



# Multi-Agency Protocol for Safeguarding Elective Home Educated Children

## THE MID AND WEST WALES SAFEGUARDING BOARD

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## Purpose of Practice Guidance Protocol

This multi-agency protocol aims to provide a regional and consistent approach to safeguarding children and young people across the CYSUR region who are electively home educated. The protocol is aimed at promoting agencies and multi-agency partners to work together to ensure that CYSUR have a robust oversight of elective home education and assure that all children in the region are equitably safeguarded.

The protocol aims to ensure that there is awareness raising of the possible vulnerability of some home educated pupils and provide a systematic process for identifying those who are more vulnerable but recognising that home education is not in itself a safeguarding concern and accepting that there are, as with any pupil population, a minority of children about whom there will be safeguarding concerns.

It is intended that this will provide a framework for:

- promoting the wellbeing of our electively home educated children
- agreeing a systematic approach for identifying those children who are being educated at home
- agreeing a consistent method of providing support and advice to parents/carers and children and young people who are considering or who are already educating their child/children at home
- promoting positive engagement with families who are home educating.
- ensuring that all professionals involved with the family have the necessary skills to identify safeguarding concerns

## Legal Context of Elective Home Education

In England and Wales parents/carers/guardians have the primary responsibility for ensuring that their children receive a suitable and efficient education. Although this responsibility is usually delegated to schools, some parents choose to exercise it directly by providing education based in the home. It should be noted that home education is equal in statute to education at school.

Elective Home Education (EHE) is the term used when parents take personal responsibility for their child's education.

Section 7 of the Education Act 1996 provides that:

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

- (a) To his age, ability and aptitude, and
  - (b) to any special educational needs he may have
- either by regular attendance at school or otherwise.”**

An “efficient” and “suitable” education is not defined in the Education Act 1996 but “efficient” has been broadly described in case law as preparing the child for a life in his/her community.

Compulsory school age begins at the start of the term following a child's fifth birthday and ends on the last Friday in June of the school year in which they are sixteen.

There is no requirement in law for parents to inform the Local Authority that they are home educating their children. If children have been attending school, then parents have a duty to inform the head teacher in writing that they intend to take personal responsibility for their child's education and the school should then inform the Local Authority. It should be noted that parents do not have to apply to home-educate their child – it is their legal right to do so.

Local authorities also have a duty under section 175(1) of the Education Act 2002 to safeguard and promote the welfare of children. This section states:

"A local education authority shall make arrangements for ensuring that the functions conferred upon them in their capacity as a local education authority are exercised with a view to **safeguarding and promoting the welfare** of children."

## **Safeguarding**

As already stated, home education is not in itself a safeguarding concern. However, there have been a number of high-profile cases in which children have been harmed whilst being electively home educated which suggest the following.

- Some home-educated children are subject to less monitoring and scrutiny than those who attend school. Therefore, if a child were subject to abuse or neglect services are less likely to become aware of them.
- Parents of children with special educational needs, particularly those with complex and/or profound needs, may struggle with the practical and emotional difficulties of providing home education. Such parents may lack the support of others and become isolated.

The Social Services and Well-being (Wales) Act 2014 places a duty to report children at risk and states that '*there should be clearly identifiable points of contact within the local authority and the relevant partners to ensure that a relevant partner can report any concerns to the local authority in line with the duty set out at section 130 of the Act. There should be a single point of contact within each of the organisations*'.

The Welsh Government guidance on Elective Home Education no: 202/2016 states that '*Whether in school or home-educated, the welfare and protection of all children and young people should be of the utmost concern to all involved. It is everyone's responsibility.*

*Improved outcomes for children and young people can only be delivered and sustained when key individuals and bodies work together to design and deliver more integrated services around the needs of children and young people. That needs to be led and managed at a local level and supported nationally*'.

