

Kent comments supporting - Home education (Duty of Local Authorities) Bill

There is a broad consensus that parents have a constitutional right to educate their children at home and that if they choose to home educate, that they have the freedom and flexibility to determine how best to deliver that education. However it is concerning that contrary to almost all other western countries, only English law allows parents to do this without a legal requirement to register to do so. From a safeguarding perspective and to ensure children can access their legal right to education it would seem imperative that families register their children and be required to demonstrate that their children are in receipt of a suitable education to some external body.

The Association of Directors of Children's Services (ADCS), have recently collated EHE data from 118 Local authorities, these findings evidence that Kent's data is representative of the picture up and down the country. With such compelling evidence in the public domain, it appears a change in legislation is long overdue. Sadly the lack of any duty on LAs to capture this to date means that the severity of these issues has been hidden in many areas and is only now being recognised as an area for concern.

According to the ACDS findings, Kent County Council has the highest recorded numbers of children who Home Educate, which places Kent in a strong position to lead on a pilot approach should it be necessary. KCC consider that this would be a duty best served by the local authority as opposed to any other agency, with external monitoring by a separate body, for example Ofsted. Kent County Council have introduced into their working practices a range of solutions to some of the key issues raised by stakeholders during the meeting held at Westminster on 17 October 2017. The efforts made to resolve these have been driven by the worrying statistics presented in the data below.

Kent - 2016-17 EHE Data:

- **1203** new registrations during the 2016-17 Academic Year- An increase of **17.1%** on 2015-16
- **1003** registrations were closed during 2016-17 Academic Year, demonstrating numbers transferring in and out of EHE status is in a constant state of flux causing significant disruption to children's education and it is being used to avoid school attendance orders and associated fines.
- **1956** total Children & Young People registered to Home Educate in Kent as at 31st August 2017

Of these:

- **40% of families registered were involved with child support services in Kent**
- **484 were either currently or historically involved with Childrens Social Care.**
- **A further 377 children were in receipt of or had historically received interventions from Early Help and Preventative Services** (*these are direct family support interventions designed to reduce the burden on social care by helping to introduce strategies to assist families who are struggling to cope with their parenting responsibilities and on the brink social care referrals*)

Kent process – EHE Registration

On registration, each Kent family receives a letter introducing their assigned officer and a comprehensive leaflet providing guidance to families about what is involved in home education, what they can expect by way of support and what their responsibilities entail.

Kent process – EHE Visits

The current legislation does not allow for Local Authorities to insist on a visit, however Kent has set out in its Elective Home Education Policy the following criteria, where Kent would expect that a parent would participate in a meeting and failure to do so would result in a 'Child Missing Education' registration:

- The child has a history of persistent unauthorised absence from school (by persistent absence, KCC mean absence of 15% or higher);
- The child has a record of poor attainment at school as measured by progression in performance using prior attainment and National Curriculum Test Results as the basis for assessment;
- The child has previously been permanently excluded from school(s) or has been subject to more than one fixed term exclusion whilst at school;
- The child has been referred to early help and/or to children's social care

Current Elective Home Education - Guidelines for LA's (last published 2007):

2.4 *Parents are not required to register or seek approval from the local authority to educate their children at home.*

2.7 *'Local authorities have no statutory duties in relation to monitoring the quality of home education. Under Section 437(1) of the Education Act 1996, local authorities shall intervene **if it appears** that parents are not providing a suitable education' – (how would an LA know when there is no duty on the parent to demonstrate their child is in receipt of education)?*

2.8 *The most obvious course of action if the local authority has information that makes it appear that parents are not providing a suitable education, would be to ask parents for further information about the education they are providing. Such a request is not the same as a notice under section 437(1), and is not necessarily a precursor for formal procedures. Parents are under no duty to respond to such enquiries, but it would be sensible for them to do so³,*

It is not clear whether an LA is supposed to assume education is taking place or assume that it is not when parents refuse to engage and/or only provide limited evidence of education with questionable legitimacy – ultimately it is the parents responsibility to provide education in these circumstances but if they do not who will champion the child when they are being failed and if the state has no oversight of whether they are accessing their legal entitlement.

