

# Briefing Document

On

Proposals by the  
Welsh Assembly Government

To

Introduce Compulsory  
Registration and Monitoring for  
Electively Home Educated  
Children

Version 4

10<sup>th</sup> October 2012



## Introduction

This document looks at the main points to consider with respect to these proposals. We examine the fact that it is not a proposal to register our children but a **licensing scheme**, and demonstrate that it is **wrong** for Local Authorities to be given the **right to enter our homes and interview our children**:

- What does the law say?
- On what are these proposals based?
  - research
  - public views of 'safeguarding' issues
- How do electively home educated children perform?
- How do the prospective monitors perform (Education Departments)?
- What are the risks of taking these proposals forward?
- What are the alternatives?

It will be demonstrated that not only do the proposals breach basic legal principles but that they are based on research that did not study electively home educated children. Further, ideas that children who are electively home educated are 'at risk' are misguided in the extreme.

Outcomes for children will be shown to be considerably better when electively home educated than educated at school and Local Authority performance in education is demonstrated to be lacking.

You are challenged to read the facts and still support this proposal.

Wendy Charles-Warner



## Table of Contents

Introduction.....	3
Table of Contents.....	5
Executive Summary .....	7
The Legal Position .....	10
The Basis for the Welsh Assembly Government Proposals .....	18
i National Behaviour and Attendance Review (NBAR).....	18
ii Bridgend Research.....	28
Safeguarding .....	38
Outcomes for Electively Home Educated Children.....	54
Local Authority Performance in Wales .....	64
Risks.....	78
Alternative Actions .....	80



## **Executive Summary**

### **The Legal Position**

- Primary responsibility for education resides with the parent – not the state
- Assumption of compliance with law is a basic legal tenet – the change would do irrevocable harm to the parent’s relationship with the state
- Conflicting legislation will leave the way open for judicial review
- Giving the state primary responsibility leaves the state open to litigation for education negligence where currently they are not liable
- Powers are currently sufficient to intervene in cases of educational negligence
- Home education is a private issue, not a public one

### **The Basis for the Welsh Assembly Government Proposals**

#### **NBAR**

- The review was conducted on EOTAS (Education other than at school) services provided by the local authority – not home education – with particular emphasis on school attendance
- No home educating parent or home educated child was studied or spoken to during this review
- The report makes statements about home education without studying it in any way whatsoever
- The report makes recommendations about legislation surrounding home education and its assessment without studying it in any way whatsoever

### **The Basis for the Welsh Assembly Government Proposals**

#### **Bridgend Research**

- WAG has published this report with several alterations to the original as published by the researcher, several of which are specifically geared to give wholly wrong impressions of the views of EHE families
- WAG is in breach of contract in using the research to further their interests, as interviewees agreed to the interviews for specific purposes
- Recommendations at no time support the introduction of compulsory monitoring and registration, only informal registration having been researched not compulsory registration
- Registration and monitoring is not the way forward

### **Safeguarding including Crime**

- Safeguarding is used disingenuously to excuse intrusions which are based on rumour and fear rather than on evidence
- Case studies show that where serious harm or death occurs in home educated children, those children are without exception already known to be or suspected to be at risk and therefore already in the system
- Evidence suggests that on average home educated children, although more likely to be scrutinised by social services than their schooled peers, are less likely to be at risk (between 0.061% and 0.123%) than all children in Wales (0.461%) i.e. at between 1/7<sup>th</sup> and 1/3<sup>rd</sup> the risk
- 4.9% of all children aged 10-17 living in Wales committed a crime resulting in a disposal during the last year for which this data is available (Youth Justice Board), compared to 0.93% of all children aged 10 -17 years who are EHE and known to their LA. (Adding in the unknowns who of course have not committed a crime, else they would be known, reduces this percentage by at least half)

### **Outcomes for Electively Home Educated Children**

- Wales underperforms educationally compared to the rest of the UK
- Studies from across the world consistently show outcomes from home education to be better than the average for the population
- States where there is registration do not outperform those without and there is some evidence to suggest registration may have a negative effect.
- Welsh home educators are shown in a recent survey to be outperforming their schooled peers

### **Local Authority Performance in Wales**

- The proposals give powers of entry to LA officers that even the police do not have
- The proposals punish the child rather than the parent for non-compliance
- Welsh Local Authorities (LAs) are not good at complying with current legislation regarding home education, thus not instilling confidence that they would be able to comply with additional duties
- LAs are already facing considerable criticism by ESTYN for multiple failures. Two are already in special measures
- LAs are already under financial pressure – more duties would merely add to that pressure thus depriving more needy areas of duty to become neglected



## **Risk**

- Proposals are based on research that was seriously flawed and therefore WAG could look inept or even very foolish
- Similar proposals have already been debated at length in the UK Parliament and defeated. Repeating the exercise could be interpreted as WAG being unable to act independently or be innovative
- The proposals make WAG appear old fashioned and oppressive
- Many EHE parents are entrepreneurs who will leave Wales therefore ceasing to contribute to the economy
- Changing the duty to ensure a suitable education from the parents to the state will leave LAs open to litigation from children who feel that they have been failed. Judicial review is a very real possibility
- WAG would look uncaring and inept serving School Attendance Orders on vulnerable previously bullied or autistic children because they did not follow the demand for meeting face to face with the Authority. There is a very real risk in the increase of suicide
- A recession is not a good time to be spending copious amounts of money on a new scheme which is shown to be not needed. Costs of monitoring, training, extra school places and court procedures would add up quickly
- Similar schemes abroad are proven to be ineffectual. WAG would be seen to be diverting attention away from the real problems with state education in Wales to a quietly, and already, succeeding minority
- The proposals will be counter-productive as families will 'go underground' as was the case when monitoring was introduced in Canada
- The risk of public demand to extend the provision. Under 5s are the children at greatest risk of abuse and neglect in our society, if lobby groups pressed to extend the provision to those children, or even to school children during holidays, the resource implications would be enormous

## **Alternative Suggestions**

There are a great many cheaper, more effective alternatives that will also encourage engagement with LAs which include:

- Payment of exam fees or provision of places at exam centres for EHE children
- Access to school libraries, after school clubs or sports facilities
- Opportunity to flexi-school for those who may want it
- Termly grants to help pay for learning materials

## Home Education in Wales

### The Legal Position

- Primary responsibility for education resides with the parent – not the state
- Assumption of compliance with law is a basic legal tenet – the change would do irrevocable harm to the parent’s relationship with the state
- Conflicting legislation will leave the way open for judicial review
- Giving the state primary responsibility leaves the state open to litigation for education negligence where currently they are not liable
- Powers are currently sufficient to intervene in cases of educational negligence
- Home education is a private issue, not a public one

The starting point for any discussion about the education of children must be The Education Act 1996 section 7 which makes very clear that the duty to ensure that a child of compulsory school age is educated is firmly upon parents and on no other person or body including the Local Authority (LA):

*Duty of parents to secure education of children of compulsory school age.*

*The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—*

*to his age, ability and aptitude, and  
to any special educational needs he may have,  
either by regular attendance at school or otherwise.*

Further, section 9 states:

*Pupils to be educated in accordance with parents’ wishes.*

*In exercising or performing all their respective powers and duties under the Education Acts, the Secretary of State and local education authorities shall have regard to the general principle that pupils are to be educated in accordance with the wishes of their parents, so far as that is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure.*

If a Local Authority or Welsh Assembly Government (WAG) were to take over this fundamental duty to ensure that a suitable education is provided it would usurp the parental role. It would also leave the LA or WAG open to

possible actions in negligence where currently no such action is available. This would further open them to the risk of 'unreasonable public expenditure.' Indeed, any additional LA powers with respect to EHE would by their very nature incur additional expenditure which could arguably be 'unreasonable public expenditure.'

There is currently no duty upon a parent to register with the LA nor is there a duty upon an LA to inspect or monitor EHE (although many authorities act as if there is a duty).

Guidelines pertaining to Elective Home Education in Wales were last updated in 2008 and comprise section 6 of the document Inclusion and Pupil Support Guidance National Assembly for Wales Circular No: 47/2006. These guidelines provide information for LAs on how to carry out their statutory duties under the Education Act 1996 and clearly state that:

*1.1 Elective home education is where parents or guardians decide to provide home-based education for their children instead of sending them to school. It is not home tuition provided by a local education authority or where a local education authority provides education otherwise than at a school (EOTAS).*

Thus, EHE must not be confused with any alternative provision that would come under EOTAS. There is no legal framework for the LA to monitor provision of EHE. Further, there is an assumption within the guidelines that education is suitable unless there is existing evidence to the contrary. No provision is made, and no requirement stated, to investigate whether parents are complying with their duties under s(7) of the Act.

*2.6 Where parents have notified the LEA or the LEA is otherwise made aware of a child's withdrawal from school with the intention of being home educated, the LEA should acknowledge the receipt of this notification and consider quickly whether there is any existing evidence, either in an authority's own records or from other services or agencies, indicating whether there may be cause for concern over the withdrawal. Previous irregular attendance at school is not of itself a sufficient cause for concern. In many cases, parents and their children have reached a crisis point, for example, with bullying, so advice should be sought from education welfare services where there is any doubt. Specific instances where they may be concerns are included in Part 6 of this Section. In these cases the LEA should immediately refer these concerns to the appropriate statutory authorities using established protocols.*

*2.7 Otherwise, the LEA should assume that efficient educational provision is taking place, which is suitable for the child, unless there is evidence to the contrary. There is no express requirement in the 1996 Act for LEAs to investigate actively whether parents are complying with their duties under Section 7.*

However, under Section 437(1) of the Education Act 1996, LAs shall intervene if it appears that parents are not providing a suitable education:

*If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.*

This has led to some LAs confusing their powers and duties. The LA only has a duty to intervene if it appears that a child of compulsory school age is not receiving a suitable education. Thus, if there is no existing evidence that there is cause for concern the LA need take no further steps once they have discovered that a child is being EHE, indeed it does not have the power to take such steps. Only if that first condition is satisfied (i.e. it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education) does the LA have the power to serve a notice upon the parent requiring him to satisfy them that the child is receiving a suitable education. There is no provision within the Act to monitor provision of EHE. Compulsory registration of EHE would by its very nature conflict with the provisions of the Education Act 1996 and thus be *Ultra Vires*.

The issue of safeguarding is commonly cited by LAs in order to justify the monitoring or investigation of EHE, however, as the above demonstrates this is not a function which pertains to EHE (i.e. it is not a prescribed or statutory procedure) other than where there is existing evidence for concern, in which circumstances referrals should be made to the relevant department concerned. The Elective Home Education guidelines do cover this adequately:

*3.1 Education authorities should seek to build effective relationships with home educators that function to safeguard the educational interests and welfare of children and young people. Doing so will provide parents with access to any support that is available and allow authorities to understand the parents' educational provision. A positive relationship will also provide a sound basis if the child, at some point in the future, returns to mainstream education or if the authority is required to investigate assertions from any source that an efficient education is not being provided.*

Section 3.1 instructs LAs to seek to build effective relationships but does not require the parent to take part in such a relationship should they not wish to do so. It is a positive provision to offer a service that, if not required, cannot be forced upon the parent. This provision is not a duty to monitor neither does it provide any new powers to LAs. This is made very clear in section 3.8 which provides:

*3.8 There is no legal framework for the LEA to regularly monitor provision of home education, however such an arrangement is likely to help the LEA to fulfil their duties and can help provide new information and support to parents.*

In September 2009 WAG commenced section 436A of the Education Act 1996 (inserted by the Education and Inspections ACT 2006):

### ***Children not receiving suitable education***

#### *Duty to make arrangements to identify children not receiving education*

*(1) A local education 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 who are of compulsory school age but—*

*(a) are not registered pupils at a school, and*

*(b) are not receiving suitable education otherwise than at a school.*

*(2) In exercising their functions under this section a local education authority must have regard to any guidance given from time to time by the Secretary of State.*

*(3) In this Chapter, “suitable education”, in relation to a child, means efficient full-time education suitable to his age, ability and aptitude and to any special educational needs he may have.*

(Suitable education is here defined as per s7 of the Act.)

The associated Guidance for Local Authorities entitled “Statutory guidance to help prevent children and young people from missing education” last updated in April 2010 states :

### ***Duty to identify children and young people not receiving an education***

*1.22 The duty does not apply to children and young people whose parents have chosen to electively home educate them. Parents have a duty to ensure that their children receive an efficient full-time education suitable to their child either by regular attendance at school or otherwise (under section 7 of the Education Act 1996) and they may choose to arrange this education themselves outside the state or independent school system.*

Therefore the duty to make arrangements to identify children not receiving education is just that, it is not a duty to either register or monitor any children. Identification is a straightforward matter where deregistration has taken place, whilst in other cases there exist already mechanisms for identification, as all children are registered at birth and most will see professionals such as doctors, dentists and health visitors under NHS schemes for which registers are kept.

Under The All Wales Attendance Framework (2011) WAG states:

*73 Implementation of the duty under section 436A should be integrated with the wider range of duties placed on Local Authorities, including the Children's Act 2004 (sections 25-29) and the (WAG) Safeguarding Children Working Together under the Children's Act 2004 that aims to improve outcomes, and safeguard and promote the welfare of children. The new duty should strengthen and promote the welfare of children.*

*256 The duty applies to children and young people of compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision) and who have been out of any educational provision for a substantial period of time (usually agreed at four weeks or more).*

In other words once an LA has established that a child is EHE then there is no further action to be taken, further under this guidance:

*258 The duty does not apply to children who are being educated at home. Parents have a duty to ensure that their children receive a suitable and full time education either by regular school attendance at school (sic) or otherwise (under section 7 of the Education Act 1996) or they may choose, as is their right, to provide this by educating their child at home.*

EHE is described and the right to EHE further enforced in the guidelines as follows:

*339 Elective Home Education is where parents or guardians decide to provide home based education for their children instead of sending them to school. It is not home tuition provided by the Local Authority or where a local authority provides education otherwise than at school. Section 6 of the Inclusion and Pupil Support WG circular 47/2006 sets out the current Welsh Assembly Government guidance on Elective Home Education.*

*340 Article 2 of Protocol 1 of the European Convention of 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.*

Sections 341-345 are a repetition of the provisions found in the 2006 guidelines with regard to EHE, and at no time is any additional provision made to monitor or otherwise apply restriction on EHE families.

