

## Introduction

**1 What is your name?**

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**3 Are you responding as an individual or on behalf of an organisation?**

Organisation

**4 If you are responding on behalf of an organisation, what is your organisation?**

**Organisation:**

Kent County Council

**5 Which of the following best describes the capacity in which you are responding to this consultation?**

**Choose answer from dropdown list:**

Local Authority

**If Other, please give details:**

**6 Which local authority area are you based in?**

Kent

**7 Would you like us to keep your responses confidential?**

No

**Reason for confidentiality:**

## Information about home educated children

**8. How effective are the current voluntary registration schemes run by some local authorities? What would be the advantages and disadvantages of mandatory registration of children educated at home, with duties on both local authorities and parents in this regard?**

Kent currently have 2268 (May 18) children registered to Electively Home Educate and would suggest that current voluntary registration schemes are not effective. In every authority there will be an unknown number of children who are Home educated and remain hidden from the authority and may as a consequence be missing out on services

Registration would identify families who previously remained 'under the radar' and who have made a conscious decision to avoid engagement with the authorities or are otherwise unaware of their duty to educate or what that may entail. Registration would provide an opportunity for the LA to engage with families to ensure these Children and Young People are in receipt of the education to which they have a legal entitlement. It cannot be assumed that any neglect to a child's education or wellbeing will be identified through other professionals, when their existence may not be known.

Not all LA's monitor EHE children/young people as they have no statutory duty to do so. With a registration scheme, the LA will have a clearer understanding of the numbers and resource commitment required by the LA to support families who EHE.

Mandatory registration ensures 'all' children's education status is known and will for the first time, enable LA's to more effectively meet 437(1) Education Act 1996 to intervene & 436A to enable LA's to identify children not registered at school or receiving suitable

education. The proposed changes would also help LA's in capturing appropriate evidence when the DFE provides clarity as to what 'suitable' education is assessed/agreed to be. Mandatory registration will better enable LA's to identify children and young people who are not in receipt of any education, who are vulnerable and therefore may require additional support from other professionals. Compulsory registration would mean parents and families are more likely to engage positively with the LA, which in turn will help dismiss the misinformation produced by some home education groups to discredit LA's and the positive work they seek to do to support home educators. Tuition Services can offer an important element to the education provision that home educators use. However, it must be recognised that this is an entirely unregulated industry, that has built up around the home education community. The lack of regulation means that tutors may not have had appropriate DBS checks and families will have no knowledge of any criminal past or necessarily know if the subject matter being covered, is being delivered in an appropriate or competent way. This group of unregistered education providers understandably have a vested interest in avoiding any external scrutiny of their work with children, any such checks will have financial implications; the safeguarding of children must however be paramount. In addition, the significant growth in home education appears to fuel the growth in unregistered schools. Several have been identified in Kent and usually borne out of expansion of a private tuition service, or home educators that self-appoint themselves as tutors to larger groups. Where this has come to light, these organisations have been referred to Ofsted as required.

We suggest that either primary or secondary legislation be enacted to capture the proposed changes.

### **9 What information is needed for registration purposes, and what information is actually gathered by local authorities?**

**Would it help the efficacy of these schemes, and the sharing of information between authorities, if there were a nationally agreed dataset or if data could be shared by national agencies, such as DWP or the NHS?**

*Information currently gathered by Kent*

- a) Full name, dob, parents/carers, previous school (where applicable)
- b). If the Child/young person has an EHCP, a copy of the plan
- c) background information from previous school
- d) other professional involvement e.g.: SCS, Early help

*Information required would be the same*

- a) Full name, dob, parents/carers previous school (where applicable)
- b). If the Child/young person has an EHCP, a copy of the EHCP plan
- c) background information from previous school
- d) other professional involvement e.g.: SCS, Early help

Sharing of information: Yes an agreed dataset would enable the LA to monitor more effectively those families who may be known to other professionals, but then may move to another authority in the UK or in some cases abroad and who do not inform the LA. This leads to considerable effort and resource dedicated to finding these children missing education. It increases the risk that they drop off the radar, miss out on important health

related services and/or go missing. Being able to locate children more expediently enables authorities to quickly establish they are accessing their education and refer those who appear to have vanished to the appropriate agencies

Sharing of information with families about our partner organisations like the NHS is extremely important. We currently provide home educating families with information from the NHS and any other agencies offering support that a child or young person may usually receive in School, (e.g.: vaccinations). DWP and HMRC should be given the powers to share information with authorities, in the interest of locating children missing from education as soon as possible to ensure children are not deprived of any entitlement to education.

**10 Does experience of flexi-schooling and similar arrangements suggest that it would be better if the scope of registration schemes included any children who do not attend a state-funded or registered independent school full-time? If so, do you think that local authorities should be able to confirm with both state-funded and independent schools whether a named child is attending that school full-time?**

**Other settings - text:**

Flexi schooling may have a place where Children & Young people require a slow transitioned return to school or are GRT and travel with their families and require a solid base to return to. This would enable them to be around familiar professionals and provide some continuity which in itself helps the young person to focus on learning.

It would be helpful to have clearer guidance from the DFE around flexi-schooling, which should consider:

- Safeguarding the child as of paramount importance;
- The appropriateness of the education proposed by the parent away from the school;
- Clarity around pupil funding;
- The effect on school resources;
- The effect on school discipline and the morale and motivation of other children on roll at the school, where adhoc attendance may lead to disruptive behaviour.
- Strategies and guidance to be set in place for class teacher's who will be required to differentiate and make time for a pupil who will be away from class regularly/intermittently.
  - Clear agreement between the parent and school with regard to the times the Child or young person will be in school
  - Schools should have a reporting mechanism for registration that does not penalise them for the attendance of these CYP.

