

THE OVERSIGHT OF CHILDREN WHO ARE EDUCATED AT HOME, OR WHO ARE MISSING FROM EDUCATION

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1. Summary

- 1.1 This paper provides details of Shropshire Council's oversight of children who are educated at home, known as elective home education (EHE) and those children missing from education (CME). It informs Scrutiny on how Shropshire Council meets its statutory duties in relation to children missing education and those children known to be home educated within this local authority area.
- 1.2 Whilst both groups are included in this report, it should be understood that there are clear, but conflicting, distinctions made in the separate sections of legislature covering EHE and CME under the Education Act 1996.
- 1.3 Elective Home Education is covered by the following legislation:
 - i) Section 7 of the Education Act 1996 provides 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."*
 - ii) Article 2 of Protocol 1 of the European Convention on Human Rights states that: *"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching is in conformity with their own religious and philosophical convictions."*
- 1.4 Section 436A of the Education Act 1996 (added by section 4 of the Education and Inspections Act 2006) ensures that local authorities are able to establish the identities of children in their area who are missing education and have the powers necessary to intervene.
- 1.5 From June 2013, Ofsted has been implementing a new joint inspection for multi-agency arrangements for the protection of children which will include children missing education (CME).

2. Recommendations

- 2.1 Scrutiny Committee is asked to note the details given in this paper and comment on the Council's approach to fulfilling its responsibilities, and how the identified risks to children and young people missing from education are addressed.

REPORT

3.0 Children Educated at Home (EHE)

- 3.1 The responsibility for a child's education rests with his or her parents. Education is compulsory but schooling is not. An "efficient" and "suitable" education is not defined in the Education Act 1996 but "efficient" has been broadly described in case law¹ 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".

- 3.2 Home educating parents are **not** required to:

- teach the National Curriculum;
- provide a broad and balanced education;
- have a timetable;
- have premises equipped to any particular standard;
- set hours during which education will take place;
- have any specific qualifications or make detailed plans in advance;
- observe school hours, days or terms;
- give formal lessons;
- mark work done by their child;
- formally assess progress or set development objectives;
- reproduce school type peer group socialisation;
- match school-based, age-specific standards.

- 3.3. There is no obligation on a parent to notify the local authority of their decision to educate their child at home. Whilst Shropshire Council holds a register of home educated children, registration is not compulsory. If a child is removed from a school for EHE, parents must notify the school who in turn notify the LA. However, if a child has never attended a school, is at a transitional stage, leaves an independent school or moves into the county they can remain unidentified.

- 3.4 Children who are registered as being electively home educated are not children missing education as their whereabouts are known and they are in receipt of an education provision. The vast majority of children who are electively home educated will be being cared for satisfactorily, however, a small minority may be at risk of abuse or neglect and will be particularly vulnerable given that the local authority does not have powers of entry to the home or the right to insist on seeing the child.

¹ Mr Justice Woolf in the case of R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust (12 April 1985)

- 3.5 An NSPCC report published in March 2014 entitled "Children not educated in school: learning from case reviews" echoes this view, finding that:
"In a small number of case reviews the children involved were not enrolled in school. Home-education is not, in itself, a risk factor for abuse or neglect. However there is a danger that these children can become invisible to the authorities. The reviews examined identified that, in a small number of cases, elective home education can lead to isolation and the obscuring of children from the universal services that would otherwise be in a position to monitor their welfare. Under current legislation and guidance, there is no formal registration process for elective home education which means that some children may be completely unknown to the local authority."
- 3.6 The lack of visibility helps the small minority of home educators who use elective home education as a cover to conceal child neglect and abuse. Local authorities do not have the power to monitor or inspect home education provision, which means a missed opportunity to ensure that the children are safe and well. In the seven Serious Case Reviews examined in the NSPCC report where elective home education was a key factor, children died or were seriously injured in the following ways:
- neglect and/or physical, emotional and sexual abuse;
 - malnourishment and severe wasting;
 - suicide;
 - substance poisoning caused by Fabricated or Induced Illness (FII)
- 3.7 The Badman Review of home education in 2009 recommended a formal registration scheme and rights for local authority staff to access the home and interview children alone. To date there has been no move towards changing the legislation to include these measures.
- 3.8 **EHE Statistics**
- 3.9 Estimates of the number of children being educated at home in England vary from approximately 7,000 up to 50,000! The government commissioned a report in 2007, 'The Prevalence of Home Education in England, A Feasibility Study'. The main conclusion of the study was that "it is not feasible to reliably ascertain the prevalence of home educated children through a national survey of LAs and home education organisations". This is largely because there is no formal registration scheme.
- 3.10 At the start of the current academic year, **8 September 2015, 181** children were registered with Shropshire Council as being electively home educated. These are only the children we know about, it is likely there are more that we are not aware of. The largest proportion of home educated children is seen in the south of the county (see appendix i).