Further legislation pertinent to registration is contained within Article 16 of the United Nations Convention on the Rights of the child:

*No child should be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to attacks on his or her honour or reputation.*

EHE is by its very nature a private issue, not a public one as the duty to ensure that a child of compulsory school age is educated is firmly upon parents. Thus, any scheme which involves interference with such education must necessarily interfere with the right of the child to privacy in respect to their education.

The situation is put very well in case law:

*"an education authority should not, as a matter of policy, insist on inspection in the homes as the only method of satisfying themselves that children were receiving efficient full time education" (Judge Donaldson in Phillips v Brown, Divisional Court, [20 June 1980, unreported]).*

Furthermore:

*"The Act of 1944 (replaced by the 1996 Education Act) does not provide for or contemplate an intrusion of a parent's privacy by inspectors coming into the home, and that it is quite wrong for a Local Authority to insist on such inspection." (Lord Parker of Waddington (R v. Surrey Quarter Session Appeals Committee ex parte Tweedie QBD 61LGR 464 [1963]).*

Clearly, to legislate in accordance with the proposal (to introduce compulsory registration and monitoring for electively home educated children) would be wrong in principle.

Further, the proposals include the serving of a School Attendance order on the parents in respect of their child, if they fail to register or 'co-operate with the monitoring process'. Thus, the child would suffer the consequences of an

act that he or she had no means of controlling. Further, in cases where an LA takes out an SAO on a child for whom school education would not be appropriate (a gifted child working several years ahead of their age peers for example) they would by their action be compelling the parents to breach the requirements of s7 of the Education Act 1996, as the parents would then be failing in their duty to cause their child to receive efficient full-time education suitable—

*to his age, ability and aptitude, and  
to any special educational needs he may have,*

By taking such steps the LA would become party to any case brought against the parents to address the s7 failure, as they would have been the cause of such failure.

All of the foregoing makes clear that the current proposals to introduce compulsory registration of EHE families are not in keeping with any part of the statutes or guidelines that apply to children of compulsory school age in Wales. Indeed, EHE children are specifically excluded from the statutory guidelines and All Wales Attendance Framework. The inclusion of EHE families in the proposed Education (Wales) bill is not only based on research that is misapplied, flawed and unfocussed but it goes against recently published guidance. If allowed to enter the legislation it would create dangerous and disproportionate powers for LAs in respect to EHE children, powers which would create significant expense that is legislated against. It would also create onerous responsibilities for EHE families to meet standards that are not required of any other families.





## The Basis for the Welsh Assembly Government Proposals National Behaviour and Attendance Review (NBAR)

- The review was conducted on EOTAS (Education other than at school) services provided by the local authority – not home education – with particular emphasis on school attendance
- No home educating parent or home educated child was studied or spoken to during this review
- The report makes statements about home education without studying it in any way whatsoever
- The report make recommendations about legislation surrounding home education and its assessment without studying it in any way whatsoever

In March 2006 the then Minister for Education, Lifelong Learning and Skills made a commitment to undertake a National Behaviour and Attendance Review (NBAR). The aim was to gather evidence of the current situation within Wales, to identify and review examples of good practice in dealing with these issues, and to make recommendations to the Welsh Assembly Government.

The review was conducted by Professor Ken Reid then Deputy Vice-Chancellor of Swansea Metropolitan University and presented to the Welsh Assembly Government (WAG) in May 2008.

In March 2009 WAG produced 'Behaving and Attending: Action Plan Responding to the National Behaviour and Attendance Review.'

On 1<sup>st</sup> November 2010 Leighton Andrews, Minister for Children, Education and Lifelong Learning published a written statement by WAG of an update on the progress on the Action Plan responding to the NBAR.

Ministers asked four specific questions that became the remit of the research:

### *1.1 Our Remit*

- 1. To explore ways in which parents, children and young people and the community as a whole can be more effectively supported and engaged in the promotion of positive behaviour and attendance in school.*
- 2. To identify effective practice in promoting positive behaviour and attendance and ways in which this practice could be embedded and disseminated in schools and local authorities across Wales.*

3. *To identify the effective use of multi-agency partnerships in tackling issues of poor attendance and behaviour in schools in Wales, including consideration of regional models.*
4. *To identify potential new legislation, in the form of National Assembly for Wales Measures for which legislative competence orders should be sought under the Government of Wales Act 2006 that would assist in promoting positive behaviour and improving school attendance, including specific consideration of the provision of education for excluded pupils.*

This remit at no time refers to children who are electively home educated (EHE) and at no point within the review does the author, quite properly, seek to examine EHE children. The questions asked refer to excluded children and those children who are educated otherwise than at school (EOTAS) such as in pupil referral units (PRU) and in Local Authority (LA) supported environments. The definition of these children (EOTAS) is sometimes confused with children who are EHE, but that should not be the case as WAG guidelines to LAs clearly state (Inclusion and Pupil Support - Section 6 - Elective Home Education):

*1.1 Elective home education is where parents or guardians decide to provide home-based education for their children instead of sending them to school. It is not home tuition provided by a local education authority or where a local education authority provides education otherwise than at a school (EOTAS).*

Further comment is made on the children to whom the research is addressed:

*(p22) 'The issue of unofficial exclusions was brought to the forefront by the Children's Commissioner's Report in 2007. ESTYN have also expressed concern about the numbers of pupils who appear to be out-of-school but not included on any school roll and not receiving any education as the schools have not followed exclusion processes and informed the local authority.*

Again, this concern relates to excluded children and not those who are EHE. However, the report goes on to state:

*This is also an area of concern recognised within WAG's developing NEET (Not in education, employment or training) Strategy.....At the present time, the Welsh Assembly Government is therefore, developing an annual school census for pupils receiving education outside schools.*

It would appear that this census to recognise those not in education, employment or training may well be being confused with EHE children who are in education and should not, therefore, be included in any such measures. This concern does not extend the remit of the report to include EHE children.

#### Report Basis:

Upon reading the report it becomes clear that EHE children were *not* the subject of the research and this fact has been clarified by reference to the author directly, who is no longer within the employ of either WAG or Swansea Metropolitan university. Prof Reid states "All I can advise is that the methodology applied in the NBAR consultation stages is fully described in appropriate sections in the report." (private e-mail), as indeed it is.

The methodology relies on stages (i.e. different steps within the research), and all supporting evidence used within the NBAR has been reviewed. The inclusion of children's views is covered by Cazbah (2008) Delivering Children and Young People Focus Groups as Part of the National Behaviour and Attendance Review, Feedback report for NBAR Steering Group, Cardiff. For the purposes of that report 149 children were interviewed and their views sought in regard to behaviour and attendance. Researchers have taken steps to include children covered by the remit of NBAR by interviewing a range of children, 78 in a primary setting and 71 in secondary settings. Interviews were taken from children in schools, PRUs, a HMP young persons unit, teenage mothers' group and traveller education service. No EHE child was interviewed for that report.

The review describes itself thus;

*'This Report is a major comprehensive overview. It has drawn together opinions from stakeholders at every level.'*

However, in respect to EHE, children who are EHE and parents who provide EHE are clearly significant stakeholders, if not the most significant stakeholders, and yet at no time does the NBAR take any evidence or make any study of EHE. The steering group are described:

*(p4) The Steering Group was comprised of representatives of key stakeholder groups across Wales, supported by colleagues from ESTYN and the Office of the Children's Commissioner for Wales.*

The members of this group are listed in Appendix 'A' and include: The author a university vice chancellor, 4 headteachers, 3 LA inclusion officers, a police officer, 2 observers from WAG and two charity representatives (Barnardo's

and Save the children). No EHE stakeholder child or adult is represented on that group.

### The Report

In s 4.1.5 of the report we see the first mention of EHE children:

*(p50) Clearly there are children who are educated outside school because .... and there are some whose parents elect to home educate. However, even in this latter group, there are pupils being home educated because parents have come to believe that their child is not receiving sufficient support for their needs and unless they withdraw their child s/he will be excluded from school.*

*There is also a group of parents who elect to home educate when they feel threatened by prosecution for their child's non-attendance.*

*Finally, some parents and carers decide to educate their children at home for a number of other different reasons, both as a positive statement about the education of their children as well as possibly, a reaction to what may have happened to them within the school system (eg bullying).*

It is difficult to see within the report how the group arrived at these conclusions in respect to EHE children as such children were not studied within the research available to the group, upon which this report is based. It seems that the steering group has extrapolated findings relating to excluded pupils in EOTAS to arrive at an unfounded conclusion that EHE children fall within that same classification, which they clearly do not. Further the report continues:

*(p50) There is a serious challenge to face in accurately identifying the true number of children and young people who have been moved out of mainstream school..... There is a need for research to determine this 'real' number. At present, it is difficult to plan for, fund and resource the learning needs of these children and young people. The Welsh Assembly Government is currently developing a national database of those pupils educated outside schools. This will need careful development and promotion in order for it to find and meet the needs of its target groups.*

This indicates that the concern is to identify children in order to “plan for, fund and resource the learning needs...” which manifestly does not apply to EHE children as the burden for financing the education of EHE children is the responsibility of the parent, not the LA.

## Recommendations

Notwithstanding the lack of any EHE stakeholder involvement in the research and the lack of any evaluation within the research relating to EHE or any other assessment of EHE, bar the steering group assumption described above, the report goes on to recommend as follows:

*B6 The Welsh Assembly Government should consider legislation to introduce a more robust inspection of home educators including an assessment of whether learners' needs are being met and the curriculum being followed.*

And:

*11 The Welsh Assembly Government should commission studies which examine:*

- *The extent and number of pupils who are out-of-school and not enrolled on any school roll throughout Wales (including those that are in PRUs, home tutored and home educated).*

Given this lack, the recommendations would appear to be based on either ungrounded assumptions, or inappropriate confusion of children who are EOTAS with children who are EHE. Further, there is not and never has been a requirement that EHE children are taught 'the curriculum' indeed specifically the 2008 EHE guidelines (Inclusion and Pupil Support - Section 6 - Elective Home Education) state:

*4.2 ..... It should be borne in mind that home-educating parents are not required to:*

- *teach the National Curriculum*
- *have a timetable*
- *have premises equipped to any particular standard*
- *mark work done by their child*
- *set hours during which education will take place*
- *have any specific qualifications*
- *cover the same syllabus as any school*
- *make detailed plans in advance*
- *observe school hours, days or terms*
- *give formal lessons*
- *reproduce school type peer group socialisation*
- *match school, age-specific standards.*

The most telling aspect of the report with regard to the remit being uninformed with EHE and the research not referring to EHE is the conclusion:

### *6.6 Conclusion*

*This Report is a major comprehensive overview. It has drawn together opinions from stakeholders at every level. The agenda for improvement is huge. The focus for improvement is schools, their staff, pupils and parents. Within this complex picture, schools need to be able to self-evaluate, reflect and prioritise their areas for improvement*

The focus for improvement is schools. EHE children are not within the focus.

### Other Aspects of the NBAR

The NBAR does include some information based on the research that was undertaken which tends toward supporting the validity of EHE parents' choices not to use the LA supported education system:

*(p46) ESTYN's report in 2007 on substance misuse noted that the latest UK research indicated that 20-25% of 15-year-olds use illegal drugs, mostly cannabis, at least once a week.*

*These include the recent spate of young people and young adult suicides in Bridgend*

*(p48)... this experience is compounded by a peer-pressured 'try not to succeed' attitude...*

*(p70) Specific challenges for education in Wales include: skills shortages and the numbers of pupils who manifest literacy and numeracy difficulties, underachieving pupils and those who drop out from schooling, those who leave school with few or no qualifications, boys' underperformance at the secondary phase....*

*(p85) In addition, other 'external' cognitive or non-cognitive features can have an influence on pupils' behaviour. These include bullying, peer group pressure, low levels of self-esteem, poor parental or carer support (especially amongst adults who do not value education), special educational needs not being appropriately met, substance misuse, alcohol, drugs and pupils' boredom.*

*School factors, which can adversely impact upon behaviour, include:*

- *poor school ethos*
- *poor leadership of headteacher and/or senior management team*

- *poor teacher-pupil relationships*
- *poor teaching and learning delivery in the classroom*
- *poor pupil-pupil relationships (eg. bullying is rife)*
- *disliked curriculum choices in which pupils have little or no interest*
- *poor parental support for the school/pupil*
- *inadequate/inappropriate/unworkable school rules*
- *low teacher expectations*
- *poor classroom management*
- *high incidence of internal bullying*
- *having unapproachable staff.*

These are findings of fact by the researchers, fact relating to school environments not EHE. Most worryingly perhaps:

*(p49) The Group also highlighted its concerns for those children and young people who became disengaged from learning because they lacked the personal resilience to cope with school life in its current form. These children and young people may find that the existing structures within school contribute to and can even be one of the sources of their anxiety. At the extreme end, this may take the form of a phobia. Such individuals may need help and support from services like CAMHS (Child and Adolescent Mental Health Services) educational or clinical psychologists or possibly, peripatetic counselling services.*

All of the above tends toward the description of schools as worrying places for children where bullying is rife, drugs are common, teaching and delivery is poor and expectations are low. Yet, despite this environmental description, children who find these factors stressful are thought to be in need of counselling support rather than a safe and better environment in which to learn. It is undoubtedly a fact that EHE provides that environment.

