not here with your professional organisation, the Association of Directors of Children's Services. We don't believe that it's good manners to tell a Select Committee that someone whom we have specifically asked to give evidence on behalf of an organisation has more pressing matters in talking to a conference. We will seek to talk to the executive of your organisation about that. We are very pleased that you are here, Peter, but we think it was very discourteous of your colleague not to be here today. I hope that that message will go back to him personally, because I was very tempted to send the Serjeant at Arms to take him from the conference and bring him here, which it is our right to do. Will you remind him of that? This is the first time this Committee has had such discourtesy, apart from one brush with a trade union. We are not happy about it, but it is nice to have you and it is not your fault.

Peter Traves: I totally understand that and I will take that point back. I only heard about this yesterday or the day before. I cleared my diary to come down, so I feel a little like the boy who is told off for the other boy.

Q82 Chairman: Absolutely, but it is necessary to put it on the public record that we do not accept such discourteous behaviour to the Committee from a professional organisation. We are looking at home education. Paul, do you want me to call you "Sir Paul" all the time?

Sir Paul Ennals: No, that's fine.

Q83 Chairman: Okay, no titles then. I welcome you all. I will give you a couple of minutes each to say where we are, what you think of Badman and what you would like to see come out of this inquiry. Paul, I start with you.

Sir Paul Ennals: I am Paul Ennals, chief executive of the National Children's Bureau and I was invited to be a member of the advisory group for the Graham Badman review, which meant that I attended two or three meetings and had the opportunity to comment on a draft report. I accepted the invitation for three reasons that might come up during this session. First, I have long felt that much more support—positive, constructive, active support—could and should be offered and made available to home

educators. Secondly, I felt that there are some genuine and significant safeguarding concerns about a very small proportion of children within that community. Thirdly, and related to that, because NCB is an umbrella organisation whose membership includes not only home education organisations such as Education Otherwise but local authorities, I felt that this is an area of public policy which has been riven by disagreements, often through misunderstandings. I have sought, not particularly successfully up to now, to enable this process of the Badman review to lead to a somewhat more harmonious and shared approach to this group of children.

Ellie Evans: I am Ellie Evans, and I manage children missing education and elective home education for West Sussex county council. I was part of the consultative group on the Badman review from local authorities and was happy to be part of that group, because, like my colleague, I feel very passionately that all children should have a voice. They also have a right to be protected and to receive a suitable education. My particular concern is the conflict between children missing education legislation and elective home education because it is very difficult for the local authority to discharge a duty on children missing education when we have a legitimate group that is under the radar.

Peter Traves: I am Peter Traves, director of children's services for Staffordshire and I was also interviewed by Graham as part of the review. Broadly, as you know, the ADCS welcomes the review and thinks it is balanced and generally sensitive. However, I do think the way it is presented and the way it is interpreted will be critical, because I think we have to get the balance right. The key is the relationships that are to be established between local authorities and home educators. Unless that relationship is a positive one, no amount of legislation is going to make this work. Local authorities must assume that the overwhelming majority of people who educate at home do so for very good reasons and do so very well, in many cases. The problem, however, is that directors of children's services now hold very substantial accountabilities for all the children who live within their area. To be put in a position where you're simply not aware of a significant number of those children and what's actually happening to them is not helpful to us. I do think a register would be helpful. I do think that some visiting process needs to be put in place. However, the danger is that that

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is perceived simply as the heavy hand of the local authority. Sometimes, to be quite frank, it is the heavy hand of the local authority. I don't think that's the only relationship we can have, though. I do think it's possible to establish a constructive relationship, and if this is going to work, I think it's going to depend on local authorities and others and the DCSF working closely with organisations like Education Otherwise to make sure we have a model that is supportive and critical, and that a genuine dialogue takes place.

Philip Noyes: I'm Philip Noyes, director of public policy at the National Society for the Prevention of Cruelty to Children. We're a safeguarding child protection organisation. I don't have expertise in education. Our interest in this, though, is to ensure that every child is properly protected. We know that most children in this country grow well and happy, with some fits and spells on the way, but a significant minority do not. We've got no view on people who elect to home-educate their children being different from the rest of us, but we are concerned to ensure that children who are educated at home receive the best education they can and are well and safe. We are also concerned about children who are completely under the radar altogether. We think it's important to differentiate one from the other. We support the Badman report. We think its logic, from the point of view of principle, in its first chapter through to its conclusions, is well made. We are very keen to help in whatever way we can to ensure the right balance between regulation and partnership. The course of this process has brought me into personal contact with home educators that I hadn't met before, and I have huge personal respect for them. I understand the extent to which we mustn't offend people who do so well, but at the same time, we need to find the children who are below the radar and make sure they're safe.

Q84 Chairman: May I start the questioning with you, Paul. The criticism of Badman is that it was done in great haste. Some people say the research base is slipshod—not that it's wrong, but that it's slipshod—and not up to the normal standard. Of course, it was done in five months. What do you say to people who say, "Look, this was all done in haste, and it's really not quite as good as it could have been"?

Sir Paul Ennals: There is certainly not yet enough research evidence, but I think sometimes, when we constantly ask for more research, we're just putting off some of the trickier decisions. I think the survey has some weaknesses, but the real problem is that I don't think it's survey data of the type that has been undertaken which produces the answers for us. The home education population is not a homogeneous group. It's not one community, as indeed most of us aren't. In my mind, there are three or four separate, as it were in broad terms, sub-groups. There is a group who are very firmly committed to the principle of educating their child at home. Most of them are well educated, highly motivated and, in general, although there isn't research evidence that's firm to

show it, I suspect that they produce really good-quality outcomes for their children. There's a second group—we were hearing from one earlier—where their child has special educational needs. Very often, the withdrawal of the child from the school is either the failure of the school—very often it is—or there's something very specific about the needs of the children. Then the third group, which also isn't a group, is that shadowy and much smaller group where there are children at very significant risk, either where there may be some malevolent parents—we do know of some cases where children are withdrawn from school to be taken out of the public eye—and others where the parent may well have mental health difficulties. It's there—it's really a very small proportion—where the serious safeguarding risks occur. When the data show, for example, as you were analysing the other day, a small—and it is a small—higher ratio of children with child protection within the home education population, that couldn't and shouldn't be used in any way to blacken the names and the reputation of home educating parents as a whole. What it is, I believe, identifying is a small population that, to a certain extent, we do already know about, some of whom will choose to use home education as the opportunity to not be identified. We could do triple the amount of research data looking at the figures, and I don't think it would highlight any further what's really a series of individual issues that we find across the country. It is the same with the outcomes. The limited research that has been done around the educational attainment of children has tended to be self-selected; it has tended to be from those home education parents who are willing to be considered, and, broadly speaking, it has shown good educational outcomes. And I am not surprised; they are educated, they are bright, they are deeply motivated, they are focused on the needs of their child. Why wouldn't their child do really well out of it?

Q85 Chairman: You said four groups, and you made it three.

