

Written evidence submitted by H Weiss

Education Committee Call for Evidence on EHE, 5th November 2020

Summary

EHE has many benefits, as it provides a personalised education to fit each child. (See section on EHE Benefits)

Government should support EHE by instituting tax allowances for parents who relieve the government of the burden of educating an EHE child. It should also ensure that taxpayer-funded “Oak National Academy” online videos remain accessible long term, with no registration or user cost. (See section on EHE Support)

Covid has disproportionately affected EHE children, because childrens’ activities have been closed down by the government. To address this, the government should exempt children’s activities from lockdown restrictions. (See section on Covid Impact)

A universal mandatory EHE register and inspection regime would be a gross human rights violation, overturning the long-established relationship between citizens and the government. (See section on Council “duties”, regulatory framework, EHE registration and EHE inspection for a discussion of this, as well as the following points)

The government should resist unfounded attempts of councils to rely upon a supposed duty to assess quality of EHE, the “safeguarding” provisions in the Children Act 2004, a supposed risk of gang involvement, or a concept of “childrens’ rights” as justifications for instituting a regime to collect data on and investigate children on account of EHE status:

- Councils have neither the duty nor the ability to assess EHE quality.
- There is no “duty” to conduct safeguarding investigations on account of EHE in the absence of a referral based on significant harm.
- EHE children are at lower risk of safeguarding issues than schooled children.
- Truants, runaways, and excluded children in AP and PRUs are at higher risk of gang involvement, but EHE children are not in this category.
- ”Children’s rights” don’t justify inspections, as these rights are best protected by parents; and children have the right to a private family life.
- Inspections and registers would harm children
- Given the human rights violations and harm inherent in a mandatory universal registration and inspection scheme, as well as the pure financial and administrative costs, such a regime would fail a cost-benefit test.

The government should make clear that councils have no ‘duty’ to register and investigate families based on EHE status; councils must not use EHE as a safeguarding risk factor; and councils should not attempt to assess the quality of EHE.

In the longer term, to improve quality and personalisation of education services for EHE children as well as all other children, the government should take steps to promote the shift of educational services back to the private and voluntary sectors.

Call for Evidence on EHE - Full response - 5th November 2020

Benefits of EHE

Diversity is our strength, right? So why are all schoolchildren in Britain required to learn the same narrow, outdated, ethnically and socially limited, shallow material?

With EHE, a thousand flowers can bloom, each in a unique way.

No one can possibly learn all knowledge, so it is misguided and short-sighted to try to force all children to learn the same limited subset. Better to have some focus on ecosystems, others on technology, others on computer programming, medicine, minority languages etc. No matter what the future brings, these children will be ready to contribute.

EHE allows late developers, early developers, asynchronous children (ahead in some subjects, behind in others), neurodiverse children, gifted and SEN children, summer-born children, and children with unique interests and passions to learn at their own pace and master their chosen material.

EHE preserves the natural curiosity of children, rather than suppressing it in order to force children to learn the banal and shallow material presented at schools.

EHE protects children from being bullied, and from becoming bullies.

EHE allows quiet children to build relationships with trusted friends and teachers so they can grow and learn without being required to speak up or lose participation points; and allows gregarious, confident children to express themselves freely without being forced into silence for most of the day.

EHE allows children to experiment without the fear of being judged.

EHE ensures children to get sufficient sleep to foster their growth. Young children need 10 or more hours of sleep which is virtually impossible with the typical school schedule. Teens need to sleep later in the morning which again is impossible with a school schedule.

EHE is a la carte rather than force-fed slop.

EHE allows children to interact with a far more diverse set of peers. Unlike the age-banded school classes of children largely from the local neighborhood, EHE academic, social and activity-based groups bring together children of various ages, financial positions, and cultural backgrounds, from a wider geographical area. This fosters much healthier respect and friendship among EHE children. We repeatedly have had tutors and teachers, who normally

teach in the schooled environment, say that they have never before experienced the level of supportiveness of each other displayed by the EHE children.

