

21 January 2009

Dear Dr Mitchell,

RE: Elective Home Education

I am writing to complain about how the Elective Home Education (EHE) team coordinator, Mr Olaf Hindmarsh, has handled his contact with us. His actions have caused no small amount of upset and distress to my wife and myself.

Since the death of my mother-in-law in November 2007 my wife and myself have cared for her 13 year old brother, Adrian. We have a full Residence Order in respect of Adrian and both have parental responsibility for him.

In May 2008 we deregistered Adrian from his then school, Polesworth International Language College in Warwickshire. As Adrian's school was in Warwickshire and we were living in Staffordshire, to avoid Adrian getting lost in the system, at the same time we sent a letter to the Staffordshire EHE team.

The contact we have had from the EHE team since then has lacked open communication and provided us with no opportunity to address concerns. There has been huge inconsistency in what Mr Hindmarsh has said and what he has done.

I have summarised the history of contact below but please find attached a complete log of the communication between ourselves and Mr Hindmarsh.

6 May 2008

We sent a letter to Adrian's school, Polesworth International Language College, asking them to remove him from their register.

8 May 2008

Although not legally required to, out of courtesy, we sent a letter to the Elective Home Education team to inform them that we had deregistered Adrian from his school. As Adrian was educated in a different County to the one in which we lived

we wanted to ensure Staffordshire EHE team were aware he had been deregistered from school.

22 May 2008

Section 7, Education Act 1996.

Duty of parents to secure education of children of compulsory school age

The parent of every child of compulsory school age shall cause him to receive efficient full-time education suitable—

(a) to his age, ability and aptitude, and

*(b) to any special educational needs he may have,
either by regular attendance at school or otherwise.*

We received a letter from Mr Hindmarsh thanking us for informing him of our intention to educate Adrian otherwise than at school. His letter claims that Section 7 of the Education Act 1996, included above in its entirety, required the C&LL Directorate to review the curriculum we arranged for Adrian and to evaluate the standards he achieves. As you can see Section 7 makes no such requirements.

The LEA's duties and powers in relation to home-educated children are fully set out in sections 437 to 443 of the same Act. I can, however, find no mention in these sections of the responsibilities Mr Hindmarsh claims he is working to.

Mr Hindmarsh's letter also implies that a visit from a C&LL representative is mandatory. Parents have the right to elect not to meet with a representative. I believe that they should be informed of this right.

The letter we received from Mr Hindmarsh contained a piece of literature entitled 'Elective Home Education – Guidance Notes for Parents'. The sections of this booklet entitled 'How do I start Elective Home Education?' and 'How often will the Staffordshire Service need to review my child's progress and what is likely to happen during the visit?' imply that an initial home visit, and subsequent regular monitoring visits, by a Staffordshire C&LL Service representative are mandatory.

This is simply not true. The DCSF Guidelines to Local Authorities clearly state that parents have no obligation to grant the LEA access to their home, or indeed meet with them at all. The guidelines state that if parents elect not to meet with the LEA that this is not a ground for concern and that evidence of a suitable education may be provided in a number of different formats (Paragraph 3.6).

The guidelines also state that 'Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis.' (Paragraph 2.7).

26 May 2008

We sent a letter to Mr Hindmarsh thanking him for the information he had sent us but informing him that we had not filled in the questionnaire he had sent. We had instead enclosed in that letter a copy of our Educational Philosophy which included a list of resources we used and activities Adrian had taken part in.

1 August 2008

We received a letter informing us that a Mr Birdsall would be contacting us to arrange a visit and inspect examples of Adrian's work.

20 August 2008

I sent an email to Mr Hindmarsh declining his offer of a visit from Mr Birdsall.

27 August 2008

I received an email from Mr Hindmarsh informing us that as we were declining a visit he required examples of Adrian's work.

On the same day I sent a reply, by email, to Mr Hindmarsh. I reminded him that our approach to Adrian's education was autonomous and child led and as such we did not follow set schemes of work. I informed him that as we did not set, assess or mark discreet pieces of work for Adrian we did not have 'examples of work'.

I attached to my reply a second copy of our Educational Philosophy which included an updated copy of the list of resources we used and activities/projects Adrian has undertaken.

Our Educational Philosophy clearly states that Adrian does not study discreet subjects or prescribed schemes of work. The fact that Mr Hindmarsh asked for this information causes me to assume that he either did not read the original copy of our Educational Philosophy we sent him or has a distinct lack of knowledge regarding autonomous education.

