

# Home Education and Child Abuse: How Media Rhetoric Drives the Myth.

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## Abstract

Successive proposals have been made in recent years to introduce strict monitoring of home educated children, on the basis that they are at safeguarding risk due to being 'invisible', 'unseen', or 'off the grid'. Concurrent with these political moves has been a prodigious rise in media articles relating to home education, mostly led by the assumption that those children are at risk. Emotive language within those reports has raised public interest in the issue, leading to debate in private and professional circles alike. In what appears to be a causal link, these reports fuel growing calls for introduction of monitoring of home educated children. This study looks at the basis for those calls for monitoring, by examining empirical evidence of relative safeguarding risk between home educated children, children under 5 years of age and children aged 5 to 16 years.

Home educated children were found to be subject to statistically significant higher rates of referral for assessment under the Children Act 1989 s47 at 4.17% than were children under 5 years of age at 2.34 % and children aged 5 to 16 years at 2.03%. Despite these higher rates of referral, no significant difference was found between rates of child protection plan in children who are home educated at 0.44% and children aged 5 to 16 years at 0.43%. Difference in rates of child protection plan in children under 5 years of age compared to home educated children and children aged 5 to 16 years were statistically significant at 0.71%. Conversion rates from referral under the Children Act 1989 s47 to child protection plan were 11.06% in home educated children compared to 35.40% in children under 5 years of age and 26.81% in children aged 5 to 16 years.

Despite home educated children being at no greater safeguarding risk than other children, media rhetoric is fuelling calls for strict monitoring of those children, whilst self-perpetuating concerns in respect of their safeguarding. This in turn leads to unwarranted pressure on children's social service's resources and on home educating families, who face intrusion into their private family lives if calls for such monitoring are acted upon.

## Introduction

It is the duty of each parent to cause their child to receive education suitable to their age, ability, aptitude and any special needs they may have<sup>1</sup>, yet successive proposals have been made in recent years to introduce strict monitoring and supervision of home educated children. Such interventionism focuses on ‘safeguarding’ and has stemmed from the Labour party’s ‘state interventionist agenda’<sup>2</sup>. In 2009 this led to the ‘Badman review’ of home education<sup>3</sup> and proposals that home inspections be made mandatory for all home educated children. Whilst that proposal fell at the fence, in July 2018 Lord Soley presented his Bill in the House of Lords to seek similar mandatory monitoring of home educated children<sup>4</sup>. The Soley Bill seeks to provide:

- ‘ (1) Local authorities have a duty to assess the educational development of children receiving elective home education in their area.*
- (2) Local authorities have a duty to provide advice and information to a parent of a child receiving elective home education if that parent requests such advice or information in relation to their obligations under this section.*
- (3) A parent of a child receiving elective home education must register the child as such with their local authority.*
- (4) Local authorities must assess annually each child receiving elective home education in their area (hereafter referred to as “the assessment”).*
- (5) The assessment set out in subsection (4) must assess the educational development of each child.*
- (6) The assessment may include —*
  - (a) a visit to the child’s home;*
  - (b) an interview with the child;*
  - (c) seeing the child’s work; and*
  - (d) an interview with the child’s parent’*

Currently, the Bill is withdrawn in the House of Commons by its sponsor Frank Field MP, however, Mr Field has confirmed his intention to ‘*retable the same bill, or work with the Education Secretary to go forward on*’<sup>5</sup> the Bill’s proposals. Further, the Bill requires that the Secretary of State for Education in updating the guidance on home education must have regard to:

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<sup>1</sup> Education Act 1996 s7

<sup>2</sup> Mukwamba Sendall, F (2014) How do Extreme Cases of Child Abuse Drive the Child Protection Lens. Unpublished.

<sup>3</sup> Badman, G. (2009) Report of the Secretary of State on the Review of Elective Home Education in England, Norwich, TSO

<sup>4</sup> Home Education (Duty of Local Authorities) Bill [HL] 2017-19

<sup>5</sup> Frank Field, in conversation with the author, 18<sup>th</sup> March 2019.

*'(a) 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, and  
(b) the views of children and parents who elect home education'.*

The Secretary of State for Education has pre-empted the outcome of the Bill process by publishing draft guidance for home education<sup>6</sup>, which has been met positively in general by local authorities in their consultation responses and negatively in general, by significant numbers of home educating families<sup>7</sup>. Primary objections to the Sole Bill and draft guidance, from home educating families, centre around the inherent criminalisation of families, by giving local authorities the power to interview home educated children and insist on home visits, when no other sector of law abiding society is subjected to such mandatory interviews and visits. In addition, home educating families expressed concern that whilst the draft guidance acknowledges that home education is not a safeguarding risk, it goes on to suggest the need for close oversight and, in the view of many home educating families, to encourage referral of home educated children to children's social services.

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*'The department's view is that there is no proven correlation between home education and safeguarding risk. In some serious cases of neglect or abuse in recent years, the child concerned has been home educated but that has not usually been a causative factor and the child has normally been known anyway to the relevant local authority. However, it must be acknowledged that a child being educated at home is not necessarily being seen on a regular basis by professionals such as teachers and this increases the chances that any parents who are using home education to avoid independent oversight may be more successful by doing so'.*

*'...failure to provide suitable education is capable of satisfying the threshold requirement contained in s.31 of the Children Act 1989 that the child is suffering or is likely to suffer significant harm'.*

This objection is intensified by lack of compliance by local authorities with existing legislation and guidance, with non-compliant local authorities cited as being in the majority, at 122 out of 152<sup>8</sup>. This stance is taken up by education NGOs such as the

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<sup>6</sup> DfE (2018) *'Elective Home Education: Departmental Guidance for Local Authorities. Draft for Consultation'* [Online] Available from: [https://consult.education.gov.uk/school-frameworks/home-education-call-for-evidence-and-revised-dfe-a/supporting\\_documents/Elective%20home%20educationGuide%20for%20LAs.pdf](https://consult.education.gov.uk/school-frameworks/home-education-call-for-evidence-and-revised-dfe-a/supporting_documents/Elective%20home%20educationGuide%20for%20LAs.pdf)

<sup>7</sup> See for example: Wood, M (owner) 2019 *'Home Education UK Parliamentary and Media Monitoring & Action'*, Facebook [Online] Available from: <https://www.facebook.com/groups/stophl11/>

<sup>8</sup> Alison Sauer quoted in Parliamentary Business (2012-2013). Education Committee - Support for Home Education - Minutes of Evidence. [Online] Available from: <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmeduc/559/120905.htm>

centre for Personalised Education<sup>9</sup> ‘Some LAs are already currently operating policies or practices which do not meet that requirement’.

