

Protect children's rights in independent education

Young people attend a wide variety of educational settings beyond state schools, including independent schools, some of which are illegally unregistered, home education (EHE) and less formal settings such as supplementary schools or out of school settings (OOSS). These rightly have a lot of independence and autonomy. However, this independence needs to be balanced against ensuring all children have their rights adequately protected.

What's the problem?

There is a large degree of cross over between all four areas, in terms of our campaigns work and the problems we seek to address.

Registered independent faith schools

Most independent schools have a religious ethos of some form. These schools are not state-funded, and so have a wide latitude to promote their religious beliefs and discriminate on that basis. We campaign to ensure that children attending independent schools are safeguarded, and that their education is not restricted based on religious grounds.

In 2017 according to Ofsted, the number of independent schools judged less than good increased from 31% to 40% and are "highly conservative Christian, Jewish or Muslim faith schools.

Around half of independent faith schools inspected by Ofsted are failing. We regularly monitor, research and report on independent faith schools. Examples of independent schools failing to meet standards include: putting pupils' safety at risk, distributing sexist and sectarian literature, failing to provide a basic education outside of religious remits, allowing extremism, functioning beyond their registered capacity, and failing to prepare children for life in modern Britain

Unregistered (illegal) faith schools

Countless amounts of children have 'vanished' from the education system in England because of unregistered (illegal) faith schools. Research by the BBC found that over 30,000 children went missing from English and Welsh schools during the 2014-15 academic year, which is a concerning number. A large number of these children are enrolled on unregistered and illegal 'schools that operate without inspections or sanctions if needed. A large number of these schools are faith schools and are extremely problematic. During 2016-2018 Ofsted closed and ceased 52 educational settings, proving the large extent of the problem.

Illegal faith schools are deliberately left unregistered to avoid regulations of the quality of education young people receive, this is often so school leaders can tweak and manipulate the curriculum to what they see as best for children learning about, which can often correlate with extremist, sexist,

homophobic values and a lack of a basic secular curriculum. Consequently, the curriculum is very restricted. Children leave these schools with an insubstantial ability to read and write in English, no formal qualifications and no skills or experience for life in modern-day Britain. These children may be taught extremist, regressive and discriminatory social attitudes and they do so without scrutiny. In some parts of the country, local authorities believe there are more illegal unregistered faith schools than registered ones.

Elective home education (EHE)

Elective home education (EHE) is when a parent chooses not to send their child to school full-time but assumes responsibility for making sure their child receives a full-time education other than at school. The current lack of oversight of home education translates to that many children are not receiving a suitable education or adequate safeguarding. This is not always the case as many families opt to home education and do a successful job at it. In addition, the lack of a register means that children that are currently enrolled in unregistered schools, which often have problematic issues can claim to be home educated.

In 2017, the Association of Directors of Children's Services found that 'dissatisfaction with school' is the biggest reason for home education, and that long-term home educators tend to do it for philosophical/religious reasons'. They estimated that 45,000 children and young people are assumed to be receiving schooling throughout the whole of England – with a greater number likely to be receiving home-schooling without LA's knowledge. A statutory register for children out of school is therefore essential, more consistent support is needed for home education families alongside a greater assessment of children. Notably, there must be more support needed for home educated children with SEND. Accountability and guidance oversight would improve many experiences of children's home-school experiences.

Out of schools education settings (OOSS)

OOSS or supplemental education is an extremely wide-ranging sector. Many settings provide excellent services and enrich the lives of children, families and communities. However, a small minority engage in institutional religious child abuse, provide cover for unregistered faith schools, and otherwise harm children's rights or leave them vulnerable to harms.

These can include:

- Tuition centres and supplementary schools
- Extracurricular activities
- Uniformed youth organisations
- Open access youth provision
- Private language schools
- Religious settings which offer education in their faith

The NSS advocates proportionate safeguarding that is focused on improving the registration and oversight of relevant OOSS. We support the measures to prohibit corporal punishment in any OOSS and to introduce mandatory reporting for reasonable suspicions of child abuse. In illegal and

dangerous OOSS settings staff can avoid DBS checks, not trained, experienced or qualified to work with children, lack health and safety/first aid knowledge, often are not trained in child protection and safeguarding.

Some religious groups have intensively lobbied against these proposals, by using scaremongering tactics and claiming measures would lead to the intrusive regulation of Sunday schools and similar religious activities. Nonetheless, there must be regulations to avoid children being supervised by individuals who may be harmful and dangerous towards them. Safeguarding and protection are therefore vital in OOSS.

What are we doing?

Registered independent faith schools

We have been a leading voice calling for improved standards for independent schools and advocating a children's rights focused approach. We regularly highlight complaints about and inspections of independent faith schools.

