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Gofal Cymdeithasol Plant

An evidence based review of the risks to children and young people who are educated at home

Final Report

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Safeguarding Board

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Key terms and definitions

- *Child(ren)/young people* - Unless otherwise stated, a child/young person is to be understood as any person below the age of 18 (see section 105 of the Children Act 1989 and Article 1 of the UNCRC). The terms 'child(ren)' and 'young people/persons' are used interchangeably.
- *Compulsory education age* – All children aged 5 to 16 years are required to receive an education 'at school or otherwise'. For those in mainstream education, an optional reception year is available for children at the age 4. Multiple opportunities exist for non-compulsory education post-16 years¹. Home education may form part, or all, of a child's compulsory educational experience.
- *EHE* – Elective home education is the term used by Welsh Government and the Department for Education in England to refer to children who are educated otherwise (i.e. they are not receiving education via EOTAS (see below) or in a school setting, whether State, private or other). This report uses this term only when quoting sources that use EHE.
- *EOTAS* – Education Other Than At School includes educational provision of education outside a school setting. This can include, but is not limited to, Pupil Referral Units (PRUs), individual pathways, and other forms of independent or voluntary sector provision.
- *Flexi-Schooling* – Children may be enrolled in a school for their education but might have elements of their education provided outside (i.e. off-site) of the School. This is permitted under S444(9) of the Education Act 1996 and is often referred to as flexi-schooling.
- *Home education* – This review generally adopts the term home education as opposed to EHE to refer to children who are educated at home or elsewhere by parents.
- *Home educator* – This review adopts the term home educator to refer to parents/carers who educate their children otherwise than at school.
- *Parent* – This includes a person who has Parental Responsibility for a child (see section 3(1) Children Act 1989² and section 576 of the Education Act 1996).
- *School* – Unless otherwise stated, this refers to a school, college or similar provided, or otherwise maintained, by the State. It does not include EOTAS or Independent Schools³.

¹ In Wales, unlike England, there is no requirement for young people aged 17 or 18 to be in education, training or apprenticeships.

² Further information about Parental Responsibility can also be found under Sections 2 and 4 of the same Act.

- *State* – This is a reference to a Nation State (i.e. country).
- *Welfare* – Welfare should be understood in terms of the Section 1 of the Children Act 1989.
- *Well-being* – This should be understood through the domains identified under Section 2 of the Social Services and Well-being (Wales) Act 2014. The term well-being would encompass welfare. Well-being is the preferred term in this report as it allows a more holistic approach to understanding the situation of a child(ren).

A Note on Devolution

This report focuses on contemporary Welsh legislation and policy regarding home education, child/young person safeguarding and related topics. Under the Acts of devolution⁴, both Education and Social Care are within the legislative remit of the National Assembly for Wales. Legislation introduced pre-devolution remains in effect until such time that it is amended or repealed by the National Assembly for Wales. The Welsh Government is responsible for implementation of legislation passed by the National Assembly for Wales. There is a common legal system across England and Wales and this, like criminal justice, is a reserved matter that remains under the jurisdiction of the UK Parliament and HM Government. As such, some elements of safeguarding continue to be affected by legislation and policy from both the National Assembly for Wales and the UK Parliament.

³ This encompasses private, not-for-profit, voluntary and charitable schools.

⁴ Government of Wales Act 1998, Government of Wales Act 2006 and the Wales Act 2014. The Wales Act 2017 has not been implemented at the time of this report being published.

1.0 Summary

1.1 Background

The death of Dylan Seabridge in December 2011 raised questions about whether existing safeguarding mechanisms are sufficient for children who are home educated. This review was commissioned by the National Independent Safeguarding Board in February 2017 to explore possible risks in relation to safeguarding, health and well-being for children and young people who are educated at home.

1.2 Method

The review involves four main elements of data collection in addition to a summary of current legislation and policy in Wales. These are:

1. A rapid review of the existing literature since 2000, which identified 57 sources of UK evidence.
2. A review of 11 child practice reviews and serious case reviews where home education was a factor.
3. Telephone interviews were conducted with 45 stakeholders comprising home educators and representatives from Welsh Government, local authorities, health, charities, voluntary groups and Children's Commissioners from Wales and Scotland.
4. An online survey of home educating parents which had 134 responses.

1.3 Main findings

1.3.1 Review of existing evidence

- Only a small proportion of children are home educated – perhaps 2-3,000 in Wales.
- There are signs that the numbers are increasing – perhaps doubling over the last 6 years.
- They are a diverse group of children, including those whose parents choose home education from birth and a larger group who leave school. Often the reasons for children leaving school include bullying, additional needs or a child having other problems at school.
- Home educated children tend to have poorer access to both universal and specialist services that are provided for children in school.

1.3.2 Serious Case Reviews and Child Practice Reviews:

- Home education was identified as a feature in 11 reviews. These broke down into two types of case:
 - “Withdrawers” – in four families home education was part of a withdrawal from services following the identification of concerns. There was evidence that professionals failed to respond to this sufficiently robustly.
 - “Avoiders” – in seven families home education was part of a strategy by parents that prevented, limited or controlled professional contact with children. This seemed to be associated with controlling and apparently eccentric parents, several of whom may have had undiagnosed mental health problems.
- It is evident that some home educated children are abused and neglected. We have no reason for believing this is any more – or less – common than in the general population.
- It is clear that where children are maltreated it can be more difficult for this to be identified if a parent wishes to limit access to a child, and home education can and did contribute to that. Parents who are abusing or neglecting their children can, do and have used home education as one of the ways of limiting professional contact and therefore protection.
- Current practice leaves some children at risk because their parents are using home education as a way of controlling and limiting contact with their children.

1.3.3 Stakeholder responses: interviews and survey responses

1.3.3.1 Views of home educators

- The reasons for home education echoed those identified in the literature review. Home educators are a very diverse group but there were two broad groups.
- Those who removed a child from school tended to be very disappointed by the quality of education and care their child had experienced. Often these children had additional needs that the school had not met.

- Those who had not sent children to school tended to be critical of the nature of school provision and favour more “child centred” approaches. For some this was part of a wider rejection of the state.
- Both groups shared predominantly negative experiences of professionals in their lives.
- There was virtual unanimity that few services and little support was provided for children who were home educated. There were many stories of what appeared unhelpful or intrusive involvement from professionals.
- This negative experience of education and other services contributed to a widespread – though not universal – opposition amongst home educators to any move to register home educated children or assess the quality of their education or well-being.
- Many questioned whether a register and/or increased assessment would achieve anything if there were not support services associated with it.
- Most resented the implication that home education was in any way associated with abuse or neglect.
- A small number of examples of safeguarding issues for home educated children were identified, with respondents suggesting they had been referred appropriately and dealt with well by Children’s Services.

1.3.3.2 Views of professionals

- Most professionals identified positives about home education, such as the quality of the educational experience and the commitment of the parents.
- Almost universally professionals could identify a small number of home educated children where there had been actual or suspected abuse or neglect.
- These included children educated throughout their childhood where it was felt abuse or neglect might go undetected.
- Children who left school because of serious problems that would only be exacerbated by the child becoming home educated were a second group where professionals were worried about the safety and well-being of children.

1.4 Discussion

The overall approach enshrined across the legislation is relatively straightforward: children are usually best brought up by their parents, but the state has a duty both to support parents to do this and to intervene proportionately when children may be experiencing serious harm. It is this approach that should undergird policy and practice responses to children who are home educated.

Our evidence is clear that at present this is not happening. Our duties as a society to support, protect and ensure the education of children do not end if they are home educated. The state is not supporting home educated children or their families. Equally, we can have no confidence that the minority of children educated at home who are being abused or neglected are being identified or protected.

We therefore recommend a new approach for home education in Wales. This approach should be based on the principles of the Social Services and Well-Being (Wales) Act 2014 and prioritise support and co-production. However, it is also reasonable for society to know how many children are being home educated and for the state to assess the safety, well-being and education of these children. Our recommendations are aimed at creating this more constructive and transparent partnership between parents and the state when children are home educated.

1.5 Recommendations

Recommendation 1: A significantly enhanced support service for home educated children, to include:

- a. Clear duties for local authorities to support the education and well-being of children who are home educated.
- b. The Welsh Government and local authorities should ensure that funds are available to deliver this duty to support home educated children, for instance by providing a proportion of the per-pupil funding that is provided for school educated children.
- c. This support service should be delivered by professionals who understand the particular needs and circumstances of home educated children and their families.
- d. Such support to be developed in partnership with the local home education community as consistent with principles of co-production.

- e. The proposed home education support service should fund the sitting of examinations as a right for each child in Wales not only those in school.
- f. Where children leave the school roll the family should have access to an independent assessment of their child's educational needs. This assessment would identify whether reasonable steps could be taken by education services to ensure the child remains in school and/or the support needed for the child to be educated at home.
- g. Schools should be encouraged to be creative in addressing the needs of children who might become home educated where this is not a positive choice by parents, and in particular explore shared educational options. Inspection of schools and evaluation of attendance figures would need to recognise this as a valid option for some children, for instance by excluding them from attendance measures.
- h. Where a child is withdrawn from school and home educated the school and other professionals should assess whether this change might give rise to care and support needs or pose a risk to the well-being or safety of the child. If this is the case a referral to social services should be made.

Recommendation 2: Clearer assessment of the needs and well-being of home educated children, this requires:

- a. There should be a register of home educated children in a similar way to the school register.
- b. A more holistic assessment of the well-being and education of children educated at home should be undertaken at regular intervals. Such assessments would focus on ensuring that the child is thriving, their education is adequate and would help provide and plan for appropriate support services.
- c. Such assessments should involve children, as appropriate for age and ability. They should also take place in the child's home as their place of education.
- d. A key decision is whether registration and/or cooperating with assessment should be a legal expectation on parents. Making registration and assessment compulsory would create high levels of resistance from a significant proportion of home educating parents. Yet, a voluntary scheme

would be unlikely to have protected Dylan Seabridge or other children known to have suffered serious abuse or neglect whilst home educated. We therefore recommend that registration and regular assessment should be legal expectations for parents choosing to home educate.

Recommendation 3: An improved response to children where actual or suspected harm is identified and the child is or becomes home educated.

Home education is not a risk factor for child abuse or neglect. However, where there are concerns for a child's safety or well-being home education significantly reduces professional access and child safety monitoring opportunities. Responses to any risk of abuse or neglect identified about a home educated child need to take seriously this reduced level of scrutiny.

- a. Failure to educate a child may harm their well-being and can in itself be a form of neglect. If there are grounds to believe a child is not receiving education, this should result in a referral to social services, either for an assessment of any care and support needs the child and family might have, or, where the level of risk is higher, as a child at risk of neglect.
- b. Where actual or suspected abuse or neglect has led to a child being allocated either as a child in need of care and support or on the Child Protection Register, and that child is or becomes home educated, the plan should include as appropriate:
 - i. Considerably more announced and unannounced visits than a child in school would have.
 - ii. More frequent professional meetings and information sharing.
 - iii. Joint visits with child protection and education staff.
- c. Where actual or suspected abuse and neglect is identified professionals should assess whether home education appears to be an attempt to avoid professional scrutiny. Where there is evidence that this is the case it increases the risk of harm to the child. Appropriate legal action and statutory safeguarding procedures should be used to ensure the child is safe.
- d. Where home education is considered to increase risks to a child, professionals should be aware that education legislation will *not*

provide protection. The safeguarding provisions of the Children Act 1989 need to be used as appropriate for the child and their circumstances.

- e. Each local authority should have a named individual with responsibility and expertise in relation to home education and safeguarding. This individual should provide advice and consultancy for the relatively small number of families where home education and safeguarding issues arise.

Recommendation 4: We recommend that Estyn be given a duty to inspect the adequacy of local authority provision to support and assess home education.

Such inspections would need to include educational and social care expertise and knowledge of good practice in home education. This should include designing criteria for inspection that do not take a negative approach to flexi-schooling arrangements. Such inspections should also consider the adequacy of support and safeguarding for home educated children within each authority.

2.0 Introduction

Shortly before Christmas 2011 Dylan Seabridge died. He was 8 years old. The post mortem found that Dylan was suffering from gross anaemia, dental abnormalities and soft tissue haemorrhage in the lower legs; had any child care professional seen him they would have been quickly alerted to his suffering (Rhodes-White, 2016). The cause of death was long-term vitamin C deficiency, commonly known as scurvy. This is an easily identifiable and treatable condition. That a child should die from it in the 21st century is shocking. Just as shocking, perhaps, is that the Review into Dylan's death found that since immunisations in the year after his birth Dylan had not been seen by professionals. He had not seen his GP or dentist. His parents had not brought him for his developmental checks. His parents had chosen not to educate him at school so Dylan was not seen by teachers. When education welfare officers visited, Dylan's father refused them access to the home or to see Dylan, as is allowed under the 1996 Education Act. The review concluded that Dylan had become "invisible". Dylan's tragic and shocking death led to serious questions about the safety and well-being of children educated at home in Wales. These questions provided the impetus for the commissioning of this report, which examines the extent and nature of home education, whether current service provision is adequate and how we might improve our responses to ensure that home educated children in Wales are safe and well.

Dylan's death is not the first time in recent years that the death of a home educated child has led to a report on home education and safeguarding. Kyra Ishaq experienced horrific abuse while being "home educated". This led to the commissioning of Graham Badman (2009) to produce a report for the UK government. Badman concluded that the legal and policy provisions for home education in the UK are probably the most liberal of any developed country, and that this results in few protections for children in relation to either quality of education or welfare and safety. He recommended, amongst other things, a compulsory register of home educated children and regular monitoring visits.

Following the recommendations of Badman, the (then) Department for Children, Schools and Families (now the Department for Education) in England made proposals to introduce compulsory registration and home visits and a right for children to be seen alone. These were subject to one of the most effective lobbying campaigns of modern times, with MPs receiving huge numbers of objections from home educators. In part prompted by this campaign, the Parliamentary Select Committee reviewed the recommendations and concluded that they were excessive.

At around the same time a record number of petitions opposing the proposals were presented in parliament. Ultimately none of the Badman proposals were enacted.

Yet, despite the rejection of these recommendations, worries continue to be raised about the safety and well-being of some home educated children. For instance, in 2015, Her Honour Judge Lynn Roberts noted in a judgement about a young person with severe disabilities who had been seriously neglected at home while being “home educated”, *Re S (a child with disabilities)* [2015] EWFC B40:

It is of great concern to me that it is possible for a child who is home-educated not to be seen in his home environment. It cannot be right and I shall want those responsible for home education locally to consider this and this judgment must be disclosed to the Education Department. It cannot be right that a school-educated child has his school premises inspected but that a home-educated child does not have his home inspected. As this case shows, such a child can be being educated in a harmful environment and the State neither knows nor acts for years. It must be, in my judgment, incumbent on the Home Education Service to visit and assess a child in his home environment. [para 25]

Barry Sheerman MP – and for a long time chair of the parliamentary Education Select Committee – commented on this judgement:

If we do not take action, there will be tragic consequences that we will regret. People will say, just as they did with child neglect and Baby P, that we all knew what was going on and no one did anything to stop it... the law severely, and potentially dangerously, curbs local authorities' ability to monitor home-educated children (The Guardian, 2015)

Shortly after this statement Sheerman's successor as chair of the Education Select Committee also commented that:

I find it absolutely amazing people who are home educated are not registered as being home educated. It's an absolute scandal that that should be allowed. (Schools Week, 2015)

The context for this report is not, therefore, just the shocking death of Dylan Seabridge. It is more accurate to see Dylan Seabridge as one example of a repeated pattern of anxiety around a lack of professional involvement with home educated children who experience serious harm. These may not be particularly frequent. Yet nonetheless when professionals or policymakers review the legal situation they are

surprised to discover there is no requirement for home educated children to be registered, no right for professionals to meet them, to inspect the appropriateness of the home or check that the child is actually receiving the education parents claim they are receiving.