With EHE, children can be guided by those who love them, rather than by overworked harassed teachers who despite good intentions are simply unable to give individual children that level of attention.

The main disadvantage of EHE is the government discrimination towards EHE children.

It is also a shame that EHE children cannot play with so many of their peers who are trapped in government schools virtually all of their waking hours.

Support for EHE - tax allowances would be best

To support EHE, the government should provide EHE parents with tax allowances for each child not placed in government school, in an amount matching the amount spent on each child by the average government school.

Tax allowances would encourage EHE and all the many benefits it brings. These would also recognise the savings to the government from not having to pay for government schooling for EHE children.

Tax allowances, and other favourable tax treatment, could also be given to community learning centres and programs that promote personalised education, as well as to foundations and charities offering support to EHE children.

Tax based measures are the best way to support EHE without undue interference in the marketplace for education services.

The government should also ensure that the government-funded Oak National Academy (the online video & quiz resource), remains accessible long term without registration or user cost.

Many parents do not wish any further "support", because they anticipate any other support would be linked to undesired government interference.

Nonetheless, in the shorter term, the government should require government schools to permit children who wished to take government exams to do so without charge and with no strings attached. Once tax credits are instituted, schools could be permitted to charge a reasonable rate for access to these exams.

The government should also require schools to permit EHE children to join school clubs and sporting teams, to access school libraries, and to make use of school resources such as school laboratories and art rooms when not in use by scheduled government classes. Again, once tax credits are instituted, schools could be permitted to charge for such access. Until that point, such access should be free.

The government should also require that schools offer flexi-school arrangements for all children who ask for this, without penalising the children in any way. Mornings only, 3 days a

week, certain classes only - students should be able to access government-provided learning in any way they choose.

Any such government support should not be subject to 'strings' that violate human rights, for example home inspection (discussed in the final section, below).

In the medium and longer term the government should be working to promote the shift of schooling and educational services into the private and voluntary sector.

Shifting more education to the private sector will promote improved quality of education for all children as the competition in the marketplace would drive up quality whilst bringing costs down. Increased availability of private and voluntary sector education services will also address the problem of crowding out, in which the provision of free (albeit low-quality) government educational and extracurricular services drives out the ability of private providers to enter and remain in the market, despite offering higher-quality services, because the marginal benefit of the higher quality is not enough to overcome the significant difference in cost.

To achieve these benefits, private and voluntary sector provision must be genuinely non-governmental and non-monopolised. It is essential that the consumers (parents) can choose a provider from a number of competing providers. The so-called "privatization" in which the government contracts with a private entity to provide monopoly government services will not achieve quality improvement, and indeed will likely further reduce quality, because the monopoly providers would have every incentive to reduce quality (as this would increase profits) without any disincentive to do so (the vast majority of the public would still have to use the monopoly providers as there would be no affordable alternative).

Covid impact - mainly due to government restrictions on childrens' activities

For EHE children the impact of Covid has been mixed.

On the plus side, there has been a huge increase in the availability of online resources and services.

On the minus side, government restrictions on the availability of libraries, museums, activities, and parks have a disproportionate impact on children who get their education a la carte rather than from government schools.

The government should exempt providers of childrens' activities from Covid restrictions.

Council "duties", regulatory framework, EHE register & EHE inspections

Government is too big, and is trying to do too much already, so council duties should be reduced rather than expanded.

Regulatory framework - should be amended to reduce council 'duties' regarding EHE

As parents who choose to EHE are exercising their fundamental parental rights, there should be no role for the government related to EHE.

Councils have no “duty” to, and not competent to, assess EHE quality for all children. And the Children Act 2004 requirement for universal safeguarding does not impose a “duty” to, or authorise, data collection on and inspection of EHE families on account of their EHE status.

