

Elective home education guidance review

The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the *Children Act (2004)*. The DCS acts as a single point of leadership and accountability for services for children and young people in a local area, including children's social care and education.

General comments

ADCS welcomes the opportunity to respond to the Department for Education (DfE) consultation on elective home education (EHE) guidance for local authorities (LA) and parents. However, ADCS would welcome a further update to the guidance to make reference to both parents *and* carers to make it more inclusive of different types of caring arrangements. Further, it is not clear why the DfE has decided to produce separate guidance for parents/carers and for LAs as this risks causing confusion and providing separate messages for each party. ADCS would support a consolidation of the two documents into one and the inclusion of further information for schools, which is largely missing. Such a document could include a summary for parents/carers outlining the key points.

The guidance recommends that LAs contact EHE parents/carers at least annually so that "the authority may reasonably inform itself of the current suitability of the education provided." Without additional funding for LAs to increase capacity within their teams, this appears to be an unrealistic expectation. The number of children and young people who are EHE has risen significantly over the past decade. Latest DfE statistics show there were an estimated 116,300 EHE children at any one point during the 2021/22 academic year whilst on the Spring term census date, an estimated 82,400 children were estimated to be EHE. ADCS [research](#) has found that the EHE population was rising by approximately 20% each year prior to the pandemic during which the numbers increased significantly and have shown no sign of going back to pre-pandemic levels. Whilst LAs have a duty to establish whether a suitable education is being provided, their funding has not kept pace with the size of the EHE population. Instead, funding for LA education services has been cut, leading to reduced capacity to support this growing cohort.

LAs have a duty to establish whether a suitable education is being provided but do not have a role in assurance of this. In practice this means a home visit is offered (which may or may not be accepted by the family), but local approaches do vary across the country. ADCS believes LAs should be funded to fulfil an assurance role and parents should be required to engage with this process. The funding that would be allocated to a pupil via the basic entitlement should be given to the LA for children who are EHE. This would allow LAs to effectively carry out their duties and provide appropriate support to all EHE families.

The Department recommends that LAs operate a voluntary registration scheme for children in receipt of EHE. However, voluntary registration schemes can only ever be partially effective and only children and families who are known to, and engaging with, the local authority can be offered advice and support. Without a national register there is no firm basis to confirm at either a local or national level how many children and young people of school age are being educated other than at school as it is not known how many children have never attended a school or have moved across LA borders.

Ensuring the safety of all children and young people is in everyone's interest and the sharing of information between local agencies is a vital part of this. It is welcome that the guidance acknowledges this as it states that LAs should develop data and information sharing agreements, however, this remains an ongoing challenge for multi-agency safeguarding partnerships. Whilst there is the will, practice and processes do not always follow. Localised procedures and agreements are in place in many partnerships but technological barriers, uncertainty about different and seemingly conflicting legislation, outdated guidance as well as different organisational cultures and regulatory frameworks can be a barrier. DCSs have observed that the biggest steps forward in information sharing have come about via the co-location of services, such as MASH and youth justice services. The revision of existing guidance and the development of a new information sharing strategy presents an opportunity to clarify the lawful basis of sharing information and the permission to share debate which presents persistent challenges at both operational and strategic levels. ADCS would welcome early and ongoing engagement with DfE on this matter.

Suitable education

Education is a fundamental right for every child and ADCS members recognise that parents and carers can choose to educate their child at home rather than at school. We want this to be a positive experience and our members wish to work in partnership with parents and carers to help and support them to be confident in fulfilling this important role. However, a lack of clarity or guidance with regards to the suitability or efficacy of home education makes this a difficult task, particularly in the context of reduced funding in real terms for schools and LAs alongside an increase in the number of families choosing to educate their children other than at school. Whilst the updated guidance seeks to provide some clarity in this grey area, there remains too much subjectivity, particularly if the LA lacks the sufficient background information regarding the child's needs and aptitude. Further, if parents/carers refuse to provide evidence of a child's educational progress then there is little the LA can do to understand whether a suitable education is being delivered. There is no accepted framework against which LAs can benchmark provision and parents and carers can choose what will be monitored, for instance, whether a home visit can take place and/or if the child is present.