On the other hand, it has been argued that identifying safeguarding issues within home education is problematic. Bhopal and Myers (2016) suggest that a small number of instances of neglect or abuse have created a moral panic where home education has become characterised as a child protection risk. Some home educators have argued:

much of the fear surrounding home education and safeguarding, stems from lack of understanding of existing powers and legislation and in some cases a lack of willingness to use those powers appropriately. (Charles-Warner, 2015:3)

Home educators have also ‘vehemently rejected’ any suggestion that home education be linked with safeguarding issues (Monk, 2009:169). The Badman Review (2009) was criticised for assuming such a link at the outset:

The [Badman] review ...was commissioned because of (unsubstantiated) allegations that home education was being used as a cover for child abuse. This concern meant that from the very beginning the review conflated education and child safeguarding issues. (Stafford, 2012:363)

Conroy (2010) argues that such safeguarding anxieties are being exploited so that the State can exceed its boundaries rather than adopting carefully regulated involvement in cases where a child’s welfare is at risk.

This review was commissioned in light of the complex considerations in this area. The remit is to provide evidence and, as appropriate, recommendations for home education policy and practice in Wales. The objectives of this review are to:

- a. Review practice guidance, structures and legislation in Wales.
- b. Identify existing UK evidence that has identified concerns in relation to home-education and the themes of health, safeguarding or well-being.
- c. Identify what measures have been recommended in the evidence and what progress has been made to address the identified risks in relation to the themes of health, safeguarding or well-being.

- d. Establish the effectiveness of existing service delivery of Elective Home Education in Wales
- e. Engage with relevant stakeholders in informing conclusions on the changes needed.

To meet these objectives data were collected from four sources:

- A review of UK evidence around home education and safeguarding issues.
- A review of child practice reviews and serious case reviews of child deaths or serious incidents where home education was identified as an issue.
- Interviews with key stakeholders including home educators and representatives from Welsh Government, local authorities, health, charities, voluntary groups and Children's Commissioners from Wales and Scotland.
- An online survey for home educating parents

The review concludes with recommendations for improving policy and practice. In presenting our findings the report consists of the following parts:

- A summary of our data collection methods (full information in Appendix A)
- A summary of the legal and policy context (with fuller information in Appendix D)
- A review of literature since 2000
- Analysis of Child Practice Reviews (CPRs) and Serious Case reviews (SCRs)
- Views of home educators
- Views of professionals
- Discussion and Recommendations

3.0 Methods

Data collected consisted of:

- a literature review,
- analysis of a small number of reviews of serious incidents where home education was identified as an issue,
- telephone interviews with professionals and home educators,
- an online survey for home educators.

Here brief information is provided on each of these elements. Fuller details are given in Appendix A.

3.1 Literature review

A rapid review approach was adopted so that a structured and rigorous search and analysis could be undertaken within the limited timeframe of the review (see Thomas, Newman and Sandy, 2013). The search strategy drew upon a range of databases and electronic data sources to ensure coverage of recent policy documents, grey literature and academic evidence published since 2000. Searches were supplemented by internet searching and hand searching of journals, as well as with recommendations from professionals. Appendix A provides a flow diagram and further information on search terms and exclusions.

A total of 96 potential sources were identified, with 41 excluded as they did not meet the search parameters. Therefore, 57 sources were included for the literature review. Key findings are summarised in relation to themes that emerged.

3.2 Review of Child Practice Reviews and Serious Care Reviews

In England and Wales child deaths or serious incidents are subject to reviews in order to learn policy and practice lessons. In Wales, these are termed Child Practice Reviews (CPRs) and in England Serious Case Reviews (SCRs). There is no searchable repository for CPRs for Wales. Instead, a question was added to all professional interviews to determine whether the respondent knew of any case reviews involving children who are educated at home. In doing so, four cases were revealed although only two practice reviews could be obtained. In order to identify SCRs a search was undertaken of the NSPCC national case review repository using the search term 'home education'. Of the sixteen reports generated, one was excluded on the basis that it was not the child in scope who had been home educated but rather the parent. Of the remainder, reports were available for 11 of the 15. The review of Case Reviews therefore considered 13, though home education

seemed marginal in two of these families. The review therefore analyses 11 CPRs/SCRs.

3.3 Interviews: Professionals

The telephone interview (Appendix B) and online survey (Appendix C) invited respondents to comment upon current home education provision in Wales and considerations around safeguarding and child welfare. Both the interview and the questionnaire began by asking stakeholders about levels of contact between home educators and the local authority (LA), reasons for contact and the strengths and weaknesses of existing measures. The second section focused upon safeguarding including whether current measures were sufficient and whether it was appropriate for local authority staff responsible for home education to assess child welfare.

Eighty-two stakeholders were invited to be interviewed representing a range of statutory, voluntary and third sector organisations. Of these, 45 responded (a 55% response rate). Representatives from all 22 LAs in Wales participated in telephone interviews. A wide variety of professionals responded including Directors of Education, Service Managers for learning, inclusion, safeguarding as well as co-ordinators and Education Welfare Officers. Three of the six Regional Safeguarding Children Boards contributed to the review, as did 6 of the 11 safeguarding representatives from the Health Board and NHS Trusts in Wales as well as representatives from the Welsh Government, the Children's Commissioner for Wales, and following contact with a home educator from Scotland, the Children's Commissioner for Scotland.

3.4 Interviews: Home educators

We identified home education organisations and support groups in Wales. Of 3 identified one issued a written statement (Appendix E), one cited technical difficulties and one did not respond. In regards to the home education support groups, 4 of the 15 emails sent could not be delivered due to out of date contact details. None of the remaining 11 accepted the invitation to be interviewed. Hence, none of the 6 home educators interviewed were from these groups. Four were identified through LAs, one through a voluntary group (not specific to home educators) and one volunteered when they heard about the research. The stakeholder interviews are therefore strongly weighted toward voluntary sector and public service respondents.

3.5 Online survey respondents

The online survey was aimed at home educators. The 134 responses to the survey, provide a range of views on home education and safeguarding issues – and they are a large sample for UK research in this area - but they do not purport to be

representative as we do not know how many individuals received the questionnaire nor how they compare to the whole population of home educators.

In presenting findings, it proved simpler to combine interviews and online responses from home educators.

4.0 Summary of the legal and policy context

A comprehensive legal discussion of home education and safeguarding can be found in Appendix D. What follows here is a summary of the legal context of home education and safeguarding.

4.1 Education

A child's right to an education is identified under Article 2 of Protocol 1 of the European Convention on Human Rights (ECHR) and under Article 28 of the United Nations Conventions on Rights of the Child (UNCRC). Integral to both the ECHR and UNCRC are the role of both parents and the State. Parents are afforded rights to ensure that their children are educated, and brought up (i.e. have a private and family life), in a manner which conforms with their religious, philosophical and cultural beliefs. In Wales, parents are obligated to ensure that their child receives a suitable and efficient fulltime education by regular attendance at school or otherwise (see section 7 of the Education Act 1996)⁵.

Parents must notify local authorities of their intention to withdraw a child from school based educational provision but they are under no obligation to meet with local authority representatives, or permit access to their property. Local authorities are, however, also obligated to ensure that children are receiving, or have access to, appropriate education (see section 436A of the Education Act 1996)⁶. Where necessary local authorities may issue or apply for School Attendance Orders (SAOs) and Education Supervision Orders (ESOs)⁷. Non-statutory guidance (Welsh Government, 2017) provides the basis for the Welsh Government's currently preferred method of engagement.

In addition to the Education Act, the Social Services and Well-being (Wales) Act 2014 identifies education as a domain of well-being. As such, local authorities must have due regard to the well-being of a child's education in the course of their work (this applies regardless of the form of education). Parents can accept, or decline, both assessment and services from local authorities for a range of care and support

⁵ See *R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust* Times Law Reports 12 April 1985 for an explanation of the terms 'efficient' and 'suitable'.

⁶ Estyn currently has no obligation to monitor local authorities support and assessment of home education.

⁷ SAOs are described under section 437 of the Education Act 1996 and ESOs under section 36 of the Children Act 1989.

needs under this Act (see Parts 3 and 4 of the Act and the accompanying Codes of Practice).

4.2 Safeguarding

In addition to ensuring that children have an education, both the ECHR and the UNCRC identify that the State has a duty to protect children from violence, abuse, neglect, exploitation and bad treatment by parents or anyone else who looks after them. In short, the right to a private and family life is a qualified right which permits the State to intervene where it is necessary, provided the intervention is proportionate and it is in accordance with the law for a legitimate aim (please refer to Human Rights Act 1998).

For children in Wales the right of the State to intervene is primarily facilitated through the Children Act 1989⁸. Under section 47 local authorities have a duty to investigate where they 'have reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm'. As a result of investigations a child and their family *may*; (i) receive support on a voluntary basis under the Social Services and Well-being (Wales) Act 2014; (ii) have their name placed on the Child Protection Register (CPR) or (iii) an application might be made for a court order under Parts 4 and 5 of the Children Act 1989.

These duties to investigate apply to all children residing in the local authority area. Home education is not, as is noted in the current non-statutory guidance for Wales (Welsh Government, 2017), a reason in and of itself to consider a child is suffering, or is likely to suffer, significant harm. However, where a child is 'hidden', intentionally or not, from services (i.e. there is no engagement with education, health services, or other statutory agencies) it seems unclear how the State is able to fulfil its obligations under Article 19 the UNCRC (*Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them*). Equally, the limited power to monitor education provision in the context of home education means it is can be difficult for the State to determine if the education being delivered is suitable and efficient.

⁸ Please also refer to the Children Act 2004 and Working Together to Safeguard Children (Welsh Government, 2006).

5.0 A rapid review of existing evidence on home education and child well-being

5.1 Who is being home educated?

With no legal requirement to register home education, official figures are based upon the numbers known to the LA. For children who have attended school, the Education (Pupil Registration) (England) (Amendment) Regulations 2016, requires that schools must notify the LA when a child's name is removed from the admission register. The reliability of these figures have been questioned, with Hopwood, O'Neill, Castro, & Hodgson (2007) reporting that some children may become lost when moving to another LA, in the transition from primary to secondary school and that information sharing can be ad hoc. For children home educated since birth there is no requirement to register with the LA, although some families may do so voluntarily. Research findings suggest that official figures do not accurately identify all home educated children. For instance, Rothermel (2002) found that 31% of families (N=206) were unknown to the LA. There are therefore no reliable figures on the number of children who are home educated.

Estimates suggest that there are between 45,250 and 150,000 home educated children in the UK, with 1% of families with dependent children being home educated at some point (Arora, 2006; Hopwood, O'Neill, Castro, & Hodgson, 2007; Smith & Nelson, 2015). It is generally agreed that the numbers are increasing with one home educator estimating an annual increase of around 17% (Fortune-Wood, 2015) while a review of LA records identified a doubling in the number of home educated children in the UK over the last 6 years (Schools Weekly, 2017). In Wales, the numbers have steadily increased over the last six years from 986 to 1,724 (Welsh Government, 2017b). Such figures are based upon families known to the LA. It therefore seems reasonable to estimate that there are between 2,000 and 3,000 children home educated in Wales representing 0.4-0.6% of the 451,966 children and young people aged between 5 – 17 years old in Wales (based upon 2015 figures published by the ONS).

Most home educators appear to be white British families (Association of Directors of Children's Services, 2016; Hopwood et al., 2007; Arora, 2002) and the bulk of those providing home education are mothers (Kendall and Taylor, 2016; Parsons and Lewis, 2010; Morton, 2007). There appear to be even numbers of boys and girls with more children home educated at secondary school age (Hopwood et al, 2007). Burke (2007) notes that UK legislation is based on the assumption that families have two parents with the potential to resource home education on one income. Yet,

Arora's (2006) research found a third of the sample were single parents whilst others have found that families struggle to finance home education (Kendall and Taylor, 2016; Parsons and Lewis, 2010).

5.2 Why are children home educated?

The home education population is diverse. Reasons for home education include ideological beliefs, culture, religion, education pedagogies, health, special educational needs, bullying, or school-based factors such as distance to school or dissatisfaction with teaching (Thomas cited by Axis Educational Trust, 2012; Welsh Government, 2017; Nelson, 2014; Morton, 2010; Burke, 2007; Rothermel, 2002). Membership of home education organisations and support groups tends to be based upon these affiliations, although not all home educators engage with such groups (Ofsted, 2010; Burke, 2007; Rothermel, 2003).

The notion of 'elective home education' has been challenged with Burke's (2007) research in a London Borough suggesting that a number of parents felt they had been forced out of education due to religious beliefs or dissatisfaction with the school regarding special educational needs provision, bullying and disputes with the LA (including one possibility of non-attendance legal proceedings and two cases with ongoing child protection issues). For these families, there was initially no intention to home educate and in some cases families did not fully understand the extent of their responsibilities, (Burke, 2007). Within those who feel forced out of school, some parents may feel they have no choice but to de-register whilst others may be encouraged, or coercively de-registered (House of Commons Children, Schools and Families Committee, 2009; Ofsted, 2010; McIntyre-Bhatty, 2008). In these cases, poor school attendance, behaviour or attainment may result in the school or LA encouraging parents to de-register their children (Ofsted, 2010, McIntyre-Bhatty, 2008; Anderson et al, 2002). Finally, some parents may select home education as a means of avoiding prosecution for school non-attendance (Ofsted, 2010). Those leaving school appear to be the group that is growing most swiftly and driving the rapid increase in numbers home educating (Schools Weekly, 2017).

Of those who do de-register for a period of time many subsequently re-enrol their children at school. Arora's (2002) study found 41 of the 65 home education families in Kirklees had re-enrolled their children in school eighteen months later. No studies were found that examine re-enrollers and their experiences of home education (Jennens, 2011). Yet, Burke (2007) and Smith and Nelson (2016) suggest that the majority of home educators do so temporarily.

The diverse reasons for home education render attempts to categorise home educated children difficult. Whilst some adopt the broad distinction between those who home educate rather than send a child to school and those who de-register from school, others have revealed differences *within* as well as *between* the different groups. For instance, those home educating according to religious beliefs may differ as to whether they teach religious doctrines or opt instead for child-led inquiry (Rothermel, 2003). Families often move between categories or are members of more than one simultaneously.

For those families who de-register their children from school it would appear that Special Education Needs (SEN) and bullying are the primary motivators for home education. For instance, Brown, Clery and Ferguson (2011) found that the main reasons given for home education were the child not liking or being suited to school because of teaching (54%), academic or social limitations or of schools in their area (52%) and/or bullying (43%). The next sections consider three of the most common reasons given for home education, namely bullying, special needs and being a member of the Gypsy and traveller community.

5.2.1 Bullying

Brown et al (2011) estimate as many as 1 in 5 children are home educated due to bullying. Bullying appears to underlie dissatisfaction with school whether it directly leads to de-registration (Smith and Nelson, 2015; Wray and Thomas, 2013; Morton, 2010; Hopwood et al, 2007; Arora, 2002; Anderson et al, 2002) or indirectly as worries deter parents from sending their children to school (Bhopal and Myers, 2016). According to evidence presented at the All Party Parliamentary Group (APPG) on Bullying 2011-2016 (2017), schools do not acknowledge that some children may 'disappear' from school due to severe bullying. Some schools may actively encourage de-registration whilst others may opt instead to identify anxiety as the cause for disappearance, especially if this occurs around the time of transition from primary to secondary school (Hopwood et al, 2007). Home education in these instances serves as an escape from a difficult situation, rather than reflecting parental preference or capacity, including financial, academic and/or emotional ability to support and home educate their children.