Concurrent with these political moves to introduce mandatory monitoring of home educated children, is a recent prodigious increase in media articles about home education, mostly led by the assumption that home educated children are ‘invisible’ and consequently ‘at risk’. Emotive language within these reports has raised public interest in the issue, resulting in debate in council chambers<sup>10</sup>, private homes, social media<sup>11</sup> and by organisations such as the Association of Directors of Children’s Services (ADCS) and the Children’s Commissioner<sup>12</sup>, all seeking to have their views heard. Many of these articles use language such as ‘invisible’; ‘at risk’ and ‘off the grid’ to refer to home educated children, whilst questioning the safety of home educated children.

*‘Our investigations have revealed thousands of children are ‘off the grid’ because they are being home schooled. The numbers are rocketing and no-one knows how they are doing academically or even if they’re safe’<sup>13</sup>.*

Little academic evidence exists which provides insight into the question of whether home educated children are at such risk of harm, or whether mandatory monitoring is required to safeguard them. One such recent study found that home educated children were significantly more likely to be referred to children’s social services as ‘at risk’, than were under 5 year olds and schooled children<sup>14</sup>, yet significantly less likely to be subject to a child protection plan, indicating that home education is a protective factor, rather than a safeguarding risk.

This study revisits the question of whether in 2019, we have moved toward greater understanding of the safeguarding risk amongst home educated children, or whether any new evidence has come to light, upon which the Soley Bill and draft home education guidance are based.

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<sup>9</sup> CPE (2018) Submission to home education guidance consultation. CPE.

<sup>10</sup> Clark, D (2019) ‘Home Education Row’, Radio Exe [Online] Available from: <http://www.radioexe.co.uk/news-and-features/local-news/home-education-row/?fbclid=IwAR2iYrrt8IRVwRrSxs5HVCCjBS24zzURTCehw4GeLleUs4f2eko7YgwwX28>

<sup>11</sup> See for example: Wood, M (owner) 2019 ‘Home Education UK Parliamentary and Media Monitoring & Action’, Facebook [Online] Available from: <https://www.facebook.com/groups/stoph11/>

<sup>12</sup> Children’s Commissioner (2019) ‘Children’s Commissioner for England calls for a compulsory register of “off the grid” children’ [Online] Available from: <https://www.childrenscommissioner.gov.uk/2019/02/04/huge-increase-in-children-disappearing-from-schools-to-be-educated-at-home-childrens-commissioner-for-england-calls-for-a-compulsory-register-of-off-the-grid-children/>

<sup>13</sup> Ibid.

<sup>14</sup> Charles-Warner, W. (2015) ‘Home Education and the Safeguarding Myth’. CPE. [Online] Available from: <https://www.personalisededucationnow.org.uk/2015/02/28/research-home-education-and-the-safeguarding-myth-analysing-the-facts-behind-the-rhetoric/>

## Method

In order to obtain empirical data relating to child safeguarding in England, all 152 Local Authorities were sent a request under the Freedom of Information Act 2000, s1. to provide relevant statistical data. All data relates to the calendar year 2018. The information required from each Authority was the number of home educated children, the number of 0-4 year olds and the number of 5-16 year olds. For each cohort, authorities were asked to provide details of numbers of unique referrals to children's social services, which were treated as referrals under the Children Act 1989 s47 s1(b):

*'Where a local authority have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm, the authority shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare'.*

This limitation was included in order to remove referrals from the data where social services departments had made an initial decision to not investigate further, that is where no *'reasonable cause'* was found. Previous research<sup>15</sup> looked at overall referral numbers, finding significantly higher referral rates in home educated children than in the two other cohorts. However, this does not exclude referrals which are misguided or malicious. This research sets out to analyse only those referrals which gave social services *'reasonable cause'* under the Children Act s47 and thereby ascertain the degree to which media rhetoric is driving genuine and usually professional concern.

All local authorities were then asked to provide data on numbers of resultant Child Protection Plans (CPPs) in each cohort.

All 'outliers' within the data, were manually checked and confirmed direct with the relevant local authority to confirm accuracy. A random selection of local authority data responses were also checked using the same method. Comparative analysis was then undertaken using single factor ANOVA. This was followed by Tukey tests where statistically significant differences were found.

Where small numbers exist in cohorts, local authorities were able to use the exemption under the Freedom of Information Act 2000 s40 (2) to report the figure as <5. In these cases, two lots of data were analysed using 1 and 5 to indicate the range in which the outcome falls.

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<sup>15</sup> Charles-Warner, W. (2015) *'Home Education and the Safeguarding Myth'*. CPE. [Online] Available from: <https://www.personalisededucationnow.org.uk/2015/02/28/research-home-education-and-the-safeguarding-myth-analysing-the-facts-behind-the-rhetoric/>

## Results

### Number of home educated children

148 local authorities responded to this question giving a total number of home educated children of 53,838. The mean number per local authority was 363 and median 236. The range was from 3 in the City of London, to Kent with 2302 children who are home educated. Nine local authorities had numbers greater than 1,000 home educated children:

- Cornwall 1079
- Devon 1222
- Lancashire 1266
- Hampshire 1356
- Norfolk 1380
- Hertfordshire 1417
- Birmingham 1427
- Essex 1857
- Kent 2302

141 local authorities provided data for numbers of home educated children in both 2018 and 2019. The total number of children in those authorities was 43505 in 2018 to 51405 in 2019, an increase overall of 7900 children. 26 local authorities reported decreasing numbers of home educated children. Overall changes in numbers ranged from -135.53% in Wiltshire ( from 358 children in 2018 decreasing to 152 in 2019) and +39.10% in Essex ( from 1335 children in 2018 up to 1857 children in 2019).

To put this data into perspective, in the 141 local authorities reporting numbers of home educated children in both 2018 and 2019, there were 7,108,241 children aged 5 - 16 years. There was an increase of 18% in absolute numbers of home educated children, but in 2018 the proportion of those children who were home educated was 0.61%. In 2019 this figure was 0.72%, an overall rise of only 0.11% of the population group.

### Referrals to children's social services, treated as Children Act 1989 s47 referrals

#### Referrals of home educated children.

113 Local authorities responded to this question with a mean referral rate for home educated children of 4.17% of the cohort. The median referral rate was 2.17% and the

range from 0% to 39.79%. Of the reporting local authorities, 30.97% (35 local authorities) had a referral rate for home educated children in excess of 4%.