### Response to the NBAR

The WAG NBAR response lays out plans including:

*(p6) Carry out a review on provision of Education Otherwise than at School (EOTAS), including Pupil Referral Units.*

*(p15) The development of a new annual census collecting information on children and young people educated otherwise than at school (EOTAS).*

*(p33) Actions to be undertaken:*

*The Assembly Government will carry out a review on provision of Education Otherwise than at School (EOTAS), including the role of pupil referral units*



None of this refers to EHE children and at no time do the action plan recommendations refer to EHE children. Clearly, the response was written with no intention that EHE children would be included in any measures which are, in practice, designed to address behaviour and attendance, not legal parental choice to EHE. Further, the response does say that WAG will:

*(p8) Involve children and young people fully in the decision making process.*

*(p15) National bodies, stakeholders and the voluntary sector must be involved at all levels of policy development as well as engaging with practitioners. They need to be supportive of initiatives and work closely with partners to ensure joined up working.*

The NBAR did not at any point involve the most significant stakeholders in EHE, the children and their families. The recently announced proposals to introduce compulsory registration for all EHE children are the first instance within this incident when any form of consultation with EHE children and parents is to take place. The consultation will therefore be on proposals to legislate for EHE within a framework where research did not address EHE or investigate EHE, but where those proposals are based according to the evidence on recommendations for children who are EOTAS.

In a Ministerial statement by Leighton Andrews (Written Statement - Update on progress on the Action Plan responding to the National Behaviour and Attendance Review (NBAR)) he refers to:

*Implementing the Plan involves continuing engagement with key partners throughout Wales, for example:*

*working with local authorities and ESTYN to scope out good practice for improved support and monitoring of elective home education as part of a larger review of Education Otherwise Than at School*

Prior to this, there is no indication in the response to the NBAR that EHE will be included in any actions to be taken; presumably because the original research does *not* address EHE but confuses EOTAS with EHE. This statement by the Minister for education appears to have compounded that error by specifically bringing EHE to the table when the nature of that confusion ought to have been apparent.

It is clear that no significant stakeholders involved directly with EHE (children or parents) have been included in any decision by the Minister to

legislate for EHE but that ESTYN have been involved. The role of ESTYN is described thus on their website:

*ESTYN is the office of Her Majesty's Inspectorate for Education and Training in Wales. We are independent of, but funded by, the National Assembly for Wales. The purpose of ESTYN is to inspect quality and standards in education and training in Wales.*

LAs have also been involved in designing this proposal. Both of these organisations are involved in school based education and EOTAS; they are not experts on or directly involved with EHE.

Those experienced people who are involved with EHE have not had any input to the design of these proposals. Further, it is commonly accepted by EHE families, that many LAs do not understand the EHE legislation and that they fail to act within the Guidelines governing any involvement that they might have with EHE on a frequent basis.

That these are the organisations the Minister bases his proposal upon backed by research that did not examine EHE is a strong indicator of the **seriously flawed nature of the proposals.**



**The Basis for the Welsh Assembly Government Proposals**  
**Bridgend Research**

Summary:

- WAG has published this report with several alterations to the original as published by the researcher, several of which are specifically geared to give wholly wrong impressions of the views of EHE families. Most notably the claim that:

*There is a general understanding both among Home Educators and LA officers that the accepted role for the LA is monitoring HE families to ensure the 'suitability' of the education the children receive. (WAG)*

Which is described by contributors to the face to face interviews thus:

*'This is an entirely false statement and I would happily say, on oath, that this was NOT the understanding of home educators taking part in the research.'*

*'That I cannot see how any home edder would have said it in that context'*

*'At no time did any home educated family known to me who was involved in this research make that statement to my knowledge'*

- WAG is in breach of contract in using the research to further their interests, as interviewees agreed to the interviews for the purposes

*(to evaluate the present EHE experience from family's point of view, so the LEA can better partner, co-operate and resource further wherever desired or possible)*

- Recommendations at no time support the introduction of compulsory monitoring and registration, only informal registration having been researched rather than compulsory registration.

- Registration and monitoring is not the way forward, as the WAG version of the report adds to the original:

*Developing an agreed and clarified best practice therefore is a matter of urgency. The clear evidence so far of this early exercise is that mutually supportive and respectful partnership with appropriate representatives of the HE community at a local level is effective, both so the distinctive skills and expertise within the community can contribute to the social, emotional and*

*educational needs of all the children in the area and that otherwise, the threat and suspicion between the LA and HE will continue to contribute to a vicious cycle of increasing regulation and corresponding invisibility.*

## The Report

### Background

On 27<sup>th</sup> September 2012 WAG published a version of research undertaken amongst home educators in Bridgend (Mitchell, S). Prior to that date WAG had repeatedly advised the Bridgend group that the original research could not be circulated by them, however I have a copy of that original research which differs markedly from the WAG version in some significant matters.

The original research was formed around questionnaires which carry the following riders and statements of consent, on the front of the child and adult versions respectively:

*Before starting interview:*

*Interviewer to introduce self and outline  
the nature (verbal, self-reporting, qualitative)  
and purpose of the interview*

*(to evaluate the present EHE experience from family's point of view, so  
the LEA can help in any way possible)*

*My answers will be only used to help me and other pupils get the best  
additional learning support possible.*

*And*

*Before starting interview:*

*Interviewer to introduce self and outline  
the nature (verbal, self-reporting, qualitative)  
and purpose of the interview*

*(to evaluate the present EHE experience from family's point of view, so  
the LEA can better partner, co-operate and resource further wherever  
desired or possible)*

*I understand that my responses will only be used to help me and other  
EHE families get the best support possible.*

This makes absolutely clear that those being interviewed for this research did so on the understanding that the use would be limited to the obtaining of

support from their LA, at no time was it indicated that they would be used to form a proposal to introduce monitoring and registration of EHE. By signing the consent form with the researcher who was '*Acting For and on behalf of the Welsh Assembly Government*' (Mitchell, S front cover) to that effect, a contract was entered into which, by publication in an altered form to support the WAG proposals for EHE, WAG has breached the terms of.

In addition in a private e-mail exchange prior to the research being agreed by EHE families the following question was put by potential participants to the head of Support for Learners Division (his response again reassures):

*6. What powers/duties does the department believe LAs have to monitor EHE families (since we suspect that monitoring is at the heart of this)?*

*Monitoring is not the motivation for this research, but an interest to hear from the home educating community in order to establish a more collaborative approach to working together.*

*Yours sincerely*

*CHRIS BURDETT*

*Head of Support for Learners Division*

#### Report:

The WAG published version of the report is identical to the original version in the description of the actual research itself in paragraph 34, 35 and from paragraph 39 through to 73 other than three minor changes: in paragraph 57 and 69 the word 'supportive' is used in place of the original 'benevolent'. In paragraph 68 the words 'particularly vulnerable' are used in place of 'inviting'. However, the tone of meaning has been altered in paragraph 36 by the removal of the term: 'a desire to address issues of definition' and replacement with 'the urgent need to address issues of definition'. Paragraph 37 has a sentence added and there appears to be a typographical error in paragraph. 38 where '5 further' has been changed to '7 further'.

WAG's published version of the research carries an introduction in paragraphs 1-6 inclusive. In paragraph 4:

*..as well as any potential conflict between the United Nations Convention on the Rights of the Child and the parental right to home educate their child.*  
(WAG)

Yet, the **original report makes no comment whatsoever with regard to any such conflict**; neither does the questionnaire mention this (Appendix 1). To

suggest such conflict is to judge parents and children to be in an adversarial role rather than a role of mutual love and affection.

It is however, in the sections entitled 'Findings' and 'Conclusions' where most disparity occurs. In paragraph 7 the published WAG states (bold as published):

*The extreme stance expressed by some authorities that the majority of HE parents choose HE to avoid prosecution when they and/or their children simply disengage with education is not endorsed by this initial scoping, but it is the **primary** experience of the EWS in relation to HE and, as such, is perceived to be a much more significant motivation than it is in actuality (WAG)*

This stresses that for EWS (Education welfare services) the avoidance of prosecution is their **primary** experience of EHE, however in the original research it states:

*....but as one of the main experiences of the EWS in relation to HE (original)*

This is clearly suggesting that EWS officers experience 'avoidance of prosecution' in their view as one main aspect, not as the primary aspect of EHE; the exaggeration of the finding tending to indicate a **desire to discredit EHE to the reader**.

Paragraph 8 carries a comment that is not included in the original report but that is clearly inserted to allow the reader to accept WAG's view that families disappear into EHE:

*The specifically pro-family position of the committed and effective home educator believes her/himself misjudged by the authority figure simply dismayed at the vulnerability of challenging children and dysfunctional families threatening to disappear from help or support into 'HE'. The two rarely, if ever, meet and the stereotypical understanding is never challenged. (WAG)*

The most startling addition in the WAG published version comes in paragraph 11 where it is stated:

*There is a general understanding both among Home Educators and LA officers that the accepted role for the LA is monitoring HE families to ensure the 'suitability' of the education the children receive. (WAG)*

I have contacted several of the original contributors who took part in this research and I am unable to find a contributor from an EHE family who recognises that view as one they expressed or would express. When asked to comment on the statement examples of what they said:

*'This is an entirely false statement and I would happily say, on oath, that this was NOT the understanding of home educators taking part in the research.'*

*'That I cannot see how any home edder would have said it in that context.'*

*'At no time did any home educated family known to me who was involved in this research make that statement to my knowledge'*

**The comment attributed to EHE families is manifestly fabricated and not one that they have made.** It is my understanding that the researcher found only one EHE contributor who was in favour of monitoring. This could readily be viewed as a cynical and dishonest attempt by WAG to misrepresent the findings in a way that supports their proposals. Further a large section of the original report was omitted at this point. The omitted section suggests that monitoring and support are most needed where the relationship with the LA has already broken down, but that positive involvement with local EHE families may allay "some of the fears and suspicious felt by LA's about the EHE families":

*The spectrum model of where families enter into the HE experience might be used towards different levels of LA involvement. For the extreme cases where families opt out to avoid prosecution, there are great challenges ahead educationally and perhaps from a welfare perspective. This would seem to indicate the need of a greater degree of oversight or support than that required by some of the committed, clearly trustworthy parents making quite remarkable sacrifices to invest in learning with their children in a lifestyle choice at the other end of the spectrum. However, the former are the families where involvement has likely already broken down entirely, so appropriate involvement is outweighed by its impracticality.*

*The evidence of fruitful collaboration in some areas between the LA and HE is that some of the strengths and experience of the HE community can help to meet some of the needs and difficulties of children and families considering deregistering. At the same time, greater collaboration which respects this potential contribution will allow for greater visibility and openness within HE, in turn allaying some of the fears and suspicions felt by LAs about the HE families. (original)*



Paragraph 16 is an addition which is extrapolated from a comment in the original report about the lack of vocational provision in some LAs being perceived by those LAs as behind some deregistrations:

*Because of curricula difficulties. As with other EOTAS children, there is a curriculum issue at KS3 which causes some children immense difficulties and the lack of alternative, usually vocational provision in some LAs is perceived to be behind many of the de-registrations of older children. (original)*

Is changed in the WAG published version to:

*It is equally evident from many comments received that were there a greater provision of more alternative curricular courses available, some HE students, along with others presently struggling with curricular difficulties would definitely opt back into such vocational or flexible educational provision.(WAG)*

Not only does this portray the return to mainstream provision as desirable and thus EHE by implication less desirable but it was **not stated in the research**.

The subject of 'safeguarding' is frequently used by LAs disingenuously to justify monitoring of EHE families. The research refers to this and specifically the need to clarify why LAs and governments quote safeguarding as a particular issue for EHE children. Reference is made in this regard to a web site comment that 'warning signs of neglect in children' include 'frequently late or missing from school'. However, these children are Not EHE children but children registered at a school and not attending. In the bastardised version published by WAG a comment is added that changes the impact of the paragraph:

*However, even while it may be true that abusive families pragmatically do tend to avoid school attendance, it is certainly not true that all those who do not attend school are in abusive situations.*

This states as fact matters that are not investigated or included in the report and implies a connection between EHE children and children who are abused and 'not attending school' for that reason. EHE children do not attend school but they are not 'non-attenders' rather they are educated at home. This is a very different issue. Further, research clearly indicates that EHE children are at considerably less risk of abuse than are other children (Daley, L.)(Charles-Warner, W) making this connection an unwarranted one between abuse and

EHE that the original researcher does not make. Paragraph 18 adds to this subtle implantation of the acceptance of EHE as a vehicle for 'hiding abuse':

*the early indications from this scoping exercise are that the most challenging families, about whom there may be shared concerns, who are officially 'home educating' as an avoidance tactic, will be even more difficult to access or even find. (WAG)*

Further subtle changes that imply negative connections with EHE appear in paragraph 19 where the words '(now also HE) families' are replaced by 'disaffected, newly de-registered families' a very different issue. One might question why the WAG published version would wish to portray newly deregistered EHE families in that way.

