

Written evidence submitted by the Youth Justice Board

Education Committee Inquiry into Home Education

Response by the Youth Justice Board for England and Wales

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Contents

The Youth Justice Board for England and Wales	3
Vision	3
Youth Justice System Aims	3
Our role	3
Introduction	3
Full Response	4
Home Education and children in the justice system	4
Performance vs inclusion	4
Delivery of Home Education for children in the YJS	5
Additional Concerns	6
The Impact of COVID-19	7
Recommendations	8

The Youth Justice Board for England and Wales

Vision

Working to ensure a youth justice system that sees children as children, treats them fairly and helps them to build on their strengths so they can make a constructive contribution to society. This will prevent offending, and create safer communities with fewer victims.

Youth Justice System Aims

Our Board have established the Youth Justice System Aims which are not only for the YJB to work towards but for the youth justice community as a whole. They are:

- 1) To reduce the number of children and young people entering the youth justice system
- 2) To reduce reoffending from children and young people in the youth justice system
- 3) To improve the safety and wellbeing of children and young people in the youth justice system
- 4) To improve the positive outcomes of children and young people in the youth justice system

Our role

The role of the YJB is to oversee the youth justice system in England and Wales. The statutory responsibilities of the YJB include:

- Advising the Secretary of State on the operation of, and standards for, the youth justice system;
- Monitoring the performance of the youth justice system;
- Identifying and promoting good practice;
- Commissioning research and publishing information

While the YJB is responsible for overseeing the performance of youth justice services including multi-agency youth offending teams (YOTs), the YJB does not directly deliver or manage these services.

Introduction

As a non-departmental public body (NDPB) with a unique focus on children and young people in the youth justice system (YJS), the Youth Justice Board for England and Wales (YJB) welcomes the opportunity to respond to **The Education Committee's inquiry into Home Education**.

The YJB is the only official body to have oversight of the whole youth justice system and so is uniquely placed to guide and advise on the provision of youth justice services. The position of the YJB in this landscape also provides a perspective on how proposed policy and operational initiatives might impact on local partners, including how key issues for the system are being addressed.

We are particularly interested in this inquiry due to the connections between education and offending in children, and the safeguarding issues that may arise as a result of inadequate home education. This submission does not seek to answer all the questions posed by the inquiry, rather it focusses on the most pertinent elements relating to children in the justice system.

Full Response

The YJB recognises the vital role that education plays in shaping children into well rounded and constructive members of our society. Education plays a particularly key part in the prevention of offending or re-offending in children and has been described as a 'protective factor' for children at risk of (re)offending.

The benefits of a fulfilling education, which includes all facets of learning and not just academia, are clear. However, the impact of a poor and/or disjointed education on a child is immeasurable, the lost life potential and the probable financial loss to both the child and the economy are likely to be significant.

Home Education and children in the justice system

The YJB recognises that the majority of Elective Home Educated (EHE) children benefit from home education, which can be better tailored to the child's individual needs and learning styles. We understand that home education is often sought by those that have the means to be able to provide it, and others choose to do so because they have family, financial and community support to ensure that it is successful.

However, the YJB has real concerns regarding the suitability of home education for some children, particularly those who are at risk of entering or who are already in the justice system. Children in the YJS have usually experienced a number of Adverse Childhood Experiences (ACE's), family breakdowns, experienced trauma, had interventions made by social services; may have 'looked after' status; may have behavioural and developmental disorders; and have often been victims of crime themselves, making them particularly susceptible to criminal involvement, but also making them distinctly vulnerable.

The YJB's 2020 report '*Assessing the needs of sentenced children in the Youth Justice System*' found that in 2018/19 seven out of 10 sentenced children were assessed to have a concern present in at least five of the 19 concern types. These were Safety and Wellbeing (88%), Risk to Others (85%), Substance Misuse (75%), Speech, Language and Communication (71%) and Mental Health (71%). In addition, it was found that 56% of assessed children were currently or had previously had a Child in Need care status.

As these figures demonstrate, children with Speech, Language and Communication Needs (SLCN) are disproportionately represented in the YJS. The YJB is aware of reports that home educated children with SLCN do not always receive the necessary support. The support required is often specialised, and most parents will struggle to provide and maintain it, putting these children at further risk of entry to the YJS.

In addition, many of the children in the YJS live in deprived areas and a disproportionate number are from Black and Minority Ethnic backgrounds where the levels of social disadvantage are already high. Many families from deprived areas do not have the financial means to ensure adequate home education. Many children from deprived areas are faced with the prospect of home education due exclusion and/or the risk of fines for non-attendance rather than it being an active decision by the family.

Children from these communities are already disproportionately involved in the youth justice system and home education may only serve to increase the disadvantages they face.