Sir Paul Ennals: Did I? Forgive me. Within that last group there are two sub-sets. One is the group—I think it is very small—that is malevolent, and the other is very vulnerable children and families. The extra sentence that I should have said is that I am aware of some anecdotal evidence of many families who are advised by someone in the school system—either the local authority or the school—to withdraw their child and educate them themselves, not in the child's best interest, and not, in my view, in the parents' best interest, but because the child presents some behaviour challenges within the school. That is entirely wrong, and although we don't have objective evidence as to how many, I certainly know of some individual circumstances.

Q86 Chairman: I am glad you mentioned that category, and I reminded you to mention it, because I was with a director of children's services yesterday evening who said that when he took over a local authority he found a number of schools that forced

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people out of school, to de-register into home education, for the convenience of the school. Ellie, what about the view that all this has been rushed and it wasn't nearly as good as it could be? What is your evaluation of Badman; you've seen the criticism and you heard the criticism, because I saw you sitting in the Gallery just now. How do you answer the sort of profound criticism that you heard earlier?

Ellie Evans: I think it's very difficult to depend totally on data because, as we've already mentioned, there is a tremendous amount we don't know, and therefore to actually get a complete data set around this subject is, I think, very difficult. There is no substantial quantity of data, as you say, about outcomes. Even in child protection issues, on which I know, obviously, we've been asked for data. In local authorities, some of that data is not aggregated, either, so it's very difficult to actually deliver the data when asked for it, and I know that I personally have struggled to deliver data for various surveys that have gone around.

Q87 Chairman: Is it only a question of data? Perhaps I'll turn to Philip on this. We have all these universities with research departments and, as I ask our special advisers to this Committee, is there no research in local authority areas to find out what the scale of this is, what the challenges are, and how many people are involved? Even if we took a number of local authorities and researched them—and I don't mean just data, though data is useful, but in-depth research, and knowing what's going on in, say, an urban area of our country, and a rural area and so on—surely that research must have been done, or surely your organisation or somebody should have commissioned it?

Philip Noyes: Research may well follow on this discussion, but there is a real poverty of research into demographics of young people and what they receive from local authorities. Also, it is very difficult to piece together the scale of safeguarding concerns and abuse in this country. We, the NSPCC, are in the middle of a prevalence study to understand the scale of abuse in this country, but there is nothing that replicates some American work to understand the incidence—how much there is in a particular place in a particular year. So when I had a look at Mr Badman's report I was surprised at some lack of detail around how the relationship between the home educators and the local authorities works now. I wasn't surprised at the lack of evidence about children below the radar or the scale of maltreatment in our communities. May I say something else about it being rushed. We didn't actually feel it was any different to the rush that is now just part of life when we are asked to consult for government; things happen at a very quick pace. I sympathise if he would have liked longer and didn't get it.

Chairman: Peter, what's your view on that?

Peter Traves: I think it's a little bit harsh to say that it's not of an over-good quality, to be quite honest, Chair.

Chairman: I am not saying it is. I'm saying that people have said it is. It's my job to ask if that is right or not.

Peter Traves: No, I don't think it is. This is not a piece of academic research. It is actually a report, as you know. The key question is does it raise the right questions from which we can move forward. I think that the report does raise the right questions. The problem would be if we rushed from this to legislation that was based solely around concerns about safeguarding. We do need to look at the safeguarding issue. The danger is that that would push us in a particular direction that I think would be unnecessarily heavy-handed because, to be quite frank, Graham Badman says clearly in the report that, from what he's seen, there isn't evidence that home education is used on a large scale to disguise the abuse of children. We also know that there are a significant number of children who go to school who are abused, and that is not always picked up. My point is that we need to move from this report to a constructive dialogue with those organisations that are involved in home education to move things forward. There are things in here that are actually absolutely right. I do not understand the argument against registration if it is done sensitively.

Chairman: Right, let's move on.

Q88 Mr Chaytor: I have a question for Peter. First, on the issue of registration, the submission of the Association of Directors of Children's Services says that further legal technicalities are needed to ensure local authorities have the powers that they need to carry out the registration system. What are the issues surrounding the powers in respect of registration?

Peter Traves: First of all, at the moment, we don't know how many children are educated at home. It is interesting that in his discussion with me, Graham Badman talked about a figure that was a multiple of three from the figures that are known. The first problem that a local authority has is, because it is actually something people can do of their own accord and they are not compelled to register, that we simply do not know how many children are, for example, educated at home in Staffordshire. We guess it is at least twice as many as are actually registered. Legislation should require people to register the fact that they have chosen elsewhere, because, after all, in relation to any other form of education, we would know where that child is. It is the assumption of some home educators that that would automatically lead to an intrusive and harsh approach from the local authority. That is what we need to reassure people about. We do need to know where children are and we need the power to require people to let us know.

Q89 Mr Chaytor: But from the local authority's point of view, I appreciate that there has not been a power to register in the past. Isn't it pretty self-evident that this is something that local authorities should have been doing? Local authorities have access to data on births and the number of children in primary and secondary schools, and they have access to the number of children registered with Connexions. Isn't it possible to work out the number of kids who are not in school? Why haven't local authorities been doing that over many years?

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Peter Traves: Not really, David. We do have access to data on births through the NHS, but every child born in Staffordshire doesn't stay there for ever. Children move in and out of Staffordshire all the time. Consequently, the population is turbulent. In some parts of the country—London is a classic case—that turbulence is of a very, very high nature. So the data to which we would have access simply wouldn't allow us any confidence that we know of all the children who are in our authority at the moment.

Q90 Mr Chaytor: But shouldn't local authorities have made some kind of effort to do that? Accepting the proviso about migration in and out, they should have made some kind of effort to do this. They don't seem to have done so at all—hence, the criticisms of the Badman report that it didn't have a solid basis of statistics to underpin it.

Peter Traves: Actually, I think every effort is made to try to establish the children who are living in the local authority. It's just that, at the moment, we don't have sufficient confidence that the evidence base we have access to tells us exactly how many children are there.

Q91 Mr Chaytor: Moving on from registration, what about refusing registration? What do you see as the criteria on which a local authority ought to be able to refuse registration of a home educator?

Peter Traves: I think there are two areas in which that would be possible. One would clearly be where there were concerns about safeguarding issues for a child—a child who we perhaps already had concerns about through the health service or other agencies that we work with in the children's trust. If there were concerns, it would be absolutely right and proper for a director of children's services and for the children's trust to refuse the right to educate at home.

Q92 Mr Chaytor: As of now, a child is put on the child protection register. Shouldn't the local authority know if that child is being educated at home? Why isn't there an intervention to prevent that as of now, because the knowledge is there?

Peter Traves: I think that in many authorities there is an intervention in that case. The problem in general, David, is not the children who are on the child protection register but those who should be on it.

Chairman: Can we bring Ellie in on this, as she has expertise?