The conclusion in the WAG published version continues the addition of material not in the original research in several parts, many innocuous but others implying a need to consider safeguarding issues where such issues have been demonstrated not to be connected to EHE. Paragraph 28 adds this which does not appear in the original report:

*Information might not always be shared (the boundaries would be co-operatively defined) but the sense that someone is at least involved in the situation would give added confidence, and the difficult issues of safeguarding become a shared, transparent responsibility rather than a conflictual barrier (WAG)*

There is no difficulty in the 'issue of safeguarding' as has been frequently found by research and indeed by the House of Commons all party select committee on education (Stuart, G):

*"I hope that the Welsh government think again. Registration and enforcement will be costly and alienate families. The money would be better spent elsewhere. I've never seen any evidence that home education is a risk factor for child welfare nor, where children are harmed, any evidence that home education meant that abuse was hidden from the authorities. Home educated children aren't hidden - they are peculiarly visible. A registration scheme will contribute neither to an improved education for children nor to an improvement in their welfare. We looked hard at the issue in England and rejected registration. I'd be interested to see any evidence from Wales that suggests that they would be right to come to a different conclusion."*

It is noteworthy that WAG have published this research to support their efforts to introduce a compulsory registration and monitoring scheme for EHE families in Wales, as at no time does the report support the introduction

of such measures. The alterations in the WAG published version to paragraph 20 are particularly noteworthy in this regard:

*It is not surprising that registration per se is not an issue for those interviewed (70% of those who are already known to the authorities have no problem with registration) while 100% of the survey responses (from those who have opted for an anonymous involvement in this exercise) have a distinct reluctance about the possibility. (WAG)*

*Registration and funding*

*70% of those interviewed (who are already known to the authorities) while 100% of the survey responses (anonymous) have a distinct reluctance. (Original page 6)*

*And later: 100% are very suspicious about a hidden agenda in registration: 'very wary; suspicious; doesn't sound like the way forward'*

*It is not surprising (70% have no problem) that registration per se is not an issue for those interviewed (who are already known to the authorities)..... The discussion about informal registration (Original p18)*

Thus, WAG has published this report with a statement that 70% of those EHE families known to their LA are not opposed to registration whereas the original report states that 70% have 'a distinct reluctance' in the early part, then that there is 'no issue per se', but this was stated with regard to 'informal registration' not a compulsory scheme as WAG proposes. The 70% of those that were interviewed face to face (10 adults and 13 children) were those already known to their LA and on their database. Their LA is the only one in Wales where financial support is given to EHE families and on a voluntary basis. The report then reiterates that 100% of those surveyed were against registration. **This misrepresentation is clear cut and deceitful.**

The original recommendations (reproduced below) at no time give any indication of a desire or need for registration or monitoring and indeed the report specifically describes it:

*they [research participants] comment on the adverse effects of talk of more regulation, 'monitoring and policing' as "I've never seen anything like this before... At present there is a draconian attitude to HE." They refer to it building "a militant extremism against registration" among some Home Educators and feeding "conspiracy" theories.*

*This again recognises therefore the conflictual nature of LA engagement with Home education.*

*the suspicion evoked by suggesting any such data gathering (involving registration and record keeping) would be entirely counter-productive.*

*...The discussion about informal registration cannot be separated from the cultural gulf that the above comments about safeguarding, the experience of suspicion and misunderstanding evidence. As highlighted earlier, some HE facilitators agree that there is need for longer term success stories to undergird HE as a valid alternative educational model and more data both of the qualifications achieved and the subsequent training and employment opportunities followed by HE students over the long term would provide that. But without a primary strategy to negotiate the culture change, the suggestion of such data collection or record keeping would surely evoke a less than positive response.*

Recommendations in the original and WAG published versions of the report are almost identical apart from the WAG published version having an additional comment inserted. The report recommends only further investigation of the issues of recognising EHE as a valid alternative to school and of finding ways to facilitate a '*cultural change in attitudes concerning (HE) and the relationship between the HE community and local authorities*'. As that cultural attitude is grounded in suspicion, lack of adherence to current legislation by many LAs, untruthful conflation of safeguarding with EHE, adversarial attitudes with LAs failing to respect EHE families choices, the proposed introduction of compulsory monitoring and registration, would simply feed the adversarial situation.

#### References:

Charles-Warner, W. Safeguarding, analysis of CPR registrations published as part of response to WAG proposals. October 2012.

Daley, L. Abuse in Elective Home Education. 11th June 2009. Accessed 14th August 2012.

Mitchell, S. A report and Recommendations from Initial Scoping Research of Elective Home Education In the Bridgend, Vale of Glamorgan and Neath Port Talbot Areas. Direct from researcher 2011.

Mitchell, S. A report and Recommendations from Initial Scoping Research of Elective Home Education In the Bridgend, Vale of Glamorgan and Neath Port Talbot Areas. WAG. 27<sup>th</sup> December 2012.

Stuart, G. Chair, House of Commons all party select committee on education.  
Posted on Facebook page and accessed 17<sup>th</sup> September 2012.

## Safeguarding

- Safeguarding is used disingenuously to excuse intrusions which are rumour and fear, rather than evidence, based
- Case studies show that where serious harm or death occurs in home educated children, those children are without exception already known to be or suspected to be at risk and therefore already in the system
- Evidence suggests that on average home educated children, although more likely to be scrutinised by social services than their schooled peers, are less likely to be at risk (between 0.061% and 0.123%) than all children in Wales (0.461%) i.e. at between 1/7<sup>th</sup> and 1/3<sup>rd</sup> the risk

Safeguarding is a reason often used by governments to justify further legislation as evidenced by a recent remark by Ken Reid, the author of the NBAR:

*"The Welsh government is absolutely right to take this forward. The intention to have a register is the very minimum they could be expected to do. It is a safeguarding issue more than anything else."*(Reid, K)

Such legislation would cause Electively Home Educating (EHE) families to experience intrusion into family life, beyond that already allowed for in current legislation.

When studying any statistical evidence relating to safeguarding the following points that need to be taken into account:

- Not every case is reported.
- Some issues that social services may consider as of concern are resolved through arrangements such as the abuser leaving the home.

Safeguarding and Child protection are often confused, for clarification:

- 'Child Protection' is the protection of children from harm
- 'Safeguarding' is a broader term and means ensuring that all children fulfil their potential and covers all aspects of their welfare, including their education.

The Welsh Assembly Government (WAG) define 'safeguarding and promoting the welfare of children' as

- Protecting children from abuse and neglect;
  - Preventing impairment of their health or development; and
  - Ensuring that they receive safe and effective care;
- ... so as to enable them to have optimum life chances.

The Education Act 1996 section 7 makes very clear that the duty to ensure that a child of compulsory school age is educated is firmly upon parents and on no other person or body including the LA:

*Duty of parents to secure education of children of compulsory school age.*

*The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—*

*to his age, ability and aptitude, and  
to any special educational needs he may have,  
either by regular attendance at school or otherwise.*

This duty is addressed under Section 437(1) of the Education Act 1996, empowering LAs to intervene if it appears that parents are not providing a suitable education:

*“If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education.”*

'Child protection' relates to the problem of children suffering, or at risk of suffering, from abuse or neglect. That harm is usually perpetrated by their parent or other carer. Although there have been some high profile cases involving EHE children it is clear that in every one of these cases the child was known to Social services before becoming EHE and that in many cases a large number of professionals were already involved with the child.

The case of Siôn D (Flintshire SCR) is a prime example of this. Siôn was 7 years old when he died and is described as 'a disabled child with global developmental delay'.

He was a child well known to his LA as noted in the SCR:

*2.2 Initially, Mr and Mrs D appeared to be open to accepting guidance and support for Siôn, especially when they were still hoping to have a definitive diagnosis of his condition. However, there was a marked diminution of the level of their engagement with professionals working with Siôn from the time that he was about 30 months old and this continued up to the time that he died. The last professional contact with Siôn in his own home was twenty months before his death. Siôn never attended school as his parents elected to educate him at home: they would not give consent for his educational needs to be assessed by an educational psychologist.*

EHE was not the cause of the abuse and neglect Siôn suffered. He and his family were known to social services well before he reached school age. The review of his case notes that professionals, particularly education professionals, were worried about overstepping their legal boundaries. These concerns were unfounded as the correct procedure, which was for safeguarding/welfare concerns to be put before the Social Services who already have extensive powers to deal with abuse and neglect as the law stands, was not followed.

Case conferences were held and concerns were voiced as the review of the case notes:

*3.6 The review of the case also identified a number of specific missed opportunities that professionals had either to better understand Siôn's circumstances or to undertake a full assessment of his needs.*

*These were:*

*The local authority did not gather information from health and education colleagues following a police referral in January 2006.*

*The police dealt with a neighbour's complaint about Mr and Mrs D's behaviour towards her, without following up the neighbour's statement that Mr and Mrs D were angry with her for having reported them for leaving a three-year old child alone in the family home;*

*There was an inadequate response on three separate occasions to the observation of the concealed bruise that meant that further opportunities to undertake an assessment of Siôn's needs were missed;*



*The community paediatrician did not adequately share professional concerns with Mr and Mrs D, despite being advised to do so, and she did not request parents' consent to make a referral to children's social services for an assessment of need; and,*

*The senior learning advisor in education services should have taken independent child protection advice rather than relying on the joint decisions of the professionals' meetings.*

This is not the case of a child for whom EHE is used to hide his abuse from professionals. It is a case where professionals failed, time and time again, in their duty to help him. Notwithstanding that this is clearly identified in the case review, recommendations include:

*Recommendation 6*

*5.14 The LSCB should formally urge the Welsh Assembly Government to implement the proposed review of elective home education.*

It is hard to understand why such a recommendation should be made in circumstances where many professionals could have intervened on a child's behalf before he was even of compulsory school age. Registration and monitoring would not have helped in this case; the child was already registered with the LA and already being monitored by several professionals. It is more likely the case that the extra workload from registration and monitoring could reduce the ability of LAs to protect children such as Siôn. Much of the data collected and time spent in collecting it would be irrelevant. Those efforts would take staff away from supporting children with genuine need.

Furthermore, it is difficult to see how registration and monitoring could assist children in respect of child protection issues, as EHE children are in fact *less* likely to be abused than children in the general school population. During attempts by the UK government in 2009 to introduce registration and other measures for EHE families, significant amounts of safeguarding information was collated both by government representatives and by EHE groups. Whilst those statistics were not specific to Wales, they are indicative of the UK situation as a whole, and so provide a reference point for Wales. The National abuse rate for all children as reported by LAs in response to freedom of information requests was 142,459 which is 1.3% of all children. The rate reported for EHE children was 0.31% (Daley, L), just 23% of the rate recorded for all children. This would seem to indicate that rather than EHE children requiring further safeguarding measures to protect their interests, they are considerably less at risk of harm than children in the general population.

Indeed, studies in the UK and worldwide have nearly universally found that EHE children do not suffer from lack of socialisation, and that they tend to have higher self esteem than schooled children. There has been no evidence, anywhere, that home educated children as a category are prone to abuse (Sauer, A). During the U.K. debate Baroness Delyth Morgan claimed that parents who were educating their children at home could be using it as a cover for abuse, neglect and forced marriage.

The Baroness went on to say that home schooling could be masking a range of evils including sexual exploitation and domestic servitude. At no time was any evidence produced from any source by the government to substantiate those claims whilst evidence that was produced clearly demonstrated that abuse within EHE families was considerably lower than that in the general population. Had such evidence to support the claims made by Baroness Morgan been available, it would have been published as the issue was being stridently pursued at the time.

Nobody would disagree with the desire to safeguard children's wellbeing; however, parents have legal responsibility for their children's education and welfare whilst those children are of compulsory school age, just as they have prior to their children attaining compulsory school age. Currently LAs have the power to intervene when there is concern for a child who is EHE. Guidelines pertaining to Elective Home Education in Wales were last updated in 2008<sup>1</sup> and comprise section 6 of the document [Inclusion and Pupil Support Guidance National Assembly for Wales Circular No: 47/2006](#)<sup>2</sup>. These make clear that LAs must refer any child for whom there is concern as explained below:

*2.6 Where parents have notified the LEA or the LEA is otherwise made aware of a child's withdrawal from school with the intention of being home educated, the LEA should acknowledge the receipt of this notification and consider quickly whether there is any existing evidence, either in an authority's own records or from other services or agencies, indicating whether there may be cause for concern over the withdrawal. Previous irregular attendance at school is not of itself a sufficient cause for concern. In many cases, parents and their children have reached a crisis point, for example, with bullying, so advice should be sought from education welfare services where there is any doubt. Specific instances where they may be concerns are included in Part 6 of this Section. In these cases the LEA should immediately refer these concerns to the appropriate statutory authorities using established protocols.*

---

<sup>1</sup> [http://wales.gov.uk/topics/educationandskills/policy\\_strategy\\_and\\_planning/schools/339214-wag/inclusionpupilsupportguidance/section6/?lang=en](http://wales.gov.uk/topics/educationandskills/policy_strategy_and_planning/schools/339214-wag/inclusionpupilsupportguidance/section6/?lang=en)

<sup>2</sup> <http://wales.gov.uk/topics/educationandskills/publications/circulars/2463797/?lang=en>

Hence, any suggestion that registration is required to safeguard children from parental neglect or abuse is manifestly wrong. EHE children are already open to investigation if there are concerns about their wellbeing. They are also at lower risk of abuse than their schooled peers.

WAG publishes data with regard to child protection issues and children. Freedom of information requests were made of all authorities within Wales to ask:

- How many children in your authority are on the at risk register?
- Of those how many are school age?
- Of those children how many are considered to be EHE?
- Of those who are considered EHE, how many were known to your authority prior to becoming EHE?

In 2011 there were 2,880 children in Wales on Child protection registers a rate of 46.1 per 10,000 children aged under 18<sup>(1)</sup>.