The “costly growth industry” of safeguarding has been highlighted by, among others, Dr. Lauren Devine, in “Rethinking Child Protection Strategy” (March 2015, at <https://uwe-repository.worktribe.com/output/836410>).

Dr. Devine explains that s.11 of the Children Act 2004 “expanded” the notion of “safeguarding” to all children, with the result that government investigations “move[d] beyond children who need services and children suffering (or at risk of suffering) significant harm to include all children and all agencies involved with children; a huge expansion. This prompted the provision in s.12 of the 2004 Act to enable the state to collect and retain data about all families in order to discharge their duty to all children. S.11 seems to cross the Rubicon from selective non-consensual interference in respect of suspected ‘significant harm’ ... to potential [non-consensual] assessment of any family ... facilitated by mass surveillance of all families via data collection and retention in databases.” Id., p.13. Dr. Devine further points out the “danger” that this “could be used as a compliance tool enabling local authorities to police parental noncompliance with government ideals of child rearing.” Id., p.14.

Empire-builders within the councils are trying to use this notion of universal safeguarding as a spearhead to get into and inspect EHE homes, and to institute a mandatory EHE register. They hope that this will allow them to gather more information about EHE families than is authorised by current laws & regulations. But they would say that, wouldn't they? More authority means a bigger budget, more employees, and more status.

Proponents focus on the supposed benefits of a mandatory universal EHE register & associated inspections.

But, as described in the next two subsections, the financial & human cost of these two measures would far outweigh the putative benefit.

Mandatory universal inspections - harmful and violative of human rights

Mandatory universal inspections of all EHE households would be an outrageous violation of human rights and personal privacy, and would be far more damaging to EHE children and families than could possibly be justified.

Government inspectors are the very people who parents have chosen to EHE to get away from: officious, ignorant, bullying busybodies who cannot possibly judge the quality of EHE provision in a single visit - or even 3 or 4 - per year, and whose interfering and intrusive presence has the potential to seriously traumatize children who are shy, have SEN, or have been bullied at school.

Even those children with complex needs are better off in EHE if their parents decide to pursue this route. Government school is free and available at any time, so if parents determine that a child is better off in a government school, then that child can go to a government school. If the parents instead deem that a child is better off with EHE, then that judgment must be respected by the government. Complex needs do not provide a justification for the government to substitute its judgment (i.e. the judgment of a few case workers who don't know the child) for parental judgment.

The safeguarding myth

Having failed to get approval for universal mandatory inspections of EHE families aimed at assessing educational quality, councils are now proposing to do so based on "safeguarding" rationales instead. But "safeguarding" rationales cannot work either. There is already a system of inspection based on referrals - to which EHE children are far more subject than other children, even though problems are far less likely to be substantiated. See, e.g., "Home Education and the Safeguarding Myth: Analysing the Facts Behind the Rhetoric", available at <http://www.home-education.org.uk/articles/article-safeguarding-myth.pdf>

There is absolutely no reason to subject all EHE children to safeguarding inspections in the absence of such referrals. EHE is not a risk factor for abuse. Indeed, as made clear in the article "Home Education and the Safeguarding Myth," cited in the previous paragraph, EHE children have a significantly lower incidence of problems than do schooled children, and most genuine safeguarding issues involve children who are already well known to the councils.

There is no suggestion that there should be mandatory safeguarding inspections of all pre-school children under the age of 5, so what is the difference?

The vast majority of EHE children are far more visible to the community than schooled children, as they attend libraries, museums, parks, and a myriad of childrens' activities. And the vast majority of EHE parents have chosen this path because they care about giving their children the best education possible.

Mandatory government EHE inspections would harm children

It would be unconscionable to inflict certain harm on tens thousands of EHE children in a vain effort to perhaps find one or two who might be at risk of significant harm, yet not uncovered by the normal social services referral process - which itself already fails the cost-benefit test, as the overwhelming majority of social services investigations don't substantiate a risk of significant harm.