Performance vs inclusion

While we understand the need to measure performance in the education system, we have some concerns about the unintended consequences that certain performance measures can have on the outcomes for some children. It appears that children who display challenging behaviour, who are persistently absent or who are considered 'low

achievers' are increasingly placed on a trajectory to exclusion or directed to home education in order to protect the school's performance.

Challenging behaviour and/or persistent absenteeism is often an indication of a need for additional support and could be the result of a child's ACE's. Home education is not likely to provide the support the child needs in these circumstances and so we would like to see a focus on providing the relevant holistic support, including consultation with partners and an analysis of the causes of the behaviour and support needs, rather than an exercise to move children out of the mainstream setting.

The Government's 2016 report '*Understanding the educational background of young offenders*' notes that around 90% of 16-17-year olds sentenced to custody in 2014 had a previous record of being persistently absent from school. The figure for Youth Rehabilitation Orders was also around 90% and for Referral Orders and cautions, between 80% and 90% had a previous record of being persistently absent from school.¹ In addition, 23% of those sentenced to less than 12 months in custody had been permanently excluded from school prior to their 2014 sentence date. For those sentenced to 12 months or longer in custody, 16% have a previous record of being excluded from school prior to sentencing.²

We do recognise the challenges in managing such behaviours within a school setting, however by excluding children or pushing them towards home education without a thorough examination of whether it is appropriate, we are failing both them and society in the longer term. We note these issues are even more pronounced for children from Black communities and can contribute to overrepresentation in the YJS.

Delivery of Home Education for children in the YJS

The YJB has concerns that a large number of children who are recorded as EHE are not receiving any home education. Often, they have been 'off rolled' by the school to avoid permanent exclusion or as an alternative to prosecuting parents for their child's non-attendance.

We believe that there are not enough safeguarding or 'powers' for the local authority to intervene in these circumstances or to allow them to have proper oversight. Parents often do not understand what they are agreeing to or the implications of this decision and support from local services is often incredibly slow, meaning children are receiving no education for long periods.

We have found that sometimes, it is only when a child commits an offence and comes into contact with their local youth offending team, that the lack of any education for EHE registered children comes to light. This can lead to YOT attempting to fill the void and support the parent/child with applications for school places and other support. These circumstances can be exacerbated by the fact that these children often have underlying unidentified and unmet needs and there is no clear pathway for home educated children to receive an Education, Health and Care Plan (EHCP) assessment as these are largely commissioned services bought in by mainstream education settings. For this reason, we believe that there should be a dedicated LA resource for children on the YOT caseload who are EHE or not on roll of any school to go through the EHCP process where necessary.

¹ 'Understanding the educational background of young offenders: full report', 2016.
<https://www.gov.uk/government/statistics/understanding-the-educational-background-of-young-offenders-full-report> Last accessed 21/10/2020.

² 'Understanding the educational background of young offenders: full report', 2016.
<https://www.gov.uk/government/statistics/understanding-the-educational-background-of-young-offenders-full-report> Last accessed 21/10/2020.

Additional Concerns

Exploitation, Gaps in Safeguarding and Attainment

Child criminal exploitation (CCE) is one of the biggest concerns for the youth justice system at this time. Children are being groomed and coerced into gang activity and county lines. As above, children from deprived areas, and those not in education (or with minimal supervision), are more at risk of exploitation. EHE children are often at home without parental supervision as parents of children from deprived areas will often need to work long and sometimes unsociable hours leaving limited time or capacity to provide educational support.

Home education may also impact on the young person's need for fulfilment, often achieved through school and social activities, consequently placing them at higher risk of being drawn towards the perceived financial achievement and reward of CCE.

The recent Serious Case Review for Jaden Moodie (Waltham Forest) demonstrated some of the risks that children may face in EHE; the report found that 'time spent out of school, for whatever reason, is recognised to constitute a significant risk to children who are vulnerable to criminal exploitation. The current arrangements governing home education contribute to this risk. The approach that underpins the current government guidance in respect of Elective Home Education, an approach of minimum intervention or supervision, does not seem to be compatible with safeguarding children who are vulnerable to criminal exploitation.'³

We do not believe that the current regulatory framework is sufficient to ensure that the wellbeing and academic achievement of home educated children is safeguarded, particularly that of vulnerable children. To our knowledge, the DfE does not collect data on the educational attainment of known home educated children in England. This means we cannot make an assessment of the impact on educational attainment of being home schooled. However, in December 2009, the Children, Schools and Families Committee published an inquiry into elective home education. The inquiry found that out of the 74 responding LAs, 22% of known to be home educated 16-18-year-olds were not in education, employment or training. For comparison, the national average at this time was 5%. In addition, Graham Badman, who led a Government Review into Home Education, told the inquiry that home educated children are four times as likely to end up classed as NEET once they turn 16.⁴

Health

As previously stated, we understand that some children have very positive experiences of home education. Whereby their parents have chosen to educate them from home for positive reasons and are equipped to deliver quality education and have the right support available to them. However, we are also aware that home education can also cause children to feel isolated and can increase the risk of depression and other mental health issues as they are sometimes left alone for long periods in unstructured days.⁵