**11 Would the sanction of issuing a school attendance order for parental non-compliance with registration be effective, or is there another sanction which would be more useful?**

**Sanctions - registration - text:**

The sanction of raising a school attendance order is considered sufficient, if the parents decline to register or refuse to engage where they are legally obliged to. The child would be classed as 'Missing Education' and the LA will name or identify a school through Fair Access Protocols. It would fall to the court to make the final judgement. It may be helpful for provision to be made to allow the LA to name a school for the purpose of the school attendance order, without first seeking agreement from the named school. It has been

known for some own admission authority schools to refuse to be the named school even when they were the previous school the child attended, which can delay the legal process.

## **12 What steps might help reduce the incidence of schools reportedly pressuring parents to remove children to educate them at home?**

It should be recommended practice that a child or young person who leaves a school to Home Educate remains on roll until a LA officer has visited the home and confirmed that the parent is able and/or willing to Home educate their child. A school should be required to provide an evidence trail to show that every effort was made to engage with the parent /child. Parents intending to Home Educate, should develop an initial plan on how they intend to deliver suitable education, which should be attached to the letter of intent.

Where a school fails in these instances, the school should be required to return any funding for the whole of the academic year and this funding should be passed to the LA and ringfenced for the support of genuine and capable home educators. Perhaps creating a fund that can be used for enabling access to subject masterclasses in science or educational trips open to home educators. Many home educators have commented that they would find it helpful if LAs established temporary provisions that will allow access to laboratories or similar facilities for home educators. This might be something that could be negotiated with schools that operate outside of local authority control, however a funding source for the hire of these facilities, will need to be identified if this were to be progressed.

Where Elective Home Education is inappropriately promoted as an option to a parent by a school, the school must be required to readmit the child/young person immediately and without further disruption to the education of that child/young person.

Identified instances should be recorded by the LA and reported to Ofsted and the Schools Adjudicator in the LA annual report.

Many Children/young people leave in year 10 and 11. This increases the numbers of young people who then go on to become Not in Employment Education or Training (NEET, as recorded by the LA). In July 17 Kent had 381 Yr 11 young people registered to Home educate, 191 of these went onto be recorded as NEET. However through support and intervention 73 were supported to FE and sadly 118 remained NEET in May 2018.

## **13 Is there an argument for some provision which allows a child to return to the same school within a specified interval if suitable home education does not prove possible?**

Yes, this should be basic protocol and explicit in new guidance.

Kent currently use the In Year Fair Access Protocol for this purpose, which states: 'Where a child / young person has been removed from school for elective home education and then wants or is required to return to school, that child will normally be expected to be admitted to their original school unless there are compelling reasons why that would not be possible or appropriate. In those compelling cases, the home school must take the children back onto its roll and negotiate a managed move. The managed move process should not delay the start date unnecessarily'. This works, however any unavoidable delay could be prevented if powers were in place to immediately return the pupil to the home school as soon as failure to educate is clear. All too often we find no education in place but are required to give the families time to develop an education package and for this to bed in. Where families are serious about providing a suitable home education this should be planned and prepared for prior to the child being

removed from school and parents should be able to demonstrate that education is taking place from the onset.

## **Monitoring educational provision made at home or for home-educated children**

### **14 How effective is local authority monitoring of provision made for children educated at home? Which current approaches by local authorities represent best practice?**

Kent can only comment on its own protocols as set out in our Elective Home Education Policy. We state that Kent will:

Employ a team of EHE Support and Advice Officers, co-ordinated by a qualified Teacher.

Maintain a record of children known to KCC being educated at home.

Ensure the officers representing the LA have a clear understanding of a parent/guardians right to Home Educate.

Provide parents with a comprehensive leaflet advising them of their roles and responsibility as a Home Educator.

Offer a visit to all families registered.

Define the conditions where a meeting is required in our policy

Provide a copy of a visit report to parents/guardians

Train officers to appreciate that Home Education will vary from education delivered in schools, however to also be able to identify where there is little or no education taking place.

Follow Children missing education procedures where evidence suggests that a child is being denied the education to which they are legally entitled.

Provide a Web page on the kent.gov website which is dedicated to EHE and which provides links to other services and educational resource. Kent also provide a Facebook page to communicate with EHE parents and appraise them of National and Local events, competitions and information that may be useful to some home educators, such as secondary transition dates and Kent test dates.

### **15 If monitoring of suitability is not always effective, what changes should be made in the powers and duties of local authorities in this regard, and how could they best ensure that monitoring of suitability is proportionate?**

To have a clear definition of suitable, would be the first step; the guidance in this consultation goes some way to defining what should be provided and it is hopeful that Lord Soley's Parliamentary Bill will become legislation, it offers a welcome common sense approach to the issues. We would consider the following text a helpful start:

*'the expectation that elective home education must include provision of supervised instruction in reading, writing and numeracy, which takes into account the child's age, ability, aptitude and any special educational needs and disabilities'.*

It would be useful for Ofsted and the DFE to set out a best practice guide, defining how suitable Education should be measured by LAs. It is recognised that many home educators may introduce unconventional ways for their children to learn naturally, this is understood and welcome, but there must be evidence made available of learning or it is impossible to

distinguish this with families in chaotic situations who are unable to provide evidence of learning, because none is taking place.