5.2.2 Special Educational Needs

For children with SEN, dissatisfaction with schools appears to be the primary motivator for home education (Parsons and Lewis, 2010; Morton, 2010; Hopwood et al, 2007; Rothermel, 2004; Arora, 2006). This dissatisfaction may be the result of

school's attitudes towards, and willingness to work with parents (Kendall and Taylor, 2016) and/or their attitudes towards and willingness to work with the child to meet their social, emotional and educational needs, (Kendall and Taylor, 2016; Parsons and Lewis, 2010; Arora, 2006), manage behavioural issues or cater for specific SEN needs, such as those on the autistic spectrum or the gifted and talented (Kendall and Taylor, 2016; Arora, 2014; Morton, 2010). Hence, Morton (2010) concludes that the decision to home educate is not taken lightly and is perceived as the 'last resort' after parents have tried, unsuccessfully, to make school work for their children. The impact of such failed attempts can adversely affect the child's health and emotional well-being (Kendall and Taylor, 2016; Taylor, Kendall and Forrester, 2011).

Some SEN families require access to specialist support, yet the Support for Home Education report (Education Committee, 2012) found differential practice across local authorities, with some refusing to provide support once a child is home educated. This contravenes the local authority requirement to make sure the child is provided for and that education meets that need (Education Committee, 2012), yet it seems to be common practice. Arora (2003) found that home educated children do not have the same access to support services that children at school have. She argues that educational psychologists should support children who are home educated due to bullying, learning difficulties, SEN or behavioural problems and should explore the teaching and learning methods used by home educators, especially those that tailor education to a child's needs. Lack of support for children who are home educated also places the financial burden on parents for such services as speech and language therapy or physiotherapy (Taylor, Kendall and Forrester, 2011). Differential access can also be seen in the provision of health monitoring which is typically delivered within schools (Ofsted, 2010). It appears therefore that not only are home educated children not receiving education related services but that they are less likely to be able to access some universal monitoring and service provision for health needs.

5.2.3 Gypsy and Travellers

A high proportion of Gypsy and Traveller (GT) children are home educated, particularly as they get older. There are multiple reasons for this, while lifestyle and culture are often a factor, negative experiences of bullying or lack of flexibility in schooling also contribute (Bhopal and Myers, 2016; Fensham-Smith, 2014; D'Arcy, 2012, 2014). Gypsy and Traveller children experience high levels of bullying and racism, discrimination and lack of understanding about their culture, and academic expectations from professionals are lower than for other children. Such inequalities particularly exclude vulnerable children within the community, such as those with

special needs (D'Arcy, 2014). Further, a link has been found between parental affluence and the quality of education provision (D'Arcy, 2012). Families from lower socio-economic groups were less able to home educate and expected the State to provide education in a protected environment away from bullying and discrimination in schools (Bhopal and Myers, 2016). These families were also less likely to join home education groups and organisations due to the perception that they lack knowledge and understanding about GT culture.

5.3 Key Points

- Only a small proportion of children are home educated – perhaps 2-3,000 in Wales
- There are signs that the numbers are increasing substantially – perhaps doubling over the last 6 years
- They are a diverse group of children, including those whose parents choose home education from birth and a larger group who leave school. Often the reasons for children leaving school include bullying, additional needs or a child having problems at school
- Home educated children tend to have poorer access to both universal and specialist services that are provided for children in school

6.0 Analysis of Child Practice and Serious Case Reviews

As noted at the outset, associating home education with child protection is contentious. The NSPCC's (2014) review of home education and case reviews attracted such criticism from some home educators that the report is currently being revised. An example of this is Charles-Warner (2015) (a home educator from North Wales) whose analysis of the same case reviews concludes that home education is being used as a scapegoat and the so-called 'invisibility' of these children is a misnomer as many children were known to services.

Sidebotham et al's (2016) triennial review of SCRs - which included consideration of four families where children had been home educated - concluded that,

It is not home education per se that is the issue here but the isolation from peers, teachers and agencies who could provide a protective function, and if any abuse or neglect is present this may continue undetected for prolonged periods... If there is no requirement for any professional to see a child who is being home educated, or to scrutinise the quality of their education and welfare in the same way as would be expected in a school, any deficits will not be picked up. This can be compounded if the parents also choose to opt out of universal health services for their child (Sidebotham et al 2016:94)

They argued that in this small number of cases had the children been in school, staff would have both noticed the signs of abuse and neglect and notified social care staff.

In light of these types of comments we attempted to collate as many reviews in which home education was identified as possible (see methods section). Following the exclusion of two SCRs where home education was incidental, 11 reviews from across England and Wales were analysed to identify the contribution if any that home education made to problems in relation to the well-being of these children. The name of the reviews, the presenting reason and a very brief summary of the home education element are presented in Table 1.

Table 1: Overview of CPRs/SCRs

| | Name of SCR/CPR | Summary of Presenting Reason for Review | Home Education Element |
|----|-----------------------------------|---|--|
| 1 | W – 2013 - Various | Mother artificially inseminated eldest adopted child and tried to adopt baby. Long-term abuse and neglect revealed in investigation | HE was identified as key element, allowing mother to limit contact with professionals and control and abuse children |
| 2 | Child Y – Leeds - 2015 | Baby died, cause uncertain but malnourished. Context issues of neglect for the older children. | HE a minor part of a complex picture. HE followed very poor attendance; used as way of attempting to withdraw in response to services intervening. |
| 3 | Megan – Thurrock - 2016 | 17-year-old. Serious heart and health problems, linked to long-term chronic neglect and child obesity. | Long pattern of neglect. HE as a response to perceived bullying and/or school identifying care and support needs. CSC closed when children HE. |
| 4 | ST – Enfield - 07 | ST died aged 16. Body left for 4 months so cause could not be determined. | Very little professional knowledge of children. HE a key issue. Mother's severe and undiagnosed depression central in a "bizarre and troubling" case |
| 5 | Sion D – Flintshire - 2012 | Death of child with additional needs. Evidence of neglect. | HE contributed to limiting professional contact and knowledge of child |
| 6 | Family A – Southampton - 2001 | Pattern of serious neglect and abuse of children | HE used by abusive father as part of strategy to limit professional contact with child |
| 7 | KI - Birmingham - 2010 | Child died aged 7, severely malnourished and abused. | Care and support needs identified before HE. HE key element of withdrawal from professional scrutiny |
| 8 | Conwy – MAPF - 2015 | Child died aged 17. Severely obese and evidently neglected, though not necessarily linked to death | HE contributed to child's issues not being identified and limited professional response |
| 9 | Dylan S.- CYSUR - 2015 | Child died – scurvy, malnourishment, neglect | HE was a key factor related to agency's difficulties in knowing what issues were for child or responding appropriately |
| 10 | Mrs Spry – Gloucestershire - 2007 | Adoptive parent and foster carer who was found to have abused children in care. | HE reduced oversight of children and made identifying abuse more difficult |
| 11 | Child S – South Tees - 2008 | Very serious abuse by mother related to fabricated illness (including poisoning) | There were a litany of professional failings. HE was part of a picture of the mother controlling the child and controlling access to child, but one part of a complex situation. |

The reviews can be broken into two groups:

- Withdrawers: Those where home education is a response to or develops from known concerns about a child or children (2,3,6,7);
- Avoiders: Those where home education contributed to limited professional knowledge of a child or children (1,4,5,8,9,10,11)

The characteristics of each of these groups are rather different.

6.1 Withdrawers

These families included some exceptionally severe abuse and neglect, such as the cruel starving and beating of Kyra Ishaq, or the almost equally horrific (though not fatal) abuse in the A family. In the other families it was the length of neglect that was the most striking feature, with dirty home conditions, failure to meet children's needs and poor school attendance over many years. All these families shared two key features. First, the concerns were well known to professionals including Children's Services before the children were withdrawn from school. Second, home education appeared to be part of a pattern of withdrawing from services in order to avoid escalating intervention.

These were in no sense children who were "invisible". They were well known, as were the issues about their care. It is difficult to be sure what the motives for home education were in these families. In general parents stated it was due to dissatisfaction with elements of school provision in ways that echo those in the literature review. Kyra Ishaq's mother claimed racism and bullying and had a serious argument with a teacher. The A father raised similar issues. Bullying was also identified for Megan. Yet, with the benefit of hindsight, it is difficult not to see home education as an attempt to withdraw from professional scrutiny, either to escalate the control and abuse that was taking place or to prevent professionals from identifying the abuse and neglect that was happening.

Whatever the motivations, what is clear is firstly, that none of these children were actually meaningfully home educated. Secondly, the abuse significantly increased for Kyra and the A family following withdrawal from school and the end of monitoring that involved. For Megan it probably enabled the ongoing neglect to continue and limited professional oversight.

With hindsight, it is obvious that more assertive measures should have been adopted following the decision to home educate in some of these families. However, at the time professionals seemed to feel they could do little. Home education – and the

relatively weak regulatory regime associated with it – meant that little could be done to stop these children being home educated. A consistent failure of professionals was to recognise that where there are concerns about the safety of a child, home education significantly increases the risk of abuse or neglect for the child. This is in part because children have less contact with professionals, and are therefore poorly monitored. It is also because for children living in difficult circumstances school can provide a safe place and an opportunity to build resilience.

A clear learning point from this review is that where there are *existing evidence of abuse or neglect* about a child and the parents decide to home educate this needs to be seen as *significantly increasing the risks for the child*. Child protection plans need to take these increased risks very seriously. This might involve taking legal action to protect the child, or putting in place monitoring that is far more frequent and assertively intrusive than would happen for children being seen regularly in school, or for those home educated where there are no care and support needs identified.

6.2 Avoiders

Seven of the cases involved families where the abuse or neglect was hidden from professionals. This is not to say that the children were invisible or had had no contact with services; it is to say their limited and controlled contact with services made it far more difficult to identify the child's needs.

The extent to which children were hidden varied. At one extreme were Dylan Seabridge, ST and W. In these instances professionals had little or no contact with the family. In others, such as Mrs Spry or Child S, the child or children were known to services, but the nature of this contact was tightly controlled by the parent. In particular, professionals were not allowed to see children on their own. In these families home education helped parents to control contact with children by preventing any independent relationship or meeting with the child.

Reading across the seven reviews there are some striking consistencies in the behaviour of the parents. For all but case 8, the parents were identified as being intelligent, articulate and strongly able to resist professional involvement with their family. The arguments they made and the reasons given were very similar to those made by those who lobby for home education – namely that they wished to avoid unnecessary State intrusion in family life, that such involvement would be an intrusion on their parental rights and that they had a deep suspicion of professionals representing the State. They often used litigation or the threat of litigation, complaints or strongly assertive argumentation to keep professionals away from their children.

Second, several of these parents presented as eccentric and unusual. For some there was later evidence of psychiatric problems. For others it appears likely that there might be undiagnosed mental health difficulties. Most or all seemed to have a suspicion of professionals that bordered on or crossed into paranoia, and fabricated illness for the child(ren) or related behaviour is a feature of three of the cases.

6.3 Key points

- Home education was identified as a feature in 11 reviews. These broke down into two types of case:
 - “Withdrawers” – in four families home education was part of a withdrawal from services following the identification of concerns. There was evidence that professionals failed to respond to this sufficiently robustly.
 - “Avoiders” – in seven families home education was part of a strategy by parents that prevented, limited or controlled professional contact with children. This seemed to be associated with controlling and apparently eccentric parents, several of whom may have had undiagnosed mental health problems.
- It is evident that some home educated children are abused and neglected. We have no reason for believing this is any more – or less – common than in the general population.
- It is clear that where children are maltreated it can be more difficult for this to be identified if a parent wishes to limit access to a child, and home education can and did contribute to that. Parents who are abusing or neglecting their children can, do and have used home education as one of the ways of limiting professional contact and therefore protection.
- Current practice leaves some children at risk because their parents are using home education as a way of controlling and limiting contact with their children.

7.0 Stakeholder responses: interviews and survey responses

7.1 Views of home educating parents

7.1.1 Why do families home educate?

When asked about the motivations to home educate, respondents were broadly divided between those who opted for home education due to the perceived benefits to the child and those who decided to home educate following negative experiences with schools. There was a general sense that the school system was failing either generally or in relation to their child:

The school system is seriously failing in the standards it is being taught. The curriculum is outdated and much can be said about how we rank internationally in our core subjects such as English & Maths. ... Mainstream education does not cater for different types of learning styles, schools are more concerned about ticking boxes and maintaining ratings rather than actually teaching their students. For these reasons I took it upon myself to educate my children at home and they've progressed exponentially as opposed to when they were in didactic learning environments (Home educator D).

Respondents highlighted negative views surrounding school-based provision in terms of class size, the 'one size fits all' approach (*Home educator AA, BH, L and CE*) and 'teaching to the test' (*Home educator CB*) where schools were perceived to be focussing upon 'ticking boxes' (*Home educator DW*). Many emphasised the benefits of home education, including spending time with their children, adopting a more flexible, fluid approach to learning that was free from the constraints of a pre-determined curriculum and the ability to provide an individualised approach tailored to the needs and interests of the child:

Providing an education appropriate to their individual needs; being able to educate according to an alternative philosophy of education; we're offering a high quality tailor made education to our children where they are not held back by a school based class system (Home educator CZ)

The tailoring of education to the child's needs also emerged as a recurring theme for those who decided to home educate due to dissatisfaction with school. This group could further be divided into children with additional needs (including disability, medical and/or SEN needs) and those who had negative experiences within school, including bullying - though these categories were not mutually exclusive:

The bullying (from staff as well as pupils), teaching to test (badly), excessive pressure and extreme rules of the school (one school refused to let my son use the toilets despite a medical note from his consultant regarding a lifelong medical condition the school had been aware of prior to my son starting school), all combined to make school a nightmare I was no longer willing to subject my children to (Home educator AH)

Several references were made to the ‘horrendous behaviour from school staff’ (Home educator A) indicating a perceived lack of understanding about how best to support children with additional needs:

I felt that he received inadequate support and understanding and I witnessed him being shouted at and intimidated by staff. I also felt that he was not kept safe at school as he was able to leave the premises unnoticed. (Home educator BS)

As the above quote demonstrates, limited understanding and provision within school exacerbated the child’s needs leading to increasing levels of anxiety. The decision to home educate can therefore, be a last resort after a lengthy period of attempting to make school work (cf. Morton, 2010). Although a few respondents indicated that they would be willing to re-consider school provided that the schools did more to meet their child’s needs or indeed, once their children had been given time to recover from their negative experiences:

My daughter was home-schooled due to excessive bullying and threats of violence from other school children so I took the choice to home-school her to try and rebuild her confidence and enable her to move past the difficulties This was for 8 months and she eventually returned to an alternative school and is doing well (Home educator DR)

Negative experiences with schools could be very emotional for both children and parents resulting in anger, fear and fuelling non-engagement with professionals – particularly teachers (even if they are acting in the home education advisor role) (Home educator 3).

7.1.2 How effective is current service delivery to support Home Education in Wales?

As highlighted by a home educator at the beginning of the review (*personal communication*), the presence of a home education service is perhaps a misnomer,

in that it is a service characterised primarily by its absence. There are no formal duties for LAs in regards home education and as such, no funding needs to be provided for provision. Indeed, there is no distinct home education role within an LA but rather it is added on to a range of other roles including safeguarding, educational welfare officers (EWOs), looked after children, inclusion, or EOTAS with home education accounting for as little as 0.20 of such a role. Such variation is not limited to Wales, evidence of a 'postcode lottery' has demonstrated inconsistencies in practice across English LAs leading to the recommendation that officers responsible for home education should be situated in neutral services such as learning or library services (Association of Directors of Children's Services, 2016; Education Committee, 2012). Home educators indicated a preference for situating such a role in the EOTAS team, perceiving this to encompass a more open and supportive approach where professionals could provide advice and guidance.

When asked about contact with the LA in the preceding twelve months, only 34% (N=45) of home educators reported contact. Most of these had received a letter (60%, N=27), with 22% having spoken to someone in person (N=10) and 18% having spoken to someone on the telephone (N=8). Reasons for contact ranged from clarifying home educator status and/or home address to arranging a visit or offering support.