Ellie Evans: Going back to finding children and knowing the whereabouts of children in our authority, obviously, since the Education and Inspections Act 2006, we have had a duty to find children who are missing from education. We have actively been seeking them. However, some members of the home educating community have autonomous learning as their ethos, and some of them tend not to engage with any state intervention whatsoever. We cannot make an assumption that they are engaged with someone—they are not always engaged with someone. They are totally within their own community. We actively work with partner agencies to find children who are missing from

education. That may deliver a home educated person at the same time, because there is an assumption that if a child is not in a school, they are missing from education, but clearly they are not. I would reiterate that we have some very good home educators who we work incredibly well with, and we embrace what they are doing through such education. Going back to challenging when a child is on a child protection plan, that is actually quite difficult. We would have to go to a court and persuade it on welfare grounds—we may not be able to. It is not a given in child protection legislation that you can refuse home education. You would have to present the case in a court, and challenge and say that on welfare grounds the child should not be home educated.

Q93 Mr Chaytor: So, as of now, in your local authority and many others, children on the child protection register with a child protection plan are being home educated, and that is widely known.

Ellie Evans: I would tend to ask the chair of a case conference to make a recommendation that the child should not be home educated. I tend to go through it that way, but it is difficult because there is no legislation around this at all.

Q94 Mr Chaytor: Can I pursue another question with you, Ellie. On the issue of quality in education, if a parent were completely distraught with the way their child was being taught or cared for in a conventional school and withdrew the child, and then the local authority came along and refused to register the parent as a home educator, where would that leave the child? Secondly, what criteria would you look for for successful registration, or, conversely, what criteria would you look for to deregister or not register a parent?

Ellie Evans: Going back to the breakdown of a relationship with a school, I welcome the recommendation in the Badman report for a 20-day cooling-off period in which the child is not removed from the roll. A tremendous amount of work can be done, and there can be a multi-agency approach to resolving issues, so it is not necessary for a child to come off the school roll. Sometimes, in my experience, there has been a knee-jerk reaction, but perhaps matters could be resolved or we could offer alternative provision. That is something that I would really welcome. On the criteria for registration, if a child comes off a school roll, it is the school's responsibility to let us know that the child has been withdrawn from school by the parent. We would then make contact with the parent and give them all the information around elective home education. It is the school's responsibility, not the parent's, to let us know. We work very closely with home educating families. I have some fantastic advisers who work very closely with them and have very good relationships with them. Home educators are embraced and work very well with the authority.

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Q95 Mr Chaytor: What guidance does your authority give to schools about encouraging parents to withdraw their children and become home educators in order to avoid exclusion or other disciplinary procedures?

Ellie Evans: It is straightforward: schools should not be doing it. It is as simple as that.

Q96 Mr Chaytor: Right. What is your assessment of the extent to which schools in other local authorities encourage parents to withdraw children?

Ellie Evans: I think it is very difficult for schools because they have certain criteria that they have to meet and benchmarking that they have to perform with regard to examination results and the measures that are placed upon them. I would challenge a school if I understood that that practice were happening. I would personally challenge the school and go much further up the food chain if I felt it necessary.

Q97 Mr Chaytor: That doesn't answer the question, does it? The question is what is your assessment of the extent of the problem with the local authorities. Would 5% of schools be doing that? How many parents out of the recorded 20,000 home educators across the country have become home educators because they were encouraged to do so by the schools as a means of avoiding exclusion or making it easier for the school?

Ellie Evans: I can't answer that question. I really don't know. It is not a piece of research I am familiar with.

Chairman: Peter wanted to come in.

Peter Traves: I could not answer specifically on that one, either, David. What I can say is that things such as unofficial exclusions from school, particularly for children on the autistic spectrum, are more common than the encouragement to home education. One thing I have been doing in my authority is working with an organisation called Jigsaw, which is a pressure group of parents. I made it explicit that I would want any parent who receives that advice from a school to contact me directly. I have had a number of direct contacts in that way and it has led to some robust discussions with head teachers.

Q98 Lynda Waltho: I would like to look at home visits by a local authority. There is a significant group of home educators who believe that local authorities already have sufficient powers to intervene should they be worried about welfare or educational provision, specifically within the Children Act 1989. Could you spell out, Ellie, what an authority can do at the moment and why you think that may be inadequate?

Ellie Evans: Currently we are engaging with the children as they come out of school. There is no necessity for a parent who has a child rising five to inform us that they are going to choose the elective home education route. That is when it is very difficult because we do not necessarily know about those children. When the children are withdrawn from school, we make contact with the parents and say that we will offer advice and support for home

education. If a parent decides that they don't want that intervention, they can write a report to give us information around the provision that they are intending and they can do that on an annual basis. I have a family where we haven't seen the children for five years. We have no rights to see those children in the current situation. Clearly, our concern that we haven't seen them does not constitute a risk of significant harm and therefore we can't raise a question with social care, for example, because we haven't seen the children. That's not sufficient. It is a limbo situation. Hopefully, home-educating parents will work with us and the advisers. They have got some good relationships with a lot of our home-educating families but in the current situation, we have no rights to see children; we have no rights to check the education provision because we have a letter or report sent by a parent and we have to accept that.

Lynda Waltho: I don't know if Peter has anything to add. I would be interested.

Peter Traves: I think Ellie is right on that and considerably more expert than I am in that area.

Q99 Chairman: Do you talk to health visitors and people like that? They have access, better access than you, don't they?

Ellie Evans: If a parent wants to engage. If a parent doesn't want to engage, they haven't.

Q100 Chairman: A health visitor has the right to enter any premises, I understand, unlike social workers.

Ellie Evans: But parents can still opt out and, in my experience, health visitors wouldn't force themselves on a family unless, again, there was some sort of concern.

Chairman: What about our two wingers here, Paul and Phil? Is that right or not?

Sir Paul Ennals: I am not quite sure.

Philip Noyes: I'm not sure. I thought not, actually. I thought there was one statutory visit that health visitors have to make at 15 days for the baby and after that contact with a health visitor, I thought, was voluntary.

Chairman: Sorry, Lynda, back to you.

Q101 Lynda Waltho: I am quite happy with that answer. In three of the four cases that Badman cites in the serious case reviews, the children had been seen by social services several times prior to the incident that caused the review. In the light of that, how valuable will additional home visits be in those situations?

Ellie Evans: Sorry, are we talking about safeguarding concerns or education provision?

Lynda Waltho: Safeguarding.

Ellie Evans: It depends on the level of the concern. If social care is engaged, it doesn't necessarily mean that it has gone to a child protection plan. It could be an initial assessment or something like that. It doesn't necessarily mean that we have moved on to a child protection plan. Additional visits, certainly from education professionals, will primarily monitor the educational provision.

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Peter Traves: The other thing is that, although it is taking a while, there is a growing sense of an overall children's service around the five outcomes. I used to do a lot of home visits when I worked in Shropshire in the 1990s. Now, there is a greater view about the five outcomes and a greater sense that the people involved in educational visits and the social workers involved in social work visits will take a broader view across those five outcomes. It is by no means complete yet, and we have not arrived at that destination. However, the speed of the growth of awareness should not be underestimated. I think that those serious case reviews were picking up failures on the part of the process, rather than an improving trend.