Local Authority	Number of children in LA aged 0-19 2 <sup>(2)</sup>	CPR numbers from <sup>(1)</sup> For 2011	a)Number of child protection registrations <sup>(3)</sup>	b) No of a) in which child EHE <sup>(3)</sup>	No. of b where abuse was known to LA prior to becoming EHE <sup>(3)</sup>
Isle of Anglesey 2011/2012	15650	35	90	0	0
Blaenau Gwent	16530	100	68	0	0
Bridgend	32090	165	166	1	0
Caerphilly	42690	225	225	0	0
Cardiff	81150	270	309	0	0
Carmarthenshire	42220	155	116	0	0
Ceridigion	16830	45	-	-	-
Conwy	24320	40	40	0	0
Denbighshire	22310	75	97	2	2
Flintshire	35210	90	123	-	-
Gwynedd	27240	50	94	1	Not known
Merthyr Tydfil	13850	60	164	0	0
Monmouthshire	20360	60	75	0	0
Neath Port Talbot	31920	205	152	1	1
Newport	36230	110	110	0	0
Pembrokeshire	27860	90	133	0	0
Powys	29330	85	73	0	0
Rhondda Cynon Taf	56270	340	567	-	-
Swansea	52790	255	255	0	0
Vale of Glamorgan	31070	90	90	0	0
Torfaen	21660	180	152	0	0
Wrexham	31570	155	68	0	0
All Wales	709150	2880			

(1) Source: [www.wales.gov.uk/statistics](http://www.wales.gov.uk/statistics). Local Authority Child Protection registers Wales 2011. Accessed 26<sup>th</sup> August 2012

(2) Statistics taken from population by age <http://www.daffodilcymru.org.uk>. Accessed 24<sup>th</sup> August 2012 totals may vary due to rounding

(3) Data provided direct from LAs in response to Freedom of Information requests.

0.461% of children in Wales are on child protection registers<sup>(1)</sup> (CPR). In LAs responding to freedom of information requests 5 EHE children are on CPRs. 3 were CPR prior to being EHE. In one case the date of EHE was not given but this case is included in the assessment. Only 0.245% of children known to LAs to be EHE are on CPRs. However, it is generally accepted by LAs and by families who are EHE, that numbers known to LAs are significantly below true EHE numbers. Estimates range from 2 - 4 times the number known. Thus the true proportion of EHE children at risk is 0.061% to 0.123%. Further, all children on CPRs are known to their LA,

thus numbers are exaggerated upward by this factor. Clearly EHE children are at much lower risk of abuse than are other children in Wales. Further data on abuse of children is enlightening in respect of both how comparatively safe children are in an EHE environment and how differently school staff are treated compared to how the proposals treat EHE families. In 2011 the department for education (UK) commissioned a report into allegations of abuse against teachers and other staff in schools (York Consulting). Findings from that report indicate cover the year to 31st March 2010 and indicate that 2827 reports of abuse were made against school teachers and 1709 against non teaching staff during that year.

	Physical	Emotional	Sexual	Neglect	Conduct	Other	Not recorded	Don't know	Total
Teachers	1584	224	550	64	315	75	15	0	2827
Non teaching	842	76	427	82	208	56	0	0	1709

Taken from table 2.3 p.9

	Substantiated	Malicious	Unfounded	Unsubstantiated	Don't know	Total
Teachers	857	56	497	681	540	2631
Non teaching	603	26	236	377	336	1578

Data taken from table 2.10 p. 15.

Definitions used in the report:

**Substantiated:** sufficient identifiable evidence to prove or disprove the allegation. **Malicious:** there is clear evidence to prove there has been a deliberate act to deceive and the allegation is entirely false.

**Unfounded:** there is no evidence or proper basis which supports the allegation being made, or there is evidence to prove that the allegation is untrue. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.

**Unsubstantiated:** not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove the allegation. The term, therefore, does not imply guilt or innocence.

	teachers	Non teaching staff
No further action	952	510
Reinstated	243	148
Dismissed	152	177
Resigned	102	99
Cessation of use	77	48
Acquittal	16	15
Caution	37	25
Conviction	51	42
Referral to independent safeguarding body	173	136
Referral to regulatory body	127	30
Other	658	369
Don't know	367	224

Taken from Table 2.11 p16.

Thus 719 teachers and 557 non teaching school staff were either dismissed, resigned, cautioned, convicted or referred to another body for allegations of abuse of children in schools. It is important to note that a further 591 of these cases were recorded as 'don't know'. Another 1462 cases were recorded as no further action and these cases would include incidents where they were unsubstantiated. As the report states:

*Unsubstantiated: not the same as a false allegation. It simply means that there is insufficient identifiable evidence to prove the allegation. The term, therefore, does not imply either guilt or innocence.*

Furthermore, not all allegations of abuse are referred to the organisation upon which the study was based as noted on p 20

*"We believe that there must be allegations that are not notified to us. Some schools have a reputation for being proactive and some never make contact."*

It should not be suggested that all teaching staff and other staff in schools are likely to abuse children, and to be wrongly accused of doing so is clearly a stressful and humiliating experience. If WAG suggests that registration and/or monitoring of EHE is necessary for safeguarding/child protection reasons, this would in effect put suspicion of abuse on every EHE parent or carer. This is pertinent in that the above report was commissioned to study ways in which allegations of abuse against staff in educational institutions can be better dealt with in order to reduce levels of stress to the staff created by the investigation. EHE parents are therefore being treated inequitably with other sections of the community concerned with education.

It must also not be assumed that each incident of abuse by a member of school

staff equates to one abused child. Nigel French, a caretaker at a Merthyr Tydfil school, was jailed for spying on girls in the shower through a hole drilled in a ceiling above them. As Judge Twomlow stated:

*"...No girl who went into that changing room will know whether they were spied on or not..."*

Consequently the under-recording of abuse is likely, and difficult to quantify. In the above case every female child in the school could be a victim of the convicted man and yet it is recorded as one incident in the statistical reports on school staff abuse. The data above (York Consulting table 2.10) indicates that 856 allegations against teachers were fully substantiated, a figure which represents approximately one third of all allegations of abuse against teachers recorded in that study. Further, the study describes the record of abuse allegations as related to 0.6% of all employed teachers. Thus a full 0.2% of employed teachers have allegations of abuse made against them which are fully substantiated with a further 46% of the abuse allegations being recorded as 'don't know', or 'unsubstantiated'. The report describes examples of investigated allegations in which several children are involved but only one teacher, so, as with the Nigel French case, those findings represent abuser numbers and the number of their victims is likely to be considerably higher.

### Home Tutors

Registration is unlikely to be well received by EHE parents, as recent reports of reactions of home tutors indicate (Guardian, 2010). The report covers the estimated 750,000 home tutors in the UK, who had been asked to register with the 'independent safeguarding agency' but were not obliged to do so. Three quarters of the 525 tutors interviewed said that they would not register on the 'vetting and barring' which was described as intrusive. Comments made in reported interviews reflect feelings of unfairness and injustice:

*'Four-fifths believe it will fail to stop abusers harming children, while 68% argue it will lead to miscarriages of justice'*

*Deryn Cullen, a cello tutor from Leeds, said the database implied tutors were 'guilty until proven innocent'.*

*"This scheme is in danger of undermining that bond of trust as it breeds the suspicion that every adult who works with children is a potential paedophile."*  
Henry Fagg (Tutor and founder of the Tutor Pages)

*Last July children's author Philip Pullman led a chorus of protest from prominent writers over the scheme. He called the plans "outrageous,*

*demeaning and insulting” and said he wouldn’t be visiting schools again because of it.*

Yet, the scheme for home tutors is voluntary whereas WAG proposes to make registration of EHE families compulsory. How very much more might EHE parents find registration ‘outrageous, demeaning and insulting’ or to consider that it made them ‘guilty until proven innocent’ when they are considered less trustworthy than tutors who could come into their homes, as tutors are not required to register.

### Under 5 Year Olds

Comparisons above demonstrate that an EHE child of school age is less likely to be abused than a child of the same age who is not EHE. This leads to the obvious question of why compulsory registration, if it is based on those children lacking interaction with ‘authority figures’ such as school staff, is only proposed for children of compulsory school age (5-16) and not for children of under compulsory school age? Statistical evidence demonstrates a far higher level of abuse in the pre-school age child population than in children of compulsory school age. Further, the incidence of under reporting in this group must be greater by the very nature of their age and consequently less advanced communication skills.

### Rates of abuse per 10,000 children in Wales

	< 4 years	5-15 years	16-18 years
Boys	173	83	7
Girls	158	83	9
Totals	331	166	16

Source: [www.wales.gov.uk/statistics](http://www.wales.gov.uk/statistics). Local Authority Child Protection registers Wales 2011. Accessed 26<sup>th</sup> August 2012

In addition to rates of abuse, evidence with regard to homicide rates in children clearly demonstrates that the rate in under 5 year olds is considerably greater than in older children. Indeed, in approximately two thirds of all child murders in England, Wales, Canada, the USA and Australia the victim is under five years old (Yarwood,D). In 2002/3 a total of 99 children under 16 were victims of child homicide in England and Wales, a figure that represents 9.8% of all homicides in England and Wales at that time.



### Child murder statistics for England and Wales 2002/2003

Age	Number	Percent of all child victims
<5	65	65.6
5-15	34	34.3
Totals	99	99.9% (rounding)

(Taken from Data Yarwood,D. Reported p4)

Further, as that study found:

*During the 12-year period 1992 to 2002/03, the number of parents suspected of killing their children under the age of 16 averaged 53 per year with a range of 41 to 80 parents.*

Thus, every year during that study approximately 35 children on average in England and Wales were killed by their parents whilst under five years of age. Additionally, rates of abuse in Wales, published by WAG, indicate approximately double the rate of abuse in under five year olds than in all children of compulsory school age. Despite this evidence parents are trusted to care for these children without compulsory registration being imposed upon them other than the registration of their birth, until the child reaches the age of five years. It would be completely disingenuous to suggest that parents become less mindful of their children's welfare and safety when they reach compulsory school age, than they were prior to that time. The evidence clearly indicates that this is not the case; children are considerably more at risk whilst under five.

Notwithstanding the clear evidence to demonstrate that EHE parents are less likely to abuse their children than families who are not EHE and that children under compulsory school age are more likely to be abused than those of compulsory school age (whether EHE or not), EHE parents are the ones for whom compulsory registration is proposed. Registration of a child at school is not compulsory registration as it is a choice that parents can elect to make or not, as they see fit. Hence if EHE families are made subject to compulsory registration, they would be treated considerably less equitably than other families which is completely contrary to not only the rules of natural justice but also British law.

Further indications of the efficacy of EHE come from crime statistics. Figures indicate that 4.9% of all children aged 10-17 living in Wales committed a crime resulting in a disposal during the last year for which this data is available (Youth Justice Board). During that year approximately 74% of EHE children

known to their LA were between 10-17 years old, that being 740 children known to their LA as EHE within the relevant age range (Statistics for Wales). Any child committing an offence would become known to their LA by the very nature of the process for dealing with offenders, thus, the proportion of EHE children offending is exaggerated by this fact. Notwithstanding, only 0.93% of all children aged 10 -17 years who were EHE at the time of offending and known to their LA, committed a crime leading to a disposal. Given the accepted fact that actual numbers of EHE children are 2 - 4 times the number who are known to their LA, the true proportion of those EHE children committing an offence is between 0.23% and 0.47%. This is a considerably smaller proportion than the proportion of all children aged 10-17 who commit offences. Children aged 10 -17 years old are in general, approximately ten to twenty times more likely to commit an offence leading to a disposal than EHE children of the same age are. Data on youth offending collected through freedom of information requests to LAs are overleaf.

Local Authority	Number of children in LA aged 0-19 *	Assuming relatively even distribution. Number estimated aged 10-17 inclusive	Number known to be EHE	Number of children aged 10-17 years committing an offence resulting in a disposal	Number of these children known to be EHE
Isle of Anglesey 2011/2012	15650	6260	7	856	0
Blaenau Gwent	16530	6612	7	1091	1
Bridgend	32090	12836	43	568	0
Caerphilly	42690	17076	32	1146	0
Cardiff	81150	32460	94	1856	0
Carmarthenshire	42220	16888	78	963	2(1)
Ceridigion	16830	6732	111	299	2 (1 referred to PRU)*
Conwy	24320	9728	53	1078	-
Denbighshire	22310	8924	66	1063	-
Flintshire	35210	14084	27	474	0
Gwynedd	27240	10896	43	864	0
Merthyr Tydfil	13850	5540	8	262	0
Monmouthshire	20360	8144	11	769	1
Neath Port Talbot	31920	12768	44	557	0
Newport	36230	14492	23	869	0
Pembrokeshire	27860	11144	94	467	0
Powys	29330	11732	84	486	-
Rhondda Cynon Taf	56270	22508	33	829	0(2)
Swansea	52790	21116	72	842	0
Vale of Glamorgan	31070	12428	28	686	0
Torfaen	21660	8664	12	748	0
Wrexham	31570	12628	31	994	0
All Wales	709150	283660	1001(3)	13936	

Youth offending teams are synonymous with Local Authority boundaries excepting Blaenau Gwent and Caerphilly, Conwy and Denbighshire, Gwynedd and Anglesey, Monmouthshire and Torfaen

(\*) Plus two 17 year olds who were EHE for 8 months and 7 months respectively) 16 year olds EHE for 8 months and 11 months

- (1) Both Youth restorative justice
- (2) One child became EHE after intervention from the youth offending team.
- (3) Figures for the year for which the data was provided

## References:

Daley, L. Abuse in Elective Home Education.  
11th June 2009. Accessed 14th August 2012

Reid, K. Quoted in "Register plan risks ire of Wales' home educators" TES magazine. 14 September, 2012. Reporter: Darren Evans.

Sauer, A. Children Schools and Families Bill 2009; Briefing Pack and Resource Document. The Sauer Consultancy Limited.

Siôn, D. Serious case review Flintshire. Published 11th January 2012.

Statistics for Wales. SDR 140/2012 Pupils Educated Other than at School, 2011/12 table 11.

York Consulting LLP. 2011. Allegations of abuse against teachers and non-teaching staff. Research report DFE-RR192. Department for Education.

Youth Justice Board. Offences resulting in a disposal 2008/9, Monitoring performance-Youth Justice Annual Workload data, The Youth Justice Board.

Wales Assembly Government, 2006. Safeguarding Children: Working Together Under the Children Act 2004 NAFWC12/07

Wales Online. 6th August 2012. Caretaker jailed for spying on schoolgirls shower cubicles.

