

Home education: practising without prejudice?

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Summary

In this article has been extracted from a longer paper by the same name that came about in response to the Badman Review of Elective Home Education (Badman 2009). The first part briefly discusses the Badman Review. The next looks at the misunderstandings that can occur once concerns are raised in home education. Finally there are case studies relating to this author's work as an expert witness at court. The article argues that before any further changes are introduced we should first understand why the current system is not working. The evidence presented lends weight to the idea that home educated children are being increasingly 'problematised' (Monk 2004). This article title comes from the words of the MP Tim Collins who warned:

“Giving very young children the idea that they will learn more outside the classroom than in it, is a desperately dangerous notion.”

(9th February 2005, bbc.co.uk).

MISINFORMATION

In 2009 the British government ordered a Review of Home Education to investigate claims that 'home education, could be used as a 'cover' for child abuse such as neglect, forced marriage, sexual exploitation or domestic servitude' (DCSF 2009). The Badman Review reported that 20% of children were receiving an inadequate education and that home educated children were twice as likely to be subject to a Child Protection Plan as children nationally. (0.4.% of home educated children to 0.2% of children nationally). This, despite the fact that home educators do not have to register with their LA and that take-up numbers are therefore unknown.

The Review recommended extensive changes to the current regulations, including:

*Restricting previously accepted styles of home education

*Allowing Local Authority staff to have right of access to the home and the power to licence or disallow home education,

*Giving the right to insist that children be interviewed alone.

The government accepted the recommendations and included those that require legislation into the proposed Children, Schools and Families Bill.

Examining the Review, the Children, Schools and Families Select Committee held an investigation, noting:

“Given the lack of information on the actual numbers of home educated children we suggest it is unsafe for the Badman review to have reached such a strong conclusion about the relative risks of a child being home educated or school educated”

(CSFC 2009).

In response to the Badman Review statistics, a group of home educators using the Whatdotheyknow.com Freedom of Information website obtained copies of the LA responses submitted to the Badman Review (Berlow and Cox 2010).

What emerged from this is that the figures given in Badman (2009) for children receiving an ‘inadequate’ or ‘no’ education included those who the LAs were aware of, (but had not yet interviewed), together with families who were exercising their right to submit written evidence rather than accept an interview (see Guidance for LAs, point 3.6, DCSF 2007).

Berlow and Cox (2010) note a lack of continuity in how LAs interpreted the survey questions. Some LA's considered ‘full time education’ to be 20 hours a week or more. The Badman Review questionnaire repeated this assumption, although the guidance for LAs makes clear that this interpretation does not apply to home education (see Guidance for LAs, point 3.13, DCSF 2007). Significantly, in their response to MP Graham Stuart’ complaints about the statistics (Stuart 2010) the DCSF do not disagree with this interpretation of the data. The MP had written, “you can’t put a number on something you haven’t measured” (Stuart 2010).

Finally, the home education section of The Children, Schools and Families Bill, which was removed from the Bill on the 7th April 2010, leaves the legal situation in England unchanged (DCSF 2010).

MISUNDERSTANDINGS

As an interviewee for the Badman Review I was asked if home educating mothers were suffering from Munchausen’s by Proxy. The potential wholesale dismissal of home educators as mentally ill is actually not unusual but is characteristic of widespread misunderstandings. Many professionals who have the power to make life changing differences to families who home educate, particularly in cases where the children have Special Educational Needs, hold this perception.

The cases where I work included divorce, care proceedings (family court), financial claims (civil court) and school attendance orders (criminal court). In a divorce two parents may disagree over whether to home educate the children. However, a judge might decide to allow reports from professionals who may find cause for concern in

the home education and the original case may become lost in a blur of disagreeing professionals.

Care proceedings typically, but not always, involve a single parent and a child with SEN who is being home educated. School Attendance Orders relate to scenarios where the LA has been unhappy with home education provision. Financial claims vary enormously.

Traditionally, home education monitoring has been the domain of Education Inspectors from the Local Authority, but since the advent of the Children Act 2004, duties have become blurred and it sometimes appears that no one quite knows whose job is what.