The evidence shows that children are harmed by government investigations.

Government investigations traumatise children directly by forced interrogations, and indirectly by causing their families - and the friends of their families - to distrust the councils. See, e.g., Devine & Parker, Economic & Social Research Council Evidence Briefing, June 2015, at <https://esrc.ukri.org/files/news-events-and-publications/evidence-briefings/child->

protection-and-assessment/ (“The experience of referral and assessment is stressful and traumatic for many families, with long term adverse consequences”.); Featherstone, et al, “Let’s Stop Feeding the Risk Monster” in Families Relationships & Societies, 2016, available at https://pdfs.semanticscholar.org/e4fb/fde8aeb280470ef58c00811bd7e17520a242.pdf?_ga=2.133455246.1432659321.1604578197-593735457.1604578197 (investigations “frequently left families alienated and frightened”).

In addition to alienating tens of thousands of families from the government, a mandatory inspection regime would stigmatise EHE children and thereby cause them further harm.

There would also be harm from the privacy violations that will inevitably result from a system that would store all this data and leave it accessible to so many people within the council.

EHE children are not at increased risk from gang involvement

Some councils attempt to justify their desire for universal mandatory EHE registers and inspections by highlighting the concerns expressed in a 2019 report by Children’s Commissioner Anne Longfield about the criminal gang involvement of children not in school. (The report, “Keeping Kids Safe: improving safeguarding responses to gang violence and criminal exploitation”, is available at <https://cscp.org.uk/wp-content/uploads/2018/04/Childrens-Commissioner-Report-Keeping-kids-safe-gang-violence-and-CCE.pdf>.)

Because EHE children are not in government schools, some councils have wrongly assumed that EHE children are part of the vulnerable population described in the KKS report, and have then used the KKS gang concerns to justify a register and associated inspections.

But the concern expressed in KKS report are related to children who have recently moved school, are registered at mainstream school but persistently truant, have been excluded from mainstream school and placed in PRU’s, or who have gone missing i.e. run away. See, e.g., KKS pages 18 and 21-24 (NB whilst the text contains stray references to “off-rolling”, the actual data and charts provided in the report relate to truants, runaways, and permanently excluded pupils who are then placed in Alternative Provision (AP) and Pupil Referral Units (PRUs).

Truants, runaways, and excluded/AP/PRU children are an entirely different population of children than EHE children. There is no suggestion in the report that EHE is a risk factor in gang involvement.

Moreover, the government already knows the identities of all truant/AP/PRU children, and so concerns about the possible gang involvement of this group cannot possibly justify the introduction of a universal mandatory register and inspections of EHE children. Runaways also are clearly not EHE children, and so cannot justify the imposition of universal mandatory registers or inspections of EHE children.

“Childrens’ rights” don’t justify a mandatory EHE register or EHE inspections

Some proponents of mandatory universal registers and inspections use the concept of childrens' rights to suggest that children have a right to choose government school, and so if their parents choose EHE for them, then the government must step in to find out whether the child disagrees - in which case the government may take away parental responsibility for the schooling decision and mandate that the child be sent to government school.

The self-serving nature of this argument is evident from the fact that no one in government seems to be arguing it should work the other way i.e. that children in government school should be polled to find out whether they would prefer EHE, and then mandating that their parents provide this.

An argument based on childrens' rights also misses the point that childrens' rights are best exercised by their own parents, who have the right to decide such matters for their children unless there has been a court-ordered intervention founded on proven harm - not just a vague idea that if school is good for the average child then it must be good for a particular child, even if that child's parents disagree.

Finally, an argument based on childrens' rights concepts overlooks the rights of children to personal privacy and the security of their homes.

Mandatory government EHE inspections would fail a cost-benefit test

Even from a purely financial perspective, universal mandatory inspections of tens of thousands of EHE children would be unduly costly to the government considering the minimal to non-existent result. Additional personnel would need to be hired, paid, and supervised; records would need to be generated and kept; internal discussions would need to take place about the results. And all to uncover a handful of children who are already known to social services by other means.