Philip Noyes: I was going to give the slightly different answer that safeguarding—and good it is—means trying to remove false negative information or missing things and eliminating false positives or thinking abuse is there when it is not. The fact that some things have been missed does not militate against the need to be concerned and vigilant. With Every Child Matters and the five outcomes has come the verb “to safeguard” and the sense that safeguarding is preventive and not just the storm-trooping kind of child protection work. The mindset that the DCSF quite rightly wants to inculcate in everybody is a sense that safeguarding is everyone's responsibility: everybody, regardless of whether they are specialist professionals or people at the periphery of children's lives, should have a soft-touch awareness of when a child might be at risk and know what to do next. From our point of view, those failures to recognise abuse are serious as they stand, but they do not militate against the need for a sensitive, soft-touch approach to a sense of vulnerability or what the home visitor does next if he or she is concerned.

Q102 Lynda Waltho: How about the confidence of home educators in the people who will be visiting? How do local authorities typically staff their home education teams? How much knowledge do the officers have of safeguarding matters?

Chairman: Who wants to take that? Ellie?

Lynda Waltho: I am sorry, it is just that you are the expert witness on this one.

Ellie Evans: The advisory teachers that we have in our authority are education-based. However, they all have safeguarding training on a rolling programme. I feel quite confident that they have the ability to recognise abuse, for example, and know where to go next. They are fully conversant with the process. As I say, they are primarily education-based because the bottom line is that that is what we are asking them to check out the provision of.

Q103 Lynda Waltho: Would that be the case across all local authorities or the majority of them? Do you have that information?

Sir Paul Ennals: I think that is what I wanted to say. In the same way as the home education community is not homogenous, I do not think that local authority services in this area are. Many—I would say most—of them are largely staffed by people

whose expertise and background is in education, maybe from inspection and advisory services. There are more now that involve and bring together the services with children missing from education, which strengthens the safeguarding aspect. On one level, that is positive and on another, it might make home educators feel more nervous and anxious. There are different levels of qualification in teams across the country. There is not a standard level of qualification. The education and social work population is quite varied in its levels of qualification currently.

Q104 Lynda Waltho: Would it be useful if there was a standard or a level?

Sir Paul Ennals: I am not sure about a standard. I would certainly like to see a higher level of qualifications across the piece and more effective and appropriate training made available. It is one of Graham Badman's recommendations that something be done about that. The circumstances in Somerset are very different from those in Hackney and Tower Hamlets. It would be quite hard to produce one national model that requires a certain level of qualifications, size of team and certain backgrounds.

Ellie Evans: I want to add that my team have gained greatly from the home educating community as well. Some of my members of staff have been there for 10 years and have learned a great deal from the home educating community. I think that it has been a bit of a two-way process, for sure.

Chairman: Helen, do you want to ask a supplementary question on this subject?

Q105 Helen Southworth: Yes. May I ask a question in general terms about orthodoxy. In terms of a home visit, it is a judgmental home visit by its purpose. How confident are you that the issues around the cultures of home education by choice are understood by people within the home visit process and that that understanding can be built into this? Are you confident that there will not be culture clashes, misunderstandings and bad judgments?

Peter Traves: I am quite happy to answer that one.

Q106 Chairman: Peter, are you from a social background or an education background?

Peter Traves: I am from an education background.

Chairman: Thank you. I asked because we have not had your CV.

Peter Traves: Sorry. I was a teacher in inner London for many years and I worked in an advisory service, both in London and in Shropshire. I was a head teacher and now I am a director of children's services. In terms of orthodoxy, I must say that there is a danger of a mystique being created here about what we mean by “good education”. What we are talking about is differences in terms of pedagogy and differences in terms of methodology. Anybody who is half-decent who goes to look at home education and expects to see a replication of what takes place in a school is entirely missing the point, because the whole advantage of educating at home as against school is that freedom and that flexibility. What we

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should be looking at are the outcomes. Is that child growing in confidence, in relation to the situation that they are in? I say that because I take the point that some children have been in pieces from their educational experience before, and it would be utterly unrealistic to make the same demands of them. Is that child, over a period of time, gaining a wider view of the kinds of knowledge that common sense would suggest we require to operate in our society? I think that the point was made by one of the witnesses in the first group that literacy is not a negotiable skill for most people. If somebody ends up at the end of their education experience being illiterate or poorly literate, that is inappropriate education. So I think that there is a danger here that we are confusing methodology—I think that most visitors are sympathetic to a variety of methodologies—with the outcomes. What is the child learning? What progress are they making in terms of their self-esteem, their confidence and their love of learning?

Chairman: Right. Two quick supplementary questions. You first, Edward.

Q107 Mr Timpson: You might have heard from those giving evidence earlier that one of their main concerns about the Badman recommendations is the proposal for the local authority officer, whoever that may be, to have the right of access to the child and to interview the child without the presence of the child's parents. They are right to be concerned about that, are they not?

Ellie Evans: It is my understanding that that is only if appropriate. We tend to miss the condition “if appropriate”, which is really substantial in this regard. If it is appropriate, the child will be seen. I have experience of children who have not wanted to continue with home education but the parent has desired it. It would have been appropriate at that point to obtain that child's views, and it was only because his cousin had gone into a school and said that he was so discontented that we managed to ascertain that. That would have been appropriate, because of the age of the child. There is also a proviso that another “trusted adult” could be present. I think that the idea of an officer sitting in a room who is a stranger to a child is not appropriate. We must remember that there are additional words in that whole phraseology, rather than just, “We're going to interview a child on a one-to-one basis”, because that is not what Badman intended, as I understand it.

Q108 Mr Timpson: But it goes back to Helen's point about the fact that a judgement will have to be made in each individual case, and that judgement will be subjective. One of the concerns is, as has been demonstrated with some home education teams around the country—Paul alluded to this earlier—that there is a range of ability in the people involved in that process and that they will not have the skills to make an appropriate judgement. Is that judgement based on looking at educational

attainment, or on a safeguarding issue? It is a very grey area and I am not sure at the moment that we know exactly what “if appropriate” means.

Ellie Evans: But we would have the freedom to commission somebody who did know.

Q109 Mr Timpson: Then we are into a resources issue, aren't we?

Ellie Evans: Yes.

Q110 Chairman: But Ellie, surely in our recent experience of high-profile tragedies in the child care area, the social work profession has been criticised in particular cases where it did not talk to the child on its own. One of the major criticisms of work in one or two of the notorious cases that we have had was the failure to talk to the child on their own. Why is that appropriate to social work in one situation but not in another?

Philip Noyes: We supported the recommendation to see children on their own, but there would be a caveat. If there was a situation in which the child was clearly in distress and really could not cope with seeing the visitor on her own, it would be perfectly reasonable to write down the fact that you could not see them. But it is an important matter of principle, for educational reasons as well as for the general role, rather than just safeguarding, that the child sitting on her own has an opportunity to say what she thinks.

Q111 Chairman: But when we looked at looked-after children, there were some who said, “We never got the chance to talk to anyone on our own. There was always someone—a carer or someone else—who we were worried might overhear what we said.”

Philip Noyes: In the safeguarding context, we hope that that will be the No. 1 point in the new “Working Together” document. They must be seen on their own and have the opportunity to say what they think. There is a skills issue linked to the quality of the person on the other end of the conversation. They must be able to understand what is being said and be able to listen to what the child is saying and deal with it sensitively. That is a whole other area around training for the role.