Where concerns are raised within home education, educational welfare officers (EWOs) should be able to step in, assess the situation and bring some common sense. Training for EWOs in home education should be a priority. Instead, they are often poorly informed about their duties and have only minimal involvement as a case passes from education to social care. Once social services initiate court proceedings the education officers (including EWOs) are often silent and thus judgements over the home education become the domain of social services.

In two cases I have dealt with, the legal department has told the education officers that their role ends once social services take over.

Social workers may ask for assessments of the family and these may then be undertaken by professionals with little or no understanding of home education or the law that supports it. Further, there is limited understanding of the way in which home education becomes, over time, a lifestyle rather than an educational decision (Rothermel 2005, Neuman 2004). Absence of understanding can be catastrophic for a family as they become the focus of an investigation.

A starting point may be no more than that the children do not appear to be studying during 'school' hours. A snowball effect may then follow as it is established that the family do not vaccinate and that they do not use established medicines. The reader may argue that families do not attract attention on the basis of just one concern. But what seems to happen is that other issues that alone may be unnoteworthy, take on a new meaning when a family is home educating. There is no evidence that families who home educate are targeted, but there is evidence from my experience, that home education can serve as a trigger, particularly where there is a lower socio-economic status single parent family with an SEN child.

Home educators are not a homogenous group, (Rothermel 2005), but they do often harmonise as they meet and exchange ideas. One notable characteristic of home educators is that once they have decided to home educate, and thereby question the norm, they begin to question many other societal expectations.

In a case coming to court, this may well take the form of a mother of a child with special needs, moving from one specialist to another as she questions what is best for her child. To a health or social professional who does not understand the nature of home education, this can appear symptomatic of a mother who is resisting authority. When combined with a home education that doesn't fit with the professional's own ideas of what that provision should look like, this can be interpreted as a symptom of wider mental ill health. The remedy may be to ensure that professionals understand their own remit and to provide appropriate training in areas where conflation of tasks may occur.

CASES STUDIES

I have many years of experience in home educators and have a good idea of what I might expect to see. As an expert witness families allow me access to their home and an interview with their children, because a court has ordered this and the court order carries my name. However, I realise that many LA inspectors do not have this level of access in assessing children.

Primarily I am looking at evidence that can be 'triangulated', (by triangulate, I mean three sets of evidence that can be used together), such as dialogue with the children, photographs, written work, contact with people who know the family well, observation around the house, resources etc.

Perhaps the children tell me about a visit to a Llama farm and we talk about what they learned. The children might have some wool, or an article made from Llama wool that could be used to facilitate the discussion. I might be shown photos from the visit and seeing that the visit was with other home educators in a group, I might be able to talk to someone else who participated on the visit. It is not enough for a family to tell me they went on a visit, or that they have a mountain of resources. I need to see the additional evidence regarding the children's experience of the visit, or that they actually use the resources I am shown. I also expect to see evidence of progress, albeit within a wide range of possibilities. When I enter a home I do not have a static idea of what the education should be, but am open to a range of possible formats.

Across my various cases I identify key problems faced by untrained LA officers:

- 1) There is no common framework for what an education can look like. The trained and experienced observer can 'triangulate' evidence, for example, observing motivation, interest and progress.
- 2) Some professionals place too narrow an emphasis on what an education needs to include, that is, to focus on set criteria at cost of seeing the bigger picture.

- 3) There is a strong reluctance to negotiate with parents at an early stage so as to prevent the situation becoming unmanageable.
- 4) Lack of understanding about why people home educate. There is little acceptance that this is a fluid process that is often not wholly about education..
- 5) Lack of co-operation and understanding on both sides
- 6) Lack of identification of Good Practice, for example, where the LA and the home educators both agree the system is working and this model is shared.

My experience as an expert witness causes concerns me for the following reasons:

- Almost all the court cases where I have taken instruction were avoidable.
- The proposed change of regulations would not have prevented any of these cases.
- There often appears a reluctance to co-operate by all sides (rights versus duty)
- Poor preparation of LA staff for who and what they might encounter
- Often a poor understanding by the LA of the legal process – that is, legal process might be set in motion but is not followed according to the rules.
- Reluctance by the LA to use School Attendance Orders
- Confusion between education and welfare
- Once children are in the court process, they seem to become ‘forgotten’ and months can pass without visits. In this way the court process increases the vulnerability of children.

These points refer to a spectrum of my cases.