This mean referral rate disguises some very high rates, particularly in four local authority areas, with local authority 'A' seeing 25.41% of 484 home educated children referred, local authority 'B' seeing 21.04% of 309 home educated children referred, local authority 'C' seeing 27.34% of 139 children referred and local authority 'D' having a referral rate of 39.79% of 93 home educated children referred.

### **Referrals of children aged under 5 years**

142 local authorities responded to this question, with a mean referral rate for under 5 year olds of 2.34%. The median referral rate was 1.90 and the range from 0.37% to 8.64%. Of the responding local authorities, 11.27% (16 local authorities) had a referral rate of 4% or higher.

### **Referrals of children aged 5 to 16 years**

130 local authorities responded to this question, with a mean referral rate of 2.03%. The median was 1.57% and the range 0.25% to 8.58%. Of the reporting local authorities, 9.42% (13 local authorities) had reporting rates for children aged 5 to 16 years higher than 4%.

### **Referral rate comparison**

The level of referral of children under the Children Act 1989 s47, between the study groups was significantly different,  $F(2,380) = 10.438$ ,  $p = 3.86 \times 10^{-16}$ .  $P < 0.5$  (Table 1)

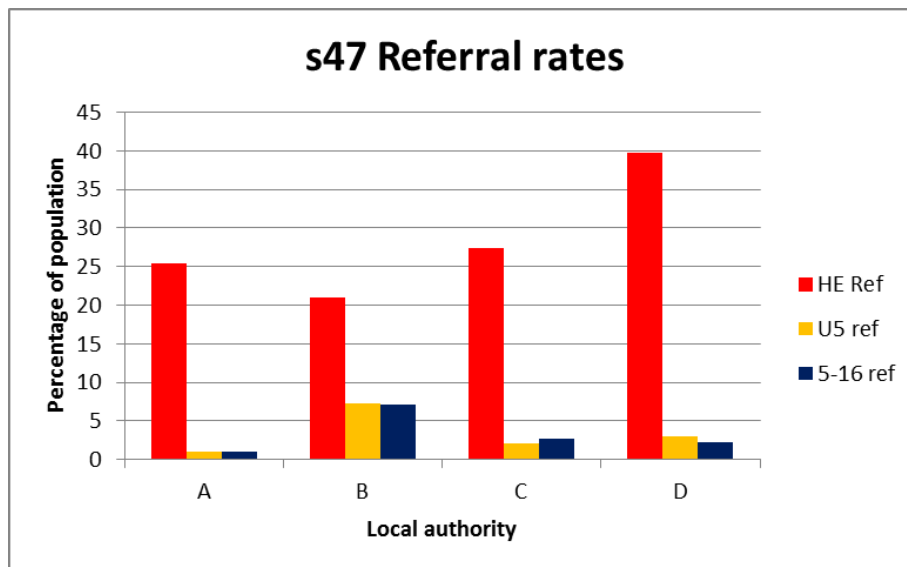
	HE	Under 5	5-16
Mean	4.173	2.342	2.031
Standard deviation	6.774	1.607	1.485
Median	2.17	1.90	1.57

Table 1: analysis of reporting rates between cohorts of children.

Differences in referral rates between the cohorts of children under 5 years of age and children aged 5 -16 years were not statistically significant, at 2.34% and 2.031% respectively. Differences in referral rates between the cohort of home educated children and both children aged under 5 years and children aged 5 to 16 years, were statistically significant, at 4.17% compared to 2.34% and 2.031% respectively.

In local authorities 'A', 'B', 'C' and 'D', the local authorities with the highest referral rates for home educated children, the contrast was particularly stark between the different populations. (Graph 1).

Graph 1: difference in referral rates between cohorts, within four local authorities.



**Referrals to Children's services under the Children Act 1989 s47, which subsequently lead to a child protection plan.**

#### **Child Protection Plans following referral, in home educated children**

123 local authorities responded to this question, with a mean rate of referral leading to a Child Protection Plan of 0.44% of all home educated children. The median was 0.16%.

Of those 123 local authorities 46.34% (57 local authorities) reported having no home educated children whatsoever, subjected to child protection plans. 31.70% (39 local authorities) reported rates of child protection plans in the cohort of home educated children as 0.5% or greater.

#### **Child protection plans following referral, in children aged under 5 years**

144 local authorities responded to this question, with a mean rate of referral leading to a Child Protection Plan of 0.71% of all children aged under 5 years. The median was 0.65%.



Of those 144 local authorities 68.05% (98 local authorities) reported rates of child protection plans in children under 5 years of age, of 0.5% or greater.

### **Child protection plans following referral, in children aged 5 to 16 years.**

131 local authorities responded to this question, with a mean rate of referral leading to a Child Protection Plan of 0.43% of all children aged 5 to 16 years. The median was 0.41%.

Of those 131 local authorities 51.15% (67 local authorities) reported rates of child protection plans in children aged 5 to 16 years, of 0.5% or greater.

### **Child protection plan rate comparison**

Differences in levels of referral to Children's services under the Children Act 1989 s47, which subsequently lead to a child protection plan between home educated children and children aged 5 to 16 years are not statistically significant,  $F(1,252) = 0.027$ ,  $p = 0.869$ .  $P > 0.5$ . Whilst numbers in all three groups are low, the difference between levels for under 5 year olds and both home educated children and children aged 5 to 16 years, are statistically significant. (Table 2).

	HE	Under 5	5-16
Mean	0.44	0.71	0.43
Median	0	0.65	0.41

Table 2: levels of referrals to Children's services under the Children Act 1989 s47, which subsequently lead to a child protection plan.