The majority of home educators were negative about the LA approach to home education, some perceived it to be strictly the domain of parents and as such LA requests for visits were deemed unlawful, judgemental and unnecessary:

They often over step the mark interpreting the Education Act, sometimes bullying families into an interview and asking them to provide reports and evidence of education (Home educator U)

This was compounded by those who experienced 'door knocking' where professionals turn up unannounced and expect to enter the home and check the child's welfare. This led to feelings of anger towards professionals and fear that strangers could demand access to their private dwelling in order to judge their parenting ability:

Current EHE provision is covered by the Education Welfare Officers ... Unannounced welfare checks are unhelpful and intrusive - but we have been assured that [LA] will no longer operate in this way (Home educator DO)

In fact there is no right to visit a property or see a child to assess home education provision. Home educators perceived the lack of statutory powers as a strength of current professional practice. In particular, the freedom to choose curriculum and learning approaches was valued.

In regard to the weaknesses of current practice, the absence of trust and lack of support for home education - such as failure to support access to examinations and lack of staff expertise in home education - were reported. Responses echoed Thomas and Pattison's (2012) assertion that 'Education at home is nothing like education at school' and as such, professionals, who tended to be from a teaching background, were considered ill equipped to make assessments. However, there were exceptions to this, with references made to well-respected home education advisors:

The [home education] inspector was fantastic, very supportive and helpful, and non-judgemental. Exactly what we needed. I am more than happy for her to visit at least once a year (Home educator T)

Although even those home educators who reported a willingness to engage expressed caution surrounding home visits as:

This would depend on what was required, and how it would affect my son. Due to his mental health needs we follow a very unstructured way of learning which would be difficult to evidence. A stranger coming into his home could have a detrimental effect on him (Home educator BW)

In terms of support, the sacrifices in terms of parental time and finances were noted:

Home education is expensive - it is generally middle class - it's often not an option for single parent or low-income families because of the cost. The LA could offer discounted rates for educational materials and support candidates not in school to access examination centres (Home educator DO)

It was argued that even with a small amount of funding, LAs could develop a local offer consisting of home education conferences, financial support for GCSE examinations, and support specific to Wales such as educational materials in Welsh or Welsh language lessons. Further it was suggested that a list of private tutors who have obtained Disclosure and Barring Service (DBS) certification could be collated.

Bridgend was cited by professionals and home educators as an example of good practice based on relationship building. Promoted in the non-statutory guidance, the service level agreement between Bridgend and the Bridgend Home Educators group – which comprised around 200 children registered members - has been described as unique in Wales (Welsh Government, 2017). Under this agreement, the group is provided with an annual grant of £5000 (a sum noteworthy for how small it is), primarily used to pay for GCSE examinations, a community hall for the weekly support group and two members of the group have received training in exam invigilation and child protection. In return for the money, home educators supported the local college by completing the relevant paperwork for home educator families, invigilated exams and provided anonymised GCSE results to the LA. It was asserted that under this agreement the LA accepted that not all registered children would be known to them. Whilst Bridgend emerged as an example of good practice, few LAs indicated that they would be adopting this approach.

While there are home educators who wish to have access to a greater range of resources and support a distinction was made by one respondent between ‘traditional’ and ‘modern’ home educators, where traditional home educators preferred to live ‘off the radar’ in remote settings with limited access to society and no State intervention (*Home educator 3*):

They're oldy-worldy, very much more traditional. They don't like TVs and they don't want to subject their children to the media and all the things that are making children more sexually advanced. I find they're very cynical and very cautious, they truly believe the Government is out to get them. I was really, really shocked about how against the Government and the educational world they are. They really truly believe the system is out to get them and I found that quite shocking (Home educator 3).

Conversely, “modern” home educators were characterised as open to receiving help from staff who accept home education as a viable alternative to school. This group welcomed financial aid to help provide their children with the best education. This was especially pertinent for those who home educated due to school inability to support their children:

I feel that you should get help with funding if your child cannot attend school due to reasons like ASD⁹ (Home educator DB)

For those families where home education is adopted as a last resort because schools have in their view failed to meet their child's needs, the lack of support is perceived particularly negatively.

7.1.3 Home education and safeguarding

When asked whether education professionals had a role in assessing welfare, the vast majority of home educators rejected this notion, although a minority believed them to have potentially either a full or partial role:

A child's education has nothing to do with their welfare. I feel there is no easy solution, however I feel that there are a lot of children in school who are at risk and they are seen every day but nothing is done for their safety and well-being. I feel that by making home education a reason for concern for a child's welfare is basically saying all home educators are guilty and that is not true. (Home educator J)

Establishing specific safeguarding mechanisms for home education was, therefore deemed unnecessary and stigmatising. Consequently, home educators supported a more general approach to safeguarding:

All professionals who a home educated child comes into contact with - the same as for school children. For all children, this includes: - GP - Health Visitor - Dentist - LA staff at libraries, sports centres, etc - Any social worker or family support officer involved because of safeguarding issues. (Home educator AG)

The majority of home educators rejected the notion of annual home visits. Most felt that home visits were a violation of their rights preferring written correspondence with the belief that there was nothing LA staff could offer help with. Even for those who were more favourably inclined towards support, the lack of funding reduced the utility of support and compounded resentment towards monitoring:

There is no budget for offering anything that might be of use, so the local authority can only offer bureaucracy and paperwork and

⁹ Autistic Spectrum Disorder (ASD)

general interference - precisely the things that many families have chosen to avoid by opting out of school. (Home educator V)

To be on a register for no actual services, just someone coming to tell you whether you are doing everything "right or wrong" seems intrusive and unnecessary. Especially when you have no faith that your style of education will be recognised and understood. (Home educator AA)

Although a minority acknowledged that monitoring may be suitable for a small number of families:

I agree with the fact that they need to keep an eye on these children, I agree with the fact that these children can go under the radar and abuse can happen. (Home educator 3)

Though many home educators appeared to resent such a claim, arguing that the decision to home educate is based upon what is best for their children and that:

Parents and carers who are home educating should be presumed to be fulfilling their duty to safeguard their children's well-being and promote their interests. (excerpt from Education Otherwise statement, Appendix E)

Moreover, claims that some children are unknown were dismissed by home educators who claimed they were 'known but not registered' (*Home Educator 5*). That is, home educators will be known to home educating networks but not to the LA. Home educators reported accessing a multitude of activities such as voluntary groups (e.g. Brownies), leisure activities (e.g. swimming, gymnastics, and pony club), educational visitor attractions (e.g. National Trust and zoos) and LA services (e.g. libraries and museums). Differences emerged between those who accessed mainstream activities and those who opted for activities specific to home education. Findings revealed that some do not access any groups at all, some use online support and others access 'literally hundreds' of support groups (*Home educator BP*):

There is a myriad of peer support available: attending local HE groups, membership of national groups and a strong supportive presence on social networks. Essentially home educators have formed their own communities of practice and have little need for outside involvement - it is made quite plain that if you home educate,

you pick up all the costs; why should we therefore be subject to outside ill-informed interference? (Home educator U)

There was reluctance to share details about the various home education support groups for fear of LA intrusion, 'because local authorities have been known to show up unannounced' (*Home educator BC*) or to protect the children from unwarranted involvement of others:

We are members of 14 groups specifically related to home education which have organised lessons, activities and trips. Won't name them as many are closed groups to protect children. (Home educator AZ)

Some felt registration would profoundly contravene their human rights perceiving it to be a tool of State control or a form of segregation:

This has echoes of the Holocaust in it - having to be forcibly registered against your will, as belonging to a certain group, so that the State can watch you and punish you if they say you've stepped out of line, simply because of a widespread ignorance of Home Education. Anyway, it is not the State's responsibility to educate the child - it is a parent's right and responsibility to choose and provide the education for their child. It is not and should not ever be allowed for the State to interfere with a parent's right to bring up and educate their children in the way they see fit. (Home educator 64)

Whilst others were open to a register stating they 'had nothing to hide' (*Home educator BM*) and were happy to be known as home educators. Even those with favourable perspectives were fearful that registration would lead to enforced monitoring visits by professionals with no home education understanding, and assessments made on the basis of one short visit:

I am happy to be open about how my daughter is educated. As long as authorities do not try to enforce a school type curriculum or attitudes then I am more than happy for people to see what we do. [LA] appear to have no interest whatsoever about how my daughter is being educated or cared for despite being Statemented. Personally I find it worrying how quickly we have disappeared under the radar without even trying!! (Home educator Z)

Although home educators also raised practical challenges with registration:

There is insufficient evidence to suggest that registration would significantly benefit children, but it would clearly be a burden to both home educating families and to the already over-stretched State. To agree to registration would be to pretend that it served some useful purpose. (Home educator T)

Finally, to explore the nature of safeguarding and home education in Wales, home educators were asked whether they had ever encountered, or were aware of any, safeguarding issues amongst home educated child. Sixteen examples were reported where home educators had either witnessed or been party to conversations that raised issues about the welfare of a child. Fourteen referrals were made to Children's Services (one was already receiving social work support and one had been encouraged to seek help and medical support). Nearly all home educators observed that Children's Services intervened and supported these families, with some examples of positive work:

Eventually, the health of the mother improved to the point where the children were able to live with her again and the family have continued to flourish, with the full support of social workers. (Home educator N)

7.1.4 Key Points

- The reasons for home education echoed those identified in the literature review. Home educators are a very diverse group but there were two broad groups.
- Those who removed a child from school tended to be very disappointed by the quality of education and care their child had experienced. Often these children had additional needs that the school had not met.
- Those who had not sent children to school tended to be critical of the nature of school provision and favour more "child centred" approaches. For some this was part of a wider rejection of the state.
- Both groups shared predominantly negative experiences of professionals in their lives.
- There was virtual unanimity that few services and little support was provided for children who were home educated. There were many stories of what appeared unhelpful or intrusive involvement from professionals.

- This negative experience of education and other services contributed to a widespread – though not universal – opposition amongst home educators to any move to register home educated children or assess the quality of their education or well-being.
- Many questioned whether a register and/or increased assessment would achieve anything if there were not support services associated with it.
- Most resented the implication that home education was in any way associated with abuse or neglect
- A small number of examples of safeguarding issues for home educated children were identified, with respondents suggesting they had been referred appropriately and dealt with well by Children's Services.

7.2 Views of professionals

7.2.1 Are home educated children known to professionals?

None of the 22 LAs in Wales expressed confidence that the latest home education figures (Welsh Government 2017b) represent all home educated children:

Well, we know the ones we've got on our database but we don't know how many there are in the county ... good gosh, no, I'm not confident that includes all the children. I wouldn't be confident at all
(LA 4)

This view was re-iterated across professionals who believed that some children are 'off the radar'.

The children not known to services were a particular area of professional concern. These children were identified as particularly likely to be at risk of abuse:

let's not kid ourselves, there are a very small number of people who keep their children at home so they can be abused (Health professional 1)

Professionals expressed their anxiety for the wellbeing and safety of children that might not be seen or talked to; that they might be effectively "invisible" to anybody who might be able to protect them.

Professionals deemed those children home educated since birth as most likely to be unknown. In response to the suggestion that birth records could be used to track

children, some professionals were favourable (LA4, LA10) whilst others perceived it to be too cumbersome and unreliable (LA9), especially in larger authorities or where the population was more transient.

Children de-registered from school were perceived as less likely to be unknown, primarily as head teachers notified the LA, although it was conceded that children who moved to a different LA could be 'lost' (LA5). Generally, on receipt of notification from school, LAs sent a letter to the family with the majority formally inviting parents to a meeting either within the home or at a place determined by the parent. Most LAs indicated a preference for meeting the family although the non-statutory guidance provides that evidence can be submitted in writing if parents prefer. There were several exceptions to this general approach. Some LAs did not expect meetings but rather invited home educators to complete a questionnaire. These responses were then used to determine the 'genuine' cases from those where there were potential problems. Visits were undertaken where families requested support or where care and support needs were felt to exist.

Determining the "genuine" home educators was deemed problematic when families resisted engagement, for example one professional reported having a case file which stated, 'don't visit alone' and another where the letter had been returned marked 'no unsolicited mail' (LA2). A level of frustration was evident as some LAs suspected that families were simply 'googling information to send' (LA5), were accessing standardised letters either from the internet or a home education organisation (LA15), or were less amenable to a visit as they appeared more aware of their rights.

Professionals identified that access to meet with children was a sometimes a children's rights issue. For instance, there were accounts of children presenting themselves to LAs requesting that they be allowed to attend school:

We've got two girls who want to go back to school but Mum's preventing that from happening. It's with Social Services now but I've suggested they do a School Attendance Order but it's completely out of my hands but they're not being heard at all really
(LA8)

Professionals were also concerned about the reasons some children were home educated. For instance, it was believed that some children were home educated to avoid parents being prosecuted for poor attendance. This raised questions about the well-being and education of these children:

We've got fantastic practice here, our home educators do amazing work with their families but the ones that are avoiding prosecution, well that's where you've got your safeguarding concerns that's where you've got your concerns about the welfare of the children because if you can't get your own child to school, are you going to educate them at home? You're not, are you? (LA 8)

In addition, certain patterns were noted in people starting to home educate, such as the higher number of families who decide to home educate at the beginning of the January and February terms (LA20) and those who de-registered at Key Stage 4. For the latter group, comprising the last two years of school education (when children are aged between 14 and 16 years) the decision to home educate was seen as often being a deliberate avoidance technique as opposed to genuine parental desire to provide an education at home. This suspicion was evident from a home educator as well as an LA representative and health professional, all of whom pondered whether home education should be permitted to start at Key Stage 4.

Several professionals recognised that early support and restorative work was needed to determine motivations for home education, support families and distinguish between those who wished to home educate and those who felt there was no alternative:

there's usually a build up before families decide to home educate, it's rarely out of the blue. For example, bullying which is not dealt with adequately in the parents' view and so, to safeguard their child, they withdraw from school (Welsh Government professional)

In this regard, the role of schools was emphasised in supporting children and resolving issues with families. Some LAs offered examples of inter-agency working aimed at meeting the child's needs whether through anti-bullying measures, SEN support or liaison with parent partnership whilst others exhibited frustration that home education is often tacked onto other roles thus limiting the capacity for intervention. However, not all LAs were as explicit in their attempts to resolve dissatisfaction or relationship breakdowns between the parent and the school. A minority very clearly endorsed school and made it clear to families that regardless of the issues encountered school remained the best place for children:

We will try to encourage to see if we can keep a child in school because as an authority we do believe it's better for children to be integrated in school, socially as well as academically (LA23)

This resonates with survey findings that LAs often fail to believe there are benefits in home education and that in some cases LAs focussed upon getting children back into school without acknowledging that 'school is the problem for some' (LA8). The significance of supportive services was echoed by the Children's Commissioner for Wales:

We need to see primarily that the LAs role is to provide support, that's what some parents need so we need to find some ways to develop trust between the local authority and families.

It is perhaps not surprising that those LAs which displayed greater understanding of home education reported better relationships with home educators.

7.2.2 Examples of children in need of care or support

To explore the nature and extent of home educated children in need of care and support in Wales, professionals were asked whether they had ever encountered, or were aware of, a home educated child where there had been safeguarding issues. Of the 18 cases reported by professionals, most were reported by education professionals and all were referred to children's services. Failure to meet thresholds was a particular challenge for some as:

It causes me sleepless nights because we have grave concerns but our hands are tied behind our backs (LA20).

For the 18 cases, referrals included housing conditions, neglect, and issues related specifically to home education such as:

Where a child had never gone to school ... he was 6, he wasn't toilet trained, he was quite feral, and only by chance an anonymous referral that the child was ever picked up (Professional interviewee)

In another, an abuse disclosure was made once a child began college (and where the father was subsequently imprisoned). This case had been previously alerted to the LA and was subject to a welfare assessment. As one health professional asserted some forms of abuse are difficult to prove yet without evidence services cannot intervene leaving a home educated child:

Out of sight which was a real worry to me (Health professional 2)

Where issues related to education provision, referrals were made to children's services although a minority of cases were pursued through the courts:

*because we know that we have two that have come out of school
who aren't getting anything and that's a horrible way to go (LA4)*

7.2.3 Key points

- Most professionals identified positives about home education, such as the quality of the educational experience and the commitment of the parents.
- Almost universally professionals could identify a small number of home educated children where there had been actual or suspected abuse or neglect.
- These included children educated throughout their childhood where it was felt abuse or neglect might go undetected.
- Children who left school because of serious problems that would only be exacerbated by the child becoming home educated were a second group where professionals were worried about the safety and well-being of children.