**16 Should there be specific duties on parents to comply with local authorities carrying out monitoring if such LA powers and duties were created, and what sanctions should attach to non-compliance?**

Yes, all LA's should work to a basic framework that can be adapted to the bespoke dynamics of those residing in the LA area. Home educators should be prepared to show examples of their children's learning and enable those with a duty to monitor, to meet with the child engaged in learning and to talk to the child. This would reduce the risk of parents passing off the work of others as their child's work. Where parents refuse to allow officers into the home environment and prefer a neutral location like a local library to be the meeting point, monitoring officers must be given the opportunity to discuss the education provision with the child. Where children and/or families put barriers in the way of officers seeking to identify education, then the School Attendance Order should be progressed without delay and only ceased if a visit is forthcoming and confirmation of suitable education is established.

Once the LA is satisfied with the arrangements made then the LA should be allowed to repeat this process once every Academic year. The LA should also have the power to insist upon a further meeting, if it has a good reason to believe that the child is no longer receiving suitable education. In our view these powers will require legislation.

If families refuse to allow access to the child or fail to meet with the LA at two or more prearranged appointments (in or out of the home) the child should be registered as a Child Missing Education and a School Attendance Order initiated. All schools & academies must be legally required to cooperate with that order. A school/academy should be named through the In Year Fair Access Process, to avoid schools with places receiving a disproportionate number of children who have been out of education for some time. Unless the parent's preferred school is willing to admit or that school was the original school, in which case they should be required to readmit that child back into their school roll.

**17 Is it necessary to see the child and/or the education setting (whether that is the home or some other place), in order to assess fully the suitability of education, and if so, what level of interaction or observation is required to make this useful in assessing suitability?**

**Seeing the child - text:**

Yes. The majority of Home Educating families who engage with the Local authority, prefer to be visited in their own home. It is helpful for the LA officer to see the child/young person and the learning environment of the child/young person, it provides a foundation for the decision regarding education being deemed suitable is made. A chaotic environment, where there is no sign of the child engaging in learning may be quickly evident through a visit to the home. It has been our experience that those least willing to engage with the LA have been the most likely to be denying their child a suitable education. In one example there were no learning materials in the house and the parent presented project work which was later discovered to have been the last thing the child completed in school, prior to being removed to home educate, several months before. Some home educators are very proud of their child's progress and learning; there must be trust and a willingness to accept approaches to education which may not be conventional on the part of the LA. Similarly, families must have a mechanism or body to which they can refer the LA to provide an

independent judgement where there is a dispute about whether education is suitable. Perhaps an arm of Ofsted?

**18 What can be done to better ensure that the child's own views on being educated at home, and on the suitability of the education provided, are known to the local authority?**

Pupil feedback forms could be used as part of the LA visit, this will enable the voice of the child to be captured. (these may need to be adjusted as necessary where a child has SEN).

**19 What are the advantages and disadvantages of using settings which are not registered independent or state schools, to supplement home education? How can authorities reliably obtain information on the education provided to individual children whose education 'otherwise than at school' includes attendance at such settings as well as, or instead of, education at home?**

The concern is that LAs are unlikely be unaware of these setting as families may not engage with the LA and as an illegal setting it would advise a parent not to engage with the LA, thus preventing the setting being brought to the attention of the authorities.

If the LA had the autonomy to visit every child, they would be better informed and it would be more difficult for these settings to remain' under the radar'.

A requirement should be introduced for parents to inform the LA during the visit of the education plan for the child and to be legally responsible for including information regarding tutors or any external education during the course of the visit.

Legislation needs to evolve to ensure any setting claiming to be an education provider is registered in some way and for those associated with it to be DBS checked.

**20 What are the advantages and disadvantages of using private tutors to supplement home education? How can authorities best obtain information on the education provided to individual children whose education at home includes private tuition, or whom attend tuition away from home?**

There are many tutoring agencies that provide a service to Home Educating parents. Tutors provide variety and offer different perspectives of education; this is a valuable contribution to a child/young persons education for those who can afford this support.

Any tutor practising should be legally obliged to hold a DBS and provide a copy of this to the parent, who can share this with the LA if they wish. Examples of work completed with tutors should be retained for evidential purposes. Best practice would suggest parents secure an Education Programme from the tutor so that progress can be measured.

**21 Are there other matters which stakeholders would wish to see taken into account in this area? If so please insert comments below.**

Yes

1. DBS clearance as a minimum requirement.
2. Evidence of professional qualifications
3. Where Tutors are engaged in delivering religious education, they should be appropriately qualified and have some form of registration with that religious authority. This tuition should deliver a broad spectrum of religious teachings and ensure British values of tolerance and community are evidenced.

## **Support for home-educating families**

### **22 What might be done to improve access to public examinations for children educated at home?**

Some schools or academies have a system in place that parents can 'buy' an examination seat.

Where a young person is removed from a school roll in year 10 & 11 to be EHE the school should be required to cover the cost of exams. The school should however be required to provide the environment in which the exams can be sat.

Where a young person has not historically been on roll of a school, a list of examination centres should be published by the LA. This could be expanded if all future funding agreements for schools required them to make provision as necessary to host external EHE candidates at the request of the LA. We would recommend that this would be co-ordinated by the LA to ensure there is not a disproportionate draw on school resources. Exams should be funded by the parent, unless the young person has been home educated for a minimum of two academic years and if the young person were on a school roll, would be eligible for Free school meals; in which case the recovered funds would allow for core GCSE exams (Maths English & Science) to be funded by the LA.