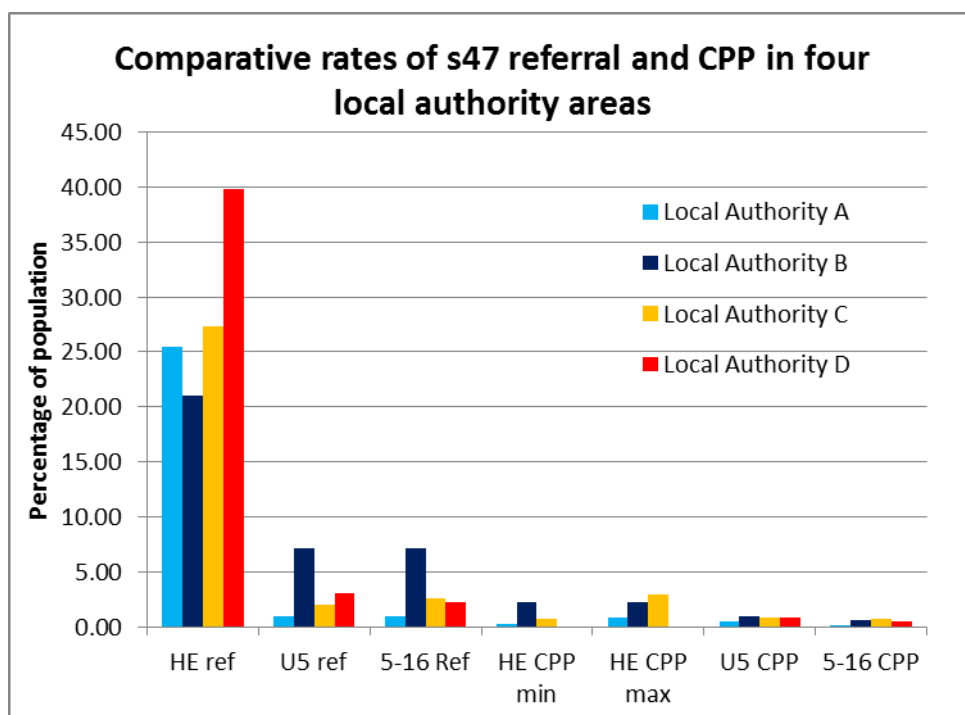
### **Comparison in four local authorities**

If referral rates for each cohort accurately reflect the respective safeguarding risks for that cohort, it would be expected that the subsequent rate of child protection plan in each cohort would be similar. In order to examine this hypothesis, a comparison was made of rates of referral under the Children Act 1989 s47 in local authorities 'A', 'B', 'C' and 'D'. These local authorities were chosen as having the highest rates of referral amongst home educated children and in order to rule out the possibility of there being local demographic reasons for the higher rate of referrals in those children. As very low rates of child protection plans were recorded in two of those authorities, an exception arose under the Freedom of Information Act 2000 s40 (2) and figures were

reported as <5. Consequently, a minimum and maximum rate was used for child protection plans amongst home educated children.

The high levels of referral to Children’s Services in the four local authorities of home educated children were not reflected in the referral rates for under 5 year olds, or children aged 5 to 16 years. However, rates of child protection plans in each of the three cohorts were broadly similar, indicating that no difference exists in safeguarding risk between the three cohorts. (Graph 2).

Graph 2: Comparative rates of s47 referral and child protection plans in four local authority areas.



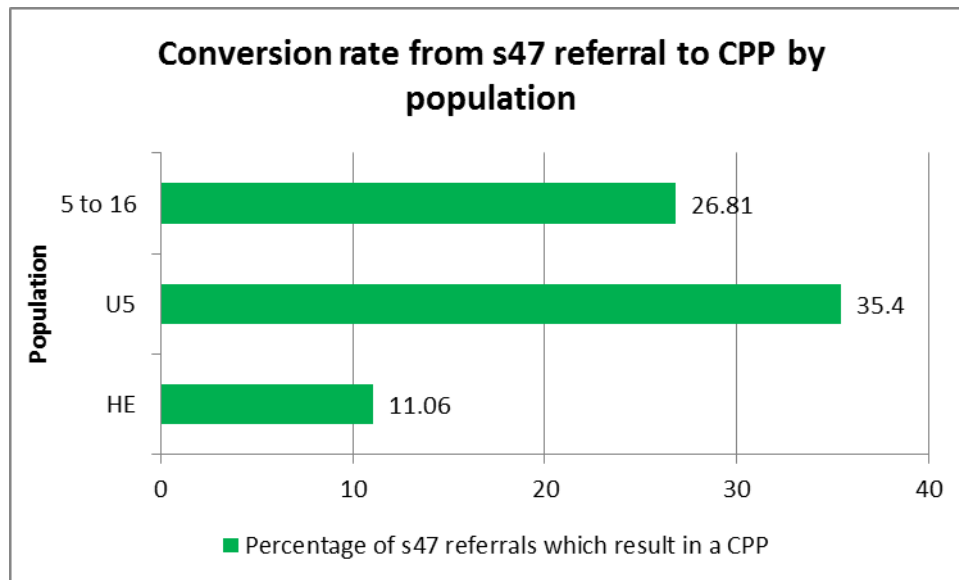
**Conversion rate from referral under the Children Act 1989 s47, to child protection plan.**

Data to analyse conversion rates from referral under the Children Act 1989 s47, to child protection plan in home educated children, were provided by 123 local authorities. The mean conversion rate was 11.06% and the median 1%. 53 of those local authorities reported that no home educated child whatsoever was subject to a child protection plan.

Of the 141 local authorities providing data for children under 5 years of age the mean conversion rate from s47 referral under the Children Act 1989 to child protection plan was 35.40% and the median 37.40%.

Of the 126 local authorities providing data for children aged 5 to 16 years, the mean conversion rate from s47 referral under the Children Act 1989, to child protection plan was 26.81% and the median 26.88% (Graph 3).

Graph 3: Conversion rate from referral under the Children Act 1989 s47 to child protection plan, by cohort.



## Discussion

It is clear from the data obtained, that whilst numbers of home educated children are rising in many local authority areas, the numbers are reducing in others. There has been an overall rise in numbers since 2018, but that rise reflects only 0.11% of the population aged 5 to 16 years. Little research exists to explain why parents choose to home educate, but a recent report<sup>16</sup> analysing surveys of home educated parents, found that 41% of respondents cited dissatisfaction with school provision as their primary motivating reason and a further 16% cited unmet SEN needs in schools. That 57% of home educating families should cite unmet needs, or dissatisfaction with school, would arguably indicate concerns in respect of school provision, rather than concern over the safeguarding of children who are home educated. This dissatisfaction is borne out by school leaders who highlight their views that '*funding arrangements are failing a generation of young people*'<sup>17</sup> and leading to children with

<sup>16</sup> Cheasley, S. (2018). 'A Comparative Analysis of Home Education in Eight Local Authorities and Nationally'. CPE [Online] Available from: <https://www.personalisededucationnow.org.uk/2018/08/28/comparative-analysis-home-education-eight-local-authorities-nationally-preliminary-report/>

<sup>17</sup> Bristow, N. (2019) 'Headteacher says school funding cuts are 'failing a generation' ahead of debate'. Northwich Guardian [Online] Available from: <https://www.northwichguardian.co.uk/news/17466644.headteacher-says-school-funding-cuts-are-failing-a-generation-ahead-of-debate/>

special educational needs not receiving the services that they require<sup>18</sup>. Some families chose to home educate because they felt that they could provide a better education than a school could. This is reflected in numbers of school leavers failing to achieve grade 4 (formerly grade C) and above in the core subjects of Maths and English. In Maths, 28% of girls and 30% of boys failed to achieve the grade and in English, 19% of girls and 34% of boys failed to achieve the grade<sup>19</sup>. For some families, choosing to home educate their children is in response to identifying safeguarding risks associated with the child attending school<sup>20</sup>.