Guardian. 16th April 2012. Home tutors reject government's 'intrusive' child safety database. Accessed 19th August 2012.

Yarwood, D. June 2004. Child Homicide, Review of Statistics and Studies. Dewar research Ascot.



## Outcomes for Electively Home Educated Children

- Wales underperforms educationally compared to the rest of the UK
- Studies from across the world consistently show outcomes from home education to be better than the average for the population
- States where there is registration do not outperform those without and there is some evidence to suggest registration may have a negative effect.
- Welsh home educators are shown in a recent survey to be outperforming their schooled peers

In a recent interview for the BBC in connection with the introduction of a combined English GCSE in England which is not approved for Wales, Leighton Andrews Welsh Minister for education stated:

*"We care about high standards in Wales."*

*"We believe it is important that learners follow the fuller programme of language learning that is covered by GCSE English language."*

*"What is clear now is that we are no longer comparing like with like when looking at results in Wales and England."*

This statement about children's outcomes in exam performance in Wales was somewhat misleading as available statistics refer to results prior to this change. At KS3 it is confirmed that English schools have performed better than Welsh schools consistently for the last decade. GCSE results in Welsh schools are also lower. Does Mr Andrews 'care about high standards in Wales'? Extracts from the Wales statistics may give some indication of the answer:

### KEY STAGE 3

*The difference in performance was greatest in English, where there was a 6 percentage point difference between England and Wales in 2011. This difference has decreased by 1 percentage point since 2010.*

*England has outperformed Wales in most years in the last decade, the exception being in Science in 2004 and 2005.*

*Results for pupils in Wales were lower than all GORs in England for English and for Mathematics. The results for Science put Wales above one English GOR, London. (Wales Stats, SB 52/2012).*

*50 per cent of pupils aged 15 achieved the level 2 threshold including a GCSE grade A\*-C in English or Welsh first language and mathematics in*

*2011, 1 percentage point higher than in 2010. 54 per cent of girls and 46 per cent of boys achieved this level. (Wales stats, SDR 76/2012);*

## Comparing this to statistics for England

*The overall number of five GCSE (or IGCSE or equivalent) passes at A\* to C including English and mathematics for all pupils has increased this year by 5.4 percentage points to 58.9 per cent – in state-funded schools there was a 3.1 percentage point rise to 58.2 per cent. (Dept for Education)*

The education minister is not addressing the differences in attainment by working to improve education departments and their provision. Indeed ESTYN found that only 1 of the 10 education departments assessed to be 'adequate' or 'unsatisfactory' had the capacity to improve their rating (which was an 'adequate' capacity with an overall 'unsatisfactory' rating). Rather, WAG is proposing to completely overhaul the education system by introducing new exams and qualifications:

*'Perhaps the most crucial question is whether Wales should continue to have much the same exam system as England. One option is to develop the Welsh Baccalaureate into an over-arching compulsory exam, another is to reintroduce the concept of 'matriculation', with pupils having to pass exams in a prescribed range of subjects to qualify. However, unlike the old matriculation system, which ended in 1951, there would be three different levels to cater for pupils with different abilities.'*(Powell, N)

Consequently, rather than addressing the inability of education delivery to improve, WAG is proposing to change the standard qualification to one which avoids comparison with England.

Children in Wales are not less intelligent or able than children in England so clearly the fault must lie in the education that they are receiving, not the children themselves. However, some children in Wales are electively home educated (EHE) and international as well as UK based research demonstrates that EHE children have better academic and social outcomes than schooled children on average.

A meta analysis of peer reviewed studies of EHE children in America was undertaken in 2009 and found that:

- *Almost 25% of home school students are enrolled one or more grades above their age-level peers in public and private schools.*

- *Home school student achievement test scores are exceptionally high. The median scores for every subtest at every grade (typically in the 70th to 80th percentile) are well above those of public and Private school students.*
- *On average, home school students in grades 1 to 4 perform one grade level above their age-level public/private school peers on achievement tests.* (Rudner L, 1999)

*'The major conclusion was that home school students score, on average, well above national average of public-school students.'* (Ray, B, 2000)

*'home school families had and continue to have higher scores for both cohesion and adaptability than is true for the general population of families with school age children in more conventional school settings.'* (Allie-Carson, J, 1990)

*'The results from this study indicate that the home schooled children earned higher social skill standard scores than their conventionally educated peers. The findings of this research suggest that home schooling does not appear to have any negative effects on the development of proper social skills. To the contrary, the results to this study suggest that the children benefited from an exposure to an education at home as their social skills appear to have been enhanced when compared to their conventionally educated counterparts.'* (Francis, David J., & Keith, Timothy Z. (2004)

In a 2003 study of over 7300 adults who were EHE (termed home schooled in the USA), 5000 of whom were educated at home for at least seven years, the following findings were made (Ray, B 2003):

*'Over 74% of home-educated adults ages 18–24 have taken college-level courses, compared to 46% of the general United States population'*

Further, specific questions asked of those adults elicited the facts that 98.5% had read a book in the previous six months compared to 69% of the general public. Further, 58.9 of the EHE adults described themselves as 'very happy' compared to only 27.6% of the general US population. Thus, in the USA, EHE children become happier adults than do schooled children, they read more and they take more college classes. EHE children in the USA tend to perform above their school enrolled age 'peers' and they score better on average academically, they are socially more adept and more adaptable.

Although little research is available in the UK there is no reason to believe that the results for children here would be any different and research that has been undertaken supports that view. A 2002 study of 419 EHE families in the UK found:



*'The results show that 64% of the home-educated Reception aged children scored over 75% on their PIPS Baseline Assessments as opposed to 5.1% of children nationally. The National Literacy Project (Years 1, 3, 5) assessment results reveal that 80.4% of the home-educated children scored within the top 16% band (of a normal distribution bell curve), whilst 77.4% of the PIPS Year 2 home-educated cohort scored similarly. Results from the psychosocial instruments confirm the home-educated children were socially adept and without behavioural problems.'* (Rothermel, P. 2002)

The study found that parental socio-economic class and education had little influence on the attainments of the children which were attributed as follows:

*'Common to all families involved was their flexible approach to education and the high level of parental attention received by the children. Children benefited from the freedom to develop their skills at their own speed. Thus, parental input and commitment, regardless of their socio-economic group and level of education, may be the most important factor in children's development and progress.'*

In 1999 a follow up study of EHE adults, who had previously been studied as children, found that none was unemployed and of the twenty interviewed three had degrees from Oxford University (Webb, 1999).

A Wiltshire based home education support group has kept records of children in the group since 2002. They found that the 52 older children involved had achieved 199 formal qualifications in 50 subjects with 69% of those qualifications being GCSE or IGCSE, 13% were A levels and others in Tertiary or performance. 50% of those qualifications were taken under the age of 16 years. 33% of those students achieving performing arts qualifications were awarded distinctions and 96% of other grades were at A\* -C. (N.Wilts).

Anecdotal evidence from EHE families confirms that these results hold true for children in Wales. Indeed, I am personally aware of under 16s in Wales currently undertaking degree courses and many others taking GCSEs below the normal age for schooled children. One young man of 14 is a successful young entrepreneur running his own small internet business from his home as a hobby whilst studying. In short, EHE children on average achieve more than schooled children do.

As part of the evidence gathering for the consultation on the WAG proposals a 'snap' survey was taken of EHE children and adults who were EHE to ascertain their outcomes and potential. All children and adults who were

involved in the survey were reported as having high levels of personal satisfaction. Interestingly, many parents mention that they had not felt that way prior to EHE.

EHE families also reported that the children had either reached their potential or were clearly reaching their potential. Comments made were very telling:

*'Far exceeded the potential the school said he had before he was home educated' (parent of SEN child)*

*'Home Ed literally saved his life' (mother of SEN child)*

*'As they did not read until 10 years and 12 years old it is unlikely they would have achieved their potential had they gone to school' (Mother of university graduate adult children)*

*'100% happy since being home schooled and also 100% safer now he is not suicidal due to being bullied' (parent of 13 year old)*

Many parents do not judge their children's outcomes through academic achievement alone. However, the families reported academic achievements in the understanding that WAG would find this information more useful than anecdotal evidence alone.

## Exam results for EHE children and adults in survey

Age of child	10-11	12-13	14-15	16-18	19+	<p>Figures in brackets represent total number of exams passed.</p> <p>(1) One child had gained undergraduate certificates in Maths and science together with passes in University first and second year courses.</p> <p>(2) One child had passed an OU course</p> <p>Children under 10 have not been included in the achievements chart as questions were asked of GCSE, A level and degree level results which would not be appropriate to ask at below that age. However, the majority of the parents of under tens did envisage their children taking some exams in the future.</p>
Is the child SEN	Y=0 N=3	Y=1 N=9	Y=0 N=4	Y=1 N=2	Y=8 N=18	
Number with GCSE passes or equivalent	2 (7)	3 (11)	2 (10)	3 (13)	14 (67)	
Number with A level passes	0	0	1 (3)	0	10 (49)	
Number with undergraduate passes	0	1 <sup>(1)</sup>	0	1 <sup>(2)</sup>	0	
Has the Child taken and passed a degree	0	0	0	0	18	
Masters	0	0	0	0	5	
PHD	0	0	0	0	5	

### SUMMARY:

- Ages 10-11: 3 children of whom 2 had an average of 3.5 GCSEs each
- Ages 12-13: 10 children of whom 3 had an average of 3.67 GCSEs each  
And one child had undergraduate qualifications
- Ages 14-15: 4 children of whom 2 had an average of 5 GCSEs each  
1 child had 3 A levels
- Ages 16-18: 3 children who had an average of 4.33 GCSEs each  
1 child had an undergraduate course pass.
- Age 19+ : 26 children of whom 14 had an average of 4.79 GCSEs each.  
10 had an average of 4.9 A level passes each  
18 had degrees with 5 having master's degrees and 5 having PhDs.

Only one of the over 19s in the survey had no academic qualifications.

Qualifications included degrees in biology, humanities, fine art, chemistry, architectural design, and law. Post graduate qualifications included law, chemistry, creative writing and dermatology. However, degrees, A levels and GCSEs were not the only qualifications these EHE young people had achieved. Some had attained advanced BTEC or HNC in subjects as diverse as

engineering, first aid, joinery, signwriting, art, and guitar. One young person went on to study music at LAMDA.

The results are telling as all of the adults who were EHE that could be contacted took part so despite being a short survey conducted quickly to fit within the consultation time limit; it was not self selecting in a way that would bias the results.

Further evidence of the efficacy of EHE comes from Bridgend, where a group of EHE families have received some limited financial support from their LA. Part of that support has been used to fund exam entries for young people. During 2011, GCSE and IGCSE exams were sat by 11 of those young people aged from 13 to 16 years old, in 8 academic subjects including English, Maths and Science. 10 of them achieved grades 'A\*' – 'C' in English and 5 in maths. The overall pass rate on all exam taken was 76% grade 'A\*' – 'C' with 21% achieving grade 'A' or 'A\*'.

That those children were able to take the exams was thanks, in part to an LA that has listened to EHE families and addressed their needs. Rather than taking a 'monitoring' role as is proposed by WAG, Bridgend appears to have taken a 'supportive' role which is appreciated by those in receipt of the support. This could be an indicator of the fact that where a LA ceases to be adversarial EHE families become more willing to interact with that LA. Monitoring is adversarial.

Notwithstanding the above, WAG has put forward proposals that LAs in Wales should monitor all EHE families to ensure that the education they are providing is 'suitable'. The proposals announced are clearly intended to be introduced as they include the following statement:

*16. It is anticipated that the following issues will be consulted upon in the separate consultation on suitability of education. (WAG, 2012).*

The most recent inspections of education departments in Welsh LAs by ESTYN found that of the 22 LAs 10 had education departments that were found to be only 'adequate' or were 'unsatisfactory' overall. None was found to be 'excellent'. In sub categories of grading for children's outcomes 24 of the 44 grades were either 'adequate' or 'unsatisfactory' only one of those 44 sub categories was graded 'excellent' in one LA.

Thus, where LAs have a duty to provide a standard of service that is suitable to families electing to use schools for their children's education, their education departments fail to provide good outcomes for children in Wales on average and schools in Wales fail to provide good outcomes for 50% of

children at GCSE level. It is the duty of the parents to provide a suitable education to their children, and EHE parents choose to do so themselves without using LA services. Yet these failing LA departments are proposed as suitable to judge the educational provision of EHE families who are demonstrably achieving better outcomes for their children on average than schooled children.

The proposals seek to ensure that EHE children receive a suitable education by compulsory registration and monitoring of EHE families and children. However, they have paid no regard to experience in other countries where registration and monitoring have been in use.

*'The purpose of this study was to determine whether there is a relationship between the college-admissions (or college-aptitude) SAT scores of students who were home schooled and the degree of state regulation of home schooling "The SAT publisher provided to the authors data related to all 6,170 of these students; 2,887 (46.8%) were male and 3,283 (53.2%) were female." "The group data, not individual student's scores, were available and received for each of the 50 states and the District of Columbia." "The SAT scores of home school students from low-, moderate-, and high-regulation states were first compared for states whose degree of regulation had not changed for the 10 years preceding and including the year of SAT testing. In all cases, the states with the highest degree of state regulation had the lowest average SAT scores." (Ray, BD, Eagleson & Bruce, K 2008).*

America has a considerably higher number of EHE children than Wales, making such research more viable. However, internationally where monitoring has been introduced, no difference has been found between the proportion of EHE families where educational concerns were expressed prior to monitoring and in the years following such monitoring. Monitoring did not change that proportion.