### **23 What good practice is there currently in local authority arrangements for supporting home-educating families? Should there be a duty on local authorities to provide advice and support, and if so how should such a duty be framed?**

Each LA will provide a varying range of services to families who Home Educate. Most LAs have had to make difficult funding decisions due to the pressure on budgets. As a consequence some provide no support at all, only website information.

Other LAs provide comprehensive support to those who engage with the LA. A duty on LAs to monitor and associated funding provided by central government would address any ambiguity which currently surrounds this. There should only be a duty for the LA to provide financial support with EHE, where there has been an open and engaging dialogue between the family and the LA over EHE. If funding was recovered from schools when learners leave to EHE and passed to the LA in a similar way that the funding is returned to the LA if a child is excluded. This would provide funding for the LA to offer additional resources and host drop in sessions ahead of exam times for home educating groups. This would ensure up to date relevant curriculum and a safe learning environment for this group in the lead into their exams.

## **Other matters**

### **24 Should there be a financial consequence for schools if a parent withdraws a child from the school roll to educate at home?**

Yes

Schools should be instructed to return the funding for the academic year and this should be forwarded on to the LA to cover the cost of supporting the increase in the EHE numbers.

This would also incentivise schools to be more creative in designing inclusive strategies to engage with parents and EHE would be a last resort option, to be carefully discussed and considered with school parent and LA, especially where a child has an EHCP or additional



learning needs. Clearly a mechanism will need to be developed to ensure this is applied fairly and the learners would need to have been at the school for the duration of the previous year for this measure to qualify.

**25 Should there be any changes to the provision in Regulation 8(2) of the Education (Pupil Registration) (England) Regulations 2006 requiring local authority consent to the removal of a child's name from the roll of a maintained special school if placed there under arrangements made by the local authority?**

Yes, the process should be the same for mainstream schools as it is for children and young people who hold an EHCP and attend a special school – the school should be required to keep the child on roll until the LA can confirm that the education provision the parent is providing is deemed to be suitable. This ensures a 'safety net' for the child to return without delay if EHE isn't working and creates an incentive for families choosing to EHE to quickly plan and deliver an education programme. It is imperative that in setting these provisions they cannot be abused by families seeking to EHE in order to take holidays in term time, and where this practice is proven fines should be issued. There is a pattern of this towards the end of the last term of primary school, to secure a cheaper extended holiday ahead of transition to the new school.

**26 Are there any other comments you wish to make relating to the effectiveness of current arrangements for elective home education and potential changes?**

**Other comments on effectiveness of current arrangements - text:**

Kent have many examples of children successfully being home educated, however the current guidance also permits parents who wish to hide behind a claim of Home Education to avoid their responsibility for parenting or educating their child. Kent sadly also have many examples of this happening. Lord Soley's Parliamentary Bill in conjunction with the draft DFE guidance for LAs and parents provides clear boundaries and guidance for both the LA and the parent which is very welcome.

Under current guidance, Kent have no option other than to accept, internet sourced templates outlining education philosophies, provided by parents who we understand from the information provided by schools and other professionals, are thought not to be capable of delivering suitable education to their child. Families known to be leading chaotic lifestyles (often due to drug or alcohol problems) are easily able to source on-line a package of education they claim to be delivering – only for us to find months later that their children have not been accessing any education.

**27 What data are currently available on the numbers of children being educated at home in your local authority area?**

Kent currently have 2268 Children /young people registered in Kent to EHE. Kent has received 1019 new referrals between 1 September 2017- 1 May 2018. Year 10 & 11 young people being the highest cohort of new registrants.

In December 2017 Kent ran a business intelligence report to provide a better understanding of the cohort.

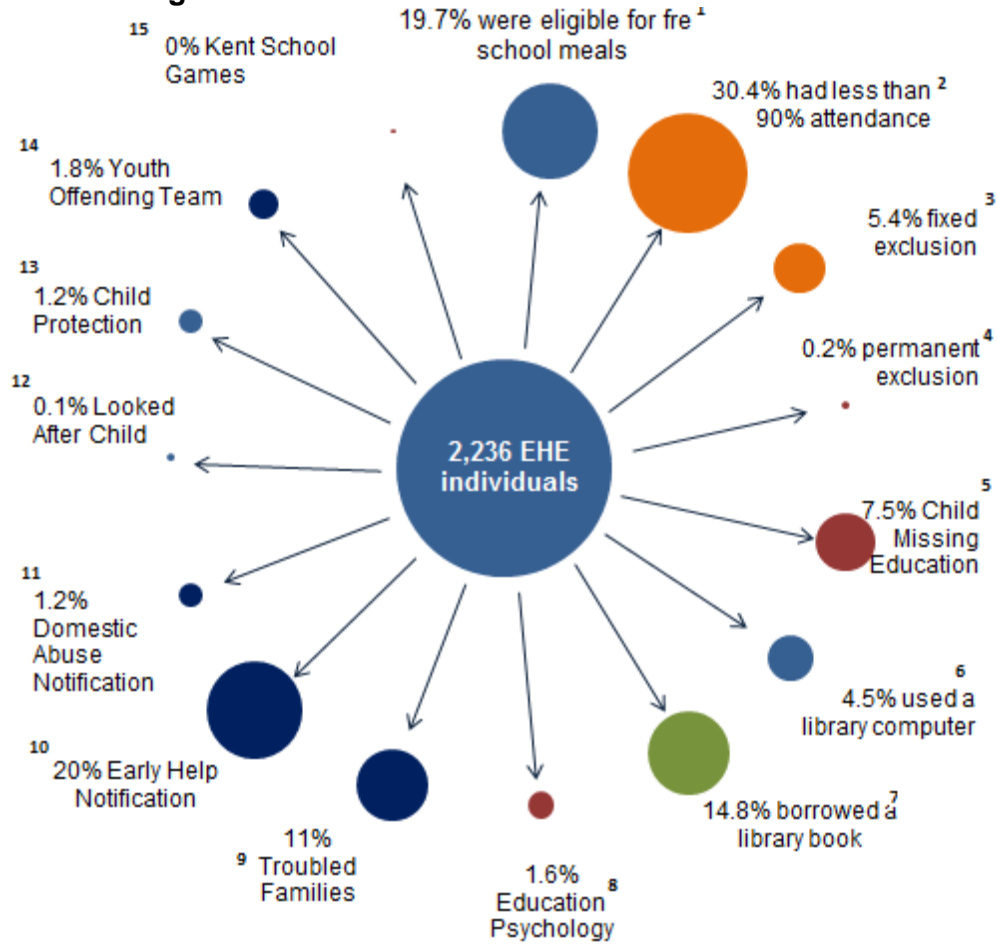
The report was based on **2236** individuals who were recorded at some point during the period of September 2016 through to August 2017