No cohort of children is entirely free from risk of abuse and neglect, as child abuse exists across all areas of society. We have children's social services to respond reactively to any reports that a child is suffering from harm, or likely to suffer harm, for this reason. Reactive response to indication of safeguarding risk is not, however, what is being proposed by either the Soley Bill, or the draft guidance. What is being proposed is proactive investigation of every home educated child on the basis of perceptions that home educated children are somehow 'hidden', or 'invisible' and at consequent safeguarding risk. This raises the question of how 'hidden' home educated children actually are. The findings indicate that far from being hidden, home educated children are uniquely visible, with a significantly higher referral rate to children's social services than children under 5 years old, or children aged 5 to 16 in schools. This perception of home educated children as hidden is dismissed by home educating parents, who cite regular attendance at groups, events, clubs, libraries, shops and within their community as evidence that their children are more visible than a child in a school with limited exposure to a small number of adults.

Conversion rates from referral under the Children Act 1989 s47 to child protection plan for home educated children are 11.06%, compared to 26.81% of children aged 5 to 16 years and 35.40% of children aged under 5 years. If the higher rate of referral found in home educated children was warranted, those children would be subjected to higher rates of child protection plan commensurate with the level of referral, but this is not the case. Despite significantly higher rates of referral to children's social services amongst home educated children, rates of child protection plan are not significantly different between those children, those under 5 years of age and those aged 5 to 16 years. This indicates that the fact of a child attending school where there is professional oversight at a greater level than proposed by either the Soley Bill, or the draft guidance, is no more likely to identify a child in need of child protection services than where a child is home educated. Further, the higher referral rate to children's

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<sup>18</sup> Roden, R. (2019) 'Government failing SEND pupils in schools, Bury MP says'. Bury Times. [Online] Available from: <https://www.burytimes.co.uk/news/17480805.government-failing-send-pupils-in-schools-bury-mp-says/>

<sup>19</sup> Robertson, A (2018) 'GCSE results 2018 – How did boys and girls do in English and maths?' Schoolsweek. [Online] Available from: <https://schoolsweek.co.uk/gcse-results-2018-how-did-boys-and-girls-do-in-english-and-maths/>

<sup>20</sup> Myers, M & Bhopal, K. (2018) 'Muslims, home education and risk in British society', British Journal of Sociology of Education, 39:2, 212-226, DOI: 10.1080/01425692.2017.1406337

social services of home educated children, does not identify higher numbers of children in need of such services, which would indicate that those children are not at any distinct safeguarding risk.

Proposals within the Soley Bill and the DfE draft guidance, seek monitoring of home educated children, with the Bill and many local authorities seeking mandatory home visits and interviews with children. Whilst the draft guidance does not mandate such visits, it makes clear that the DfE supports local authorities in making their own policies in respect of how they assess home education. In a climate of lack of compliance with current legislation and guidance by local authorities<sup>21</sup>, home educating parents are understandably concerned by this stance. Further, examination of local authority communications<sup>22</sup> with home educating parents, indicates that by far the majority of local authorities seek to insist upon, or press parents into agreeing to home visits. This approach on the part of local authority staff is self-perpetuating:

*'Home-education engenders concern. Stakeholder critics allude to risks for children ranging from educational or psychological harm to physical neglect or abuse. Accusations, which lack evidenced based research, problematise home-education creating suspicion which impacts on LA administrator and officer implementer. This is observable in their beyond-legal authority practices.'*<sup>23</sup>

As education officers seek to implement such ultra vires policies and practices, concern is generated amongst home educating parents, who become increasingly disillusioned with their local authority's approach to their legal choices to home educate their children. This disillusionment can lead to resistance to engagement with those local authorities, who then view that lack of engagement as indicative of home educated children being 'hidden'.

Despite children's social services responding reactively to higher rates of referral amongst home educated children, the rate of child protection plan in the population is similar to that found amongst other children. This leads parents to question why they should be stigmatised by the implementation of mandatory home inspections which no other families are subjected to. Such a mandate would also raise issues of invasion of privacy as it would breach the Human Rights Act 1998, Article 8, which protects the right to respect for private and family life, your home and correspondence. Such protection includes the right of families to enjoy their homes peacefully without

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<sup>21</sup> Alison Sauer quoted in Parliamentary Business (2012-2013). Education Committee - Support for Home Education - Minutes of Evidence. [Online] Available from:

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmeduc/559/120905.htm>

<sup>22</sup> Charles-Warner (2018) 'Analysis of local authority communications'. Unpublished

<sup>23</sup> Mukwamba-Sendall, F (2018) 'Policy reinterpreted: the effect of local authority administration and officer perception and practice on national home-education policy implementation'. Doctoral thesis, unpublished.

intrusion by a public authority and yet just such intrusion is proposed for home educating families.

A significant body of research indicates that public opinion is influenced by media reporting<sup>24 25</sup> and examination of such reporting in respect of home education reflects this, with a rise in number of negative reports about home education, preceding and fuelling a rise in demand for monitoring of home educated children. This greater negative reporting heightened following the publication of the Badman report<sup>26</sup> in 2009, a report which proposed similar mandatory home visits and inspections, as has the Soley Bill. This thrust of reporting coincided with and appears to have prompted a rise in local authorities demanding home visits and seeking to implement the report, similar to the current rise seen since the publication of the Soley Bill and draft guidance. The narrative of home educated children as 'hidden', or 'off the grid' has continued to be postulated, leading to greater public perception of that narrative as accurate, which in turn further drives the view that close monitoring of home educated children is 'common sense'.

NGOs are not immune from this influence and in 2014 the NSPCC published an article online, which fuelled the debate over home educated children and safeguarding by suggesting that tighter controls are required for home educated children, on the basis that '*there is a risk that home educated children can become invisible to the authorities*<sup>27</sup>'. Following representations by home educating families, the NSPCC acknowledged that there was no independent research upon which to base that statement and the document was subsequently withdrawn.