The experience of New Zealand is informative. EHE children were assessed against a standard that required them to demonstrate that they were educated 'at least as regularly and well as in a registered school', in other words that the education was average or above so. In 2008, 644 monitoring assessments were carried out for 6169 'home schooled' students in which only 35 arrangements were found to be below average. Thus 95% of EHE children were being educated at a standard equal to or better than those educated at school. New Zealand made the decision to discontinue monitoring.

In the words of Baroness Morgan during the UK Badman review 'Parents are able, quite rightly, to choose whether they want to educate children at home and a very small number do. I'm sure, the vast majority do a good job'.

Where evidence is available EHE children are outperforming schooled children, with registration making no difference to those performances, other than some regulated children being found to perform less well than those without regulation. There is clearly no justification in terms of outcomes for children to introduce regulation.

### References

[www.bbc.co.uk/news/uk-wales-19360253](http://www.bbc.co.uk/news/uk-wales-19360253) 23rd August accessed 9th September 2012

SB 52/2012 Statistical bulletin. Assessment Performance in Wales: Comparison with England and its Regions, 2011. Statistics for Wales.

SDR 76/2012 Statistical bulletin. Schools in Wales: Examination performance 2011. Statistics for Wales.

Department for Education.

<http://www.education.gov.uk/schools/teachingandlearning/qualifications/gces/a00202531/secperftables12> accessed 9<sup>th</sup> September

Rudner, Lawrence M. (1999). Scholastic achievement and demographic characteristics of home school students in 1998. Educational Policy Analysis Archives, 7(8)

Ray, Brian D. (2000). Home schooling: The ameliorator of negative influences on learning? Peabody Journal of Education, 75(1 & 2), 71-106.

Allie-Carson, Jayn. (1990). Structure and interaction patterns of home school families. Home School Researcher, 6(3), 11-18.

Francis, David J., & Keith, Timothy Z. (2004). Social skills of home schooled and conventionally schooled children: A comparison study. . Home School Researcher, 16(1), 15-24.

Rothermel, P. 2002. Home-Education: Rationales, Practices and Outcomes. University of Durham.

Webb, J. (1999) No school - what a result. (Julie Webb talking about her new book, Those Unschooled Minds: home educated children grow up, published

by Educational Heretics Press). The Independent. London: Independent Newspapers. 19th August

N. Wilts HE group. [http://mwilts-he.org.uk/he\\_exams\\_wiki/index.php/Exam\\_results](http://mwilts-he.org.uk/he_exams_wiki/index.php/Exam_results) accessed 10th August 2012.

Welsh Government Consultation document WG16133. Registering and Monitoring Home-based Education. 2012.

Ray, Brian D., & Eagleson, Bruce K. (2008). State regulation of homeschooling and homeschoolers' SAT scores. Journal of Academic Leadership, 6(3) [http://www.academicleadership.org/emprical\\_research/State\\_Regulation\\_of\\_Homeschooling\\_and\\_Homeschoolers\\_SAT\\_Scores.shtml](http://www.academicleadership.org/emprical_research/State_Regulation_of_Homeschooling_and_Homeschoolers_SAT_Scores.shtml)

Powell, N. 2012. <http://www.itv.com/news/wales/2012-05-31/wales-could-develop-its-own-distinct-school-exams/> 9th September

## Local Authority Performance in Wales

- The proposals give powers of entry to LA officers that even the police do not have
- The proposals punish the child rather than the parent for non-compliance
- Welsh Local Authorities (LAs) are not good at complying with current legislation regarding home education, thus not instilling confidence that they would be able to comply with additional duties
- LAs are already facing considerable criticism by ESTYN for multiple failures. Two are already in special measures
- LAs are already under financial pressure – more duties would merely add to that pressure thus depriving more needy areas of duty to become neglected

The Welsh Assembly government (WAG) is proposing that families who choose to electively home educate (EHE) their children should be required to register with their Local Authority (LA). In effect the proposed register would be a licensing system, as the provisions would require the EHE family to re-apply annually and to submit to inspection which could result in their registration being either refused or accepted. If a registration were refused the LA would serve a School Attendance Order (SAO) on the family requiring that they send their child to a designated school.

The proposals give the LA the right to enter the home, if that is the main place of education, and to interview the child. Even Police officers do not have the right to enter a private home without a warrant and they are never allowed to interview a child without a parent or other responsible adult present. If parents refuse to comply with this inspection and monitoring process the LA will serve a SAO on them in respect to their child. The child has no control over the compliance of the parent yet it is the child who will bear the penalty of non-compliance.

Why should a family wish to decline such an inspection? There are many reasons, including the following:

- Under primary legislation the duty to ensure a child receives a suitable education lies with the parent, not the LA.
- Children consider their home to be a place of safety and security. Being inspected in the home could damage this feeling of security.
- For the child, being interviewed by an unknown adult could be a frightening and intimidating experience, particularly if the parent is not present.



- Families may worry that the inspector would be able to attribute opinion to the child that the child does not hold and to cause the child stress and worry.
- The LA would be responsible for interviewing the child and deciding whether the child was receiving a suitable education. Worryingly, many children in Wales have been withdrawn from school to be EHE precisely because they have already been failed by their LA. This failure can take the form of failing to provide a suitable education or failing to support a child who is harmed by other pupils or by school staff. Whatever form the failure takes it is crucial that we do not allow those children to be further failed.

LAs in Wales are responsible for providing education to all school children in Wales. School children in Wales have consistently worse academic results than their counterparts in the English regions. In 2011, the proportion of pupils in Wales achieving the expected level was lower than England for all subjects. (see note i)

Yet EHE families are expected to allow failing LAs into their homes to judge educational provision. Additionally, WAG acknowledges in its report that LAs find it difficult to understand the complexities of EHE as it differs markedly in most cases from school based education.

Current EHE guidelines allow LAs to make informal enquiries of EHE families to establish whether an education is being provided. Those guidelines clearly state that unless there is a cause for concern no further action should be taken. (see note ii)

Anecdotal evidence from EHE families indicates that LAs are currently acting outside the law. For example, LA staff have told families that they are legally obliged to follow the national curriculum, have a timetable or work a set number of hours at school style lessons. None of these “obligations” exists in law. An assessment of the websites of all 22 LAs reveals that 14 contain legal and procedural errors in relation to EHE, the remaining 8 offer no information about EHE at all. It is understandable that EHE families are alarmed by the prospect of further power being given to the LA in these circumstances (see note iii).

Welsh LA education departments are not providing a service that is up to the standard that families, and taxpayers, should expect to receive. They repeatedly fail to treat EHE families fairly and within the law. EHE families on the contrary are clearly fulfilling their duties to their children. A considerable body of research indicates that EHE children have higher academic outcomes on average than do school children, higher levels of social

skill, lower levels of abuse and lower levels of criminality. More crucially research in Countries where registration and monitoring exists has found that there is no difference in outcomes for children who are registered than for those who are not. In New Zealand monitoring ceased for precisely that reason: the cost of continuing to monitor was not justified because the number of families found to provide an inadequate education was no different to the number found prior to monitoring commencing. Registration was continued in New Zealand as it is popular given that it comes with significant payments to parents for providing the education.

In summary, these proposals are targeting the children who are least in need of WAG intervention. Of all children in Wales, on all measurements, EHE children are faring better than their schooled peers. The proposals are to be carried out by LAs who are currently unable to deliver the required standard in areas where they have a duty to do so. The cost of implementing the proposals would be enormous and clearly better allocated to improving the performance of LAs' current duties with regard to education, rather than in an ill advised and discriminatory attack on EHE families.

#### References:

SB 52/2012 Statistical bulletin. Assessment Performance in Wales: Comparison with England and its Regions, 2011. Statistics for Wales.

WG16133. Welsh Government: Consultation Document Registering and monitoring home-based education. Welsh Assembly Government September 2012.

#### Notes

i

##### KEY STAGE 3

The difference in performance was greatest in English, where there was a 6 percentage point difference between England and Wales in 2011. This difference has decreased by 1 percentage point since 2010.

England has outperformed Wales in most years in the last decade, the exception being in Science in 2004 and 2005.

Results for pupils in Wales were lower than all GORs in England for English and for Mathematics. The results for Science put Wales above one English GOR, London. (Wales Stats).

Further, the proposals state:

17. In addition to statutory guidance a key priority will be to develop training materials for use by LAs and those working with home educators to support a balanced, fair and consistent approach to the assessment of the suitability of home education provision. The training will seek to ensure that those undertaking it gain a full understanding that home education can be significantly different from school-based education and depending on the circumstances, it may be equally effective if not more effective in meeting the learning needs of the child. (EHE consultation document).

Thus, LAs are being asked to judge the suitability of EHE provision whilst having received no training on how to assess such suitability. It is only suggested that after introduction of such registration and monitoring will training be provided. LAs have extensive access to training and facilities that assist them with carrying out their duties and are regularly assessed on their education department performance by ESTYN. Following ESTYN assessment the LA education department (who would be responsible for monitoring EHE families) is subject to report on their performance which is then made public. Performance is graded at Excellent, Good, Adequate or Unsatisfactory. A study of the most recent available reports by ESTYN on LAs in Wales found the following results:



ESTYN inspections of Welsh Local Authority Education departments (most recent inspection report)					
Local Authority	How good are the outcomes	How good is provision	How good are leadership and management	Overall Judgement	Capacity to improve
Isle of Anglesey 2012	<b>U</b> (s=U, W=U)	<b>U</b> (ss =U, ALN= A, I = A, P = U)	<b>U</b> (L=U, IQ = U, Pt = A, R=U)	<b>U</b>	<b>U</b>
Blaenau Gwent 2011	<b>U</b> (S=U, W = A)	<b>U</b> (ss =U, ALN =U, I = A, P =G)	<b>U</b> (L=U, IQ =U, Pt= A, R =U)	<b>U</b>	<b>U</b>
Bridgend 2010	<b>A</b> (S=A, W =A)	<b>G</b> (ss=G, ALN =G, I=A, P =E)	<b>G</b> (L=G, IQ =G,Pt+ n/a, R=n/a)	<b>G</b>	<b>G</b>
Caerphilly 2010	<b>U</b> (s=U, W = A)	<b>G</b> (ss= G, ALN=G, I=G,P =A)	<b>G</b> (L=A, IQ=G, Pt =n/a, R=G)	<b>G</b>	<b>G</b>
Cardiff 2011	<b>G</b> (s=G, W=A)	<b>A</b> (ss=G, ALN =A, I=A, P=G)	<b>A</b> (L=A, IQ =U, Pt =A, R=A)	<b>A</b>	<b>A</b>
Carmarthenshire 2012	<b>G</b> (s=G, W=A)	<b>G</b> (ss=A, ALN =G, I=G, P=G)	<b>G</b> (L=G, IQ=G, Pt=G, R=G)	<b>G</b>	<b>G</b>
Ceridigion 2009	<b>G</b> (s=G, W=E)	<b>A</b> (ss=A, ALN= G, I=G, P=A)	<b>G</b> (L=G, IQ=G, Pt =n/a, R=A)	<b>G</b>	<b>G</b>
Conwy 2011	<b>G</b> (s=G, W=G)	<b>G</b> (ss=G, ALN=G, I=E, P=G)	<b>G</b> (L=G, IQ=G,Pt=G, R=G)	<b>G</b>	<b>G</b>
Denbighshire 2012	<b>G</b> (s=G, W=G)	<b>G</b> (ss=G, ALN=G, I=G, P=G)	<b>G</b> (L=G, IQ=G,Pt=G, R=G)	<b>G</b>	<b>G</b>
Flintshire 2011	<b>A</b> (s=A, W=A)	<b>A</b> (ss=A, ALN=G, I=G, P=A)	<b>A</b> (L=A, IQ=A,Pt=G, R=A)	<b>A</b>	<b>A</b>
Gwynedd 2010	<b>A</b> (s=A,W=A)	<b>G</b> (ss=E, ALN=G, I=G, P=A)	<b>U</b> (L=G, IQ=A,Pt=U, R=U)	<b>A</b>	<b>A</b>
Merthyr Tydfil 2010	<b>U</b> (s=U, W=U)	<b>G</b> (ss=G, ALN=G, I=G, P=G)	<b>G</b> (L=G, IQ=G,Pt=G, R=G)	<b>G</b>	<b>G</b>
Monmouthshire 2009	<b>A</b> (s=A, W=A)	<b>G</b> (ss=G, ALN=G, I=A, P=G)	<b>G</b> (L=G, IQ=G,Pt=G, R=G)	<b>G</b>	<b>G</b>

Neath Port Talbot 2010	<b>G</b> (s=G, W=G)	<b>G</b> (ss=G, ALN=E, I=G, P=G)	<b>G</b> (L=G, IQ=G, Pt=G, R=G)	<b>G</b>	<b>G</b>
Newport 2011	<b>G</b> (s=G, W=G)	<b>G</b> (ss=E, ALN=G, I=A, P=G)	<b>G</b> (L=G, IQ=G, Pt=A, R=G)	<b>G</b>	<b>G</b>
Pembrokeshire 2011	<b>A</b> (s=A, W=A)	<b>A</b> (ss=A, ALN=G, I=U, P=G)	<b>U</b> (L=U, IQ=A, Pt=A, R=A)	<b>U</b>	<b>U</b>
Powys 2011	<b>G</b> (s=G, W=G)	<b>A</b> (ss=A, ALN=A, I=A, P=A)	<b>A</b> (L=A, IQ=A, Pt=A, R=A)	<b>A</b>	<b>A</b>
Rhondda Cynnon Taf 2012	<b>A</b> (s=A, W=A)	<b>A</b> (ss=A, ALN=G, I=A, P=A)	<b>A</b> (L=G, IQ=A, Pt=A, R=A)	<b>A</b>	<b>A</b>
Torfaen 2011	<b>U</b> (s=U, W=A)	<b>A</b> (ss=A, ALN=G, I=A, P=A)	<b>A</b> (L=A, IQ=A, Pt=U, R=A)	<b>U</b>	<b>A</b>
Swansea 2009	<b>G</b> (s=G, W=G)	<b>G</b> (ss=G, ALN=E, I=E, P=A)	<b>G</b> (L=E, IQ=G, Pt=A, R=G)	<b>G</b>	<b>G</b>
Vale of Glamorgan 2010	<b>G</b> (s=G, W=G)	<b>G</b> (ss=G, ALN=A, I=A, P=G)	<b>G</b> (L=G, IQ=G, Pt=G, R=G)	<b>G</b>	<b>G</b>
Wrexham 2010	<b>G</b> (s=G, W=G)	<b>A</b> (ss=G, ALN=A, I=A, P=A)	<b>A</b> (L=A, IQ=A, Pt=A, R=A)	<b>A</b>	<b>A</b>

S= standards  
W = wellbeing

SS= support school improvement  
ALN = Additional learning needs  
I = inclusion and wellbeing  
P = school places

L = Leadership  
IQ = improving quality  
Pt = partnership working  
R = Resource management

U = UNSATISFACTORY, A = ADEQUATE, G = GOOD, E = EXCELLENT  
Grade 1 good with outstanding features (equated to E)  
Grade 2 good features and no important shortcomings (equated to G)

Grade 3 good features outweigh shortcomings (equated to A)

Grade 4 shortcomings in important areas (equated to U)

(2) Will the local authority's performance improve?