Q112 Mr Stuart: Do you all accept the fundamental right of parents to home educate?

Philip Noyes: Yes.

Peter Traves: Yes.

Ellie Evans: Yes.

Sir Paul Ennals: Yes.

Q113 Mr Stuart: Peter, you said you didn't understand the argument against registration. Isn't there a principle that regulation and registration in almost any area should have to pass a high hurdle of need before it is brought in? There should not be an assumption that the state regulates and registers us all in business or our personal lives for its convenience. You said that there are responsibilities and that it is not very helpful for us not to have all that data. Parents and children are not there to help you meet your responsibilities.

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Peter Traves: May I be clear about what those accountabilities are. If something happens to a child in terms of any of those five outcomes, we are held directly to account. This is not some kind of button counting. We have seen recently what happens to directors of children's services when things go seriously wrong. It is not only a case of sacking; it is public humiliation. It is a very serious matter. If I get it wrong in my job with children across a broad area, I am held to account for children's welfare. I think that not knowing that there are children living and being educated in my area is unreasonable if I am being held to that account. It is not about state control; it is about being aware. What we do with that information can either make it an oppressive or a reasonable relationship.

Q114 Mr Stuart: Do you think a higher percentage of children are failed in poorly performing schools than in home education overall?

Peter Traves: I think a higher proportion of children are failed in relation to their social background in this country at the moment. That is the biggest single issue in terms of failure in education.

Q115 Mr Stuart: My point is about failing schools. You say that you cannot see the argument against registration. The irony is that, on average, four in 10 boys leave primary school unable to write properly according to Government levels. That means, in the worst schools, it is massively hard now. The worst parents in this country, as we know from our looking into looked-after children—

Chairman: No other member of the Committee would recognise that.

Mr Stuart: That is not necessarily the case. I often don't recognise what is said by other members of the Committee; you don't have to agree with all the questions, Chairman. The point is that when you look at children in care, you will see that the worst parents in the country appear to be corporate parents. So we have local authorities who are failing with schools and with looked-after children, and they are sending officers to the homes of people who have withdrawn their children very often as an act of safeguarding from failing local authority provision. Can you not see an irony there, and should there not be a very high bar before the state, regardless of the responsibilities you hold—

Peter Traves: May I respond to that. I don't see how the issue of failing schools negates the issue about our responsibility to children who are not educated in schools. We have a responsibility to improve all schools, and that is absolutely right and proper. On the issue of withdrawal, parents withdraw their children from school for a whole range of reasons. I did six years of home visits, and there were parents who withdrew their children because we had failed them—that is absolutely true. There were parents who had withdrawn their children for ideological reasons because they had a profound belief in a different form of education, which I respected. There were also parents who withdrew their children for particular religious views because they wanted those views inculcated in that child. It is not just about the

rights of parents, but about the rights of children. It is not necessarily about the state's responsibility to children, but about the community's responsibility to them.

Sir Paul Ennals: Much has already been said about this. With regard to the constraints on introducing a new registration system, we need to be satisfied that it is a proportionate response to a problem that is there. I do believe that there is sufficient evidence of weakness, either on some safeguarding issues and/or on the need for the local authority to be more able to provide the right support for the family, to justify a registration system. I think that the registration system should be only light touch, and it does not need to be over-elaborate. I am actually not sure that a new criminal offence is required for not completing it, because with the legal framework on school attendance orders, as amended in 2006, the necessary legal framework is already in place to ensure that if someone has refused or failed to register, there is an existing legislative means for following that up. As long as it is light-touch, sensitive and formative, rather than simply trying to catch people out, I believe it is a proportionate response to the situation.

Ellie Evans: I agree with Paul. However, the registration process, going back to the legislation on children missing education, is learning from a serious case review for a serious case. Lord Laming had done considerable research, and that inquiry was not rushed and is considerable. Out of that came the recommendation that local authorities must identify children who are not in suitable education. If we do not do something about the registration process, we are almost contradicting ourselves.

Q116 Annette Brooke: Can I quickly backtrack to the home visit. I feel that perhaps there is the wrong entanglement between the need to assess on educational grounds and to make assessments on safeguarding. In the school situation, I would expect teachers to be trained to recognise certain symptoms and then report them so that there will be justification for further investigation. I feel that home educators are feeling threatened because the person who is coming to assess the education is assessing them on safeguarding. Is there a case for having home visits, with working in partnership and all the things we like, such as a formative process, but in a way that that person is highly trained to pick up signals and then report them so that action is taken when needed, rather than this process of casting everyone in the same light?

Sir Paul Ennals: I agree entirely with that.

Annette Brooke: Do I get agreement on that? Gosh! Thank you. That has made me feel better about it.

Chairman: For the purposes of *Hansard*, all the witnesses agree.

Q117 Annette Brooke: It is so unusual for people to agree with me that I shall keep going. My real question is about the other tricky position: having to provide a statement. I have not got my head around what will be the right balance between encouraging exciting forms of education for children that are

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right for the child and actually ensuring that there might be a minimum requirement, say, in literacy. Peter and Ellie, what on earth will the statement look and feel like?

Peter Traves: I have to say I think that the last people who should write this on their own are local authorities, quite frankly. I do think that this is something we would have to do in negotiation and discussion with home educators. I come back to the point that I don't think it is beyond the wit of human beings to define what we think children ought to be demonstrating in terms of a sound educational experience. I think the problem would be if we in any way linked it. There are some worrying things about age-appropriateness that have all the signs of national curriculum about it, and I do think what we need for the next stage is a sensible discussion with organisations like Education Otherwise to say, "How can we reflect the strengths of home education but also protect the right of children to grow up so that they do have the skills and knowledge that are going to be necessary for them to perhaps make different decisions from their parents?"

Ellie Evans: On Monday, I noticed that Graham Badman alluded to an article by Daniel Monk. Within that article on planning an education provision for a child, it was the intention—the actual provision had been thought through as a basic fundamental—that there was going to be consistent involvement of parents and other significant carers; that there would be thought-through reasons for electively home educating, signs of commitment and enthusiasm from the parents, and a recognition of the child's needs, which is quite key and core to this; that there would be opportunities for the child to be stimulated by their learning experiences and involvement in further activities; that there would be a wide variety of interests appropriate to the child's development and access to resources to meet their objectives; and that there would be opportunities for children to interact with their peers and others. I think that is probably quite a good basis for a statement, but obviously it would have to be discussed further. I would very much like to work with the home educating community to derive that statement, but I think that is quite a good basis, particularly with regard to the commitment and enthusiasm of the parents, because I am aware that people do withdraw children, perhaps to avoid prosecution, and they haven't thought about it at all. It is an alternative to being prosecuted, or to having the local authority on your back for your child not attending school, for example.

Q118 Annette Brooke: I am pleased that Paul wants to add to that. What is the balance, Paul?