Figures for the last three full academic years:

2012-13			2013-14			2014-15		
167			236			248		
Male		99	Male		124	Male		129
Female		68	Female		112	Female		119
Age	4	2	4	8	4	8		
	5	6	5	8	5	13		
	6	3	6	6	6	10		
	7	17	7	9	7	12		
	8	10	8	21	8	10		
	9	9	9	11	9	26		
	10	13	10	20	10	13		
	11	17	11	25	11	17		
	12	20	12	27	12	32		
	13	23	13	26	13	29		
	14	13	14	29	14	31		
	15	27	15	35	15	37		
	16	7	16	11	16	10		

2012-13		2013-14		2014-15	
Religion	0	Religion	10	Religion	10
Philosophy	73	Philosophy	79	Philosophy	68
Medical	11	Medical	8	Medical	16
Dissatisfaction	12	Dissatisfaction	21	Dissatisfaction	18
Permanent exclusion	1	Permanent exclusion	2	Permanent exclusion	0
Bullying	2	Bullying	7	Bullying	3
Access	1	Access	0	Access	1
Non-attendance	5	Non-attendance	9	Non-attendance	7
Reason not given by parents/carers	62	Reason not given by parents/carers	100	Reason not given by parents/carers	125

- 3.11 Parents are asked if they would like to tell us why they have chosen EHE but are under no obligation to do so.
- 3.12 In 2013-14, an emerging trend of increased numbers of Key Stage 4 pupils opting for EHE was identified. Whilst Shropshire Council fully recognises that home education is a legitimate choice for families, if a child has attended school throughout his/her life so far it is pertinent to ask why such a choice would be made at this stage. Further analysis showed that anxiety around a variety of issues, often with poor attendance as a symptom of this, was a factor in the decision to withdraw from school. In these cases, parents were not confident in delivering education and these children were unlikely to achieve their potential.
- 3.13 Current regulations only require parents to inform their child's school in writing of their intention to home educate. At this point the school must take the child off roll even if they have concerns about the child. However, in Shropshire, Education Welfare Officers arrange a routine visit to talk through the decision with parents and with the child if appropriate. This affords parents the opportunity to talk independently about their choices and to explore other options if EHE is not the best route for their child. This offers an element of protection to the child but parents do not have to accept a visit.
- 3.14 It is important to maintain such visits as these have identified issues such as pressure from schools because of behaviour including 'grey' exclusions, bullying, mental health issues, children acting as carers and unmet learning needs.
- 3.15 Whilst local authorities do not have the right to 'routinely' monitor home education it does have the right to make informal enquiries to establish that a child is in receipt of a suitable education.
- 3.16 In Shropshire, visits to review the educational provision made for the child at home are arranged on at least an annual basis (more frequently when concerns are identified). There is no right of entry to the home and the local authority does not have the right to insist on seeing the child. Parents can opt to meet at a venue outside the home, they can also choose to send in a written report. However, they cannot be compelled to do any of this.
- 3.17 In Shropshire, there are currently five families who refuse to engage with the local authority at all. A Parental Engagement Officer (PEO) will attempt to work with these families in the first instance.

3.18 Where there are concerns or it is deemed that a suitable education is not being provided for their child, and parents refuse to engage with the PEO, School Attendance Orders (SAO) may be served by the local authority that require parents to enrol their child in a school identified by themselves or named in the SAO.

3.19 In 2015 four School Attendance Orders were breached in Shropshire. The resulting action (the first in Shropshire) brought before the Magistrates Court in September 2015 resulted in fines and costs totalling £5,074.

4.0 Children Missing Education (CME)

4.1 Children deemed as missing education (CME) are those of compulsory school age who are not on a school roll, nor being educated otherwise and who have been out of any educational provision for 10 school days or more.

4.2 Children missing education are vulnerable and it is important to establish the reasons a child is missing at the earliest possible stage. See case study (appendix ii).

Possible reasons that should be considered include:

- Failure to start appropriate provision means that the pupil never enters the system;
- Stopped attending, due to illegal exclusion, withdrawal by parent/carers or, for example: being young carers;
- Illegal removal from roll after absence;
- Failure to complete a transition between schools;
- Children at risk of radicalisation;
- Children from refugee and asylum seeking families;
- Children from families who are highly mobile;
- Children at risk of a forced marriage;
- Children at risk of being trafficked;
- Girls at risk of female genital mutilation FGM;
- Children and young people supervised by the Youth Justice System
- Children experiencing abuse and neglect.