5 The prospects of improvement are rated on a four-point scale as follows:

Grade 1 improvement prospects are good, with significant improvements already in place (equated to E)

Grade 2 improvement prospects are good, with no major barriers (equated to G)

Grade 3 some good prospects, but barriers in important areas (equated to A)

Grade 4 many important barriers to improvement (equated to U)

Inspection reports changed after 2009 so those reports for 2009 have been equated to the more recent categorisation in order to facilitate comparison. Where categories have not been assessed in the report, figures provided of position relative to other LAs in Wales are used to provide an indication 22 LAs so 1-5 = E, 6- 10 = G, 11- 16 = A and 17 -22 = U). In category wellbeing, schools position in attendance taken.

Rating	How good are the outcomes Sub categories (total 44)				How good is provision (total 88)				How good are leadership and management * (Total 84)				Overall Judgement (total 22)				Capacity to improve (Total 22)			
	U	A	G	E	U	A	G	E	U	A	G	E	U	A	G	E	U	A	G	E
Total in category	7	17	19	1	5	32	44	7	11	30	42	1	4	6	12	0	3	7	12	0
% of available marks **	15.9	38.6	43.18	2.2	5.7	36.3	50.0	8.0	13.0	35.7	50.0	1.2	18.2	27.3	54.5	0	13.6	31.8	54.5	0

\*Includes 4 categories where information not available

\*\* Totals may not be 100 due to rounding

No LA education department was judged to be excellent overall in the judgement of ESTYN yet 4 LAs are judged to be unsatisfactory. Further, no LA was found to be excellent in any one category in the report yet 11 categories were judged to be unsatisfactory. In the 216 sub categories from which the main areas of performance were judged, only 9 categories in total in any LAs were judged to be Excellent compared to 23 categories judged to be unsatisfactory. Approximately half of the education departments were found to be good and the other half either 'adequate' or 'satisfactory with regard to the outcomes for children, only one was found to be excellent in one sub category. This gives a clear demonstration that education departments in Wales are failing children in Wales, they are not providing children with the educational standards that all children are entitled to expect.

ii

...Specific instances where they (sic) may be concerns are included in Part 6 of this Section. In these cases the LEA should immediately refer these concerns to the appropriate statutory authorities using established protocols.

2.7 Otherwise, the LEA should assume that efficient educational provision is taking place, which is suitable for the child, unless there is evidence to the contrary. There is no express requirement in the 1996 Act for LEAs to investigate actively whether parents are complying with their duties under Section 7.

iii

No web sites were found and no information on the LA web site in respect of EHE in the following eight LA areas: Isle of Anglesey, Blaenau Gwent, Ceredigion, Conwy, Denbighshire, Flintshire, Gwynedd and Swansea.

#### MONMOUTHSHIRE:

The only reference to EHE is a single inaccurate statement in a document:

*'Those students whose parents have elected to "educate at home" receive visits from the EOTAS Manager on a regular basis to oversee the progress of students receiving tuition from their parents'.*

This confuses EOTAS with EHE and implies that visits will be made and the educational progress will be 'overseen'.



### WREXHAM:

On the 'Young Wrexham' page one document refers to Home education. With the following inaccuracies:

*'But the law allows parents to educate their children at home instead of sending them to school, if they are able to show they are giving them a proper education.'* (Implies permission required)

*'Parents should bear in mind however, that at school children are taught by trained professionals, they may have difficulty providing suitable facilities at home for all subjects, especially for science subjects and sport and that it is important children learn how to interact with each other'* (negative view of EHE)

*'If you are under 16 your parents have to tell the Local Education Authority that they are going to educate you at home- you can't just stop going!'* (wrong in law)

### PEMBROKESHIRE:

One single document 'an overview of the pupil support unit' which lists duties as including elective home education:

*The Law States that: It is the legal duty of every parent/carer to ensure his or her child attends school regularly and punctually.* (wrong in law)

### POWYS:

The site has links to a list of documents under the home education heading including:

Elective Home Education child protection

Elective home education questionnaire:

*'This questionnaire is an opportunity for you to inform the Local Education Authority of the arrangements you are making for your child's education ....it will assist the LEA in carrying out its duty to ensure that your child is receiving an appropriate education'* (there is no duty and this implies a requirement to inform the LA)

Included are pages to complete on describing planned curriculum, your timetable, next 12 months plans, list subjects you are studying, what resources are used, what records you keep, what formal assessment you are undertaking and whether the child is SEN. (these are not required by law)

### NEWPORT:

One single page with Education service address. Information is very scant but is accurate

*Most parents/carers choose to send their children to school to fulfil their responsibility, but attendance at school is not the compulsory way to provide education for a child. A small minority of people elect to educate their children out of the mainstream system.*

*If, after careful consideration, you decide to withdraw your child/children from school, you need to write to the school's Headteacher informing them of your decision and ask them to delete your child/children's name from the register. The school will inform the Council's Education Service of your decision.*

### VALE OF GLAMORGAN:

One page describing the services of the 'out of school tuition service'. Includes:

*"Elective Home Education - The service aims to comply with the LEAs statutory duty to monitor those pupil's whose parents have elected to educate their child/children at home." (no such duties and grammatical error)*

*"The co-ordinator liaises with the family regarding the curriculum requirements. Monitoring is ongoing and home visits are offered on a termly basis." (there is no curriculum requirement and monitoring is not required)*

### CAERPHILLY:

See below

### RHONDDA CYNON TAF:

Identical single page to Caerphilly with a clear statement that there are few rights to 'intervene' then:

*If your child has never attended school, you should inform us of your decision to educate your child at home (no legal requirement to do so)*

*There is no rule about what a suitable education is but it should prepare your child for life in a modern society and allow your child to reach his or her full potential. It should offer: A broad and balanced curriculum, English, mathematics and information and communications technology, opportunities for physical, social, spiritual and cultural development. (states subjects as required when they are not)*

### TORFAEN:

Two short paragraphs friendly but implying a need to work with the LA.

### CARDIFF:

School attendance two page. Very hostile in approach including stating numbers prosecuted in the area for failing to;

*ensure their children attended school.*

EHE is mentioned but not positively. The second page is urging people to report children out of school to the LA and implies that children who do not go to school are abused and vulnerable.

### BRIDGEND:

No policy is online but a new policy is under construction to go online and was provided to me. This is being:

*developed with input from EHE families*

Whilst not perfect this is a good example of what can be achieved through co-operation and without coercion.

### NEATH PORT TALBOT:

A large document with some positive points where the legal position is acknowledged but many inaccuracies including reference to needing to bear the national curriculum in mind if children intend to take GCSEs:

*As the Local Education authority (NTC) has a duty to ensure that all children receive a suitable education and as parents educating your children otherwise, you would need to provide information about the education you provide for your children. (no such requirement or duty in law)*

*Following the initial home visit, an initial follow up appointment will (sic) offered for 3 months time and thereafter, visits will be offered once a year. (not required in law and grammatical error)*

### CARMARTHENSHIRE:

A long policy document with some good and correct content but many inaccuracies which are repeated in the separate 'guidance for parents' document such as:

*Under Section 437 of the education Act, the LA must by law serve a School Attendance order (SAO) on the parent of a child of compulsory school age who fails to prove that the child is receiving suitable education. (wrong in law)*

*On receipt of notification that a child is to be home-educated, the LA will seek to make contact with the parents/guardian to discuss their provision. This meeting should be held within four school weeks of notification. The meeting*

*should take place at a mutually acceptable location. The child should be given the opportunity to attend the meeting, or otherwise to express his or her views. During the meeting, the parents and the LA representative should agree the pattern of future contact between them. (meetings are not required in law)*

*The initial meeting will clarify the LA's role in monitoring the provision as well as making it clear to parents that if they wish to home-educate, they assume financial responsibility for their child's education, including the cost of any public examinations, and that the child must continue to receive suitable education until the end of "compulsory education" (i.e. the last Friday in June in the academic year in which they reach age 16). (there is no such monitoring role and the 'advice' is very negative)*

*Later: The authority does not have the right to insist on seeing education in the home, and in those cases where this is not possible, other arrangements will be made to monitor the provision. (again there is no duty to monitor)*

*The LA may reasonably expect the provision to include the following characteristics: ....the involvement of Careers Wales at an appropriate stage (no such requirement)*

#### MERTHYR TYDFIL:

A single policy document with some good points but outweighed by poor information:

*(the LA will) Make contact with the family within 20 school days, either by telephone or in writing, to arrange a meeting with the parent/carer and pupil. This may take place at the family home or another agreed venue. If the parent/carers do not respond to the advisory teacher's efforts to make contact, a joint initial visit will be made to the home with an educational welfare officer. (no obligation to meet and describes cold calling in person or 'doorstepping')*

*Will make contact with the family once a term in order to offer a meeting at home, or other suitable venue... (as above)*



## Risks

There are risks inherent in the introduction of these proposals:

- The proposals are based on research that was seriously flawed, as it did not examine the children it would affect, basing recommendations instead on conjecture and public misconception. The Government could look inept, or even very foolish, to be seen to be acting on such an ill founded basis.
- As similar proposals have already been debated at length in the UK Parliament and defeated, the Welsh Assembly Government could be seen as following without thinking; by trying to force through legislation that has already been found to be lacking, unable to act independently, unable to be innovative or to produce good law, rather than leading the way in education, as they have the opportunity to do.
- The risk of being seen as 'old fashioned' or lacking in modern values. Members of the public could view the introduction of these proposals as draconian and oppressive. This is not the image of a modern and family friendly government.
- Loss of contribution to the economy. EHE parents tend to be entrepreneurs, the writer is aware of two families who have cancelled advanced plans to move to Wales solely as a result of these proposals. One owns a small business that has won awards for innovation and excellence and employs 12 people. Further, several families have stated an intention to leave Wales should the proposals come to law, including the owners of a business that has won several awards.
- By taking the duty to ensure suitability of education from parents, LAs leave themselves open to litigation from children who feel that they have been failed. If families refuse to co-operate with the process the cost of possibly years of litigation through lower Courts to higher and on to Judicial review could be excessive
- The risk of extremely negative public reaction if the serving of a school attendance order on a vulnerable, bullied or school phobic child, resulted in that child beginning to fail where they were succeeding, or worse still committing suicide.
- Justifying the cost of running the scheme at a time of recession particularly when trying to justify cuts elsewhere. Exacerbated by the 'knock on' costs such as funding additional school places for children of families who would have been EHE, if it were not for their lack of acceptance of the proposals.

Each additional child forced into the 'system' would cost the taxpayer £5,590. In addition, some children would not be able to attend school, raising the issue of funding home tutors and other facilities. This would tend to make the government appear unable to prioritise correctly.

- Other countries have introduced monitoring only to find that it made no difference to educational outcomes for EHE children, no difference to the number found to be failing in their duty to provide a suitable education and no difference to numbers of 'at risk' children identified. This puts the government at risk of being seen to be diverting attention to the lowest risk minority and away from very serious issues in state education provision in Wales.
- The proposals could in many ways be counter-productive as families could 'go underground' as was the case when monitoring was introduced in Canada. They would then be less visible to LAs than they are currently. One EHE family has already left Wales after the announcement.
- The risk of public demand to extend the provision. Under 5s are the children at greatest risk of abuse and neglect in our society, if lobby groups pressed to extend the provision to those children, or even to school children during holidays, the resource implications would be enormous.

## Alternative Suggestions

It is a truism that you catch more flies with honey than with vinegar. Currently, LAs do keep a register or list (in the true sense, not a licensing scheme as is proposed) of EHE parents in their areas. Evidence suggests that more families would approach their LA if they felt that there was some advantage to them in doing so. Wales has the opportunity to innovate, to be the most forward thinking Country in the UK and to continue this voluntary registration scheme, but introduce connected benefits. This would result in LAs having the satisfaction of greater EHE family co-operation and EHE families viewing LAs more positively. Benefits of registering could include:

- Payment of exam fees or provision of places at exam centres for EHE children.
- Access to school libraries, after school clubs or sports facilities.
- Opportunity to flexi-school for those who may want it.
- Termly grants to help pay for learning materials.
- Investment in training for LA staff in the law and their duties

Bridgend have taken this forward to some degree and have worked with EHE families including providing modest funding. Their supportive approach has reduced the adversarial atmosphere significantly with EHE families and led to children having the advantages of funded examinations.

All of these suggestions would be more cost effective than the proposals, more acceptable to EHE families and more likely to be actions of the modern, supportive government we would wish to have.