



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 fulltime 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. If a child is registered at a special school under arrangements made by a local authority and parents wish to home educate, they should write to the school stating that they wish to educate their child otherwise than at school. The school will inform the local authority of the parents' wishes but will not remove the child's name from the register until agreement is received from the local authority.

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."*

In 2023, the Welsh Government published statutory guidance to support both children and parents/carers of children who are electively home educated in Wales. This guidance issued under devolved powers in Wales's compliments UK wide primary legislation referenced above. The guidance sets out responsibilities for Local Authorities and parents in Wales under the current legislative framework. This guidance is informed by the United Nations Convention on the Rights of the Child (UNCRC). It has been developed to ensure that all children in Wales, including those who are educated at home, receive their rights as accorded by the UNCRC.

Children's Rights

Article 12 of the UNCRC provides a right for children to express their views and for due weight to be given to those views, in accordance with the age and maturity of the child. This does not, however, give children authority over parents. Local authorities, through their services supporting the participation of children, should consider how the individual and collective voices of home educated children can be heard. The Children's Rights Wales website www.gov.wales/childrens-rights-in-wales has been designed to help practitioners, policy makers and stakeholders develop their understanding of children's rights and how to adopt a children's rights perspective in their work.

Safeguarding Children at Risk

This regional guidance should be read in conjunction with and cross referenced with the [Elective Home Education Guidance 2023](#), which sets out detailed safeguarding and wider support and monitoring requirements for local authorities in Wales.

It is important to note there is no evidence to suggest that home educated children are at greater risk of neglect or abuse than children who are educated at school and a parent's decision to home educate is not in itself a ground for concern about the safety and well-being of the child. However, as with any children regardless of where they are educated, there may be circumstances which, individually or combined, give practitioners cause to seek further information about a child.

Pages 35 to 38 of the Welsh statutory Guidance 2023, outlines a range of legislative powers available to agencies where it is considered children may be at risk of harm. Agencies should pay due regard to paragraphs 7.15 to 7.17 and its interpretation of available powers under section 47 and 31 of the 1989 Children Act should concerns about children's welfare and well-being arise.

“Local authorities should approach all cases where the suitability of home education is in doubt using their powers in the Education Act 1996 (please refer to section 5), but they should also be prepared, if a lack of suitable education appears likely to impair a child’s development, to fully exercise their safeguarding powers and duties to protect the child’s well-being, which includes their suitable education.

In exercising safeguarding powers, a local authority would normally begin an investigation under section 47 of the Children Act 1989, on the basis that a lack of information about a child’s educational provision is capable of satisfying the ‘reasonable cause to suspect’ significant harm test under that provision. Reasonable cause can include the lack of any substantive information about a child’s education, so if the ‘if it appears’ test in s.437 (1) is satisfied, then there will usually be reasonable cause in terms of s.47. These enquiries can include taking steps to gain access to the child. The outcome of enquiries following a section 47 investigation will therefore enable a local authority to decide whether action should be taken to protect the child’s welfare.

If following the section 47 investigation a local authority concludes that the significant harm threshold is met, but parents fail to remedy the concerns identified, it may be necessary to apply for a care order. A failure to provide education is capable of satisfying the threshold criteria of ‘significant harm’ under section 31 of the Children Act 1989.”

Page 12 of the statutory guidance further states

“Local authorities should approach all cases where the suitability of home education is in doubt using their powers in the Education Act 1996. They should also be ready, if a lack of suitable education appears likely to impair a child’s development, to fully exercise their safeguarding powers and duties to protect the child’s wellbeing. The overriding objective in these cases is to ensure that the child’s development is protected from significant harm. See section 7 for further guidance”.

What is considered to be a suitable education

What is considered to be a suitable and efficient education is outlined on pages 15-24 of the Elective Home Education Guidance 2023.

Paragraph 4.21 states

“In order for a local authority to satisfy itself of the suitability of education provided by the parents, the local authority should see and communicate with the child. It is for the local authority to decide in each individual set of circumstances whether it needs to meet with the child. In some instances, it may be possible that the local authority can satisfy itself of the suitability of the education on the material provided by the parent/guardian, at the request of the local authority. In the absence of seeing and communicating with the child, it will be questionable whether the local authority can reasonably assess suitability of education and to know if evidence of the suitability of the education provided by the parent relates to that child. For example, whether the evidence provided can reasonably be said to have been produced by that child or be about that child. Seeing and communicating with the child may provide an opportunity for the local authority to better understand how the child learns and what areas of learning they are interested in. Parents and Gillick competent children are not, however, obliged to meet with the local authority and are free to decline a meeting if they so wish”.

In Mid and West Wales the default position is to ensure systems and processes are in place, that seek to see children in person and speak directly to them on an annual basis.

Information Sharing Protocol for the Safeguarding of Children, Young People and Vulnerable Adults within the West Wales region 2023:

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.