Eyes Tight Shut

Case Study 1

A boy of 8 who did not read well had three Local Authority inspections in his home. Finally the provision was failed on the basis of his reading. However, whilst the LA issued the correct Section 437 letter giving the mother 14 days to provide additional information, it did not acknowledge the report that she submitted and proceeded with a School Attendance Order. As soon as the education officer decided to issue the SAO, he passed the file to the legal team and ceased to monitor provision. However, by delivering her Educational Philosophy report within the 14 days and (obtaining a receipt) the mother had met the requirements of the Education Act 1996, s.437(1). The report was ignored because the Inspector had her son’s case. The legal department were never told that evidence had been submitted within the deadline. Further, from the time of the Section 437 letter, to the time this case came to court,

months passed, during which no one was monitoring the child's education or visiting the house.

This Inspector made it clear that he did not approve of home education. He repeated this in court. When, following the court case, the LA contracted an Inspector from a different LA, the home education was found to be satisfactory. One might argue against the appointment of an officer who believes home education is wrong. Furthermore, the failure to follow the law was a simple, but pivotal flaw. Here, there are three problems,

- a) If an inspector opposes home education on principle, training is likely to be ineffectual
- b) If existing legal process is not followed then new legislation is unlikely to be of benefit to any of the parties involved and,
- c) Once the 'in legal process' box is ticked, services there to protect the child take a back seat and the child and family are left to flounder. This is a consistent theme I have observed in my work – and perhaps the most serious of all. Vulnerable children made more vulnerable by the very system supposed to protect them.

The current system is robust - or would be - if it procedures were correctly followed and the principles of the Children Act adhered to, namely, that LAs ensure "their functions are discharged having regard to the need to safeguard and promote the welfare of children" (children act 2004 Part 2 Section11 (2)).

However, the main communication issues I identify are those between social care and education although input from the legal department is often problematic. Here there are two sets of communication problems. One is a failure to share information and the second is insufficient understanding of each other's roles. These are compounded by the lack of awareness of current legislation and guidelines.

Within this system failure, the children made most vulnerable are those with special needs. This group is represents a large minority in home education (23% in Rothermel (2002) and approximately 30% in EO (2002)). Children within this group involved in legal processes tend to come from lower socioeconomic backgrounds and to have only one parent. Education and welfare concerns are often confused, but the problem can be one of definition. An education that follows the child's interests is recognised by the DCSF (2007) and by the Select Committee [who call for more research into this style] (CSFC 2009) and is a style that will be recognisable to LA home education inspectors. Social Workers looking with a 'naive' eye at the very same provision may see a case of neglect. This common conflation is highlighted by the Select Committee,

“Where we believe that the Badman Report and the proposals in the Children, Schools and Families Bill run into difficulty is in their conflation of education and safeguarding matters. “

(CSFC 2009, p. 4)

Khrya Ishaq Case [2009] EWHC B36 (Fam)

The case of home educated Khrya Ishaq, who died at the hands of her mother and mother’s boyfriend, sadly confirms the points I make here, namely, that communication between social care and education was poor, and responsibilities misunderstood. Once ‘boxes’ were ‘ticked’, each department, believing the other was involved, backed off:

“As a result of each professional carrying out his or her own duties in isolation, information was not passed on and relevant connections were not made” (para 253)

There was also apparent confusion over the role of the education officer:

“The Initial Assessment [social care team] was abandoned on the basis that Education Otherwise [elective home education team] in the form of Mr. H was now to be involved.” (para 244)

Details of the case were published the following day after the Westminster Briefing Conference (2010) where I gave a presentation based on this paper. In this child’s case the home education was not a ‘trigger’ but rather, a ‘brake’ in that social care concerns ceased once she became ‘home educated’. This was despite the fact that serious welfare concerns were raised prior to her deregistration from school, which occurred in March (BCC 2010) following her unauthorised absence (para 222) from school since 19th December 2007. During a home education visit in February the mother failed to satisfy the LA that the provision was suitable. However, the provision was later accepted without further evidence or a second visit (although both had initially been requested by the LA).

The addition of yet more regulations, when the existing ones are poorly understood , is an unsettling prospect.