³ Serious Case Review: Child C, Waltham Forest Safeguarding Children's Board, 2020.

https://www.walthamforest.gov.uk/sites/default/files/WFSCB%20-%20SCR%20Child%20C%20May%20final_.pdf
Last accessed 12/11/2020

⁴ *Children educated at home twice as likely to be known to social services select committee told*, J Shepherd, Guardian, 13th October 2009. Available at: <https://www.theguardian.com/education/2009/oct/13/home-education-badman-inquiry> Last accessed 12/11/2020

⁵ *Skipping school: Invisible Children'*, 2019. Children's Commissioner.

<https://www.childrenscommissioner.gov.uk/wp-content/uploads/2019/02/cco-skipping-school-invisible-children-feb-2019.pdf> Last accessed 21/10/2020.

It can also impact on the amount of physical activity the child is exposed to, with Physical Education often overlooked and opportunities to partake in sporting activities outside of a formal education setting often costing coaching or club membership fees, which some families cannot afford.

As we've described, many children in the YJS have and continue to suffer trauma. Isolation from peers can serve to exaggerate that trauma and a young person isolated at home cannot be monitored and supported effectively.

The Impact of COVID-19

Schools provide the opportunity to interrupt early signs of offending and intervene timely to prevent escalation⁶, home schooling during the pandemic may have prevented his function of schools being fulfilled. However, other research suggested a positive benefit from mass home education; by pausing the school to prison pipeline. In the US, fewer referrals from schools to the justice sector, resulted in fewer children being caught up in the system, minimising the detrimental effects of contact with the system itself.⁷

Recent evidence is showing increased inattention of children during COVID-19 and evidence of difficulties engaging many children in schooling, there are concerns over the knock on impact of COVID-19 on dropout rates from school.⁸ As we've seen, school non-attendance is a further factor associated with offending amongst children and anecdotal evidence shows that many children known to the YOT are not receiving any education at the moment due to vulnerable parents/family members are choosing to keep their child at home, although it is not clear if they are recorded as EHE.

Children are likely to have been adversely affected by the loss of a significant amount education time during the lockdown period of the pandemic. This will impact on their already impaired ability to effectively engage in the next level of education.

Evidence also points towards the fact that children are suffering from mental health issues on return to school following lockdown. Children who are already suffering from trauma and other factors that impact on their ability to engage with education will have suffered significantly negative outcomes.

One of the positive outcomes of the COVID-19 lockdown has been the education systems fast paced adoption of 'virtual education' technology. Although this method of education is not ideal, it could show potential for the development of future alternative support packages to for children by reducing the need to exclude or home educate.

⁶ Sutherland, A. (2011). THE RELATIONSHIP BETWEEN SCHOOL AND YOUTH OFFENDING. *Social Policy Journal of New Zealand*(37), 51-69. Retrieved 10 26, 2020, from <https://www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/journals-and-magazines/social-policy-journal/spj37/spj-37.pdf>

⁷ Vinson, S. Y., & Waldman, R. J. (2020). The pandemic paused the US school-to-prison pipeline: potential lessons learned. *The Lancet Child & Adolescent Health*, 4(11), 799-800. doi: [https://doi.org/10.1016/S2352-4642\(20\)30306-0](https://doi.org/10.1016/S2352-4642(20)30306-0)

⁸ Ghosh, R., Dubey, M. J., Chatterjee, S., & Dubey, S. (2020). Impact of COVID-19 on children: Special focus on psychosocial aspect. *Minerva Pediatrica*, 72(3), 226-235. Retrieved 10 26, 2020, from https://www.researchgate.net/publication/341214452_Impact_of_COVID-19_on_children_Special_focus_on_psychosocial_aspect

Recommendations

Considering the points outlined in this response, we would make the following recommendations for consideration as part of your inquiry:

- Home education should only be recommended following a full appraisal of the parent's experience, capacity and abilities and contextual safeguarding circumstances.
- Where home education has to be implemented, mental health services should be alerted, and regular check-ups put in place for both the child and parents.
- Young people in the YJS and children with SEND should only be considered for home education in exceptional circumstances due to the disadvantages they will already be facing.
- Consideration should be given to a dedicated local authority resource for children on the YOT caseload who are EHE or not on roll of any school to go through the EHCP process where necessary.
- DfE and all schools should develop stronger support strategies for children, to prevent them from being at risk of exclusion or fines that may lead to parents considering home education.
- Schools should be disincentivised from attempting to push parents to home educate and should face scrutiny for any child placed on home education.
- Improvements to PRU's to be considered to enable them to fulfil their intended role. Children struggling at school should have options other than exclusion and home education.
- Schools should work in collaboration with Youth Justice services to support children remaining within mainstream education if at all possible.

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