The Welsh Statutory Guidance for Electively Home Educated Children specifies Information sharing is central to good safeguarding practice. Practitioners must share information in accordance with data protection legislation. Data protection legislation allows for the sharing of information and should not be automatically used as a reason for not doing so. One of the specific circumstances which provides for information sharing is to prevent abuse or serious harm to others. When information is not shared in a timely and

effective way, decisions made may be ill informed. The Welsh Government has issued guidance on www.gov.wales/working-together-safeguard people-code-safeguarding-practice60 which provides further advice.

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.'*

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/180511childrenatrisk.pdf>

Working together to Safeguard People, Volume 6 – Handling Individual Cases to Protect Adult at Risk: <https://gov.wales/docs/dhss/publications/180511adultsatrisk.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. An inability to gain consent from a parent or carer/and/or an unwillingness from a parent or carer to provide this should not prevent any practitioner or agency making a formal referral to social care if they have concerns about the child's welfare.

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.

Identifying home educated pupils in a LA area:

The Elective Home Education Guidance 2023 outlines Local Authorities responsibilities in Wales to take proactive measures to identify children in their area not known to agencies and/or who may be missing in education.

Paragraphs 3.1 to 3.3 on page 13 state

"It is very likely there will be home educated children in a local authority area not known to the local authority. There will be a number of reasons for this, such as the child has never been enrolled in school, or a family will have moved to the local authority from another part of the country. Under section 436A of the Education Act 1996 local authorities must make arrangements to enable the authority to establish, so far as it is possible to do so, the identities of children of compulsory school age in its area who are not registered pupils at

a school and who are not receiving a suitable education otherwise than at a school. Local authorities should be proactive in looking for ways to identify children not known to them, doing all that is reasonable and appropriate. It is essential that local authorities have robust measures in place to quickly identify when a child is missing or potentially missing education and to follow through with effective tracking and enquiry systems to locate them. Welsh Government statutory guidance on children missing education applies. Children who are missing education applies”.

In Mid and West Wales, 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. Information across agencies is considered vital to ensuring all children of compulsory school age are identified.

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.
- If a child has an IDP (Individual Development Plan) the LA or another LA should pass this on in order to ensure consistency of support and identification of ALN and added to the EHE database.
- LA to check birth records against school admissions to identify those children who never enroll 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 LA’s to ensure information about families who move across areas is robust.
- Local authorities should report to relevant scrutiny committees and elected members in relation to home education matters at least annually. This report should include information on the number of electively home educated children in the area, including any trends and factors contributing to home education.
- The Regional Safeguarding Board will receive quarterly information and data regarding children who are home educated and will monitor key patterns and trends across the region.

Support and advice to parents:

Since the introduction of the Elective Home Education Guidance, 2023, , a wider package of support has been agreed and made available to all local authorities to support EHE children and their families. Local authorities are expected to assist home educating parents, recognising that home educating parents can adopt a rich and diverse range of approaches to home education and use a variety of philosophies and methods. Local

authorities should, where possible, promote access to learning opportunities available to all children in their area. Clear information should be available and provided to parents, along with a named contact who can provide advice and assistance for anyone considering electively home educating their children. Practical resources available to families should include for example, a dedicated webpage, facilitating access to discounted educational materials, access to LA sports and recreational facilities, counselling and careers services.

Off-Rolling:

The practice commonly referred to as “off–rolling” is actively discouraged in the guidance and not considered acceptable practice. Parents should not be encouraged to remove their child from the school register to avoid exclusion or prosecution for failing to ensure that their child has attended school or to improve school performance results. It is therefore important that the parental decision to home educate is a positive choice and not considered as an option when children have disengaged from education prior to becoming home educated.

Alongside and in addition to the national requirements outlined above, in Mid and West Wales early intervention and conflict resolution at school level prior to deregistration should always be the overriding aim in attempting to resolve 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 Local Authorities 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 (Family Support Team), 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 calendar 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 by the parent / carer and also the views of the child – for example where a parent gives consent but the child is not willing in to engage or participate in the meeting / visit.

- 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 other LA services as outlined and specified in statutory guidance.
- 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 opportunities or parental workshops if available and ensure that these are communicated to all home educating parents.

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 as a minimum, in [the National Safeguarding Training Standards and Framework](#).
- Have had experience in working in a safeguarding context
- Understand and recognise the barriers for non-engagement and/or noncompliance 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 has been in place in Wales since April 2016, and alongside the Wales Safeguarding Procedures, provides a strong legal framework for safeguarding children who may be at risk of harm and who may require further enquiries to be undertaken under sec 47 of the 1989 Children Act, as outlined on pages 3 and 4 above.

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. A strong multi-agency approach is required 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/emerging concerns?
 - Is the LA able to satisfy itself the child is receiving a suitable education as outlined in the Elective Home Education Guidance 2023 or is this in doubt? If not, then this should be referred to Social Care for further consideration as to whether this is impairing the child's development.

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/emerging concerns
- To return this information to the Education Department for their attention.
- In the event the local authority conclude they cannot be satisfied a child is receiving a suitable education consider if this may be impairing a child's development and if statutory safeguarding powers should be invoked as outlined above on pages 3 and 4.

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, including an inability to conclude a child is receiving a suitable education which may be impairing their development during the enquiries, and/ 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.