8.0 Discussion

It is hard to imagine any area of safeguarding that is more complicated than home education. Evidence is scarce, passions run high and it often feels as if different parties have incommensurable understandings of the issues. As a consequence, often home educators and professionals seem to be talking past one another, rather than with one another.

In part this is because home education unlocks strong emotions on both sides. Foremost amongst these, perhaps, is fear. Most home educators are more measured than the respondent who felt that a register of home educating children has “echoes of the holocaust”, but the sense of anxiety surrounding unrequested, and perhaps unhelpful, State involvement in family life was palpable. Parents fear that under the guise of “safeguarding” their current freedoms will be curtailed or ended. On the other hand, there is also a great deal of fear amongst professionals. Professionals are afraid that some children are being abused or neglected and that home education allows this to happen, restricting professional knowledge of and access to these children. They are also, perhaps, somewhat afraid of the most assertive of the home educating parents. This was certainly a feature of some of the CPRs and SCR.

As well as anxiety on both sides, deciding the nature of the State’s involvement with home educated children is not straightforward. Discussions about registration, monitoring visits and other proposals involve consideration of fundamental values about the needs and rights of children and the rights and responsibilities of parents and of the State. This is no doubt why the Badman review starts with a quote from Isaiah Berlin:

The need to choose, to sacrifice some ultimate values to others, turns out to be a permanent characteristic of the human predicament. (2009:1)

As this quote suggests, many of the most important discussions in this area are about fundamental values and beliefs.

As outlined in Section 4 and presented in greater detail in Appendix D, educational, safeguarding and child well-being legislation provides the context for this review. It is also crucial to consider the broader principles of the UNCRC. Yet while these sections consider a variety of different pieces of legislation, the overall approach enshrined across the legislation is relatively straightforward: children are usually best brought up by their parents, but the State has a duty both to support parents to do

this and to intervene proportionately when children may be experiencing harm. It is this approach that should undergird policy and practice responses to children who are home educated. Our findings suggest that it is, however, far from what is happening now.

First, there is currently almost no support for the families of children who are home educated. Our Review highlights that often these children have additional needs. Frequently their parents are also struggling to provide education for children at home. Yet in Wales the State usually provides virtually nothing. Once a decision is made to educate a child at home then the State essentially washes its hands of all responsibility for education. In general no resources or other support are provided. The State does not even cover the cost of home educated children sitting examinations.

There is little wonder that in this context a focus on safeguarding is greeted with great suspicion by home educators. Foundational to both the Children Act 1989 and the Social Services and Well-being (Wales) Act 2014 is a belief that child protection works best when it is founded on support for families. In the area of Home Education these principles appear to have been forgotten.

It is beyond the remit of this report to make detailed recommendations on the extent or nature of the support that should be offered. We would however comment that if even a fraction of the money provided to a school for each child was pooled for those home educated within a local authority it would have the potential to provide a high level of helpful services. The best way of using this resource would vary across local authorities. Indeed, we feel it would be best to engage the local home education community to identify what their needs are. They appear to contain many resourceful and energetic members and working with them would be in line with the principles of co-production of the Social Services and Well-being (Wales) Act 2014. For such an approach to work it would need to be facilitated by professionals who were knowledgeable and supportive of home education as a valid approach to the education and indeed the upbringing of children.

It is likely that a genuinely supportive approach to home education would reduce the need for more authoritarian measures. For instance, if a local register of home educators led to funding to support home education then many – perhaps most - home educators might participate voluntarily. Similarly, if home educators are actively engaged with support then in many families it would be obvious if there were difficulties, and it would be possible to provide early and more helpful support that might prevent more negative outcomes or the need for the use of authority.

A particular area where more helpful assessment and support would be welcome would be the point when a child leaves the school roll. A high proportion of these children have additional needs and/or negative experiences within schools yet parents often have limited preparation for educating them at home. Under the Social Services and Well-being (Wales) Act 2014 an assessment and, if identified as necessary, support services would often or perhaps usually be appropriate.

Yet, while a more supportive approach to home education is crucial, it would be naïve to believe that this would resolve concerns about the safety and well-being of every home educated child. There is no evidence that children educated at home are at greater risk of harm than children at school. However, it is clear that for the minority where there *is* abuse or neglect home education can and does lead to children being hard to identify, monitor and assess. A particular problem is that under current provisions there is no right to see a child. As a result, evidence for abuse or neglect may not emerge that would trigger assessment and potential intervention. Professionals cannot protect children where no issues or potential problems are identified, and their contact with some home educated children is so minimal that the children become virtually invisible. That was certainly the case for Dylan Seabridge.

A more supportive and constructive approach to home education might reduce the number of children in need of care and support with little or no professional involvement, yet the review of CPRs and SCRs suggested that unfortunately it is those parents who abuse or neglect their children who would be least likely to engage with supportive services. It is therefore necessary to consider whether there are other measures that might increase the safety of home educated children.

One measure that has often been suggested is to have a compulsory register of home educated children. It is argued that this would be equivalent to a school register, and that a duty to register a child as home educated would prevent children “slipping through the cracks”. Also, if a child was identified as not registered this would be a potential indication of a child in need of further assessment as potentially at risk of harm – as well as an offence.

Home educators have vociferously opposed a register. They have argued that it is an imposition, that it serves no purpose (particularly if unrelated to support for children) and that it is unclear how it would protect children. Registration on its own would achieve little or nothing. They have also argued that health records and other sources can allow the identification of children.

It is also possible, however, to believe that a register would be a proportionate and appropriate measure. In the same way that a child needs to be registered at birth, having a register of whether they are in school or home educated seems a requirement that is on its own neither onerous nor unreasonable. Furthermore, it would have advantages. An important one is that it would allow planning and service delivery at both local and national level. We do not currently have an accurate picture of how many children are home educated in Wales or in each local authority. It is not possible to plan for their support without this information.

For registration to help protect individual children it would need to be more than a paper exercise. In both the review of CPRs and SCRs and the evidence given by professionals there were examples of children who were not seen or talked to on their own by anybody other than their parent. Some of these children suffered serious harm or died, but for others – the non-CPR/SCR examples - they were unhappy about being educated at home or that they were not obtaining qualifications. Further, professionals questioned whether children who are nominally home educated but are not in fact receiving an education at home can be identified if they are not seen by professionals. This is a powerful point. We also do not believe it is consistent with the UNCRC, which emphasises the rights of children, that the views of these children are not heard and their welfare assessed by anyone apart from their parent. Registration would therefore need to be accompanied by regular assessment visits that focus on supporting the family, assessing that the children are receiving the educational provision intended and ensuring that the child's voice and their safety are being considered in decisions about their life, if it was to achieve its aims.

There are cost implications for such an enhanced service for home education children. Yet these recommendations would easily be affordable if even a small proportion of the money provided for a school place was set aside for each home educated child to ensure adequate support for home educating families and in order to allow appropriate assessment and registration of children.

Proposals such as these have been made several times by leading experts and policy-makers in recent years, however they have met significant resistance from some home educators. Yet it is perhaps worth placing these suggestions into context. Badman suggested that:

International comparison suggests that of all countries with highly developed education systems, England is the most liberal in its approach to elective home education. Legislation from the 1930s banning elective home education still

persists in Germany and most European countries require registration, whereas New Zealand demands that the “person will be taught at least as well and regularly and as well as in registered school”. The majority of other countries also have processes for registration and the systematic monitoring of elective home education and require evidence of progress, often specifically in mathematics and reading. (Badman, 2009:24)

It is possible that following the introduction of the recent non-statutory guidance Wales has the most liberal and least restrictive approach to home education of any developed country, though in practice there is little difference between England and Wales. It has to be asked whether this approach is because this is in the best interests of the children, because Wales does not wish to provide the resources to work more effectively with home educated children or because home educating parents are one of the most effective lobbying groups in the UK.

We can appreciate that the decision to have compulsory registration with accompanying rights to see children and homes would be a measure that would alienate many home educators. This might undermine the focus on support that we have outlined as central to a more balanced view of the place of the State in relation to families who home educate. On the other hand, without such provisions the danger is that the relatively small number of children experiencing serious abuse or neglect – children such as Dylan Seabridge – would continue to be invisible and unheard.

What is clear is that a careful reconsideration of home education policy and practice is required. There is sufficient evidence to conclude that as a society we are not providing adequately for home educated children in Wales, and that a small number are probably suffering serious harm with few if any professionals in a position to identify this. The focus for future improvement needs to be how we can work with home educating parents to ensure the welfare and safety of children educated at home in Wales. We believe that our recommendations balance a focus on more helpful and supportive work with home educating families with a recognition that the State has a legitimate interest in and responsibility for the well-being, safety and rights of children in Wales.

9.0 Recommendations

Our duties as a society to support, protect and ensure the education of children do not end if they are home educated. We therefore recommend a new approach for home education in Wales. This would include:

Recommendation 1: A significantly enhanced support service for home educated children, to include:

- a. Clear duties for local authorities to support the education and well-being of children who are home educated.
- b. The Welsh Government and local authorities should ensure that funds are available to deliver this duty to support home educated children, for instance by providing a proportion of the per-pupil funding that is provided for school educated children.
- c. This support service should be delivered by professionals who understand the particular needs and circumstances of home educated children and their families.
- d. Such support to be developed in partnership with the local home education community as consistent with principles of co-production.
- e. The proposed home education support service should fund the sitting of examinations as a right for each child in Wales not only those in school.
- f. Where children leave the school roll the family should have access to an independent assessment of their child's educational needs. This assessment would identify whether reasonable steps could be taken by education services to ensure the child remains in school and/or the support needed for the child to be educated at home.
- g. Schools should be encouraged to be creative in addressing the needs of children who might become home educated where this is not a positive choice by parents, and in particular explore shared educational options. Inspection of schools and evaluation of attendance figures would need to recognise this as a valid option for some children, for instance by excluding them from attendance measures.

- h. Where a child is withdrawn from school and home educated the school and other professionals should assess whether this change might give rise to care and support needs or pose a risk to the well-being or safety of the child. If this is the case a referral to social services should be made.

Recommendation 2: Clearer assessment of the needs and well-being of home educated children, this requires:

- a. There should be a register of home educated children in a similar way to the school register.
- b. A more holistic assessment of the well-being and education of children educated at home should be undertaken at regular intervals. Such assessments would focus on ensuring that the child is thriving, their education is adequate and would help provide and plan for appropriate support services.
- c. Such assessments should involve children, as appropriate for age and ability. They should also take place in the child's home as their place of education.
- d. A key decision is whether registration and/or cooperating with assessment should be a legal expectation on parents. Making registration and assessment compulsory would create high levels of resistance from a significant proportion of home educating parents. Yet, a voluntary scheme would be unlikely to have protected Dylan Seabridge or other children known to have suffered serious abuse or neglect whilst home educated. We therefore recommend that registration and regular assessment should be legal expectations for parents choosing to home educate.

Recommendation 3: An improved response to children where actual or suspected harm is identified and the child is or becomes home educated.

Home education is not a risk factor for child abuse or neglect. However, where there are concerns for a child's safety or well-being home education significantly reduces professional access and child safety monitoring opportunities. Responses to any risk of abuse or neglect identified about a home educated child need to take seriously this reduced level of scrutiny.

- a. Failure to educate a child may harm their well-being and can in itself be a form of neglect. If there are grounds to believe a child is not receiving

education, this should result in a referral to social services, either for an assessment of any care and support needs the child and family might have, or, where the level of risk is higher, as a child at risk of neglect.

- b. Where actual or suspected abuse or neglect has led to a child being allocated either as a child in need of care and support or on the Child Protection Register, and that child is or becomes home educated, the plan should include as appropriate:
 - iv. Considerably more announced and unannounced visits than a child in school would have.
 - v. More frequent professional meetings and information sharing.
 - vi. Joint visits with child protection and education staff.
- c. Where actual or suspected abuse and neglect is identified professionals should assess whether home education appears to be an attempt to avoid professional scrutiny. Where there is evidence that this is the case it increases the risk of harm to the child. Appropriate legal action and statutory safeguarding procedures should be used to ensure the child is safe.
- d. Where home education is considered to increase risks to a child, professionals should be aware that education legislation will *not* provide protection. The safeguarding provisions of the Children Act 1989 need to be used as appropriate for the child and their circumstances.
- e. Each LA should have a named individual with responsibility and expertise in relation to home education and safeguarding. This individual should provide advice and consultancy for the relatively small number of families where home education and safeguarding issues arise.

Recommendation 4: We recommend that Estyn be given a duty to inspect the adequacy of local authority provision to support and assess home education.

Such inspections would need to include educational and social care expertise and knowledge of good practice in home education. This should include designing criteria for inspection that do not take a negative approach to flexi-schooling arrangements.

Such inspections should also consider the adequacy of support and safeguarding for home educated children within each authority.

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Appendix A: Method

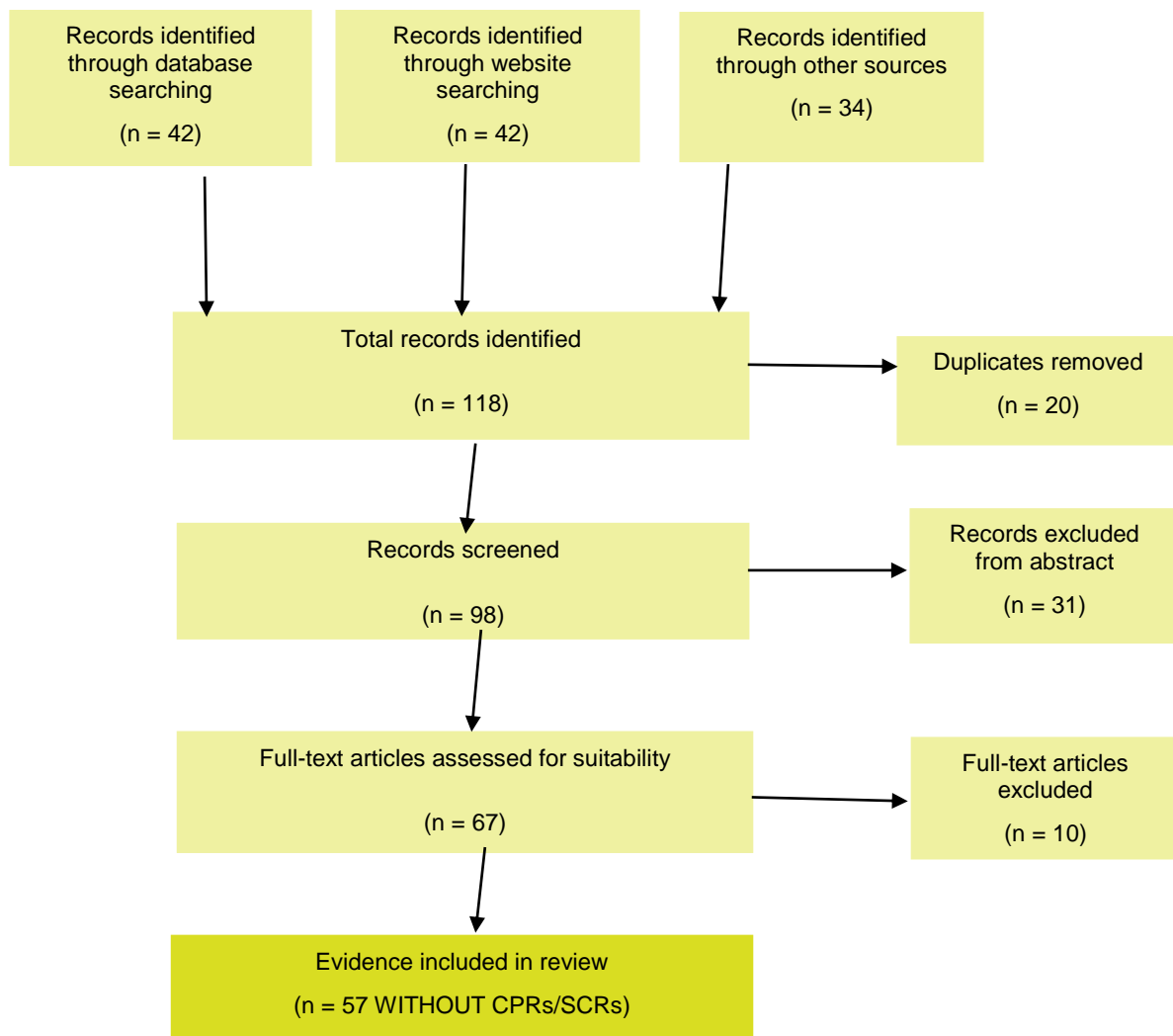
The review consisted of a literature review, telephone interviews with professionals and home educators, an online survey for home educators, and analysis of a small number of reviews of child deaths in the UK where home education was identified as an issue. Here we describe the methods for each of these elements of the review.