The All Wales Practice Guide, Safeguarding Children who are Home Educated (Wales Safeguarding Procedures) states that '*When any practitioner or professional is informed that a parent/carer intends to home educate or is already home educating their child they should give consideration to the well-being and safeguarding needs of the child. This should include a consideration of whether there are any care and support needs of a parent/carer that might impact on their ability to provide the child with a suitable education at home or to support their well-being.*'

It is acknowledged that in the absence of any primary legislation specifically for children who are electively home educated, the protocol may not capture every home educated child, particularly if the child moves into the area from another county and does not register with services.

## **Information Sharing Protocol for the Safeguarding of Children, Young People and Vulnerable Adults within the West Wales region 2019**

Sharing information is vital for early intervention to ensure that children and young people get the services they require, including educational support. It is also essential to protect children and young people from suffering harm from abuse or neglect, and to prevent them from offending. Agencies and professionals have an individual and collective responsibility to provide a duty of care to them.

### **Safeguarding Information sharing stages:**

Partner organisations will, at all times, work in accordance with the Wales National Safeguarding Procedures. The Mid and West Wales Regional Safeguarding Board's [Information Sharing Protocol](#) (ISP) explains broadly how information may be shared as part of this process.

Practitioners are often concerned about compliance with the Data Protection Act 2018 and the Human Rights Act 1998 which can lead to a risk averse approach to information sharing.

The regional ISP identifies that information can be shared as **Pre-referral Communication**. This information sharing stage acknowledges that professionals from partner organisations may need to communicate with each other, and in doing so share personal and sensitive information, in order to make a safeguarding referral. This does not in any way remove or replace the statutory obligation to refer to the Local Authority wherever a concern is identified, but acknowledges that professionals may need to communicate in advance of this in order to confirm or collate the information required to make a referral.

The ISP explains the circumstances where sharing and exchanging of information is necessary so that a proper assessment can be made to identify vulnerability, needs and most importantly risks, so as to inform an appropriate course of action.

Agencies and practitioners are under various obligations to assist and work together with other agencies in seeking to protect children from harm and meet their needs.

The regional ISP states that in relation to '**Prevention**' information sharing, it should be noted the term 'safeguarding' refers to both the **protection** and **prevention** of abuse, neglect and other types of harm.

The ISP explains that as well as responding to situations where a child or adult is clearly at risk of harm, professionals also have a duty to work together and share relevant information in order to prevent such harm occurring or escalating. This will often include the need to share personal information in relation to children and young people.

*Working Together To Safeguard People Volume 5 – Handling Individual Cases to Protect Children at Risk advises that 'practitioners must share information in accordance with the Data Protection Act 1998, from 25 May 2018 the EU's Data Protection Act 2018, and the common law duty of confidentiality. This allows for the sharing of information and should not be automatically used as a reason for not doing so. In exceptional circumstances, personal information can be lawfully shared without consent where there is a legal requirement or the practitioner deems it to be in the public interest. One of the exceptional circumstances is in order to prevent abuse or serious harm to others.'*

The Welsh Government guidance on Elective Home Education no: 202/2016 states '*All agencies working with children and young people and parents, must have the knowledge and skills to safeguard and promote the welfare of children and young people. They must be able to recognise and report safeguarding concerns about a child with relevant agencies*'.

Useful information

This document can be read in conjunction with the following information:

Working together to Safeguard People, Volume 5 – Handling Individual Cases to Protect Children at Risk:

<https://gov.wales/docs/dhss/publications/180511childrenatrisken.pdf>

Working together to Safeguard People, Volume 6 – Handling Individual Cases to Protect Adult at Risk:

<https://gov.wales/docs/dhss/publications/180511adultsatrisken.pdf>

### **Consent**

Efforts should always be made to obtain consent from families before any intervention or referral is undertaken. However, it is accepted that there may be occasions when consent will not be gained and where there are still safeguarding concerns about children.

The Children's Act 1989 states that all public agencies should work together to exchange and share information for the welfare and protection of children in the area.

