

Further Notes to the Children Schools and Families Committee  
19<sup>th</sup> October 2009

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Further to my written witness submission and following the oral evidence last week it has been suggested to me that I make some comment on the evidence presented last week by GRAHAM BADMAN, Ms DIANA R. JOHNSON and PENNY JONES

I have added my comments on the recorded part of the pre-appointment hearing at the end as Home education was discussed at some length.

Please note this has been hurriedly written and though factually correct may contain spelling and format errors which I would not normally allow.

### **Elective Home Education – 12<sup>th</sup> October 2009**

#### *Witnesses*

Diana R. Johnson MP, Parliamentary Under-Secretary of State for Schools, Department for Children, Schools and Families and Graham Badman CBE

- 1) Diana Johnson “it became clear during 2008 that neither home educators nor local authorities felt that the guidance was working, and that is the reason for the review.”
  - a) The guidance is not written well but in any event most Authorities take little if no notice of it – they complain about “lack of powers” in it. Where they use it and are trained it all works pretty well. My understanding from the civil servants at the DCSF was that the review came about because of constant complaints from Authorities – often authorities that do not understand where their responsibilities in this area start and finish and are afraid of liability or a “Shoemith scenario”, as one Authority described it to me, in the case of abuse of children.
- 2) DJ: Home educators have repeatedly asked for additional support, and I am pleased to say that we have listened to them.
  - a) In my experience this is not the view of even a significant minority. There are specific areas of request for support from some quarters and those are access to GCSEs and access to music and sport tuition.
- 3) GB made comments about the statistics relating to “known to social care”

- a) Firstly Local Authorities are inconsistent in their collation of data. Data is collected and retained in differing constellations across the country (as is evidenced by the difficulty in collecting stats using mass FOI requests). So the likelihood of being able to compare like with like is slim
  - b) Collecting data from only a sample of authorities in this case and comparing with a whole country population is erroneous at best and misleading at worst. It is certainly not statistically sound. If the sample EHE stats had been compared to whole child population stats from the same sample it would have been easier to derive some sense of the reality of the situation in those areas. Mr Badman's handling of statistics is very poor and makes, in my opinion, any stats presented null and void
- 4) GB quoted EHE figures, 16-18 yr old of NEETS of 22%, and compared them to a national whole popn figure, of 5.2%
- a) 5.2% is the figure for 16yr olds only! Not 16-18 yr olds which is much higher at over 10%
  - b) Again he compares a proportion of a sample with a whole population rather than a proportion of a sample with the wider group of the same sample – his selection includes Birmingham which, my sources tell me, probably has the highest proportion of NEETs anyway thus skewing his sample.
  - c) The definition again may differ from authority to authority
  - d) How does one define an EHE NEET? Does one count all not in formal education (i.e. those still home educated)? What about those following informal apprenticeships or part time education? Etc Besides there is no jurisdiction at 16+ for LAs therefore the LA might define a NEET as someone who is a non-participant i.e. one who refuses the Connexions service
- 5) GB: “.....I am persuaded that some in the voluntary sector, such as Autism In Mind, may offer better support and help than local authorities. Under my proposals, they would be able to do that, and could be commissioned to provide those services, with money now going for the first time to local authorities to provide the services.”
- a) As mentioned in my submission a few weeks ago I have issues with Mr Badman's attention to detail. Autism in Mind is “a campaign and support group with the emphasis on 'campaign'” in correspondence to me last week Carole Rutherford added “he only manages to get it half right, again.”
- 6) DJ: “It [the review/report] is about creating a much more positive relationship between home educators and local authority officers. You will see examples in the report of good practice, which is already happening, but of course not across the whole of England; we need to spread it.”
- a) North Yorkshire has had its exemplary good practice destroyed overnight by the distrust and fear the publication of this report has caused. EHE families, who for the last 3 years have had an extraordinarily good relationship with the Authority, are refusing to engage at all, have stopped all communication and where they were taking advantage of services and meetings offered by the authority they have gone to ground. North Yorkshire has a good, well trained

advisor with the back up of an excellent admin team and, to my knowledge, the best Education Welfare department in the country.