This clearly fails any narrow cost-benefit test, not to mention a broader test that would also take into account the huge administrative cost, to tens of thousands of families, of responding to and complying with a mandatory registration and inspection regime.

The government should be more mindful of its limited resources and spend taxpayer money more wisely. Rather than squandering resources on inspecting tens of thousands of children who are at very low risk of harm, the government should focus on eliminating the abuse perpetrated daily by the bullying and criminal behaviour of other students in government schools, and even the teachers in some cases.

Indeed, the known harm to children in the UK from tooth decay far exceeds the minute risk of harm to EHE children. Millions of children would be better off if the government spent its money instituting mandatory supervised toothbrushing after school lunches, and this would be a far better use of government funds than universal mandatory inspections of EHE children.

Mandatory EHE inspections would violate human rights law

Instead of wasting time here explaining in detail how inspections and registers would violate various human rights laws and principles, I will save my time and energy for the court battle that will certainly follow any attempt by the government to institute such inspections.

Mandatory universal EHE register - pointless and stigmatizing

Councils already know the identity of all those children deregistered from school, including all children who may have been “off-rolled”. So the councils are only trying to get the names of those who have never been to school, or those who have moved without informing the councils.

But parents of children who have never been to school have kept them out knowingly and purposely. Many parents who move without informing the council also do so purposely.

Many of these parents have chosen EHE in order to protect their children from harmful, forced interactions with government employees. This group of parents includes those whose other children - or the children of their relatives, friends and neighbours - have been bullied and poorly taught at school. These parents don't want government employees blundering into their homes and traumatising their children. These parents will take every legal route to avoid a register.

Some parents will be happy to sign up to a register and will accept the strings that come with it. They have probably already made themselves known to their local authorities, however, so the institution of a mandatory universal register won't add more of these parents to the council lists.

Some councils have developed good relationships with EHE families. These relationships will be damaged if councils become enforcers of a mandatory universal register. These damaged relationships will in turn harm children, as their parents will no longer choose to access the help and services that councils might otherwise have provided.

The existence of a universal mandatory EHE register would also be stigmatising to EHE children. In general, registers are reserved for criminals, so the existence of a register will create a public perception that there is something wrong with EHE.

(There are also registers of licensed professionals, but the government has no authority - and cannot morally grant itself any - to force parents to obtain a license to educate their own children.)

Without universal inspections (which should not be instituted, see above), a universal mandatory register would be a pointless and stigmatising privacy violation.

Council “duties” - should be reduced and redirected

It is not the job of government to ‘ensure’ either safety, or quality of education. It is the right and duty of parents to do the best they can for their children in these areas.

Government may assist parents if parents request assistance, e.g. by sending their children to school. But governments do not have legal and parental responsibility for all children within their borders. Where parents decline government assistance, and there is no credible and substantive evidence of significant harm to a child, then there is no role for councils.

Absence of information is not the same as an allegation of significant harm. Otherwise, the government would be justified in inspecting all households for stolen goods - yet in fact the government must have a warrant and a specific reason to suspect the presence of such goods before it is allowed to enter. Similarly, TV licensing is not permitted to enter a household without either permission from the householder, or a warrant.

Innocent until proven guilty; inviolate unless a substantive, specific suspicion of wrongdoing is raised by a reputable source; no fishing expeditions or warrantless searches. These are core values in the UK and must not be discarded.

Governments are subordinate to the people and must remain so.

If the central government authorises councils to become masters rather than servants, and commands councils to register, inspect and purport to tell parents how to raise their children, it would be a gross human rights violation and an enormous, unwarranted and despotic change in the relationship between citizens and government.

The government should instead focus on more beneficial actions to support EHE, such as instituting tax allowances for EHE and, in the longer term, taking steps to encourage the return of educational services to the private and voluntary sector.

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