## The report **Summary**

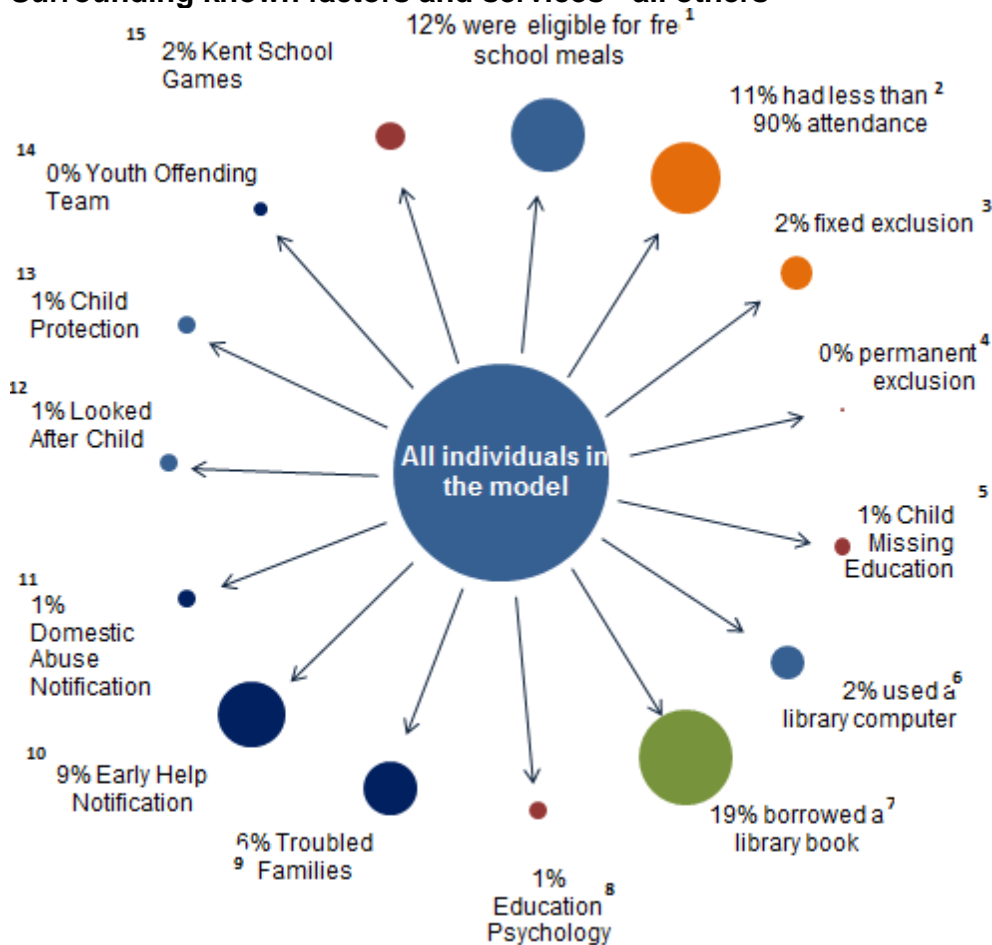
Of the 2,236 EHE individuals:

- There is a relatively even split by gender (51.6% male). The majority recorded their ethnicity as white (68.8%) and were of secondary school age (62.1%)
- Mosaic segmentation shows that the highest proportion of EHE individuals were from group M (*M=Family Basics - Families with limited resources who have to budget to make ends meet*) (29.7%). This group is generally more deprived and face an array of challenges.
- All mosaic groups were represented in the EHE individuals and groups A (*A =Country Living - Well-off owners in rural locations enjoying the benefits of country life*), G (*G=Rural Reality - Householders living in inexpensive homes in village communities, note: this will include GRT families due to location*) and M recorded high indexes.
- Swale district recorded the highest proportion of EHE individuals (13.1%), whilst Tunbridge Wells recorded the least (6.1%). Swale and Thanet (Kent's two most deprived districts), recorded a higher proportion of EHE children than in any other district.
- The data demonstrates that within the year an EHE individual was more likely to have been referred to early help and known to the troubled families programme or referred to specialist children services that would be the case for the general school population.
- Poor attendance and fixed term exclusions were present for many EHE individuals (30.4% and 5.4% respectively)
- 8.1% of EHE individuals have a primary special educational need (SEN) and a few also have a secondary SEN. Social, emotional and mental health is the most common SEN type