Every LA is required to capture information regarding where a child or young person (CYP) is educated if they have previously been on roll of a school and there are already processes written into legislation that allow LA's to do this, through Census and the pupil registration regulations.

Kent would propose that there is a legal requirement for every family to register with the Local Authority (LA), and for the LA to report these numbers to the DFE just as a school would be required to do so at Census. It is concerning that under current legislation a LA may well be unaware of a CYP residing within their administrative area. No statutory requirement to register a CYP exacerbates the safeguarding concerns held and also impacts the LA in its efforts to meet its legal duties in relation to the PREVENT agenda.

Where a CYP was on roll of a school, Kent would recommend that the CYP to remain on that roll until a visit has been made to confirm that the CYP is in receipt of an education and ownership of results sit with the school until such time that is proven education is in place to ensure the incentive to off roll poorly performing pupils is removed and a schoolplace is available should they be required to return..

It would be helpful if legislation were to be amended to require parents to demonstrate that suitable education is being provided. There should be a level discretion afforded to LA's in determining the frequency of monitoring this so that priority can be given to children where there is limited evidence of education in place and some level of concern, as opposed to families clearly demonstrating and evidencing a broad and suitable education offer clearly satisfying a child's educational needs. There is a distinction to be made here and this would assist LAs in ensuring any new duty does not become unnecessarily administratively burdensome where good practice is consistently demonstrated. Annual monitoring visits would be appropriate with an option to withdraw monitoring after 2 years if there is confidence in the quality of provision in place; or where there are concerns, LA's should have the flexibility to review in quarterly blocks with a return to school as a requirement, if no suitable education has been evidenced within 6 months.

Where education cannot be evidenced, there is Statutory guidance already in place to allow the LA to proceed with identifying a school place and where appropriate to take legal action.

Identifying where a Child or Young Person is not in receipt of education.

- **Kent process**

Where the parent declines a visit and Kent's EHE policy criteria for a visit is met, the parent will have the right to provide evidence for the period that they have been educating and this is assessed by a qualified teacher to confirm the suitability of the provision.

Where a visit has been offered and there is little evidence that a 'suitable' education is taking place, however the parent is trying their best; Kent will support, advise and signpost to resources that will help the family to enhance the education being provided and Kent will seek to agree a follow up meeting to monitor progress.

In the case of families with primary aged children, who would if they were on a school roll, meet the free school meals criteria; KCC offers a small number of licenses to access on-line resources such as Mathletics and Reading eggs.

Where a parent informs KCC that they were coerced into Home Educating by their previous school and, no evidence is presented or the evidence is insufficient to record that a 'suitable' education is taking place at either the initial visit or follow up visit, the record is closed to EHE and opened to Children Missing Education and the parent is informed of this decision in writing. The named school is then used in any school attendance order which may ensue.

Using legislation set out in the *School Admissions Code Dec 2014 (SAC)*, Education provision will be identified by Kent through the In Year Fair Access (IYFA) Panel for the locality in which the CYP resides, and a school place is identified.

**(School Admissions Code Dec 2014 - Fair Access Protocol – where a CYP is without education, the panel will identify a school in consultation with a panel of head teachers in the residential locality of the CYP).*

IYFA protocol, dictates that where a CYP was previously on roll of a school that school will be expected to accept the children back on their roll, and will potentially be directed to do so unless there are exceptional circumstances.

This approach provides a joined up approach to enabling families to educate and having a mechanism for the State to step in where children are being denied their right to education. It is hindered only because parents can choose not to engage and fail to demonstrate that suitable education is taking place. KCC sincerely hopes this Bill will address that failing in the system.