Case Study 2

A divorced mother of five with a severely disabled child, withdrew the child from a generic special school, frustrated that her child’s particular needs were not being met. The LA education team subsequently passed the home education, whilst social workers decided that the education was not satisfactory. The case presented by

social workers during care proceedings was that the education department had passed the home education provision because they did not understand the wider issues. The case file I was handed painted a very dark portrait of the mother who was seen to be home educating as one of a catalogue of mental ill health problems. She was said to have withdrawn the child from society and to keep the child in the house, refusing to allow socialisation. There were concerns for the other home educated children. The family lived on a very low income. When I arrived in the deprived housing estate I was worried for my personal safety and also for that of my car. During our interview the mother explained that she did not take her disabled child out often because of the child's vulnerability in an estate full of thugs. She said that she had been trying to move to the countryside for considerable time but that the LA did not rate her high priority. She spoke of having withdrawn her child only as a last resort because little progress was being made in school. Since the child was home educated there had been improvements. Whilst I was with the family I observed the child engaging with the other children in skilled way and this conflicted with accounts from the school about the child's capabilities. At a professionals meeting prior to court, I asked other attendees how they felt about the area the family lived in, and they agreed that it was indeed a dangerous area where one might be frightened to go out walking. The LA accepted that the family had been trying for some time to move house. At the meeting the LA agreed to assist the family in moving to a better area and the child care proceedings were subsequently withdrawn.

In my experience the LAs, in such cases as those highlighted here, have been in a strong position to support the families, but through lack of training and understanding at officer level they have had the opposite effect on the families. Court proceedings can put families under extreme stress and where parental energy is dissipated their home education is likely to suffer.

A single parent home educating a child with special needs cannot possibly effectively home educate full-time and devote the necessary time to the paperwork associated with a court defence. From the time proceedings are initiated to the final hearing, months and years can pass. Court appearances, appointments with lawyers, meetings with professionals at the LA etc. all necessitate child care. As the home education suffers because the main educator is 'absent', this then becomes evidence that the parent cannot cope.

Following procedures, sharing information and supporting these families would represent a cost effective and psychologically safe way to progress. To initiate proceedings - to remove a child without exploring the facts - should not be possible. Moreover, the education of children in care has come under criticism. Jackson and McParlin (2006) report that "Children in LA care are four times more likely than others to require the help of mental health services, nine times more likely to have special needs requiring assessment, support or therapy; seven times more likely to misuse alcohol or drugs; 50 times more likely to wind up in prison; 60 times more

likely to become homeless; 66 times more likely to have children needing public care. They are disproportionately likely to be seen by a psychologist at some point in their lives." The authors go on to say that, "We argue that the generally poor outcomes for people who have spent time in care as children can be confidently linked to educational failure."

These cases, and others like them would have almost certainly been included in the statistics used to describe home educated children as twice as likely to be at risk than children in the wider population. This suggests that over and above the questionable categories and extrapolations used in the statistics, we should be asking questions about the nature of the child care proceedings involving home education. We should be investigating whether other children also, are being made more vulnerable by the system put in place to protect them.

Conclusion

Evidence shows that home education can be an effective and acceptable means of educating a child (Rothermel 2002, Thomas 1998). Further evidence from the UK shows that LA and home education relationships are a constant source of tension (Eddis 2006). So far, statistics that effectively discredit the practice by associating it with higher than average abuse have been found to have been based on unsafe extrapolations of numbers and the inclusion of 'yet-to-be-checked' children in the numbers considered to be in receipt of an 'unsuitable' education.

Before we make any changes to the existing system, we need to ascertain how we can improve within the current legislation. If LAs expose children to risk by non adherence to existing regulations, it is likely that any additional legislative burden will increase that risk. The proposed new laws would not have prevented either the cases cited here, or others that I have been involved with. Adherence to existing guidelines and regulations would have prevented every one.

Any further research into home education by the government should examine these issues.

Biography

Dr Paula Rothermel began research into home education in 1996 and has been actively engaged in research and writing in the field since then. Her Phd in home education was followed by an ESRC funded postdoctoral fellowship, both at the University of Durham. Paula now works as a chartered psychologist expert witness, specialising in court cases where home education is an issue. She also co-ordinates the 'International Home Education Research Network' for academics worldwide with a research interest in the topic. Email p.j.rothermel@bluewin.ch Website www.paularothermel.com

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