## . Surrounding known factors and services - EHE individuals



## Surrounding known factors and services - all others



**28 Do you have any comments on any of the contents of the call for evidence document in relation to equality issues?**

### Equality issues - Call for Evidence:

1. Kent's data evidences that there are a number of children under Child Protection orders who are home educated; one would have to carefully consider how and why this is permitted under current legislation and how this provides equality for these young people as they are the least likely to be in receipt of a suitable education.
2. Kent have a large cohort of GRT families, many opt to EHE at year 7. A cultural desire to work and learn in the family business is often cited. Government should, in collaboration with these groups set guidance and expectations to ensure that suitable education means these young people will access the education needed to enable these children/young people to be able to step outside of their community to live and work in the future, if they so wish.

**Draft revised DfE guidance on home education: for local authorities**

### **29 Comments on Section 1: What is elective home education?**

This section provides an informative summary description of Home education; however, it would be useful to elaborate on this to include what the parent is expected to provide for their child, during the period of Home Education for example, evidence of progress, a minimum requirement of provision to include reading writing and numeracy and a minimum requirement of time dedicated to the education. With appropriate caveats for children who present with SEN. LA's may be able to provide specialist support with the design of a bespoke programmes for children in this situation were EHE funded appropriately.

### **30 Comments on Section 2: Reasons for elective home education - why do parents choose to provide it?**

Parents will home educate for a variety of reason; to enable LA's to effectively monitor the education, it would be useful for the guidance to dictate a clear definition of at least the minimum requirement of an education and to add to the guidance that there must be evidence of progress between visits. Too often LA's are challenged by legal terminology available on the web by parents who are otherwise ill equipped or just not prepared to educate their child, however they present as being well versed in how to challenge the authority, this is a significant barrier to LA intervention extending the time in which children are not receiving suitable education. It can result in years going by and a child falling so far behind, they are unable to catch up with their peers. It should conclude with a reference to a child being able to at least read, write and understand basic arithmetic to an age appropriate level; accounting as necessary for any special educational needs that may have been identified. In order to have the opportunities needed to explore their full potential, taking account as necessary for any SEN needs. It should also be noted that Home Education is not always parental choice, it is the option left to a parent where they consider they have no other alternative.

### **31 Comments on Section 3: The starting point for local authorities**

The guidance is clear that a child has a right to an education and underpins that right. It may be useful to inform parents that failure to educate the child may result in the child/young person taking legal action against the parent in future years if they are denied a suitable education.

Including a statement which advises that the LA does not currently have any specific duties or powers relating to home education *per se*, is disappointing and serves to add weight to arguments made by families not wishing to engage. The LA has a duty to ensure children are in receipt of education and this is impossible unless families engage. Presumably the young person will have legal redress to the parent, when it becomes evident in the future that there was a failure to educate, however this is unlikely to ever be redressed and it will be too late.

### **32 Comments on Section 4: How do local authorities know that a child is being educated at home?**

LAs can identify children who are removed from a school roll to Home Educate; changes to off rolling legislation have enabled LAs to better track these CYP. Some CYP come to the attention of the LA through Social workers, health professionals, community Wardens, other LA professionals and members of the public (sometimes anonymously).

However, having identified that a child is Home Educated under current legislation and guidance it is not always possible for an LA to be satisfied that a home educated child is receiving a suitable full-time education. Neither suitable nor full time are currently defined and the definition in this section will go some way towards clarifying this. Suitability will still be argued without a clear minimum requirement as the LA and parent will hold different perspectives on suitable. Full time can perhaps be defined as xxx hours per week for yy weeks of the year. Suitable could perhaps be judged by attainment and achievement and that the child as a similar (or better) range of educational experiences and similar learning (or better) learning outcomes to a child of the same age and similar ability educated in a school setting. This would then enable LA's to evidence children who are not receiving full time, suitable education.

Whilst most LAs do have local agreements with external professionals in place, they do not have the right or the capacity to intervene without very good cause. The current option of 'voluntary registration' leaves the LA unable to identify those in the county who are home educated and those who are not in receipt of an education. Parents may be more willing to engage and have better confidence in the LA if there were an independent body they could refer LAs to, if they dispute the findings of the LA visit.

### **33 Comments on Section 5: Local authorities' responsibilities for children who are, or appear to be, educated at home**

With no 'right' to visit the home of a child recorded to be Home educated it is difficult for an LA to comply with s436A of Education Act 1996 in a meaningful sense. Parents can and do decline to engage leaving the most vulnerable children/young people at risk of not receiving any education or open to other neglect or exploitation. Some home educating groups don't engage because they do not trust the LAs to give an honest appraisal that recognises families have chosen to educate in a different way. Introducing an independent body to mediate where there is a disagreement may be an effective way to give confidence to open up to the LA. For the most part LAs simply want to be assured children are safe and are in receipt of an education.

Please see a small selection of case examples, which have been anonymised and suitably demonstrate our concerns.