Literature review

To identify UK evidence that has identified concerns in relation to home education a rapid review approach was adopted so that a structured and rigorous search and analysis could be undertaken within the limited timeframe of the review (see Thomas, 2013). The search strategy (Figure 1 below) drew upon a range of databases and electronic data sources to ensure adequate coverage of recent legislation and policy documents, grey literature and academic evidence. Searches were supplemented by internet searching and hand searching of journals, as well as with recommendations from professionals.

Search terms included 'home education', 'home school' along with Boolean parameters (e.g. AND/OR, NOT) 'health', 'child welfare' and 'well-being' and truncation (e.g. school* to include references to school and schooling). The search parameters included all classifications of evidence for the period 2000-current for Wales and the UK and excluded international evidence and data not relating to the main themes of health, child welfare and safeguarding (e.g. learning outcomes and curriculum). A total of 116 potential sources were identified, from which 20 duplicates were removed and a further 41 sources were excluded as they did not meet the search parameters. Therefore, 57 sources were included for the literature review (excluding SCRs which are discussed in the final section). Given the diverse range of evidence discovered, a narrative review summarised findings in relation to the key themes that emerged from the identified studies.

Figure A1: Literature review search strategy



In order to identify serious case reviews involving children who have been educated at home, a search was undertaken of the NSPCC national case review repository using the search term 'home education'. Of the sixteen reports generated, one was excluded on the basis that it was not the child in scope who had been home educated but rather the parent. Of the remainder, reports were available for 11 of the 15, relating to 11 children (where two reports were written for one case review).

One potential limitation of the NSPCC repository is that unlike English Local Safeguarding Children Boards (LSCBs) who are asked to submit published case reviews this does not occur for Wales, nor are there any other central repositories for

case reviews in Wales. In order to address this limitation, a question was added to all professional interviews to determine whether there were any case reviews involving children who are educated at home. In doing so, four cases were revealed although only two practice reviews could be obtained.

Stakeholder engagement: interviews and online survey

To explore the views of both professionals and home educators, key stakeholders were sent an email inviting them to take part in a semi-structured telephone interview. This included representatives from the voluntary and public sector as well as home educators. In order to maximise response rates and ensure participation across Wales within the timescales, telephone interviews were conducted. An online survey was designed to encourage participation from home educators who may have been reluctant to engage in an interview.

The telephone interview and online survey invited stakeholders to comment upon current home education provision in Wales and possible considerations around safeguarding and child welfare. Both the interview and the questionnaire began by asking stakeholders about levels of contact between home educators and the LA, reasons for contact and the strengths and weaknesses of existing measures. The second section focused upon issues surrounding safeguarding including whether current measures were sufficient and whether it was appropriate for local authority staff responsible for home education to assess child welfare.

Stakeholder characteristics

Eighty-two stakeholders were invited to be interviewed as part of the review representing a range of statutory, voluntary and third sector organisations. These stakeholders were identified in consultation with representatives from the National Independent Safeguarding Board or by participants during interviews. Of these, 45 stakeholders participated in the review (Table A1) - 44 were interviewed and 1 responded via email. This is a 55% response rate.

Representatives from all 22 LAs in Wales participated in telephone interviews. Invitations were sent to the Director of Children's Services requesting that a representative be nominated for interview. Local authorities differed in who had strategic oversight for elective home education and who was nominated for interview. This resulted in the inclusion of a variety of perspectives including those from a Director of Education, Service Managers for learning, inclusion, safeguarding as well as co-ordinators and Education Welfare Officers.

Three of the six Regional Safeguarding Children Boards contributed to the review either by interview or email. Six of the 11 safeguarding leads from the Health Board and NHS Trusts in Wales participated as well as representatives from the Welsh Government, the Children's Commissioner for Wales, and following contact with a home educator from Scotland, the Children's Commissioner for Scotland was invited to comment

| <i>Stakeholders</i> | <i>Number</i> |
|--|---------------|
| LAs | 22 |
| Gypsy Traveller Service | 1 |
| Health representatives | 5 |
| Home educator | 6 |
| Child Commissioners (Wales and Scotland) | 2 |
| Anti-slavery Co-ordinator | 1 |
| Welsh Government professionals | 2 |
| Charities | 2 |
| Safeguarding Board representatives | 2 |
| Voluntary group | 2 |
| Total | 45 |

Table A1: Stakeholder participation

Desk-based research was conducted to identify home education organisations and support groups in Wales. Of 3 organisations identified one issued a written statement for inclusion within the review (Appendix E), one cited technical difficulties and one did not respond. In regards to the home education support groups, 4 of the 15 emails sent could not be delivered due to out of date contact details which might suggest some current inactivity. None of the remaining 11 accepted the invitation to be interviewed. Hence, none of the 6 home educators interviewed were from these groups. Four were identified through LAs, one through a voluntary group (not specific to home educators) and one volunteered when they heard about the research. The stakeholder interviews are therefore strongly weighted toward other voluntary sector and public service respondents.

Online survey respondents

Research has consistently found it relatively difficult to access home educators (Rothermel, 2003; Parsons and Lewis, 2010; Nelson, 2013), and even where there has been success it is difficult to know how representative respondents are of a very varied group of families. Some participate in networks, others are comparatively isolated or self-sufficient. Furthermore, even of those who were asked to participate the response rate will vary. The 134 responses to the survey, are therefore useful in

providing a range of views on home education and safeguarding issues – and they are a large sample for UK research in this area - but they do not purport to be representative. Hence most respondents were mothers (N = 83%) and nearly all gave their ethnicity as white (N = 89%).

Ethical approval

Ethical approval was obtained from the Cardiff School of Social Sciences Research Ethics Committee. Stakeholders were sent an email invitation describing the rationale of the review with an information sheet and consent form attached. Stakeholders were assured of their anonymity and confidentiality, although there were a few cases where further measures had to be taken to ensure this. These included those in prominent positions, where it was agreed that they would have the opportunity to consent to their quotes being used in the report, and for those stakeholders where it was considered they would be identifiable due to the position they held. In these cases it was agreed that direct quotes would not be used and consideration would be given to how their views were presented within the report. Prior to each interview consent was gained to record the interview and it was explained that responses would be collated and presented in reports and publications.

Appendix B: Interview schedule

Part one: The first part of our review is finding out about current practice for Elective Home Education

1. How many children of compulsory school age are currently being home educated in your LA?
 - a. How many are known to the LA? *Actual figures or estimates?*
 - b. Roughly how many children do you think are not known to the LA?
 - a. How confident are you that this data is accurate?
2. How does your LA become aware of children who are being educated at home?
Do you think that current measures of identifying children are appropriate?
3. Do you have an estimate for how many children who have not been registered with the LA?
4. How is Elective Home Education (EHE) currently organised in your LA?
5. Once children become known to the LA, what is the Elective Home Education (EHE) team's role?
 - a. To what extent does this provision:
 - ii. Provide *support* to families who are home educating their child?
 - iii. Have you an indication of the proportion of families who access the support the LA provides?
 - iv. Do you have regular contact with families?
 - v. Do you monitor who responds?
6. Do you think that part of the EHE role is to assess or check the children's welfare?
 - a. Have issues ever arisen around a child's welfare
 - i. If so, how were they dealt with?

- b. What are the strengths /weaknesses of current provision?
 - c. Is this level of provision appropriate? How could this be improved?
- 7. Does current EHE provision include support for home educated children from the following groups:
 - a. BME children
 - b. Gypsy, Roma traveller children
 - c. SEN children (including those with and without an EHCP)?

If these families are seen by separate teams, to what extent do they liaise with the EHE team?

Part two: We have been asked to look at the risks to children who are educated at home relating to health and child welfare.

- 8. Have you been involved in any cases where you thought that a home educated child was at risk of harm?
 - a. How did you become aware?
 - b. What did you do?
 - c. What happened?
- 9. Are you aware of any practice reviews within your LA over the last five years where home education has been used as a way of concealing the child for abuse or neglect?
- 10. Are you aware of the non-statutory guidance, published by the Welsh Government in January? Do you think it adequately addresses the safeguarding of home educated children?
- 11. Do you think that the current system in your LA is appropriate for safeguarding children who are educated at home?
 - a. What are the strengths of the current approach?

- b. What are the weaknesses of the current approach?
- c. What ways would you improve it?

12. Who do you think should have overall responsibility for safeguarding children who are home educated?

13. The Badman Review in England proposed the creation of statutory registration and monitoring of home educating families. What do you think of his proposals?

14. Is there anything that you think we should know that we haven't asked you about?

Thank you for your time.

Appendix C: Online survey

An evidence based review into safeguarding children who are educated at home

The National Independent Safeguarding Board have commissioned our team from CASCADE (Children's Social Care Research and Development Centre) from Cardiff University to review and make recommendations for service improvement for Elective Home Education in Wales.

Most children educated at home are safe and well educated. However, findings from recent serious case reviews into child deaths have included examples of children schooled at home where questions have been raised about the ability of professionals to assess the safety of these children. As a result the National Independent Safeguarding Board have commissioned a review of existing evidence and research on the views of key groups on how children educated at home can best be protected. To do this, we aim to gain the views of home education organisations, support groups and parents who are currently home educating their children, about the complex considerations in this area.

This survey is in place of the interview and includes the same questions. Your responses will remain confidential and will be collated and presented in the final report.

For further information please contact Dr Nina Maxwell (MaxwellN2@cardiff.ac.uk).

Move on to the next page to start the survey. It will only take you about 20 minutes to complete.

1. Local Authority

2. Ethnicity

- ☐ White
- ☐ Asian or Asian British
- ☐ Black or Black British
- ☐ Chinese
- ☐ Mixed
- ☐ Other, please describe _____

3. Are you:

- ☐ Mother
- ☐ Father
- ☐ Step-parent
- ☐ Foster carer
- ☐ Grandparent
- ☐ Other, please describe _____

3a. How many children do you have?

3b. How old are your children?

4. How long have you been home educating your child(ren)?

- ☐ Less than 1 year
- ☐ 1 - 2 years
- ☐ 3 -4 years
- ☐ 5 -6 years
- ☐ 7+ years

5. Please describe the reason or reasons for deciding to home educate your child/ children.

Part one: The first part of our review aims to find out about current practice for Elective Home Education in Wales

6. What services does the Elective Home Education service offer to home educating families?

7. In your view, what are the strengths and weaknesses of current Elective Home Education provision?

8. Has the Elective Home Education service contacted you in the last 12 months?

- ☐ Yes, I have received a letter
- ☐ Yes, I have spoken to them on the phone
- ☐ Yes, I have spoken to someone in person
- ☐ No, I have had no contact with them

Condition: No, I have had no contact w... Is Selected. Skip To: 9. Please give details of any se....

8a. If yes, why did they contact you?

9. Please give details of any other organisations or support groups that you regularly access for help or support with home educating your child(ren).

Part two: We have been asked to look at the risks to children who are educated at home relating to health and child welfare.

Several serious case reviews have found that home education has been used as a method of concealing children who are being abused. This has included cases where parents have lacked the mental capacity to meet their child's needs, religious beliefs preventing them from accessing appropriate healthcare and cultural beliefs around gender roles.

It is important to highlight that the majority of families who home educate their children offer no such risk or concern to their children. We are interested in the small number of children who are at risk and how we can best protect them from harm.

10. Do you think that part of the Elective Home Education team's role is to assess or check the children's welfare?

11. Who do you think should be responsible for identifying and safeguarding children who are home educated who may be at risk?

12. How do you think these children can be identified and protected?

13. Have you ever had concerns or known about concerns for a child who as being home educated?

- ☐ Yes
- ☐ No

Condition: No Is Selected. Skip To: 14. The Badman Review in England prop....

13a. How did you become aware?

13b. What did you do?

13c. What was the outcome?

14. The Badman Review in England proposed the creation of statutory registration and monitoring of home educating families.

14a. Would you be willing to have your name on a register? Please give reasons for your answer.

14b. Allow LA staff to meet with you and your child(ren) in your home on an annual basis? Please give reasons for your answer.

15. Is there anything that you think we should know that we haven't asked you about?

Thank you for your time.

Appendix D: What is the legal and policy context of home education?

This section provides a brief summary of the current legal and policy context in Wales. England¹⁰, Northern Ireland and Scotland have different frameworks for both supporting home education and safeguarding children. It should be noted that there is a considerable body of legislation, policy and case-law on the topic of home education and the safeguarding of children/young people in the Welsh context and as such this section should not be seen as an exhaustive discussion of the legal or policy issues surrounding either of these topics. This section begins by outlining the legal basis of home education and the safeguarding of children/young people before discussing parental and children's rights.

Right to education

A child's right to an education is enshrined in Article 2 of Protocol 1 of the European Convention on Human Rights (ECHR):

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.

Similarly, under Article 28¹¹ of the United Nations Convention on Rights of the Child (UNCRC)¹², every child has the right to an education. Article 29 builds on this stating:

Education must develop every child's personality, talents and abilities to the full. It must encourage the child's respect for human rights, as well as respect for their parents, their own and other cultures, and the environment.

¹⁰ It should be noted that during this review examples of good practice have been identified in two English local authorities, Leicester and Bedfordshire. These might be further explored to inform work in Wales.

¹¹ Articles 24 and 32 of the UNCRC also refer to education. Under Article 24 a child must be educated about health and well-being. In Article 32 governments are obligated to protect children from 'economic exploitation and work that is dangerous, or might harm their health, development or education'.

¹² In Wales, the Rights of Children and Young People (Wales) Measure 2011 imposes a duty on Welsh Ministers to have due regard to the UNCRC and the Welsh Government has adopted the UNCRC as the basis for all its work with children and young people.

It is the State that has responsibility to ensure that a child is receiving an education, although neither the ECHR nor the UNCRC stipulate how education should be delivered. States are able to exercise discretion in promoting and facilitating the education of children, indeed there is considerable variation in the form and function of education provision across the UK, Europe and globally. The European Court of Human Rights has allowed flexibility and has observed that there is no consensus among States with regard to compulsory attendance at primary school. Some countries permit home education, but others legislate for compulsory attendance. In *Konrad v Germany* (application no. 35534/03, 11 September 2006), a home-educating couple claimed that compulsory school attendance was a breach of their rights under Article 8, 9 and Article 2 of Protocol 1, in conjunction with Article 14 (discrimination). The Court concluded that these complaints were manifestly ill-founded. States are permitted, as Germany did, to hold the view that the acquisition of knowledge and integration into, and first experiences of, society are important goals in primary-school education which cannot be met to the same extent by home education, even if this allowed children to acquire the same standard of knowledge provided by a school. This report is focused on safeguarding and does not seek to engage with wider debates about the right to home educate, except insofar as they are pertinent to this focus.