In May 2015, fear of radicalisation was at its height, not least due to increasing media reports relating to terrorism. The Association of Directors of Children's Services (ACDCS) wrote to Government Ministers referring to undertaking work in relation to elective home education and radicalisation<sup>28</sup>:

*'The quality of local authorities' links and relationships with all schools in their local area is a critical success factor in tackling radicalisation and extremism ... But the limited powers local authorities have to intervene in independent, unregistered 'illegal' schools and elective home education settings (with either safeguarding, health*

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<sup>24</sup> See for example Newman, T, Nisbet, E and Nisbet C (2018) '*Climate change, cultural cognition, and media effects: Worldviews drive news selectivity, biased processing, and polarized attitudes*' In Public Understanding of science [Online] Available from: <https://doi.org/10.1177/0963662518801170>

<sup>25</sup> McCombs, M. (2010) '*Setting the Agenda: Mass Media and Public Opinion*'. Wiley ISBN: 0745681700, 9780745681702

<sup>26</sup> Badman, G. (2009) '*Report of the Secretary of State on the Review of Elective Home Education in England*', Norwich, TSO

<sup>27</sup> NSPCC (2014). '*Children Not Educated in School Learning From Case Reviews: Summary of Risk Factors and Learning for Improved Practice Around Elective Home Education*' (withdrawn)

<sup>28</sup> ACDCS (2015) Letter provided privately by DfE under restriction to not publish.

*& safety, pastoral or curricular concerns) is of mounting concern... We urge your department and the Home Office to engage with us to address the concerns around the lack of necessary checks and balances associated with unregistered schools and elective home education. We need more practical tools to draw upon than having to rely on the Health & Safety Executive or the Fire Service to close down unregistered schools'*

In respect of radicalisation, ADCS referred to a serious case review which related to two boys who died in Syria in 2014. Those boys were not home educated and yet that fear was used to support a call for regulation of home education. This of itself exemplifies the fact that professionals such as ADCS members, who should be able to look beyond emotive comment to factual data, are not immune to fear based on media rhetoric. This is not a criticism of ADCS members as:

*'detecting deception often stumps the most experienced police officers, judges, customs officials and other forensic professionals. Research has shown that even agents from the FBI, CIA and Drug Enforcement Agency don't do much better than chance in telling liars from truth-tellers'<sup>29</sup>.*

In fact, the ability to spot a lie is no greater than chance, regardless of professional competence<sup>30</sup> and our predisposed opinions frame our view of whether statement is truthful or not. Consequently, the greater the media propounding of the narrative of home education as a safeguarding risk, the greater the predisposition of individuals and organisations, toward accepting the narrative as being factual. It follows that belief in that narrative becomes self-perpetuating and the cycle is difficult to break.

The letter from ADCS was followed in December 2015 by an example of how media rhetoric about home educated children affects perceptions of those children's relative safeguarding risk<sup>31</sup>. The BBC published an article suggesting that Sir Michael Wilshaw, then head of OFSTED, had stated in a letter to the then Education Secretary Nicky Morgan that unregistered and unregulated schools were leaving home educated children open to abuse and radicalisation<sup>32</sup>. In fact, Sir Michael Wilshaw makes two references to home education and two further relevant comments:

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<sup>29</sup> Adelson, R ( ) '*Detecting deception*'. Journal of the American Psychological Association 2004, Vol 35, No. 7 [Online] Available from: <https://www.apa.org/monitor/julaug04/detecting.html>

<sup>30</sup> Koerth-Baker, M (2018) '*Why Humans Are Bad At Spotting Lies*' [Online] Available from: <https://fivethirtyeight.com/features/why-humans-are-bad-at-spotting-lies/>

<sup>31</sup> Jeffreys, B. (2015) Illegal Unregistered Schools Face Prosecution. BBC. [Online] Available from: <https://www.bbc.co.uk/news/education-35070984>

<sup>32</sup> Wilshaw, M. (2015) Letter entitled: '*Advice letter from Sir Michael Wilshaw, Her Majesty's Chief Inspector, on unregistered schools*' [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/475553/Advice\\_letter\\_from\\_Sir\\_Michael\\_Wilshaw\\_Her\\_Majesty\\_s\\_Chief\\_Inspector\\_on\\_unregistered\\_schools.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/475553/Advice_letter_from_Sir_Michael_Wilshaw_Her_Majesty_s_Chief_Inspector_on_unregistered_schools.pdf)

*'From conversations with some of the children and young people my inspectors spoke to, there is evidence to suggest some of these schools are using the freedoms afforded to genuine home educators as a cover for their activities'.*

*'review the arrangements for home education to ensure that they cannot be exploited in order to avoid registration.'*

*'Regional Directors continue to express concern that there are far greater numbers of children hidden away from view in unregistered schools across the country'.*

*'The arrangements for closing down unregistered schools are inadequate. Despite our reported findings, I understand that no individual has ever been prosecuted for operating an unregistered school.'*

Media articles which followed, cited Education Secretary Nicky Morgan as stating that home educated children were at risk of radicalisation through attending illegal faith schools. A government source was quoted as stating in respect of home educated children, that: *'for every parent doing a brilliant job, there may be someone filling their child's mind with poison'*.<sup>33</sup> Yet examination of the original letter<sup>34</sup> made clear that no such claim was made by Sir Michael Wilshaw. Further, Freedom of Information requests sent to 152 local authorities found that none of the 146 local authorities who responded were aware of any home educated child whatsoever who had been radicalised. In what amounts to 'Chinese whispers' which had a demonstrable causal effect on public perception, the media had taken a letter about unregulated schools and presented it as a need for regulation of home educated children, who were described as at risk of radicalisation, abuse and having their minds filled with poison.

In March 2018 Lord Soley's Bill<sup>35</sup> was read in the House of Lords and was quickly followed by a prodigious number of media articles. The DfE then published new and pre-emptive draft home education guidance for consultation<sup>36</sup> which again raised media interest. Media articles were strongly geared toward support of the Soley Bill and particularly the power to enter the homes of those families home educating their children in order to inspect them:

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<sup>33</sup> Guardian (2015) *'Home-school Families Face Potential Investigation Over 'Radicalisation Risk'* [Online] Available from: <https://www.theguardian.com/education/2015/dec/20/home-schooling-families-investigation-radicalisation-nicky-morgan>

<sup>34</sup> Charles-Warner, W. (2017) *'Radicalisation in Home Education Reality or Myth?'* CPE. [Online] Available from: <https://www.personalisededucationnow.org.uk/2018/06/12/radicalisation-home-education-reality-myth/>

<sup>35</sup> Home Education (Duty of Local Authorities) Bill [HL] 2017-19

<sup>36</sup> DfE (2018) *'Home Education – Call for Evidence and revised DfE guidance'* [Online] Available from: <https://consult.education.gov.uk/school-frameworks/home-education-call-for-evidence-and-revised-dfe-a/>