6 October 2008

In a shocking and upsetting phone call with my wife Mr Hindmarsh stated, and I paraphrase, 'It's all about accountability, I have to go to meetings and explain what is happening with these children'. In the same phone call Mr Hindmarsh referred to a recent case that had been on the news involving a child that died.

The child happened to be home educated and Mr Hindmarsh implied that he would need to see Adrian to ensure we were not abusing him.

We find it insulting, upsetting and worrying, that Mr Hindmarsh may believe that a child would be more at risk of abuse simply because they were educated otherwise than at school. Do the C&LL directorate insist that representatives see all state schooled students at home *just in case* their parents are abusing them?

On the same date Mr Hindmarsh sent an email asking us to confirm the contents of the phone call.

On the same date we replied by email asking for several amendments to be made to his record of the phone call. We also informed him that Adrian would consider providing him with a Power Point presentation showing some of the things he had done recently. We made the point that if he was provided with this it was for him only and was not to be assessed or compared to the work of others.

7 October 2008

We received an email from Mr Hindmarsh thanking us for the information and informing us he would discuss it with his line manager. This email caused us to believe that Mr Hindmarsh was satisfied that we needed to provide him with no further information.

4 December 2008

On December 4 2008 we received a copy of Mr Hindmarsh's statement, dated December 1 2008, to Birmingham County Court regarding Adrian's education. I have not included a copy of the statement for legal reasons but I am sure Mr Hindmarsh will be able to confirm it's contents for you.

Since October 7 we had received no further communication from Mr Hindmarsh, his line manager, the EHE team or anyone else regarding Adrian's education. However in his statement to the Court he claims that he is not satisfied we are providing Adrian with a suitable education and that a School Attendance Order may be necessary. Whilst I appreciate that the LEA may well have a heavy workload their contact with us has veered from not engaging with us at all to demanding evidence with little notice and the threat of a Statutory Attendance Order.

In Mr Hindmarsh's statement he also states that on August 27 2008 he placed Adrian on the register of 'Children Missing Education'. August 27 was the same date that Mr Hindmarsh was aware we had declined a visit from a C&LL representative. The DCSF Guidelines state that parents have no obligation to grant the LEA access to their home or indeed meet with them at all (Paragraph

3.6). If parents elect not to meet with the LEA, as we have done, this does not of itself constitute a ground for concern (Paragraph 3.6). The DCSF Guidelines also state that evidence of a suitable education may be provided in a number of different formats (Paragraph 3.6), which we had already done.

Paragraph 12 of the EHE 'Best Practice' procedures published on the EHE website states that 'If it appears to SID that a child of compulsory school age is not receiving efficient or suitable full-time education, either by regular attendance at school or otherwise, the representative will write to the parent/carer stating that this is the case and the reasons for this decision.'. This did not happen. If Mr Hindmarsh did not write these procedures, I'm sure that as EHE Co-Ordinator he would have at the very least seen and approved them. I find it worrying then that he does not appear to follow his own code of practice and wonder how anyone is expected to know where they stand.

As far as the EHE team was concerned, until we notified them of his deregistration, Adrian was not known to exist. When he was known to exist it was known that he was being home educated. The category of 'Missing Education' has therefore never applied to Adrian. I do not understand why Mr Hindmarsh saw fit not to inform us of his concerns or to inform us that he was placing Adrian on the register of 'Children Missing Education'. To date Mr Hindmarsh has still not informed us of the specific concerns he had.

14 December 2008

In response to Mr Hindmarsh's allegations we compiled and sent a statement of evidence via email. In our letter we expressed our disappointment at his lack of communication with us.

17 December 2008

I sent an email to Mr Hindmarsh asking for confirmation of receipt of my email dated December 14.

On the same date Mr Hindmarsh replied confirming that he had received my email and letter and would be responding shortly

19 December 2008

We received a letter from Mr Hindmarsh in response to our statement of evidence. In his letter he stated that he was happy with Adrian's educational provision but demanded that we make termly reports to him regarding Adrian's education.

I do not see how the last couple of paragraphs of this letter can be interpreted as anything other than a thinly veiled threat of the issue of a School Attendance

Order unless we provided termly reports. Paragraph 2.7 of the DCSF guidelines clearly states that 'Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis.'. Mr Hindmarsh's demand for termly reports is unlawful.