When considering a right to an education there is a potential clash between the rights of children/young people and the rights of parents. In Wales a person with Parental Responsibility (PR) has '*all the rights, duties, powers, responsibilities and authority which by law a parent of a child has in relation to the child and his property*'¹³. As such, parents are able to exercise considerable influence over a child's life which can include choosing what form of education their child receives. Article 3 of the UNCRC requires that all adults think about how their decisions will affect children and consider what is best for the child.

Article 12 of the UNCRC gives 'every child the right to express their views, feelings and wishes in all matters affecting them'. As such, a child's feelings about the form of education they receive should be considered. This does not, however, give children's views authority over parents, it simply means that the views of children/young people should be considered. In establishing the rights of a child to choose, due regard should be given to their comprehension and understanding. This is particularly important given the use of Gillick competence which has been used to validate that a

¹³ Eligibility for PR is set out under sections 3, 4, 4A and 4ZA of the Children Act 1989.

child has sufficient maturity and intelligence to understand the nature and implication of a given action¹⁴.

Home education

The right to home education in Wales is conditional on parents being able to provide their children with an 'efficient' and 'suitable' education, the criteria for this is set out under section 7 of the Education Act 1996:

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

(a) to his age, ability and aptitude, and

(b) to any special educational needs he may have,

either by regular attendance at school or otherwise.

Interpreting what this means is not, however, straightforward. The terms 'efficient' and 'suitable' were defined by Mr Justice Woolf in *R v Secretary of State for Education and Science, ex parte Talmud Torah Machzikei Hadass School Trust* (Times Law Reports 12 April 1985) as:

Efficient – An education that 'achieves that which it sets out to achieve'

Suitable – This is an education that 'primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so'

More recently, however, the Court of Appeal has indicated that a child's well-being may be adversely affected by too narrow an education, and that the 'reasonable parent' would seek an educational environment that encourages aspirations and equal opportunities to allow a child to make their own choices in adulthood (*Re G (Children)* [2012] EWCA Civ 1233).

Section 7 is still, however, open to a considerable degree of interpretation. There is no clear definition as to what constitutes 'full-time' education for the purposes of

¹⁴ The test for Gillick competence (*Gillick v West Norfolk and Wisbech Area Health Authority and Department of Health and Social Security* [1986] AC 112) is used for those under 16 years of age. For those aged 16 and 17 the principles of the Mental Capacity Act 2005 should be used. Note, Deprivation of Liberty Safeguards (DoLS) only apply to those aged 18 and over.

home education. The National Curriculum applies only to children/young people in mainstream State education. For those in home education and EOTAS settings, the National Curriculum does not need to be followed. Further to this, the requirement to provide a 'broad and balanced' curriculum (see section 351 Education Act 1996, as amended by the Education Act 2002) does not apply to those who home educate. As such, home educators are free to design their own curriculums, the only requirement is that they are sufficiently tailored to the individual needs of the child.

Estyn, the independent inspectorate for education and training in Wales, has no obligation, or remit, to inspect home education or EOTAS provision. Whilst not having a duty to inspect or regulate EOTAS, Estyn did undertake a Good Practice Review of EOTAS (Estyn, 2016) at the request of the Welsh Government. This followed a wider review into the provision of EOTAS in Wales (McClusky *et al.*, 2013).

In determining if a child's education meets the criteria set out above there is no obligation for any form of home visit to take place. Current non-statutory guidance (Welsh Government, 2017¹⁵) does encourage local authority officers to meet with home educating families but this is at the discretion of both local authorities and home educators. Statutory agencies have no legal right to enter a property to check on home education provision. Further to this, local authorities have no legal right to demand a meeting with parents to discuss educational provision, it is sufficient for correspondence to be via mail or through other mediums. This is consistent with wider social care and safeguarding legislation¹⁶. Contact more generally is also at the discretion of local authorities and home educating families.

A child may be home educated from any age and parents are not required to register their child with the local authority. For children/young people exiting the school register to become home educated – termed 'deregistration' - it is necessary for parents to write to the school formally notifying them of their intention to home educate¹⁷. If this is not done, a child will continue to be entered on the school roll and the parents may be subject to sanctions (see Education (Penalty Notices) (Wales) Regulation 2013). Upon receipt of a parent's request the school must notify the local authority, providing the child's name and address, within ten school days¹⁸. The local

¹⁵ This replaces the National Assembly for Wales Circular No: 47/2006

¹⁶ Police Officers do have power of entry in specific circumstance (see Code of Practice Powers of Entry (Home Office, 2014)).

¹⁷ Regulation 8(1)(d) of the Education (Pupil Registration) (Wales) Regulation 2016.

¹⁸ Regulation 12(3) of the Education (Pupil Registration) (Wales) Regulation 2016.

authority must in turn write to the parents to acknowledge receipt of the decision to home educate. Further to this, local authorities must consider whether the decision to withdraw a child from the school roll constitutes a cause for concern as stipulated in *Elective home education: non-statutory guidance for local authorities* (Welsh Government, 2017 – see pages 5, 9 and 12-23).

Local authorities do have a duty to identify children who are not on the school roll and who are not receiving a suitable education (see section 436A of the Education Act 1996). Further to this, under section 437 of the Education Act a local authority may issue a school attendance order (SAO) where a parent fails to provide that a child of compulsory school age is not receiving a suitable education:

(1) If it appears to a local 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.

(2) That period shall not be less than 15 days beginning with the day on which the notice is served.

(3) If—

(a) a parent on whom a notice has been served under subsection (1) fails to satisfy the local authority, within the period specified in the notice, that the child is receiving suitable education, and

(b) in the opinion of the authority it is expedient that the child should attend school, the authority shall serve on the parent an order (referred to in this Act as a “school attendance order”), in such form as may be prescribed, requiring him to cause the child to become a registered pupil at a school named in the order.

(4) A school attendance order shall (subject to any amendment made by the local authority) continue in force for so long as the child is of compulsory school age, unless—

(a) it is revoked by the authority, or

(b) a direction is made in respect of it under section 443(2) or 447(5).

The local authority must consult with the governing body of the school and the head teacher before a specific school is named in any letter of intention. Parents may request that a SAO be revoked under section 442 of the Education Act 1996¹⁹. If an SOA is not adhered to then the local authority may apply for an Education Supervision order under section 36 of the Children Act 1989.

There is no duty for local authorities, or other public bodies, to provide financial assistance to those who choose to home educate. Any provision of support in monies, or in-kind, is done on a discretionary basis.

For parents withdrawing a child with Special Educational Needs (SEN) from the school roll parents must demonstrate that they are able to make suitable accommodation of the child's needs before a local authority stops maintaining the statement. Combined provision by both parents and the local authority is possible. Parents are also able to request an assessment of educational needs under sections 328 and 329 of the Education Act 1996. For more information on this, please refer to page 19 of non-statutory guidance for Wales (Welsh Government, 2017)²⁰.

Access to health and social care (non-safeguarding)

Education status has no bearing on entitlements to health care; it is a principle of the National Health Service (Wales) Act 2006 that services shall be 'free at the point of delivery' (S1(3)). Similarly, education status does not affect entitlements to mental health services, whether this be provided through services such as Child and Adolescent Mental Health Services (CAMHS) or inpatient settings²¹.

¹⁹ Further information on SAOs is available in the All Wales Attendance Framework (Welsh Assembly Government, 2011)

²⁰ **Please note, the Additional Learning Needs and Education Tribunal (Wales) Bill currently at stage 2 in the National Assembly for Wales may have implications for parents with SEN status once passed.**

²¹ Note, the Mental Health (Wales) Measure 2010 and the Mental Health Act 1983 (as amended by the Mental Health Act 2007) are the central pillars of mental health provision. Secondary legislation such the various Code of Practice for both the Measure (Welsh Government, 2012) and the Act(s) (Welsh Government, 2016b) and wider guidance for the admission of children and young people to inpatient settings (Welsh Government 2014). Under section 131A(2) of the Mental Health Act 1983, it is the responsibility of the Hospital Manager to arrange education for inpatient children/young people of compulsory education age.

Entitlements to social care provision are, like health, also not affected by education status. Social care provision covers a wide array of services and support which may be offered by a local authority to any child/young person and their families. These services can include support to children with disabilities, young carers, meeting the care and support needs of a child and wider preventative services. Many of these services are provided under various components of the Social Services and Well-being (Wales) Act 2014²² - predominately Part 4 of the Act. This would include preventative services and the provision of information through Information, Advice and Assistance (IAA) services (see section 17 of the Social Services and Well-being (Wales) Act 2014).

Young carers would also be entitled to support under wider social care provision. Any young carer is entitled to assessment (section 24) and support (sections 42 and 43) under the Social Services and Well-being (Wales) Act 2014 (see also Codes of Practice for Parts 3 and 4 of the Act). Local authorities must consider the impact caring has on the developmental needs of the child and whether it is appropriate for them to provide the care (or any care) as a result of these needs (Section 24(5(C))). Being a young carer is not, in and of itself, a safeguarding concern, however, in assessing a child the impact on their welfare must be considered.

Safeguarding

Under Article 19 of the UNCRC every child has the right to protection from violence, abuse and neglect:

Governments must do all they can to ensure that children are protected from all forms of violence, abuse, neglect and bad treatment by their parents or anyone else who looks after them.

This is further affirmed under Article 3 of the ECHR, incorporated in the UK statute through the Human Rights Act 1998, that states that we have the right to protection from inhuman and degrading treatment. This right extends to children being removed from a dangerous household. We also have a right to respect for our Private and

²² 'Education, training and recreation' is identified as a domain of Well-being under section 2(2) of the Social Services and Well-being (Wales) Act 2014. Having a 'skilled and well-educated population' is also a stated well-being goal under section 4 the Well-being of Future Generations (Wales) Act 2015. Prior to implementation of the Social Services and Well-being (Wales) Act 2014 in 2016, services were often provided under the Children Act 1989 (notably section 17 of this Act), the Adoption and Children Act 2002, the Children Act 2004 and the Children and Young Persons Act 2008. Some elements of these Acts remain in force, however, as of April 2016 most services are provided under the Social Services and Well-being (Wales) Act 2014.

Family Life (Article 8). This is a qualified right meaning that the State may, where it is necessary, proportionately intervene in accordance with the law for one or more legitimate aims;

- 1) the interests of national security;
- 2) the interests of public safety or the economic well-being of the country;
- 3) the prevention of disorder or crime;
- 4) the protection of health or morals; or
- 5) the protection of the rights and freedoms of others.

In the case of children and young people, local authorities in Wales have a statutory duty to safeguard all children in accordance with the Children Act 1989, and other associated legislation. Specifically, they have a duty to investigate where they 'have reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm' and is resident, or is found, in their area (section 47 of the Children Act 1989). If access to a child/young person is being refused, or is in any way obstructed, then the local authority may apply for a Child Assessment Order (CAO) (section 43(1) of the Children Act 1989)²³. Where more urgent and significant safeguarding needs exist an Emergency Protection Order or Interim Care Order might be applied for under Part 4 of the Children Act 1989. In undertaking investigations, the local authority shall work with other statutory agencies who are obligated to share information (see Wales Accord for the Sharing of Personal Information (WASPI) (Welsh Government, 2017b)). The outcome of the local authority's investigations may lead to a number of outcomes; no further action (i.e. withdrawal of services), provision of services through a care and support plan (Part 4 of the Social Services and Well-being (Wales) Act 2014), a child's name being placed on the Child Protection Register (CPR) or an application being made to a Court, under Parts 4 and 5 of the Children Act 1989. Further guidance on this is also provided in the Working Together Under the Children Act (Welsh Assembly Government, 2006)

The Social Services and Well-being (Wales) Act 2014, has placed a duty for relevant partners of local authorities to report any reasonable cause to suspect that a child is at risk of abuse, neglect or other kinds of harm and has need of care and support

²³ The All Wales Child Protection Procedures (Children in Wales, 2008) provide non-statutory guidance on how safeguarding should be managed. However, some aspects of this guidance are in the process of being updated. The former statutory guidance, Working together under the Children Act 2004, issued in 2006, now has the status of 'good practice'.

(see section 130 of the Act)²⁴. While this would not apply to home educators it would apply to any professionals who came in to contact with children who are being home educated.

Home education is not, as is noted in the non-statutory guidance (Welsh Government, 2017), grounds for concerns about the welfare of a child/young person. A local authority's duty to safeguard applies regardless of a child's educational status, although failure to provide a suitable education might be constitute a safeguarding issue in some situations (e.g. subjecting children to inappropriate materials or promoting a radicalised curriculum). Local authorities must consider whether any aspect of a child's education, or wider upbringing, might be a safeguarding need under the Prevent Duty (see Part 5 of the Counter-Terrorism and Security Act 2015 and sections 67 and 68 Revised Prevent Duty Guidance for England and Wales (HM Government, 2015)). Specific reference is made to home education under section 51 of the 2015 guidance:

Local authorities should take steps to understand the range of activity and settings in their areas and take appropriate and proportionate steps to ensure that children attending such settings are properly safeguarded (which should include considering whether children attending such settings are at risk of being drawn into extremism or terrorism). In assessing the risks associated with such settings, local authorities should have regard to whether the settings subscribe to voluntary accreditation schemes and any other evidence about the extent to which the providers are taking steps to safeguard the children in their care. (HM Government, 2015:9)

Where safeguarding issues exist, local authorities are to consider how to actively use the full range of powers available to them under the Children Act 1989 and associated legislation. Referrals can also be made to the local Prevent lead who in turn may make a referral to the Channel panel(s)/programme(s) (see sections 36 to 41 of the Counter-Terrorism and Security Act 2015 and Channel Duty Guidance: Protecting vulnerable people from being drawn into terrorism (HM Government, 2015b)).

The Welsh Government's (2017) non-statutory guidance for home education advises that there may be circumstances when education officers may have concerns about

²⁴ Similar duties exist under the Prevent duty (discussed later) and any concerns related to Female Genital Mutilation (FGM) – see Mandatory reporting of female genital mutilation: procedural information (Home Office, 2015).

a child's welfare and might wish to consider liaising with other relevant agencies/organisations. These circumstances include:

- *where a child or family member has been identified as being in need*
- *where a child or family member has been referred to social services or the police for child protection reasons, and the matter is being investigated*
- *where a child or a sibling is on the child protection register*
- *where a child or family member has been referred on care and protection grounds, and the referral is being considered*
- *where a child is the subject of a supervision requirement*
- *where a member of the public raises concern about a child's welfare*
- *where a child is known to be a carer*
- *where a child has not been seen for some time by any of the universal services*
- *where a family isolate themselves from routine services and healthcare.*

*(Welsh Government,
2017:21²⁵)*

In addition to advising on potential circumstances that might warrant further investigation by education officers, the non-statutory guidance also identifies that home educators may wish to employ, or work with, others to undertake some aspects of their child's education. In doing this, they should be mindful of safeguarding needs that may arise. While there is no statutory obligation to follow any specific protocols, the non-statutory guidance from the Welsh Government highlights that home educators may wish to use guidance on appointing individuals who work with children found in *Keeping Learners Safe* (Welsh Government, 2015).

A wide range of potential circumstances that may be linked to safeguarding issues are identified through the non-statutory guidance. It is important to note that all children are potentially vulnerable to abuse, neglect and exploitation. The last three points identified on the list above have particular implications that might give rise to safeguarding concerns.

As previously noted, being a young carer does not automatically constitute a need for safeguarding, however, LAs must be mindful of the circumstances of

²⁵ Note, the order of the list has been slightly amended to assist with the flow of the subsequent discussion.

children/young people. When considering the needs of young carers, and any child, professionals must be alert to modern slavery; servitude and forced or compulsory labour; securing services by force, threat or abuse from children and vulnerable people (see Part 1 of the Modern Slavery Act 2015). Where there are reasons to believe that a child is at risk of abuse from offences under the Modern Slavery Act, victims must be referred for assessment and support via the National Referral Mechanism (no consent is needed from children/young people). Any suspicion that a child is being trafficked (within the UK or across international borders²⁶) or any form of abuse, neglect or servitude/labour also constitute a safeguarding issue and must also be considered and reported. In situations where a child has not been seen for some time by universal services, or where a family has isolated themselves from routine services it may be difficult for services to be aware of the child's specific situation.