*'Mother is very recently out of prison and on a tag and xx is on a CP plan'. – this CYP was released from school to home educate. No suitable education has been identified, but worryingly they were offrolled to EHE with consultation with children's social services, despite the school being aware that a CP plan was in place. This CYP is returning to school following the home visit.*

*'xxx's older brother, disclosed inappropriate activities between him and xxx. xxx had been left in the care of the older brother'. – CP case, this child is home educated. – parent declines further visits and provides evidence by email. A school attendance order is in progress.*

*'it was reported that the older sibling is in one of the' temples, she was last seen dressed in temple robes. – This CYP was reported to police as missing, she was home educated,*

parent was found to have moved abroad with three daughters. Referred to the Police to investigate.

*'the initial Child Protection Conference where it was agreed xxx and siblings would be made the subject of child protection plans for neglect and emotional abuse' this child was subsequently removed from the school roll to Home educate – the Child was returned to school following the home visit*

*The children of the alleged domestic abuse victim, have since been removed from the school roll to be Home educated by the Father, he declines a visit and has agreed to provide postal evidence.*

### **Kent Serious case reviews**

*'Child x, one of x siblings born to long term drug misusing parents was 2 ½ years old when she died from methadone overdose in xxxx. Eldest sibling was removed from school to be EHE when Child x was 11 months old. Sibling was 14 years old'*

*'Sibling was described by professionals as taking on a mature role within family. No consideration was given to whether she was a young carer before or after she became EHE. EHE team not included in multiagency meetings so were not fully aware of all the concerns for the family.*

*'2 other recent SCRs (Child A & Child B), both removed from school early – not officially EHE but became NEETs soon after being removed. Child B definitely took on a caring role, but this wasn't recognised. As a young adult, she feels let down by professionals'.*

*'2009 SCR – "xxxxx" - Final report recognises EHE is an issue relating to the rights of parents vs the right of children to be safe; "Ms x was within her rights to EHE, but this case does raise broader issues about this parental right & the right of children to be safe. Once EHE they don't have access to school staff who are well placed to identify concerns".*

*'Ongoing Domestic Homicide Review (DHR) panel meeting has again identified a lack of understanding by other senior multiagency safeguarding professionals who were unaware parents can remove their children from school to be EHE. (nb, this YP wasn't EHE, but a conversation took place, this CYP was not in school).*

A joined up approach, supported by statutory guidance and legislation providing all LAs the right to visit and make an assessment within government guideline would be welcome. It has no legal grounding in its current form, leaving LAs open to legal challenge and further making enforcement very difficult as it is not easy to explain to a court why someone is not receiving satisfactory education when LAs have no power to establish, consider and evaluate the educational experience which the child or young person is receiving.

It should be noted that the LA is rarely challenged by those who Home educate well, it is usually those who are not providing an education or who wish for them and their children to remain 'under the radar'. These are often supported by professional well-meaning individuals who are supportive of their human rights but are not aware of the situation of

the individual family and/or chose to defend the rights of the parents as a matter of principle, even where this compromises the rights of the child.

### **34 Comments on Section 6: What should local authorities do when it is not clear that home education is suitable?**

We would suggest that every LA have an appointed senior officer who is an experienced qualified teacher to enable final judgement on a case where the LA decision regarding the suitability of education is challenged by a parent.

It is considered that without legislation around registration and a requirement on the LA to visit and make a judgement based on the suitability of an education – then it cannot ensure children satisfy their right to education.

Evidence of progress should be clarified during a visit. Not in the form of a written (template) ethos, as these are sometimes provided by families who are the most vulnerable and may in fact be providing no education at all.

It should be noted that access to the child and an opportunity to speak with the child (in the context of their age and ability) is very helpful in identifying if they are in receipt of any education. Furthermore whilst seeing the child/young person is not necessarily about safeguarding, it does provide an opportunity for an adult to meet a child and be a position to raise concerns with other agencies if it appears they may be illtreated. As mentioned previously, some form of independent body to consider disputes, may be a helpful facility to better engage home educators.

### **35 Comments on Section 7: Safeguarding: the interface with home education Safeguarding:**

This statement seems to contradict itself. LAs have general duties to safeguard etc however, the current legislation the EHE guidance is based on, clearly states that LAs have no legal right to see the child. A situation which required a 'care order' or the level of intervention that it takes to arrive at that position would have to be extreme and would not necessarily address or apply to the majority of cases where a child is being denied an education.

A change to Legislation is required to allow the LA to see the child to enable them to fulfil their statutory duty to protect those children who are being hidden from society as a whole, behind the veil of Home Education, whilst being denied an education.

### **36 Comments on Section 8: Home-educated children with special educational needs (SEN)**

It is not currently possible for an LA to identify all children young people who may have SEN unless they hold an EHCP or the parent can provide evidence of a professional assessment undertaken. If a child/young person has never attended school or specialist provision they are not required under current legislation to register with the LA. A change in legislation requiring parents to register would rectify this. It is easier for an LA to monitor those who hold an EHCP as the family is required to have an annual review with the SEN officer and there will be an EHCP that can be used as guidance, which clearly defines the education that the child should be in receipt of and future target learning.

### **37 Comments on Section 9: What do the s.7 requirements mean?**



This section provides useful clarification which will help however, it does not qualify how the LA is expected to evaluate or define what is 'suitable' for an individual if they are unable to meet the child. A minimum requirement of reading writing and numeracy would provide a sound base for the LA, from which they can take an informed view. Accounting as necessary, for children with SEN.

It is a huge concern for Kent and other LAs that where parents decline to engage or receive a visit from the LA and are asked to evidence the education their child is in receipt of, they may simply provide pre-populated templates, outlining the ethos of the education they are providing; which may not, and in the majority of cases is very unlikely, to be an accurate account of what is actually being delivered to the child. These are downloadable from a range of Home Education websites. Kent's experience is that these are often downloaded from the internet, are generic in nature and not in any way bespoke to the individual learner. It is often the case that these plans are not implemented at all.

