

Supplementary information Consultation on draft guidance for Elective Home Education

NASWE (National Association of Social Workers in Education) represents Education Welfare Officers who have regular contact with parents of children already registered in a school, who subsequently choose to home educate and with those that come to the attention of the Local Authority (LA). The Education Welfare Service does not have a role in assessing the suitability of the education provided but is usually the service through which the LA exercises its statutory duties in relation to education.

NASWE have long been concerned about the lack of regulation on Elective Home Education (EHE). The Association's view is that the majority of home educators work hard to provide the best for their children and many provide an excellent educational experience. NASWE recognises the right of parents to educate their child as they see fit and recognises that EHE can be an enriching and positive experience and that there are many and different ways of providing effective education.

NASWE members are becoming increasingly concerned over the lack of regulation and monitoring of EHE, which has, in a small but significant number of cases, led to children not just being denied their right to effective education, but to have suffered significant harm. We are not suggesting that parents would choose EHE in order to do their children harm although the recent case involving a foster carer from Wiltshire (1) provides an exception.

The lack of regulation has made it very difficult for local authorities to exercise their duty of care to the child or young person concerned and may compromise a child's right to education. Whilst the legislation outlining parental rights is clear and is also clear in that the LA is required only to make a judgement about the education provided, this goes against all other aspects of their work with children and the issue of elective home education has become conflated with safeguarding concerns which may exist regardless of the method by which a child receives education.

Parents who are providing an effective education, by whatever means have nothing to fear from greater regulation, the small numbers of children who are at risk have much to gain. In one local authority a summary of all EHE cases within the borough concludes that at least 25% are cause for concern. If this trend is reflected nationally we could be concerned with more than 4000 children and young people. Bearing in mind the lack of requirement for home educators to register with the local authority it is likely that the numbers involved are under estimated.

To illustrate this, NASWE members were asked to supply summary information on cases that have exposed the dangerous lack of effective regulation and have led to children suffering real harm. The case studies (Appendix) are real but have been anonymised.

Whilst the primary purpose of school attendance is education, we recognise that as a 'universal' service, schools also provide an ideal environment for the monitoring of children's well-being.

(1) Eunice Spry, Foster Carer was convicted at Bristol Crown Court on 26 charges of abuse. The abuse occurred over an extended period of time during which the children in her care were home educated.

The extent and nature of this type of surveillance is of course subject to intense debate, but children who are enrolled at school, and in many cases their parents, are subject to huge levels of state regulation and surveillance.⁽²⁾ In contrast, the regulation of home-educated children is remarkably lax. How can it be that education and with it school attendance is such a serious issue for some children and young people but is left virtually without regulation for others?

We are not suggesting that EHE is in itself a safeguarding issue although arguably the failure to provide a satisfactory education (in any context) may seriously compromise a child's future opportunities, what is of concern is that EHE removes the opportunity for what is a very efficient monitoring of children's welfare through the school system. It is also of concern that some parents, aware of this and wishing to avoid intervention opt for home education to avoid contact with welfare agencies, whether safeguarding or school attendance. For the local authority to be unable to prevent a parent from removing a child from school when they are on the child protection register, or where there are documented serious concerns, is both ludicrous and negligent.

NASWE believes that there needs to be a more thorough review, not simply a rewrite of the guidance, which simply reflects an inadequate regulatory framework. There should be attention paid to the gaps in safeguarding measures, and an end to a situation which allows parents to deny access by the local authority, to their children. There must be a better balance between the rights of parents, the needs and wishes of children and young people and the duty to safeguard.

The case studies have also highlighted the need for a review and possibly strengthening of school attendance order proceedings. It is not satisfactory that parents should be subject to school attendance order proceedings and for there to be no consequences for non-compliance. This may be due to a reticence by local authorities to pursue non-compliance and/or their lack of knowledge of other provisions under the Children Act 1989.

The association would be more than happy to meet with the Department to discuss and develop these suggestions further.

Recommendations.

- A more comprehensive study is made of the extent of the risk of harm experienced by home-educated children.
- (In line with Scottish regulations,) where a child or young person is already known to the local authority, children's social care, or youth offending and there are 'concerns' or they have been subject to enforcement proceedings for truancy, that consent for EHE is withheld until relevant investigations have been made. This we believe should be done promptly and transparently with parents.

⁽²⁾ Fixed Penalty Notices for term time holidays, parenting contracts, Parenting Orders for truancy and behaviour, restrictions during first 5 days of an exclusion.

- Where a school attendance order has not been complied with and prosecution is necessary, Magistrates automatically direct the case for consideration of an application for an Education Supervision Order (ESO) and that Local Authorities are encouraged to make use of this provision in preference to prosecution and consider a direct application to the family proceedings court. An ESO effectively removes the right of the parent to educate in a manner of their choosing and allows the LA to put in place a plan, which is in the best interests of the child (which may include EHE).
- EHE parents are required to notify the LA even if their child has never been on a school roll. Important that these children are registered within contact point
- Where parents exercise their right to home educate and the LA is duty bound to assess the education on offer, the LA do this within a prescribed period of time, and to take any necessary enforcement action without delay. Delays in assessment, alongside the timescale necessary for school attendance order proceedings can mean a child for whom EHE is inadequate is out of school for a protracted period making re-integration more difficult for everyone concerned. This alienates parents, confuses children and undermines any action the local authority may wish to take.
- Where the local authority is dissatisfied with the education provided; that they provide clear reasons why this is so, with evidence to support the conclusion, and clear advice on what steps might be taken to bring the provision up to standard, with a timescale for review.
- In order for education to be properly assessed by the local authority the parents are required to allow access to their child and to the place where education will take place, including the home if this is relevant.
- Children's Services have a coordinated and consistent responses to EHE within its education and social care sections and there is a protocol with adult mental health services, youth offending and probation to share information on EHE cases where there are concerns and support multi agency intervention where necessary. Similar to requests made to different agencies where couples are assessed for fostering or adoption.