4.3 Children who remain disengaged from education are potentially exposed to higher degrees of risk such as anti-social behaviour and/or sexual exploitation.

4.4 Local authorities are required to have a named Officer for both Elective Home Education and Children Missing Education. Christine Kerry is the named Officer for Shropshire Council.

4.5 CME statistics

4.5.1 The number of active referrals in Shropshire as at **1 October 2015 total 148**

Children resident in Shropshire (primary responsibility and priority)	86
Children moved out of Shropshire	52
Children moved into Shropshire	10

4.5.2 The national picture

4.5.3 There are currently no arrangements for the collection of national data on the numbers of CME.

4.5.4 However, in January 2014 the National Children's Bureau (NCB) sent a freedom of information (FOI) request to all 152 local authorities in England. 141 responded but provided data in differing formats. To make realistic estimates and comparisons NCB used 'snapshot' data from 79 authorities (52%) for a specified day. This data showed a total of 7,701 children were recorded as missing from education. Using average numbers, it is estimated that, on any given day, over **14,800** children could be missing across all local authorities in England alone.

4.6 Shropshire Council is committed to ensuring:

- that all pupils who go missing or are lost from education in Shropshire are speedily located;
- that support is given to other local authorities to locate their missing or lost pupils;
- that those children at risk of going missing from education are identified and their needs met in order for them to reach their potential.

4.6 Key areas of focus in 2015/16 to address CME:

a) **Strategic management and leadership**

Statutory duties relating to CME in Shropshire are undertaken by the Education Access Service on behalf of the LA. This includes the CME strategy group, chaired by the EAS Manager (named CME Officer), which pulls members from key partner agencies including Schools, Admissions, Police, Early Help, Health, GRT Teacher, IT systems specialist, Statistics Officer, Army Welfare and Housing.

b) **Networks and points of contact**

Regular and routine contact is made with other local authorities who work together to identify and trace children. There is also significant contact with a range of other services and cross border working. Work is being undertaken to increase the engagement of Independent Schools in strategic groups and to encourage them to follow guidance and adopt current LA processes and procedures.

c) **Information systems**

The ONE system, S2S, B2B and SIMS are all used to record and monitor the whereabouts of pupils. It is also essential to keep up with new developments in technology that will assist in identifying and locating a missing child and to identify where there are any gaps.

d) **Pupil placements and brokerage**

An Education Access Officer co-ordinates the LA Specialist Placement Panel which assesses individual need and places pupils in appropriate provision, including Tuition, Medical and Behaviour Support Service (TMBSS). This has been particularly successful in reducing pupils placed on 'Central Register', currently there are no pupils listed. The Fair Access Panel also works with

hard to place pupils to ensure equality and access to education in a timely fashion.

e) **Effective pupil tracking systems** (appendix iii)

The named CME Officer co-ordinates efforts to track and trace children missing from education, assisted by a part time CME casework administrator. Education Welfare Officers are engaged at an early stage. Priority is given to safeguarding with processes in place to identify those especially vulnerable pupils.

4.7 Local authority inspections

- 4.7.1 Prior to carrying out a review of CME in 2013, OFSTED did not inspect local authorities' arrangements for supporting and providing alternative provision to children missing education. However, following the review, it committed to doing so as part of its integrated inspection of local authorities looked after children and safeguarding services.
- 4.7.2 Specifically, inspectors will ask for a report on children for whom the LA is responsible, who are of school age but are not in receipt of a full time education at the time of inspection.
- 4.7.3 In Shropshire, in addition to our routine CME procedures, a process is in place that asks schools to notify the local authority of pupils they have placed on a reduced timetable and who are not in receipt of a full time education, (this does not include those who are attending alternative provision as part of LA arrangements for that child).

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Report to the Secretary of State on the Review of Elective Home Education in England - Graham Badman

Children not educated in school: Learning from Case Reviews: Summary of risk factors and learning for improved practice around elective home education – NSPCC

The Prevalence of Home Education in England, A Feasibility Study

Children Missing Education – SC Policy and Procedure

Not present, what future? Children missing education in England NCB June 2014

Education Act 1996

Cabinet Member (Portfolio Holder)

Ann Hartley

Local Member

All Members

Appendices

Appendix i Electively Home Educated Pupils – geographical distribution

Appendix ii Case Study – EHE/CME

Appendix iii CME Shropshire Tracking Procedure