*'But for the minority of children where this is not the case, councils need the powers and appropriate funding to enter homes or other premises to check a child's schooling, and make sure they aren't being taught in unsuitable or dangerous environments'<sup>37</sup>.*

Media articles cited Ministers and local authorities calling for registration, together with comments suggesting in respect of home education *"In other cases, parents use home education as a guise to allow them to use illegal schools or to evade the scrutiny of public services"*<sup>38</sup>. Such reports have continued to date and are given further impetus by the Children's Commissioner publishing a report referring to home educated children as *'off the grid'*<sup>39</sup>. That the Commissioner's data and report examined the practice of 'off rolling' (the practice of a school pressurising parents of 'difficult' children to remove them from the school roll), rather than home education, appeared to escape media attention. Some media outlets also published purported data for numbers of home educated children, giving the impression of vast increases in those numbers, including one quote of a rise of 238% in Hackney, which when carefully examined related to a percentage rise in pupil numbers leaving only a very small number of schools<sup>40</sup>.

In Council chambers, the rhetoric is mounting and emotive language is being used to describe home educating families, such as the recent claim that if a parent home educates their child *'Something must be wrong with their parenting'*<sup>41</sup>. Minutes of a meeting of Councillors in one local authority area refer to a rise in numbers of home educated children referring to them as *'potentially out of sight of the education system and support services'*<sup>42</sup>. Such media rhetoric is fuelling calls for mandatory oversight of home educated children, yet in Scotland, where the Children and Young People (Scotland) Act 2014 Part 4 introduced what is known as the 'named person scheme', providing professional oversight to all children, successful challenge was mounted in

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<sup>37</sup> Perry, R. Quoted in Coughlan, S. BBC (2018). *'Home education compulsory registration?'* [Online] Available from: <https://www.bbc.co.uk/news/education-43718212>

<sup>38</sup> Spielman, A, quoted in George, M (2018) TES. *'Ofsted calls for register of home-schooled pupils'*. [Online] Available from: <https://www.tes.com/news/ofsted-calls-register-home-schooled-pupils>

<sup>39</sup> Longfield, A (2019) *'Children's Commissioner for England calls for a compulsory register of "off the grid" children'*. Children's Commissioner for England [Online] Available from: <https://www.childrenscommissioner.gov.uk/2019/02/04/huge-increase-in-children-disappearing-from-schools-to-be-educated-at-home-childrens-commissioner-for-england-calls-for-a-compulsory-register-of-off-the-grid-children/>

<sup>40</sup> Bartholomew, M. (2019) *'Hackney home schooling figures rise 238pc: Are academy chains illegally excluding children?'* Hackney Gazette [Online] Available from <https://www.hackneygazette.co.uk/news/education/home-schooling-figures-rise-238pc-in-hackney-academies-1-5964025>

<sup>41</sup> Channon, C. (2019) *'Devon County Council Children's Scrutiny Committee video broadcast'*. [Online] Available from: [https://devoncc.public-tv/core/portal/webcast\\_interactive/393211?fbclid=IwAR2xrdI0pFrs3N1tw8FwakaA0Ow3RLHaHQDkMpY1gHwLkgrMiGHsexRiXUCQ](https://devoncc.public-tv/core/portal/webcast_interactive/393211?fbclid=IwAR2xrdI0pFrs3N1tw8FwakaA0Ow3RLHaHQDkMpY1gHwLkgrMiGHsexRiXUCQ)

<sup>42</sup> Joyce, T and Sumner, S. (2019) *'Government urged to act after two children home educated by mum after she was sectioned.'* In Somerset Live [Online] Available from: [https://www.somersetlive.co.uk/news/somerset-news/government-urged-act-after-two-2702415?fbclid=IwAR2ErsO4I-ZO2NfHOgtiXln5eKsbBpz\\_1Y55ijc-lhqQe\\_2gkxsdYUjUg](https://www.somersetlive.co.uk/news/somerset-news/government-urged-act-after-two-2702415?fbclid=IwAR2ErsO4I-ZO2NfHOgtiXln5eKsbBpz_1Y55ijc-lhqQe_2gkxsdYUjUg)

the Supreme Court<sup>43</sup>. Scottish parents objected to the intrusion into their lives and homes mandated by the Act and were rewarded by Lady Hale finding stating (para 73):

*There is an inextricable link between the protection of the family and the protection of fundamental freedoms in liberal democracies. ... The first thing that a totalitarian regime tries to do is to get at the children, to distance them from the subversive, varied influences of their families, and indoctrinate them in their rulers' view of the world. Within limits, families must be left to bring up their children in their own way. As Justice McReynolds, delivering the Opinion of the Supreme Court of the United States famously put it in *Pierce v Society of Sisters* 268 US 510 (1925), 534-535:*

*"The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."*

Despite the clear Supreme Court finding, local authorities throughout England have been seeking to implement the draft home education guidance, by instructing medical and other services to report all home educated children to children's social services and by routine monitoring of home educated children. The parents of those children are being required to provide access to their homes under threat of serving of a school attendance order<sup>44</sup>. It has become common parlance for those local authorities to inform parents that they are required to accept a monitoring visit by an education officer on the basis that their child has not 'been seen by a professional' for a set period of time: '*as (name) has not been seen by our service for some time, for safeguarding purposes I will need to meet with him*'<sup>45</sup>. Other local authorities make threats of Police action: '*a health assessment needs to be completed by Friday 5<sup>th</sup> April 2019, following this will request a copy/update from the GP. We may pursue a Police welfare check if this is not completed*'<sup>46</sup>. This notwithstanding that no child is required to be seen by a 'professional' unless subject to a child protection plan, or Court order.

More tellingly, on the back of fear that a child may be harmed, if home educated children are not subjected to oversight, health visitors are routinely reporting any child who is home educated, as are hospitals, GP practices and education officers who have been lawfully refused access to family homes<sup>47</sup>. In addition, it is common

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<sup>43</sup> *Christian Institute and others (Appellants) v The Lord Advocate (Respondent) (Scotland) [2016] UKSC 51* On appeal from: [2015] CSIH 64

<sup>44</sup> See for example copy Local Authority communications published on social media advice groups. Specifically from Westminster, Hammersmith and Fulham and Kensington and Chelsea.

<sup>45</sup> North Tyneside education department, private correspondence with home educating parent.

<sup>46</sup> 1<sup>st</sup> April 2019. Wigan local authority in correspondence with home educating parent.