Sir Paul Ennals: The key thing, if anything, is the last one. I am most interested in using it as a trigger to avoid—to flush out—those cases that we referred to earlier on, where local authorities and schools, on some occasions, are inappropriately advising parents, or, similarly, where some parents are inappropriately, on the spur of the moment, taking decisions, maybe out of a fit of pique with the school. Simply the requirement to set out—I tend to think

no more than two pages would do it, I suspect—the basics of what they actually intended to do with their child would flush out, I believe, some of the ones that are of greatest concern to me. I do believe it would not represent a challenge or an unnecessarily high hurdle to the vast majority of home educating parents, who are more than able to design the way in which they're intending to educate.

Chairman: Annette, what do you think?

Annette Brooke: I'll pass on that. I don't think we're quite seeing what this is going to look like, but perhaps—

Q119 Chairman: Can I just ask you this, because I didn't ask the former group of witnesses, although I know some of them are in the room so they'll hear it. As I read Badman, I felt that having in every children's trust and every local authority area a group who are knowledgeable about home education meeting, and a sub-group of the children's trust, seemed like a very positive idea. Would you value that in terms of being able to meet on a regular basis to consult and learn from them?

Peter Traves: We have in Staffordshire appointed, through the trust, the children's commissioner, whose function is actually to answer directly to the trust and to relate to the different groups of parents: all parents, but also particular interest groups. I think, for us, that would be a good means of connecting it through to the children's trust: for the commissioner to say, "It's your job to relate to this group, to find ways of talking." However, she is not the employee of the local authority. She is not answerable to the local authority; she is answerable to the trust, and she is primarily there to promote the interests and views of parents.

Q120 Mr Stuart: Would you support the idea that a sum—whether it is the full amount allocated to the local authority for that child's education or a lower amount—should be available as a right for home educators to use to support the education of their children? As you may have heard, one of the earlier witnesses talked about spending £1,000 just to pay for his child to sit GCSEs, which seems quite wrong.

Peter Traves: If we had a registration process that told us exactly how many children were in the authority, we would hopefully be funded by government for all children in our local authority for their education. For those children who were not in school, we could use that money both to support those parents and engage with parents as to how that money could be spent.

Chairman: Paul, do you have a view on that?

Sir Paul Ennals: As I understand it, that is part of the package that was proposed by the Minister this week—that a small proportion of age-weighted pupil unit be allocated not direct to the parent but to the service, to enable better support that has been sadly lacking in most authorities up to now. I think that is probably the right model.

Mr Stuart: Can I press on that?

Chairman: No. I will call you if we have the time. Paul has been waiting patiently for his question.

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Q121 Paul Holmes: The home educators we had earlier had some wide, divergent views on different things. What they all generally agreed on was that, with a few shining exceptions, most local authorities were very bad at providing support for home educators. Is that a true and fair assessment?

Sir Paul Ennals: I would probably sway it slightly the other way. I think it is a very mixed picture. We have Staffordshire and West Sussex, and we are hearing that Somerset and North Yorkshire are very good. A number of authorities are very good, but a number are pretty poor as well.

Q122 Chairman: Do you want to name them?

Sir Paul Ennals: No, I don't think so, Chairman.

Q123 Chairman: Why is it that everyone wants to name the good ones but never the bad ones?

Sir Paul Ennals: For very good reasons—partly motivational reasons.

Q124 Chairman: Philip, do you want to name anyone or do you have a comment on that?

Philip Noyes: No, I couldn't, if I wanted to.

Chairman: Peter, I am not asking the same question. Just answer Paul's question.

Peter Traves: I think it's a mixed picture at the moment. To be honest I don't think it has consistently had a high enough profile in local authorities. I don't think enough resource has consistently gone into it. Clearly, there are authorities which do very well. I wouldn't dare name other authorities and probably wouldn't be in a position to know. We have had to work hard in the local authorities I have worked in to catch up on this issue. If this is going to work, it goes back to my original point that I do think some statutory guidance or even legislation would help us, but it won't be the answer unless we actually increase the expertise within local authorities and, most important of all, engage in a positive dialogue rather than a dialogue of suspicion with home educators.

Q125 Chairman: Should Ofsted find out who is good and who is bad? Don't bury your head in your hands.

Peter Traves: Chair, you are asking us to name authorities. Without having a really complex process of analysing each individual authority it is really hard to give a name. That is part of the reason why I don't think that would be a proportionate response, to be frank.

Q126 Chairman: Peter, *Hansard* didn't pick up the fact that you buried your head in your hands. What about my mentioning Ofsted caused that?

Peter Traves: If parents find it intimidating—and some parents do—that a local authority officer goes in, I think the idea of an Ofsted inspector going in—

Chairman: Going in to you to find out if you're working well with them.

Peter Traves: Sorry, Chair. That is perfectly reasonable and I think Ofsted is planning to do so.

Ellie Evans: They have started already.

Chairman: Ah, so you misinterpreted my point.

Peter Traves: Yes, I did entirely.

Ellie Evans: With regard to the Ofsted side of things, it is very difficult if we do not have an idea of suitable education. I would be very interested in the criteria that Ofsted come up with. I haven't seen them, as yet.

Q127 Paul Holmes: Peter, you touched on this point before the last bout: if the Badman recommendations lead to all local authorities having to look again at support for home education, how is it going to be funded? The Minister suggested on Monday, and DCSF has suggested, that the money is already there but local authorities aren't using it. If you are going to have proper training for everyone who is involved; if you are going to provide more support and more access to facilities; if you are going to pay for exam entries and all the rest of it, is the money already there but you're just not spending it?

Peter Traves: It depends what you mean by the money being already there. Local authorities spend the money that they are given, as you know, Paul. It would be up to local authorities, if there were no additional resources, to vire money from one part to another out of existing resources. One point about knowing precisely how many children are educated at home is that it would give us a much better idea of how much resource we ought to allocate to that issue.

Paul Holmes: But DCSF has said the proposal would be cost-neutral.

Peter Traves: It is not unusual for the DCSF to say that. I understand that.

Chairman: It would say that, wouldn't it?

Peter Traves: We have clearly reached a period of significant financial constraint. If the figures are anywhere near as high as Graham Badman is suggesting, local authorities will need to look at their current allocation of resources and say that they need to vire resources according to that.

Q128 Chairman: But you're missing out at the moment, aren't you? The money flows with the child to the school—90% of it to the school now. Presumably, you are saving a lot of money if those people do not pitch up and ask for education, are you not? Or the Government are.

Peter Traves: Yes, but we don't know how much at the moment, Barry.

Chairman: It's £150,000, which is a lot of money.

Peter Traves: If that is right.

Q129 Paul Holmes: What about something simple that I don't really see would cost money? Home educators are incensed about the difficulty of finding an examination centre. Why is that so difficult?

Peter Traves: I don't see why it should be so difficult. To be honest, that doesn't cost huge amounts of money, and there is no reason why we couldn't—we already have schools and other places where we run exams. We have colleges that run exams. I don't think that's impossible. Do you, Ellie?

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Ellie Evans: We could certainly look at also using alternative providers that register as examination centres. But going back to costing, there was an indication that money is already there, but you have to draw it down. It is not the case that we are already getting money for home-educated children. We are not. The money has to be drawn down. Therefore, you would effectively be going back to the central pot and drawing the money down.