Appendix EWS Case Studies

Child S

S attended a private primary school until his parents were no longer able to pay fees. He did not transfer at 11+. Parents were divorced. Father had fortnightly weekend access. The matter was brought to the attention of the LA by the father who was concerned that his son, a bright articulate boy, was not being educated. The LA approached his mother who said she planned to educate at home. The process of inspection was explained to her but she refused access to the advisory service. In the meantime S wrote an eloquent but heartbreaking letter to the director of education, pleading to be allowed a place at a local school. His father maintained regular contact with the LA and reported that S was becoming depressed and gaining weight because of his now sedentary lifestyle. There were also concerns that apart from very short trips to local shops, he and his mother did not leave their home. S's father also revealed that his ex wife had experienced mental health problems in the past but he did not elaborate.

The LA had instituted SAO proceedings as soon as it became clear that the parent was not going to cooperate, but was powerless to move faster despite the concerns. This was upsetting for S, his father and the officer involved.

The EWO contacted adult mental health services and was told that the mother had experienced serious mental health problems in the past and that there had been a very recent self-referral to the local hospital. Shortly after, she was sectioned under the Mental Health Act and forcibly removed from home in the presence of her son. S went to live with his father and was enrolled at a local school within days. He had already missed all of his first year of secondary schooling.

Child M

M was a nine year-old boy experiencing behavioural difficulties at school. His father was aggressive towards the school and other services and withdrew M from school declaring his intention to educate at home, even though he worked full-time. His mother was trying to cope with a seriously ill younger child and was not in agreement with this course of action and was barely coping. M could not understand why he could not go back to school and said he was lonely and wanted to see his friends. Social services were already involved because of concerns over the parent's ability to cope and there were some child protection concerns. They were astonished that the father could legally have done this and believed that unless he was in school on a daily basis this would seriously hamper any monitoring of M's safety.

By the time the parents had been persuaded that it was in M's interests to return to school he had been taken off roll and his place filled, necessitating a change of schools for a child already experiencing difficulties.

Child J

J is now 11 years old and has never been a registered pupil. He first came to the LA's attention in 2001 after a member of the public rang in with concerns. A home visitor visited between 2001- 2004 and reports ranged from Satisfactory (x5) to unsatisfactory (x3). The home visitor also reported unacceptable home conditions and persuaded the parent to seek help through social services. Fearing a visit from social services, the parent presented herself claiming she was OK. She then refused to allow anyone into the

home or to have contact with any agency. The parent failed to comply with two school attendance orders and refused to answer the door or respond to letters.

In an attempt to re open communication with her, a new home visitor was offered to meet with her in the local library. This she did and was given guidance on how to turn what was deemed provisionally satisfactory into satisfactory provision. She refused to produce J, quoting her rights. Two strategy CP meetings have also been called to voice concerns about not seeing the child, or the home, and other people's concerns when J and his parent are seen out. He had seen a GP in 2006 so a forced entry by police was not considered appropriate.

Earlier this year J was admitted into hospital as an emergency patient suffering from an undiagnosed advanced stage of diabetic ketoacidosis and in an emaciated condition. J weighed less than he did 3 years previously. He was described as being close to death. He was subsequently placed on the child protection register under the category of neglect and emotional harm. After a month in hospital on J was discharged from hospital into foster care.

The police obtained a warrant to enter the house and it was uninhabitable. There was rubbish piled high in all rooms, a toilet that was open to the elements and a bath full of rubbish. There was no heating and no room for anything other than a mattress on which they both slept covered in rubbish. The parent is suspected to have mental health issues particularly around hoarding. The parent still wants to educate him herself and hopes to have him returned to her care when she is able to provide acceptable living accommodation.

Child K & Child F

K& F were both withdrawn from school during year 8 & 9 respectively. Both had a poor record of attendance. The children's father is known to be a problem drinker and may have mental health problems. He has on many occasions been involved in incidents at the children's school, which have resulted in him being banned from the premises. The children's mother has mental health difficulties and is receiving treatment. Both parents are in receipt of incapacity benefit. Parents are obsessively concerned about perceived risks to their children who have previously been placed on the child protection register because of emotional abuse. K had missed a period of schooling following an accident and home tuition was provided during his recovery. A further period of tuition was provided because of concerns about K's mental health. However his reintegration to school proved problematic and despite offers of alternative provision both parents were prosecuted by the local authority for their child's poor attendance. They then withdrew them to home educate. Parents have refused to cooperate with the LA as they are in the process of appealing against sentence. Both children had a history of poor attendance and difficulties at school that started in primary. Currently there is no contact with the children and no reason to believe that education is taking place.

Child P

Child P was withdrawn from school in year 9 because of allegedly getting in with the wrong crowd. Both parents have difficulties with literacy and numeracy and both attended a special school because of mild learning difficulties. Despite the parents best efforts they are unable to help with basic tasks. An older brother experienced difficulties at school and was refusing to attend he was removed from school in year 9 to be

educated at home. Although the education on offer to him was not satisfactory the parents did allow the LA access. Concerns over the education for P have been raised. P is underachieving and very little work is evident and is of a standard that might be expected of a child in primary school. P agreed with the LA officer that this was work done in primary school. The parents have been subject to school attendance order proceedings on 2 occasions and have failed to comply. They have now refused to cooperate with the LA.