- 7) GB "Let me quote a local authority, which said, "Given that Local Authorities do not have the power to see the child or enter the house, we have no direct way of ensuring the safety and wellbeing of children currently being educated at home. By submitting a report in the post, we cannot guarantee that children ARE receiving the provision identified, moreover, we cannot see if the child is meeting the every child matters outcomes. There is no way knowing that they are even in the country and we cannot be certain that they are living in the address provided. This has huge implications re: the 'Children Missing from Education' guidance and procedures. We feel as a LA that we have a duty of care to the children educated in our area and that we cannot fulfil this duty of care if we have no access to the child or the family."
  - a) "ensuring the safety and wellbeing...." This is a constant misunderstanding of the two different levels of safeguarding duty in Authorities. The misconception was repeated on Wed in Mr Traves' closing remarks. The duty to "ensure" only applies, in law, when the Authority has total care/responsibility for the child e.g. school or youth club. Outside of such circumstances – all children under 5 and at weekends for example as well as EHE children – they have the lesser duty of reporting concerns if they come across them in the course of their duties. It would be illogical to have to ensure the wellbeing of children not in one's direct care.
  - b) There is no real way of guaranteeing the receipt of education - but we can look at its provision which is what Ofsted does in schools essentially. There are many ways of looking at provision and, in the case of autonomous ed a visit would be the least efficient.
  - c) Every child matters outcomes are aspirations (not targets) which apply to children in receipt of services from the LA etc. They are not parenting goals. The 5 outcomes have no application here.
  - d) CME guidance, with respect to EHE, is poorly written and it takes some time to figure out how to slot EHE into it well, however I have done it in several authorities.
- 8) GB: "Going back to "Elective Home Education", I cite at the end the court judgment in the Harrison case. What was said at that time-forgive me while I find the right page-was this: "in our judgment 'education' demands at least an element of supervision; merely to allow a child to follow its own devices in the hope that it will acquire knowledge by imitation, experiment or experience in its own way and in its own good time is neither systematic nor instructive...such a course would not be education but, at best, childminding." That was the court's judgment in the case of Harrison and Harrison.
  - a) Firstly the Harrison case was 1981 (if my memory serves me correctly) and our understanding of what constitutes education has moved on a long way from then. To quote a 1981 case and ignore very recent research which talks about non-instructive forms of education seems disingenuous. To quote myself on one of my courses "then there is the case of Autonomous education. On the surface it may appear that nothing is happening however, scratch the surface and you will find

over a period of time a lot of seemingly disjointed learning is coming together to form a cohesive whole. Autonomous education, however, should not be confused with benign neglect”

- 9) GB In the report I used the words, broad, balanced, relevant and differentiated. Those who have been around a bit will know that those are taken from the red book that preceded the coming of the national curriculum-it was the old HMI definition of what constitutes a sensible education.
  - a) There is mention of “BBRD” in legislation – the 2000 Education act – none of which is relevant to EHE. Different parameters have to be put on school education to make it manageable and measurable. There is no such requirement for such definitions for Home education.
- 10) GB “In the process in Scotland there is of course registration,”
  - a) There is no compulsory registration in Scotland. The system there is virtually identical to here. (I have trained Scottish Authorities too and used to home educate myself in Scotland)

### **Children’s Commissioner for England: Pre-appointment Hearing**

Before the meeting interviewed the witnesses there was the Children’s Commissioner for England: Pre-appointment Hearing at which Maggie Atkinson spoke about Elective Home Education. Her statement about Khyra Ishaq was unwarranted and insulting. Much like the noise that was made around the death of Victoria Klimbie a dead child’s name is once again being used, incorrectly, as a catalyst for change. Not only has a judgement not yet been made in this case but Khyra was well known – not hidden – and given the bare facts we know to date it may well be that existing procedures and systems could have prevented the tragedy had they been correctly followed. EHE effectively had nothing to do with this case.

Moving on, Ms Atkinson was asked how the rules had been re-written to stop access to the home as was usual 20 yrs ago. Ms Atkinson said that she thought it was statutory guidance. Firstly there has, to my knowledge, never been statutory access to the home – it was just usual practice The rules have not been re-written about restriction of access to the home in EHE cases and there is only non-statutory guidance in 2007 which clarified the legal position but which is mostly not followed by Authorities.