Q130 Paul Holmes: But if home educators keep going to local authorities and saying, "I want help to pay exam fees," and the local authority by and large says, "You can't have it," why are they not drawing down the money, if it is there?

Ellie Evans: I think that is something that needs to be explored, but the actual inference is interesting. I noticed in the response from the DCSF that said that they 'believe' that the money is already there. That is different from saying that the money is already there.

Q131 Chairman: But you agree it is wrong, is it not? The gentleman said that he had to pay for all the examinations. Why on earth would that be justifiable? It wouldn't, would it? We are drawing stumps in four minutes. Is there anything we haven't

asked you that you wish you had been asked, or is there anything you want to tell the Committee before we wind up?

Ellie Evans: Local authorities are standing there and getting some criticism and what have you because the money is there but they have not actually allocated resources, but the must-dos, indicator sets and so on are the things that they have to focus on within the financial constraints that they find themselves working with. A legislative framework around this would make it a must-do. That is something that needs to be considered.

Chairman: Paul, last word?

Sir Paul Ennals: No.

Chairman: Peter?

Peter Traves: I think the must-do is that we are already responsible for all children, and for those five outcomes. That ought to be driving the approach on this. We already have a responsibility for those children in broad terms.

Chairman: Philip?

Philip Noyes: No.

Chairman: Peter, may I apologise and say that you have been a better witness than I could ever have expected from the person who was supposed to be here. Keep in touch. This is a short, sharp report, but we want to make it a good one. If we can draw on your expertise, we will remain in communication with you. Thank you very much.

NSPCC Response to the DCSF Proposals for the Registration and Monitoring of Home Education

INTRODUCTION.

The National Society for the Prevention of Cruelty to Children (NSPCC) is the UK's leading charity specialising in child protection and the prevention of cruelty to children. The NSPCC aims to end cruelty to children by seeking to influence legislation, policy, practice, attitudes and behaviours for the benefit of children and young people. This is achieved through a combination of service provision, lobbying, campaigning and public education.

The NSPCC believes that, given the will, all cruelty can be prevented. In order to achieve this, it is vital that all children, whatever their needs, have a range of services that are flexible and offer them support and protection. The NSPCC has a number of services in the UK and the Channel Islands. These services aim to:

- Prevent children being abused by working with parents and carers in vulnerable families to improve their knowledge and skills in safeguarding, and giving children and young people someone to turn to through the provision of our Listening Services.
- Protect vulnerable children and young people from abuse by providing direct services in a number of settings, including schools and young people's centres. We also protect them by providing Listening Services for adults to ensure they have someone to turn to with their concerns; by ensuring that abused children and young people are identified and effective action is taken to protect them, and by working with young people and adults who pose a risk to children and young people to reduce the risk of abuse.
- Help children and young people who have been abused overcome the effects of abuse and achieve their potential.

This response draws on the experience of NSPCC staff involved in direct service provision as well as those involved in working with LSCBs on improving processes for safeguarding.

GENERAL COMMENTS

Our interest in this subject is for one reason and that is our mission to end child cruelty. Our concern is that children are safeguarded effectively in all settings, including in the home. Our expertise is in child protection, not in education, and our comments therefore focus on the safeguarding aspects of home education.

The following anonymised quote from a girl who called our ChildLine service in 2008/09 provides an insight into why it is important that the legislative framework must be fit for the purpose of establishing that children are safe when they are being educated at home: “My dad is hitting me and I am scared. He is touching me in naughty places. My mum gone to heaven. Dad is saying he will rape me if I tell anyone. My dad has kept me away from school last two years”. (Girl aged 10)

1. *Do you agree that these proposals strike the right balance between the rights of parents to home educate and the rights of children to receive a suitable education?*

Agree Disagree Not sure

Comments:

Any proposals should be rooted in the UN Convention on the Rights of the Child. Articles 12 (fulfilling children’s rights to have their voices heard) and 29 (their right to an education) are of key relevance. For many home educators it does seem that they are asserting their rights as a means of protecting their children’s rights. This is understandable, but the difficulty is ensuring that the views of a parent do not prevent a child from achieving their rights.

This balance is always going to be hard to achieve. The proposals go some of the way towards this goal and we therefore support them.

2. *Do you agree that a register should be kept?*

Agree Disagree Not sure

Comments:

As noted in the Badman Review: “It is a cause for concern that although approximately 20,000 home educated children and young people are known to local authorities, estimates vary as to the real number which could be in excess of 80,000”. (para 1.3). With the movement of families it is relatively easy for a child to “disappear”, especially if there is no knowledge that the child exists. As one home educator commented “When I moved house to another local authority, no-one knew about my child because I did not have to notify”. (evidence to Children, Schools and Families Select Committee 14 October 2009).

We are also aware that home educators have been concerned because their local authority has contacted them because they believe the child is missing from education when in fact the child is being educated at home. A registration scheme would make this much less likely.

ContactPoint will hold information on where a child is being educated and home educators can choose to have their home address recorded under that field. Local authorities will be able to identify the numbers of children in home education (where recorded) and those where no education establishment is recorded. So in essence there will be data on numbers of children recorded as being home educated and those who are missing from education (because no education establishment is recorded).

However, the legislation under which ContactPoint operates means it cannot be used as a register.

We therefore support the need for a simple register with clarity for parents and local authorities about registration requirements.

Registration should be a process that is two-way and one includes providing information about the rights of and resources available to parents and children (see below).

3. *Do you agree with the information to be provided for registration?*

Agree Disagree Not sure

Comments:

We have not ticked any of boxes above as our response does not fit any of them.

The register does not need to be extensive and so basic information is all that should be required (Name, date of birth, gender, names of parents/ carers, and contact details).

In essence we see the purpose of a register as providing the relevant local authority with enough information to ensure it is clear about the population of home-schooled children, to be able to separate home-educated children from those who are missing from education and to enable local service provision (in line with other recommendations emerging from the Badman Review).

It would also be helpful for there to be a process which in addition places a duty on local authorities to inform children of their rights, parents of their obligations, and both parties of the range of resources available for them, for example home education groups and ChildLine.

4 *Do you agree that home educating parents should be required to keep the register up to date?*

Agree Disagree Not sure

Comments:

It would be reasonable to expect that the data held should be confirmed with parents on an annual basis to ensure it is accurate. If registration is kept simple (as we suggest in Q3) then this is not an onerous task.

This would be similar to other requirements to confirm registration with a GP, or for the purposes of the electoral record to confirm that the information held about an individual is correct.

5. *Do you agree that it should be a criminal offence to fail to register or to provide inadequate or false information?*

Agree Disagree Not sure

Comments:

We noted in our submission to the Badman Review that offering meaningful and relevant support would be the most effective way of engaging and developing good relationships with families.

In our experience criminalising parents is not the best approach and compliance should be achieved through other means. However, this would clearly need to be kept under review; we recognise that in exceptional cases it may be the only means left for a local authority to ensure compliance.