A Local Authority needs to see an appearance of failure to fulfill Section 7 duty of providing a child with a suitable education before they consider a School Attendance Order. The fact that we sent a deregistration letter to Adrian's school and to the local authority and the fact that we had provided, on more than one occasion, evidence in the form of our Educational Philosophy and details of activities/resources is reason to assume we were fulfilling our duty. It is illogical nonsense and inconsistent with the principle of presumption of innocence for Mr Hindmarsh to have assumed otherwise. Mr Hindmarsh had no grounds for pursuing, or threatening to pursue, a School Attendance Order.

I am sure you are aware of, but would like to draw your attention to, the DCSF published document 'Ensuring Children's Right to Education – Guidance on the legal measures available to secure regular school attendance.' This document explains the roles and responsibilities of the local authority in ensuring children's regular school attendance.

Paragraph 8:

If it is not possible to persuade the parent to make suitable arrangements for their child's education, then the parent should be served with a notice stating that they are failing in their duty to provide their child with education. The notice must inform them that they must satisfy the authority that they are providing an education at school or otherwise within a specified time period (but not less than 15 days beginning with the day the notice was served).

Paragraph 9 :

Upon expiry of the notice the authority should write to the parent referring them to the notice and informing them of the authority's intention to serve an SAO. The authority should inform the parent of schools that are suitable for the child to attend and should also inform the parent that they have the right to educate their child at home if they choose to. The parent should be told that they have 15 days in which to take action or the authority will proceed to make an SAO. (The procedures allow for aligning school attendance orders with statements of special educational needs).

Paragraphs 8 and 9 of this document, included above in their entirety, deal with Educational Supervision Orders and Statutory Attendance Orders. It identifies the procedures involved in issuing them. On August 27 as Mr Hindmarsh believed us to be in breach of our duty to provide Adrian with a suitable education correct procedure would have been for him to notify us in writing. Had we received such a notice and failed to respond within the allocated time it would then have been appropriate for Mr Hindmarsh to consider the pursuit of a SAO.

Adrian was placed on the register of 'Children Missing Education' on 27 August 2008. We were never informed of this. I can think of no reason why over 3 months later when Mr Hindmarsh, as sworn in his statement to Court, still

believed Adrian not to be receiving a suitable education he had still failed to follow government guidelines and issue us with such a notice.

Were Mr Hindmarsh to apply to Court in an attempt to issue us with a SAO we would have to prove to the Court that on the balance of probabilities any reasonable person could assume we were providing Adrian with a suitable education. I have no doubt that the evidence we had already provided Mr Hindmarsh, in the form of our Educational Philosophy and list of resources and activities, would be sufficient. This is the same test Mr Hindmarsh should be applying when making informal enquiries.

To summarise, I would like you to address and provide me with an explanation of the following:

1. Why the EHE team believes it acceptable to publish incorrect and misleading literature regarding visits and monitoring by the C&LL Directorate.
2. The *specific* concerns Mr Hindmarsh had regarding Adrian's education.
3. The reasons for Mr Hindmarsh not informing us of these *specific* concerns.
4. The reasons for Mr Hindmarsh not following government guidelines and issuing us with a written notice that the LA believed we were not providing Adrian with a suitable education.
5. The grounds on which Adrian was placed on the register of 'Children Missing Education'.
6. The reason we were not notified that Adrian was to be placed on the register of 'Children Missing Education'.
7. The reasons for Mr Hindmarsh not following his own code of practice.
8. The reasons for Mr Hindmarsh deeming it appropriate to threaten us with the pursuit of a School Attendance Order.
9. Whether the C&LL Directorate do indeed believe a child educated at home is more at risk of abuse, and if so what the reasons for that belief are.
10. Whether the C&LL Directorate insist a representative visits the homes of *all* state educated students *just in case* they are being abused. If they do not an explanation as to why the C&LL Directorate believe it appropriate to discriminate against families exercising their *right* to educate their children otherwise than at school.

11. Whether any member of the EHE team have any experience of home education. If they do not an explanation as to what *relevant*, not state run school, experience they do have that makes them suitable for the role of evaluating the home education of others.

We are unsure as to how we now move forward. Whilst we have no wish to be unco-operative, there has been a complete breakdown of trust. Inconsistent demands and the moving of goal posts have left us not knowing where we stand. We are disappointed, and deeply concerned, at the factual inaccuracies and misquotations of the Education Act that have appeared in written communication to us. We are very wary of engaging in further dialogue with someone who has been unsupportive and disrespectful of our choice to educate Adrian autonomously. At every stage we have acted above and beyond our legal requirements. We have been open and consistent and sought to address any concerns that have been raised. Sadly we do not feel that this has been reciprocated.

I look forward to your response.

Yours sincerely,

Matt Hupfield.