Finally, contemporary safeguarding practice can be reviewed where it is felt necessary and/or appropriate by Safeguarding Boards. Historically these took the form of a Serious Care Review and utilised a similar framework across England and Wales. At the start of 2013 a new process of reviewing was implemented in Wales, this takes the form of Child Practice Reviews (CPRs) which can be (i) concise and (ii) extended in nature (for further information about the differences please refer to Guidance for Arrangement for Multi-Agency Child Practice Reviews (Welsh Government, 2012b)).

Local authority policies

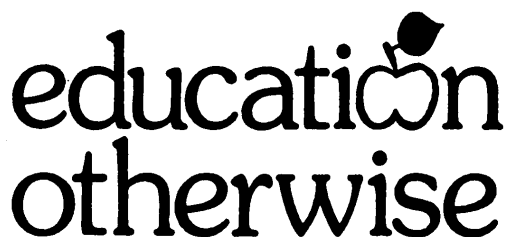
The non-statutory guidance currently in place in Wales affords local authorities considerable autonomy in determining how they engage with the home educating community and how issues of safeguarding are managed. Of the documents received and reviewed as part of this report (see Appendix F) detail about the process of withdrawing a child from mainstream education, and those with SEN statements, are clearly identified and there is often some attempt made to collect data on the reason for withdrawal. The variability and limited nature of data capture across LAs is currently being addressed by the Welsh Government in an attempt to yield information which can be quantified and analysed to identify national trends in home education.

²⁶ Under section 55 of the Borders, Citizenship and Immigration Act 2009, the UK Border Agency (UKBA) has a duty to safeguard and promote the welfare of children found in the course of its work. See also Article 22 (Refugee Children) of the UNCRC.

It should, however, be noted that there are areas of divergence in the policies. The tone of the documents and the approach to engaging with the home educating community appear to vary. In some instances, the legal overview is very succinct with little accompanying guidance or information. Others provide detailed information about wider support, the process of withdrawing a child from mainstream education and details about what to expect from the local authority in terms of future contact. Some local authorities explicitly identify their preference for ongoing contact, this is often in the form of an annual meeting. The variation in language suggests that there is some disparity in how home education is both perceived and engaged with.

There also appears to be considerable variation in who is responsible for engaging with home educators within local authorities. Local Authority Officers (LAO), EHE Advisors and Educational Advisors were all identified in the documents (the term Education Officer is used in the non-statutory guidance). The background and function of these roles was not identified. More continuity about responsibility for home education liaison would seem appropriate.

Appendix E: Education Otherwise Statement



Please reply to this address:
Education Otherwise Association
Ltd Office 7,
35-37 Ludgate Hill, London,
EC4M 7JN

Sent By Email

To: Dr Nina Maxwell (MaxwellN2@cardiff.ac.uk)

4 April 2017

EDUCATION OTHERWISE ASSOCIATION LIMITED (EO), response to the CASCADE (Cardiff University) review for service improvement for Elective Home Education in Wales titled 'An evidence based review into safeguarding children who are educated at home'.

Dear Dr Maxwell

The survey is preceded with the following statement:

'Most children educated at home are safe and well educated. However, findings from recent serious case reviews into child deaths have included examples of children schooled at home where questions have been raised about the ability of professionals to assess the safety of these children. As a result the National Independent Safeguarding Board have commissioned a review of existing evidence and research on the views of key groups on how children educated at home can best be protected. To do this, we aim to gain the views of home education organisations, support groups and parents who are currently home educating their children, about the complex considerations in this area.'

This immediately raises a number of concerns:

1. 'findings from recent case reviews'. EO's analysis of all serious case reviews and related materials published since 2008 which mention the terms 'home education', 'home schooling' or 'education otherwise' identified that in all cases there were no impediments to professionals accessing home educated children where genuine concerns were expressed for the welfare of the children and these were referred to the relevant professionals (i.e. the Police, Local Authority Children's Services Social Work professionals).
2. 'how children can best be protected'. Education Otherwise require a clear definition of what is meant by 'protected'. Protected from what and from whom? We would note that home educated children are entitled to the same respect and protection in law as a child who attends school. We fail to see how making a distinction between a home educated child and a schooled child is anything other than an arbitrary one.

Education Otherwise Association Ltd, Office 7, 35-37 Ludgate Hill, London, EC4M 7JN

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Charity Registration No 1055120 Web site: www.education-otherwise.org

3. Please explain the 'complex considerations' statement. It is so vague as to be meaningless.

EO's view is that current education legislation effectively safeguards the right of each individual child to an education. It does so by placing the duty for education on parents / carers to provide a suitable education by either taking direct responsibility for the education or by delegating their responsibility to school.

EO consider the current legislation for child welfare and protection as embodied in the Children Acts is not impeded by the Education Acts or by the fact of home education itself.

EO are firmly of the view that the institutional prejudice against home education is the most pressing issue from which children and their families need to be protected. Local Authority policy and procedures for Elective Home Education frequently misrepresent their duties and powers as regards both education and 'safeguarding'. This results in a great deal of tension, primarily arising from Local Authorities making demands of home educating families which are not supported in law and which are not similarly applied to schooled children. This institutional prejudice against home education needs to be eradicated.

EO will not be responding to the specific questions in the survey as we consider the wrong approach to home education from both an education and safeguarding perspective is being taken by Local Authorities.

The survey itself presupposes a safeguarding deficit for home educated children which EO fundamentally disagree with. Parents are primarily responsible for safeguarding their children's interests with the state permitted to interfere in family life if it is established that children are suffering or are likely to suffer significant harm attributable to unreasonable parenting. Taking direct responsibility for children's education is not unreasonable parenting.

EO's view is that a new atmosphere of confidence and trust in Local Authorities must be created. The onus to begin the process which will create that atmosphere lies firmly and clearly with the Local Authority itself. Local Authority leaders must examine every aspect of their policies and practices to assess whether the outcome of their actions creates or sustains patterns of prejudice against home education. The provision of services by Local Authorities to a diverse public must be appropriate and professional in every case with every family and individual treated with respect by Local Authority officers in compliance with the law as it currently stands. The Local Authority must offer service which recognises the different experiences, perceptions and needs of a diverse society.

Furthermore, the recently published guidance from the Welsh Assembly for Elective Home Education needs to be rewritten to emphasise the following key points:

- The fact that a family are home educating one or more children is not a safeguarding concern.
- Parents and Carers who are home educating shall be presumed to be fulfilling their duty to provide an efficient and suitable education.

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- Parents and Carers who are home educating shall be presumed to be fulfilling their duty to safeguard their children's well-being and promote their interests.
- Local Authority officers requiring some information from a parent / carer shall do so in a respectful manner without threats of referral to CME or Children's Social Care.
- Local Authority Officers may offer a home visit or to meet with parents / carers at another location and parents may freely choose to accept or decline the offer with no inference drawn from either.
- The manner in which a parent chooses to present information about their education provision is the parent's choice. Parents might prefer to provide a written report, samples of work, or have their educational provision endorsed by a third party for example.
- Local Authority leaders must actively work to ensure each of the authority's relevant partners; and such other persons or bodies as the authority consider appropriate are suitably informed of the legality of home education and that it is not a safeguarding concern in and of itself.

Yours sincerely

Graeme Evans

On behalf of Trustees, EDUCATION OTHERWISE ASSOCIATION LIMITED

Appendix F: Policy documents Wales

Blaneau Gwent County Borough Council (2016) *Elective Home Education Policy*. Available at: http://democracy.blaenau-gwent.gov.uk/aksblaenau_gwent/images/att6114.pdf (Accessed 25.06.17)

Cardiff Council (Undated) *Elective Home Education – Education Service Information Leaflet*. Available at: <http://edyourself.org/cardiffEHEinfobooklet.pdf> (Accessed 25.06.17)

Cardiff Council (Undated) *Elective Home Education – Advice and guidance*. Cardiff: Cardiff Council

Cardiff Council (Undated) *Revised Flow Chart*. Cardiff: Cardiff Council

Conwy County Borough Council (Undated) *Elective Home Education – Protocol for Parents*. Conwy: Conwy County Borough Council

Denbighshire County Borough Council (Undated) *Elective Home Education – Information sheet*. Denbighshire: Denbighshire County Borough Council

Denbighshire County Borough Council (Undated) *Elective Home Education – Protocol for Parents*. Denbighshire: Denbighshire County Borough Council

Merthyr Tydfil County Borough Council²⁷ (Undated) *Elective Home Education – Guidance Booklet*. Merthyr Tydfil: Merthyr Tydfil County Borough Council

Newport County Borough Council (2016) *Elective Home Education Policy*. Newport: Newport County Borough Council

Vale of Glamorgan County Borough Council (Undated) *Elective Home Education Information Leaflet*. Available at: <http://www.valeofglamorgan.gov.uk/Documents/Living/Social%20Care/Children%20and%20Family%20Services/Local%20Safeguarding/Elective%20Home%20Education%20-%20info%20leaflet.pdf> (Accessed 25.06.17)

²⁷ This is part of a consortium between Bridgend, Cardiff, Merthyr and the Vale of Glamorgan.

Appendix G: Home educator online survey data

This section presents findings from the home educator online survey. This survey included many open-ended items which have not been presented in order to preserve anonymity. Hence whilst the data tables provide a general overview, the report is based upon more in-depth analysis of the qualitative responses.

G.1 Local Authority

The 96 respondents from Wales were spread across 20 of the 22 LAs with slightly more from Conwy, Denbighshire and Carmarthenshire (Table G1). There were no respondents from Ceredigion and Merthyr Tydfil. This is somewhat surprising as the LA figures reported by the Welsh Government (2016) show that Ceredigion has had the highest rate of home education since 2011/12 and a rate of 15.0 per 1000 for 2015/16 (2016).

Table G1: Home educators by local authority

| Local authority | Number | Percentage of country | Local Authority | Number | Percentage of country |
|--------------------|--------|-----------------------|--------------------|--------|-----------------------|
| WALES | | | ENGLAND | | |
| Anglesey | 3 | 3 | Berkshire | 1 | 6 |
| Blaenau Gwent | 2 | 2 | Devon | 1 | 6 |
| Bridgend | 4 | 4 | Dorset | 1 | 6 |
| Caerphilly | 2 | 2 | Gloucestershire | 2 | 13 |
| Cardiff | 8 | 8 | Greater Manchester | 2 | 13 |
| Carmarthenshire | 12 | 13 | Hampshire | 2 | 13 |
| Ceredigion | 0 | - | Hertfordshire | 1 | 6 |
| Conwy | 16 | 17 | Lancashire | 1 | 6 |
| Denbighshire | 10 | 10 | Northampton | 1 | 6 |
| Flintshire | 2 | 2 | Shropshire | 1 | 6 |
| Gwynedd | 2 | 2 | Somerset | 1 | 6 |
| Merthyr Tydfil | 0 | - | Warwickshire | 1 | 6 |
| Monmouthshire | 5 | 5 | West Midlands | 1 | 6 |
| Neath Port Talbot | 5 | 5 | | | |
| Newport | 3 | 3 | | | |
| Pembrokeshire | 3 | 3 | | | |
| Powys | 6 | 6 | | | |
| Rhondda Cynon Taff | 2 | 2 | | | |
| Swansea | 1 | 1 | | | |
| Torfaen | 1 | 1 | | | |
| Vale of Glamorgan | 2 | 2 | | | |
| Wrexham | 3 | 3 | | | |
| Unnamed Welsh LA | 4 | 4 | | | |
| Total | 96 | 100 | Total | 16 | 100 |

Missing data = 22

G.2 Ethnicity and role

Nearly all gave their ethnicity as white (N = 88%). Most home educators were mothers (N = 82%) followed by fathers (N = 13%) and grandparents (N = 2%). Of the 4% who described themselves as 'other' two provided further details; one was a home educated child and one a professional working in home education.

Table G2: Home educator characteristics

| <i>Ethnicity</i> | <i>Number</i> | <i>Percentage</i> |
|-------------------------------|---------------|-------------------|
| <i>White</i> | 118 | 88 |
| <i>Mixed</i> | 5 | 4 |
| <i>Asian or Asian British</i> | 3 | 2 |
| <i>Other</i> | 6 | 5 |
| <i>TOTAL</i> | 132 | 99 |
| <i>Role</i> | <i>Number</i> | <i>Percentage</i> |
| <i>Mother</i> | 109 | 82 |
| <i>Father</i> | 18 | 13 |
| <i>Grandparent</i> | 2 | 2 |
| <i>Other</i> | 5 | 4 |
| <i>TOTAL</i> | 134 | 101 |

Percentages may not equal 100 due to rounding

G.3 How many children do you have?

Respondents reported having from 1 to 11 children with the majority having four children or less. In total, the sample represented 264 children in Wales. Given the estimated numbers for Wales this suggests responses from parents for 9%-13% of all home educated children.

Table G 3: Number of children

| Number of children* | Number | Percentage | Number | Percentage |
|----------------------|--------|------------|---------|------------|
| | WALES | | ENGLAND | |
| One | 18 | 20 | 3 | 19 |
| Two | 33 | 36 | 6 | 38 |
| Three | 21 | 23 | 1 | 6 |
| Four | 8 | 9 | 4 | 25 |
| Five | 6 | 7 | 1 | 6 |
| Six | - | - | - | - |
| Seven | 1 | 1 | 1 | 6 |
| Eight | 2 | 2 | - | - |
| Nine | - | - | - | - |
| Ten | 1 | 1 | - | -- |
| Eleven | 2 | 2 | - | - |
| Total no of families | 92 | 100 | 16 | 100 |
| Total of children | 264 | - | 46 | - |

*One respondent was a home educated child

Missing data = 25

G.4 How long have you been home educating?

Home educators ranged from those who had been home educating for less than a year to those who had been home educating for over 7 years.

Table G 4: How long have you been home educating your child?

| <i>Duration</i> | <i>Number</i> | <i>Percentage</i> |
|------------------|---------------|-------------------|
| Less than a year | 24 | 18 |
| 1 – 2 years | 27 | 20 |
| 3 – 4 years | 22 | 16 |
| 5 – 6 years | 13 | 10 |
| 7+ years | 48 | 36 |
| Total | 134 | 100 |

G.5 Current practice for home education in Wales

Of the 108 home educators who responded (Table G5), 41% of home educators reported they had been contacted by the local authority in the preceding twelve months whilst 58% reported no such contact.

Table G 5: Contact with the local authority

| <i>Contact in the preceding 12 months</i> | <i>Number</i> | <i>Percentage</i> |
|---|---------------|-------------------|
| No contact | 63 | 58 |
| Received a letter | 27 | 25 |
| Spoken to someone in person | 10 | 9 |
| Spoken to them on the phone | 8 | 7 |
| Total | 108 | 100 |

Missing data = 26

G.6 Child welfare, concerns, registration and monitoring

Table G6 shows that the vast majority of home educators did not perceive education professional's as suitable for assessing child welfare. When asked whether they had ever had concerns or known about concerns for a child who was being home educated, 15 stated they had, with analysis of the qualitative responses revealing an additional home educator who reported having such concerns.

Most home educators were not willing to have their names upon a register of home education nor were they willing to participate in annual meetings with LA staff. However, nearly a fifth of home educators did indicate a willingness to have their names on a register and take part in meetings with LA staff.

Table G 6: Education's role in assessing child welfare

| Item | Yes | | No | | Total | |
|--|-----|----|----|----|-------|-----|
| | N | % | N | % | N | % |
| Do you think it is part of the Education team's role to assess child welfare? | 10 | 12 | 75 | 88 | 85 | 100 |
| Have you ever had concerns or known about concerns for a child who is being home educated? | 15 | 16 | 82 | 84 | 97 | 100 |
| Would you be willing to have your name on a register? | 18 | 20 | 72 | 80 | 90 | 100 |
| Allow LA staff to meet with you and your child(ren) in your home on an annual basis? | 19 | 22 | 69 | 78 | 88 | 100 |