6(a) *Do you agree that home educated children should stay on the roll of their former school for 20 days after parents notify that they intend to home educate?*

Agree Disagree Not sure

Comments:

6(b) *Do you agree that the school should provide the local authority with achievement and future attainment data?*

Agree Disagree Not sure

Comments:

7. *Do you agree that DCSF should take powers to issue statutory guidance in relation to the registration and monitoring of home education?*

Agree Disagree Not sure

Comments:

It is important that any approach is consistent across England. One of the valid criticisms to date has been the inconsistencies between different local authorities and their activities in relation to home education. It is important that children in all local authorities should benefit from the enhanced safeguarding potential of registration and monitoring. To achieve this guidance would need to be statutory.

8. *Do you agree that children about whom there are substantial safeguarding concerns should not be home educated?*

Agree Disagree Not sure

Comments:

Any decisions about a child need to be based on the specific circumstances and concerns about that child.

Where there are substantial safeguarding concerns relating to parents/carers of the child, then as part of any decision making, one would expect there to be clear consideration given of the most appropriate and safe place for the child to be educated. Where this is a child being home educated, then it may be appropriate to say that education cannot continue at home or until such time that the situation is satisfactorily resolved with all parties agreed.

However, it would not make sense to require a child to end home education, in cases where: the risks to the child are not related to their parent/carer or where the parents/carers are assessed as being capable of protecting the child.

For example, it may be an abusive parent who is not living at home and not involved in providing the home education but sees the child regularly. In that case the risk is not at the home and so it would not be reasonable for the home education to stop.

9. *Do you agree that the local authority should visit the premises where home education is taking place provided 2 weeks notice is given?*

x Agree

Disagree

Not sure

Comments:

From the education point of view, this seems to be reasonable notice, but we would defer to others.

We take the view that the two week notice is not relevant if there are concerns reported about a child. Local authorities and their partners will have processes in place which they will use if they have a concern to decide what action to take and when.

In working through this issue it is important to separate out the processes set 1989 around child protection and children in need, and the processes in relation to home education. In our reading of the consultation document, we read the two weeks as being of relevance to the provision of education and not of relevance in relation to safeguarding concerns.

There are two issues, the first being whether the child is “safe”; the second being where they are receiving an “education”. To obtain good answers to both questions relies on skilled and experienced staff being able to engage with both children and parents. We know that home educators have, for good reason, frequently cited very poor experiences of engaging with local authorities. So there is an understandable wariness and distrust. In our response to the review we noted that “Processes that focus on support tend to be more successful in engaging with the majority of families and are more likely to lead to improved outcomes, than a focus on monitoring and prescription. However, local authority staff involved in this process must be trained to identify signs of abuse and know what to do if they suspect it, or if a child discloses abuse”.

We know from the correspondence and discussion with home educators that a key issue has been the experience, skills and knowledge of the staff involved. We agree with recommendation 22 which is about ensuring that staff with appropriate knowledge and training undertake this work.

In discussions with our staff it is clear that home visits are important, and they should take place. We note however that for these to be meaningful and helpful the staff undertaking them need to be skilled and competent, including in identifying possible signs of child abuse or neglect. The key issue for the NSPCC is ensuring the skills and competence of the staff involved.

10. *Do you agree that the local authority should have the power to interview the child, alone if this is judged appropriate, or if not in the presence of a trusted person who is not the parent/carer?*

x Agree

Disagree

Not sure

Comments:

The practice of our staff highlights the importance of speaking to children alone unless that creates distress for the child; we therefore agree that local authorities should have this power. We would also note that there should be a clear record which notes reasons also for not seeing the child alone.

As with Q9 it is crucial that staff have the pre-requisite skills to communicate with children and know what to do if a child raises an issue, be it about not wanting to be home educated or about abuse. The NSPCC has developed a number of resources for a range of organisations and professional groups on safeguarding and child protection. For example we have developed EduCare which is a set of modules to support people developing an understanding of child protection and knowing what to do. We would be happy to offer our support in developing resources or training for staff.

We note the concern expressed by some home educators, that their children have been traumatised by their past experiences of the education system and this would lead to further traumatisation. Depending on the circumstances and how long ago it happened, it may be insensitive to expect a child to be seen alone, but decisions should be made in discussion with parents. However, most children (who have not had traumatic experiences) are resilient and it would be reasonable to expect them to be able to cope with meeting an unknown adult and handle some discussion about their learning.

11. *Do you agree that the local authority should visit the premises and interview the child within four weeks of home education starting, after 6 months has elapsed, at the anniversary of home education starting, and thereafter at least on an annual basis? This would not preclude more frequent monitoring if the local authority thought that was necessary.*

Agree

Disagree

Not sure

Comments:

We have not ticked any of boxes above as our response does not fit any of them.

There does need to be engagement between the family and the local authority. Getting the approach right first time is vital as that sets the agenda for future working.

The model suggested of within four weeks, then six months and then annually sounds reasonable. Rather than prescribing a visit to the premises within the first four weeks, it may be better to require that one of those first three visits should be to the premises. Meeting initially on neutral ground may be more beneficial for some parents/children and once there has been some engagement it may “feel” safer for the parents/child to allow them into the premises of learning.

There does need to be clarity about the nature of the assessment and this is best managed by such an assessment being developed collaboratively between home educators, educators and government. Any records should be shared with children and their parents.

October 2009

Further supplementary memorandum from the Department for Children, Schools and Families

1. *Some local authority officers claim that they do know of the majority of home educated children in their area, who they identify through, for example, health records, “rising age five” lists and secondary school applications/admissions. Is it the Department’s view that, if implemented across all local authorities, such arrangements could suffice for the purpose of identifying home educated children?*

This may be the case in small LAs with a stable population and few flows of pupils across LA boundaries. This is definitely not the case for authorities with a mobile population, where risks are greatest, nor for those where the population is likely to register with schools and doctors outside the LA area—particularly in London and other large metropolitan areas. Almost all LA responses to the public consultation exercise showed that LAs supported a registration system because they did not have reliable information about those children living in their area.

2. *Does ContactPoint provide a record of all children in a local authority area and their place of education, either directly or by default? What steps would need to be taken to enable ContactPoint to serve as a register for home educated children?*

ContactPoint contains basic information on all children in England, including name and contact details for their educational setting. Schools have a duty to provide this information. In the case of maintained schools, it is provided automatically through the national data collection. LAs will accordingly be able to run a “children missing education” report and can investigate cases where there is no education setting recorded. It would be more efficient and effective for home educators to tell LAs they were home educating their children than for LAs to approach families with no known education setting on the basis that their children may be missing education. The latter approach would probably be more costly than a system of registration. Registration would also help to ensure that there were no delays in LAs becoming aware of home educating families who moved from one local authority to another or who decided to adopt home education at the point that their child would otherwise have entered or changed school.

3. *Are the proposals in the Children, Schools and Families Bill relating to the monitoring of home educated children dependent on a new system of registration, or could ContactPoint or other existing databases serve that purpose?*

Home Education registration involves more than just providing a name and address. In particular, it will require home educating families to provide information about their approach to home education, and for records to be kept of monitoring arrangements. ContactPoint does not hold any case information.

November 2009