Preliminary Notices and School Attendance Orders

A SAO can be sought from the courts if the LA has reason to believe that the educational experiences offered to a child being home educated are unsuitable and all other options have been exhausted. However, ADCS does not believe that this is a satisfactory resolution. Once a SAO has been served, a parent can decide to only comply with it for a short period of time, which leads to the LA having to start the process again. ADCS members have raised concerns about the number of SAOs being breached, yet it is not clear what the LA should do in this instance. Further, the lengthy legal process involved in securing a SAO means that children can be without education for many months, and, even if the SAO is awarded, compliance is not guaranteed and is therefore used as a last resort. This is further exacerbated in some areas where LAs report a lack of school places available thus making the SAO process obsolete in some instances. Many LAs will use an education supervision order instead where appropriate, however, this too is time consuming.

Safeguarding

Home schooled children are not vulnerable by definition, however, some do fall into this category and it is worth reiterating that local authorities can only safeguard children who are known to them, thus strengthening the case for mandatory registration. Whilst home schooling has been a factor in a small number of tragic cases where a child has been seriously harmed or even died, triennial reviews of SCRs have found that this was generally a symptom of wider abuse and neglect and/or as part of a concerted effort to avoid public agencies to conceal such abuse or neglect. In the context of home education, the LA's overarching concern remains the quality and effectiveness of the educational experiences being delivered in the home. However, it must be recognised that school provides a protective factor – teachers and support staff are well placed to recognise early concerns. It is not possible to safeguard children who are not known to children's services. The introduction of a register and the ability to see and speak to the child would assist greatly in the identification of children and young people at risk of harm.

The guidance documents make multiple references to educational neglect and the harm this can have. ADCS would welcome greater clarity around the definition of educational neglect so that all professionals working with children and young people have the same understanding and expectations.

Guidance for parents/carers

It is positive that the guidance for LAs and parents/carers is clear that some 'choose' to home educate due to being pressurised by a school. This practice, known as 'off-rolling', was highlighted in the Timpson Review of School Exclusions (2019) as a growing concern and it remains so today. When off-rolling occurs, parents will not be prepared for the realities of home educating or the practicalities of arranging exams if their child is due to sit their GCSEs. ADCS urges government to consider the wider systemic issues that have partly contributed to more children and young people

being left out of the education system, either by exclusion or off-rolling. For example, the rise of zero-tolerance behaviour policies in schools can disproportionately impact children who are vulnerable. ADCS would therefore welcome a greater emphasis on the importance of inclusive schools and for the Department to re-visit the recommendations made in the 2019 Timpson Review of School Exclusions.

It would be helpful if the guidance included clear statements about the circumstances in which home education is and is not appropriate. Although all parents and carers have a right, in law, to educate their children otherwise than at school, there are some cases where clearly this is not likely to result in good outcomes for children. There are no restrictions in terms of parental capacity, the existence of a child protection plan or if parents/carers are in the process of being prosecuted for failing to secure regular attendance at school. Further, [ADCS research](#) (2021) found there was an initial spike in the number of EHE children following the re-opening of schools during the pandemic, some of whom may have had unrealistic expectations of the home schooling experience given the support they were given by schools.

Under section four of the guidance it would be helpful if it encouraged parents/carers to undertake detailed research into the practicalities of educating their child at home and speak to other families in the local area to inform the development of a suitable and efficient scheme of work before commencing home education. We know that every single day out of learning is detrimental, so this process should be well underway, if not completed, by the time a child is removed from the school roll. Plans should be outcomes focused and aspirational with regards to working towards accepted educational standards and taking national exams – we have very clear standards and expectations for all other learners attending schools.

ADCS would welcome the opportunity to discuss this further with DfE via the ADCS Education Policy Committee. Please contact Policy Officer Matt Cunningham via matt.cunningham@adcs.org.uk in the first instance.