### **38 Comments on Section 10: Further information**

#### **Children's rights and views**

In this section it talks about the child's 'wishes and feelings with regard to the provision of services for a child in need'. One would have to reasonably question why it would be considered appropriate for a 'child in need' or a child under a 'Child protection order', to be Home Educated, when this places the child 24/7 in the care of the family, that is already raising concerns in relation to their ability to care for the child. Any such agreement must be exceptional and place a closer monitoring duty on the LA to ensure the child is kept safe and education is accessible.

### **Draft revised DfE guidance on home education: for parents**

This section invites comments on different sections of the draft revised guidance document about the current framework for home education, which DfE proposes to publish for parents. Copies of the draft document can be downloaded from the Overview page.

### **39 Comments on Section 1: What is elective home education (EHE)?**

This section provides an informative summary description of Home education; however, it would be useful to elaborate on this to include what the parent is expected to provide for their child, during the period of Home Education for example, evidence of progress, a minimum requirement of provision to include reading writing and numeracy and a minimum requirement of time dedicated to the education, it should also require home educators to develop a measurable education plan bespoke to the learner in order to demonstrate suitable education will be delivered.

### **40 Comments on Section 2: What is the legal position of parents who wish to home educate children?**

There should be an emphasis that the parent has a legal duty to 'actually' educate their child either personally or through a third party, if they opt to Home Educate. Failure to do so should have clear legal consequences and leave no doubt that a parent may face legal challenge and financial consequences in future years, if the child (supported as necessary by the state) considers they were denied access to a suitable education. It must also be recognised that there may be instances where children are education refusers. This may be

related to mental health issues, however this in itself should not be sufficient mitigation and parents must be required to demonstrate they have tried to engage the relevant authorities in seeking support for their child to access education.

Guidance should be made available to set broad parameters of expectations which may state at least a minimum requirement on hours that should be allocated to education. The suitable definition previously suggested helps clarify the expectation of education. However, without at least a minimum requirement to deliver education in relation to Literacy, Numeracy and British values, it will remain difficult to measure and will continue to be a contentious issue between the LA and those parents who are not competent educators. Home educators should have sufficiently robust guidance from government so as to enable authorities to act where they fail to provide a suitable learning programme, that then hinders children from reaching their potential.

#### **41 Comments on Section 3: So what do I need to think about before deciding to educate my child at home?**

This section provides more clarity around what commitment is required, it could go on to advise that parents who are employed fulltime may wish to carefully consider how they would supervise the education. Parents should also consider the broader implications of removing a young person in year 10 and 11 during exam study.

Kent do not accept year 6 referrals in term 6 unless the parent has given up their year 7 place; this is because evidence suggested that EHE was being used to take year 6 Children on holiday in term time, meaning the child was removed from their school environment at a crucial time of transition.

#### **42 Comments on Section 4: If I choose to educate my child at home, what must I do before I start?**

It is of major concern to Kent that due to current legislation parents **do not** have to register with Local Authorities. Kent consider they are as effective as they can be within the confines of current legislation in identifying children who are removed from a school in Kent to home educate. There is no way of knowing the actual numbers who home educate as there will be children hidden from view, due to shortfalls in current legislation. There is no doubt many of these will be in receipt of a perfectly suitable education, however there is no way of knowing or measuring this. Before home educating parents should be required to register with the LA. Present an education plan which sets out their philosophy and proposed approach to education. They should expect to maintain a record of learning to demonstrate to the LA that progress is made. It will not be essential for families to stick to the original plan, provided it can be demonstrated why learning took a different direction.

#### **43 Comments on Section 5: What are the responsibilities of your local authority?**

A minimum requirement of education to be set, to include reading writing and numeracy. This would provide foundation guidance from which the parent can work when delivering the education they choose and the authority can have a base position when monitoring that a suitable education is taking place.

The guidance for parents provides a clear framework which better defines the roles and responsibility of both the parent and LA. It does not however refer to those Children and

young people who are known to be Home educated and yet are under Child Protection Orders. These children should return to school until the LA are confident that the child/young person is no longer at risk and CP order can be lifted, or have a detailed plan with key monitoring at more frequent intervals than would normally be necessary.

#### **44 Comments on Section 6: Further information**

It should be clear that a parent who is in fulltime employment and not at home during the day to supervise the child or their education, should not be permitted to Home Educate, where that education is home-based, and the intention is for the parent who works to deliver this education. Unless a clear programme of supervised learning activities is presented, using appropriate DBS checked third party providers.

Where tutors are bought in to the home to educate, they must be able to provide evidence of a current DBS check and relevant qualifications. Where other providers are used these should as a minimum requirement be registered with Ofsted or the LA.

#### **Draft guidance documents: equality issues**

**45 Do you think that anything in the revised guidance documents could have a disproportionate impact, positive or negative, on those with 'relevant protected characteristics' (including disability, gender, race and religion or belief) - and if so, how?**

Evidence dictates that children who are carers, who are under child protection orders and those who are GRT and not in receipt of an education can be disadvantaged by being removed from the education system under the guise of Home Education.

Sadly, the evidence is that the majority of EHE registered learners and children are towards the end of statutory school age. They tend to be 'family basics' (Kent's BI report Dec 2017) and most likely to be NEET and had the lowest prospect of securing a qualification when in school.