In order to ensure that the Human Rights Act is also complied with, and particularly Article 8 of the European Convention, any information sharing would need to be necessary, proportionate and in accordance with one of the legitimate aims set out in the Article, e.g. protecting the rights of others.

So far as the common law of confidentiality is concerned, in the absence of consent, there would need to be an overriding public interest to justify disclosure - this would for example ordinarily include situations where there is a risk to the protection or well-being of the child without the information being shared.

### **Identifying home educated pupils in a LA area**

Each LA should attempt to identify, as far as possible, those children in their area who receive elective home education. This is more easily achieved if agencies share information about children and young people and align systems which make this easier.

This may be achieved by a range of methods:

- All LAs keeping a database/record of known electively home educated children in their area. The database should reflect similar information to that of a mainstream school pupil.
- Use exit/information forms which schools are required to complete and which includes information about whether there had been any previous welfare or safeguarding concerns.
- LA to check birth records against school admissions to identify those children who never enrol at a mainstream school.
- Use the Mid and West Wales Safeguarding Board's Regional [Information Sharing Protocol](#) to exchange information with other agencies including Health, Social care and Police to assist with identifying children who may not be known to the LA.
- Cooperation from other agencies that become aware of children who are being electively home educated.
- Ensure that elective home education is on the agenda at strategic LA relevant meetings to track and monitor trends/patterns/themes, i.e. high de-registrations from specific schools or because of issues such as attendance etc.
- Strengthen links with regional LAs to ensure information about families who move across areas is robust.

### **Support and advice to parents**

Early intervention and conflict resolution at school level prior to deregistration should always be the overriding aim in attempting to resolve and issues with school or curriculum. This can be achieved by early intervention and referral to local support networks such as education welfare services, school pastoral support systems, behaviour support or school counselling.

All LAs will:

- Provide advice and guidance documents which outline parental responsibilities, the LA role and legal duties, support networks, organisations that can assist etc.
- Provide an information pack to parents outlining relevant LA support and advice available and including appropriate local community services, which could include leaflets, phone numbers, etc.
- Ensure families are aware of universal services in their area such as Team Around the Family, Careers, School Nursing Service or volunteering opportunities.
- Have a dedicated elective home education advisor who is familiar with the ethos of home education and can demonstrate good interpersonal skills. Ideally an elective home education advisor would have an educational background.
- Ensure that the elective home education advisor has the capacity to undertake annual or extra visits or meetings with parents to offer advice and support if required.
- Offer a contact within 28 days or less of the de-registration from school. This could assist with resolving any problems that may have been encountered at school and/or may offer the opportunity to discuss any alternatives. If contact is not in-person, it should be followed up with the offer of an in-person visit within 6 weeks.
- Ensure that their local home education communication for parents includes the invitation for a child to take part in any visit/meeting which takes place and outlines why this can be helpful for both the local authority and for the family/child. LA's should record where consent is not given.
- Seek to gain consent from parents to share or seek information with/from other agencies if required, being honest with families about why we may want to seek information with other agencies and what proportionate information we may require
- Offer LA services in certain circumstances if appropriate, e.g. educational psychology.
- Ensure that the elective home education advisor has appropriate supervision access to discuss safeguarding issues that may arise or to debrief if they have concerns.
- Offer training opportunities or parental workshops if available and ensure that these are communicated to all home educating parents.
- Consider working collaboratively so that guidance/written communication/process and procedures are consistent across the region.

### **Safeguarding Skills**

Safeguarding is everybody's business/responsibility, but certain frontline staff should be trained to a higher level of safeguarding. This should include the elective home education advisor.