<sup>47</sup> Author's own advisory case load

practice for school staff to report a child at risk when a parent removes the child from a school in order to be home educated. Anecdotal evidence indicates that these latter referrals owe more to protection of the school based pedagogy and lack of understanding than to evidenced concerns about the child's safety. These referrals made solely on the basis that the child is home educated breach the Data Protection Act 2018 and the EU General Data Protection Regulations, as data sharing without consent requires a high threshold to be met before it is lawful. Nonetheless such referrals are rising exponentially.

The facts speak for themselves and it is without doubt that levels of referral to children's social services of home educated children are significantly higher than referrals for other children aged 5 to 16 years and children under 5 years old. Despite this, data clearly indicates that there is no commensurate difference in rates of child protection plans amongst home educated children. If higher referral rates for home educated children were based on factors in the lives of those children which would result in referral of any other child, such as evidence of physical, emotional, sexual, or psychological abuse, then the three cohorts would have similar rates of child protection plan, but they do not. Higher referral rates for home educated children are spread across the range of local authorities in England which indicates lack of demographic difference between the cohorts. Home educated children are from wide ranging ethnic groups, income groups, family structures, religious groups and geographic distribution, the only apparent difference in children who are home educated, is that they are home educated. This raises the question of how the monitoring of those children is justified.

Very few social workers would seek heavier workloads, given that they already carry a high burden of responsibility, with funding having reduced since 2010 and 17% of children's social worker posts empty<sup>48</sup>. Nonetheless, these referral rates for home educated children are creating an unnecessary and burdensome additional workload. Moreover, there are indications that the high level of scrutiny of home educated children could of itself be a safeguarding risk, particularly in respect of medical services. Anecdotally, home educating parents are avoiding using NHS medical services out of fear of referral to children's social services, solely on the basis of the children being home educated. Home education advice groups report families being referred under the Children Act 1989 s47 in cases where the child has attended for routine minor surgery, or reviews of normal childhood conditions, with medical practitioners making clear in writing that the referral is solely on the basis of home educated. In one such case, the mother obtained a copy of her medical notes on which a referral was recorded with the comment '*it seems to be the easiest way to get inside this family*'<sup>49</sup>. No other families appear to be subject to this sort of approach.

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<sup>48</sup> Holt, A. (2018) '*Child protection services near crisis as demand rises*'. BBC. [Online] Available from: <https://www.bbc.co.uk/news/education-46049154>

<sup>49</sup> Private disclosure

The DfE draft guidance advises that:

*'In particular, local authorities should explore the scope for using agreements with health authorities, general practitioners and other agencies, to increase their knowledge of children who are not attending school'<sup>50</sup>.*

This referral of home educated children by NHS staff solely on the basis of those children being home educated, sits incongruously with the Government approach taken to immigrants<sup>51</sup>:

*'The government's U-turn on a key element of its "hostile environment" approach to immigration came after MPs, doctors' groups and health charities warned that the practice was scaring some patients from seeking NHS care for medical problems'.*

Whilst immigrants are exempted from NHS referral of their immigration status when using services, home educated children are routinely being referred to children's social services with no other basis than their educational status. It could be argued that immigrants are in fear of deportation and may be at risk, although those fearing deportation may well be breaking the law. Home educating families are in fear of the stress and stigma of their privacy being intruded upon by children's social services and they are not breaking the law, but making a legal choice to fulfil their duty under the Education Act 1996 s7. Government may view social services as a benign service, but for caring families subjected to their assessment without good cause, they are very often a source of fear.

## **Conclusion**

Home educated children are significantly more likely to be referred to children's social services under the Children Act 1989 s47 than are children aged under 5 years and other children aged 5 to 16 years. Conversely, rates of child protection plan for home educated children are not significantly different to rates found within the other two populations. Home educated children clearly do not require greater oversight. If anything, they require less oversight in order to ensure that they are properly safeguarded from breach of their legal rights.

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<sup>50</sup> DfE (2018) 'Elective Home Education: Departmental Guidance for Local Authorities. Draft for Consultation' [Online] Available from: [https://consult.education.gov.uk/school-frameworks/home-education-call-for-evidence-and-revised-dfe-a/supporting\\_documents/Elective%20home%20educationGuide%20for%20LAs.pdf](https://consult.education.gov.uk/school-frameworks/home-education-call-for-evidence-and-revised-dfe-a/supporting_documents/Elective%20home%20educationGuide%20for%20LAs.pdf)

<sup>51</sup> Campell, D. (2018) 'NHS will no longer have to share immigrants' data with Home Office'. Guardian. [Online] Available from: <https://www.theguardian.com/society/2018/may/09/government-to-stop-forcing-nhs-to-share-patients-data-with-home-office>

There can be little doubt that as a society we want to protect children who are at risk of abuse and to properly safeguard those children. However, the State cannot expect to breach the privacy of families by proactively monitoring children, unless a clear need to take such steps is identified. As Lady Hale reflected, that would be the action of a totalitarian state<sup>52</sup>. Notwithstanding, media rhetoric is driving a narrative of home educated children being at such unique safeguarding risk that they and only they must be subjected to monitoring of their private family lives. That rhetoric in turn influences decision makers, local authorities and interest groups alike, who are no less susceptible to the influence of that narrative than are the general public.

Children's social services are subject to unwarranted pressure on resources, by dealing with referrals for home educated children under the Children Act 1989 s47, for which the conversion rate to child protection plans is significantly lower than that in children under 5 years of age and children aged 5 to 16 who are not home educated. Despite this clear indication that home educated children are not at risk and do not require the proposed monitoring within the Soley Bill and DfE guidance, calls for such monitoring continue unabated. Not only is this a waste of valuable resources, but it also contributes to stigmatising home educated children and thereby 'othering' them within society.

It is incumbent upon decision makers to base policies and procedures on evidence, not rhetoric and those decision makers need to reflect upon the source of their beliefs that monitoring of home educated children as 'common sense'. Such baseless approaches must not be allowed to triumph over evidence that such monitoring is unwarranted. Social workers working with children and their representatives, can play their part, by loudly and clearly resisting the clarion call of universal referral for home educated children, thereby stopping the march of media influence before it is too late.

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<sup>52</sup> Christian Institute and others (Appellants) v The Lord Advocate (Respondent) (Scotland) [2016] UKSC 51 On appeal from: [2015] CSIH 64

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## **Legislation and precedent**

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Data Protection Act 2018

Education Act 1996

EU General Data Protection Regulation

Freedom of Information Act 2000

Home Education (Duty of Local Authorities) Bill [HL] 2017-19

Human Rights Act 1998