This person should:

- Have undertaken safeguarding training consistent with staff group C in The Mid and West Wales [All Age Regional Safeguarding Training Strategy](#)
- Have had experience in working in a safeguarding context
- Understand and recognise the barriers for non-engagement and/or non-compliance for children and their families.
- Have knowledge, understanding and training in adverse childhood experiences (ACE) which may increase a child's vulnerability.
- Understand how to challenge other professionals and how to escalate concerns appropriately
- Receive supervision from an appropriate professional to discuss safeguarding concerns arising from visits or meetings. This should take place at least quarterly
- Understand how to appropriately contribute to inter-agency assessment by gathering and sharing information appropriately

- Know when and how to consult with a safeguarding lead or designated safeguarding officer
- Have a clear understanding of how people can access support across all levels of need in line with the ['Right Help at the Right Time'](#) regional thresholds and eligibility for support document.
- Be able to work cooperatively and effectively with multi agency partners.

### **Identifying Concerns**

The Social Services and Well-being (Wales) Act 2014 came into force in Wales in April 2016 and provides a strengthened legal framework for safeguarding children and has introduced a 'duty to report' to the LA and defines a 'child at risk'.

The Welsh Government guidance on Elective Home Education advises that:  
*'Staff across the LA, health and police must report concerns to the LA where they have reasonable cause to suspect a child to be at risk of or experiencing abuse, neglect or harm. Following such notification, and being satisfied that there is reasonable cause to suspect that the child is suffering or likely to suffer significant harm, LAs must exercise their existing duty to investigate under section 47 of the Children Act 1989.'*

Identifying children about whom a professional has concerns can be varied. For the purposes of this protocol there should be consideration given to identifying children after 12 months who have not had contact with a professional from any other agency charged with a duty to safeguard children as per Section 28(2) of the Children's Act 2004. This has to be a multi-agency approach if children and young people are to be safeguarded effectively.

The following maps out the method for achieving this:

### **Local Authority**

- Local Education Department to maintain a database of all known home educated children within their area.
- Local Education Department to use the database information to identify those children with whom they had no contact within the previous twelve calendar months.
- Having identified those children with whom no contact has been made or not seen, the Education Welfare Service (EWS)/or equivalent service, be requested to undertake a welfare check.
- EWS to follow Children Missing in Education process including a request for information from Children's services, Health and Police.

This proportionate information may include:

- Is the child known to Children's Services currently or in recent past?
- Has the child been seen recently at any health/GP appointments recently?
- Is the address or family known to police for any reason?
- Do any of these agencies have any low level concerns?

### **Children's Social Services**

Having received a request for information from their respective Education Department about those home educated children within their area who have had no contact with Education:

- To cross reference the list against their own records to establish which of those children have been seen by a professional from their department in the preceding twelve calendar months.
- To identify if the child known to Children's Services currently or in recent past or are there any low level concerns
- To return this information to the Education Department for their attention.

### **Named Health Professional**

Having received a request for information from the Education Department in their area that a home educated child has not been seen by a professional from either the local authority or Children's Social services;

- To determine if the child been seen recently at any health/GP appointments recently
- Feedback the result of this information to the relevant Education Department.

### **Police**

Having received information from a local Education Department identifying a home educated child who has not been seen by a professional from either the local Authority or Children's Social Services;

- to cross reference this information against Police systems to identify if they have had contact with that child or family which satisfies their obligation to safeguard the wellbeing of that child or
- have any information about the address or any individuals who may live at the address which may cause concern.
- Feedback the result of this information to the relevant Education Department.

### **Safety Planning**

The Education Department, having confirmed those home educated children within their area who have not had contact with any professional or agency in the previous twelve months should further discuss these pupils within their own agency to consider if there is any further intervention is required, i.e. school attendance order, discussion with EWS, and LAs may want to consider having a department panel meeting where concerns are discussed. This may include representatives from the youth service, educational psychology service, EWS, a NEET representative or outreach services you have locally to discuss if there are any further offers of support that may be able to engage with the family.

If concerns in respect of the child's welfare are raised during the enquiries or safeguarding concerns emerge consideration should then be given to further discussion with the frontline Children's Services team or submit a Multi-Agency Referral Form (MARF) to their respective Children Services department for consideration of threshold.