- In 2013 we engaged with the DfE's [consultation](#) on proposed new Independent School Standards.
- In 2014 we [provided evidence](#) to Ofsted's consultation on independent inspectorates.
- In 2018 we [provided evidence](#) to a DfE consultation on the independent school regulatory system.
- In 2020 we [provided evidence](#) to a DfE consultation on regulating independent educational institutions.

Unregistered (illegal) faith schools

We have played a critical role in exposing the scandal of unregistered faith schools.

- For many years we have been lobbying education ministers and Ofsted to tackle the growing problem of unregistered (and therefore illegal) faith schools. Years of campaigning on this issue does appear to have been successful in changing attitudes. We have received assurances from the Department for Education that where such 'schools' are identified, the Government will take action, and take a "tougher approach to prosecuting them".
- In 2016 Ofsted established a taskforce of inspectors to seek out unregistered schools that are operating outside the law. Warning notices have been issued to 50 suspected unregistered schools, 38 have closed or ceased to operate illegally and 12 are under criminal investigation. Ofsted has asked the DfE for a role in supporting prosecutions of unregistered schools, and is discussing with the government about removing legislative barriers to tackling these schools. In 2018 we welcomed the [first successful prosecution](#) of the proprietors of an unregistered religious school.
- We remain highly concerned that too many children are still being left to languish in illegal 'schools' where their fundamental right to education is being ignored. In a [submission to the United Nations' periodic review of the UK's record on human rights](#) we urged the UN to recommend that the UK develops a robust strategy for addressing this issue which includes the closing down of illegal schools.

- In 2018 we [responded](#) to a call for evidence on elective home education (EHE), raising our concern that some 'home-educated' children are in fact being sent to unregistered illegal schools.
- In May 2019, we [responded](#) to the next stage of a consultation on proposed legislation for children not in school, to back a home school register to protect child rights and tackle unregistered schools.
- In February 2019 we [submitted evidence](#) to a DfE consultation on establishing a voluntary safeguarding code of practice for out of school settings. We identified gaps in the guidance reiterating our concerns that children's welfare will not be adequately protected, unless the code can be made mandatory and enforced where this proportionate.
- In January 2016 we [submitted evidence](#) to a DfE consultation on registration and inspection of on out of school education settings. We welcomed the Government's proposal to safeguard children and young people from harm, including extremism – however we stressed that any response should be proportionate, evidence-based and be focused through the lens of safeguarding rather than security.

[Elective home education \(EHE\)](#)

While remaining neutral on EHE, we have campaigned to improve safeguarding in and oversight of home education.

- In 2017 we [supported](#) as private member bill to introduce a register and other safeguarding for elective home education.
- In 2018 we [provided evidence](#) to a DfE consultation on elective home education.
- In 2019 we [provided evidence](#) to a DfE consultation on children not in school and the possibility of an elective home education register.

[Out of schools education settings \(OOSS\)](#)

We advocate a proportionate safeguarding focused approach to improve registration and oversight of relevant OOSS.

- In 2019 we [submitted evidence](#) to DfE consultation on a voluntary safeguarding code of practice for OOSS.
- 2016 we [submitted evidence](#) to DfE consultation on possible registration and inspection of OOSS.

What you can do:

You can report an illegal school to your local education authority. They have a duty to identify children not receiving an education. Ofsted has a taskforce to investigate unregistered schools and coordinate with the CPS if necessary.

* Required Field

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Messages of support help inform our future work on this issue.

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I support this campaign because we need to protect vulnerable children. There should be stronger laws in place to stop illegal schools.

Elizabeth, from MEDWAY

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- [Unregistered schools briefing](#)

Read and share our campaign briefing on children's rights issues in, and our work related to, unregistered (illegal) faith schools.

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- [Elective home education briefing](#)

Read and share our campaign briefing on children's rights issues in, and our work related to, home education.

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- [Supplemental education briefing](#)

Read and share our campaign briefing on children's rights issues in, and our work related to, supplemental education, and out of schools education settings (OOSS).

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What does the law say?

An independent school is defined as any school at which full time education is provided for five or more pupils of compulsory school age.

The DfE considers the following factors when deciding whether an independent school is full time:

- (a) the number of hours per week that is provided, if over 18 hours per week it will generally be seen as full time;
- (b) the number of weeks in the academic term/year the education is provided;
- (c) the time of day it is provided;

(d) whether the education provision in practice precludes the possibility that fulltime education could be provided elsewhere.

Source: [Independent school registration](#) (DFE guidance)

Under Section 96 of the [Education and Skills Act 2008](#), in England, a person must not conduct an independent educational institution (which is defined as including independent schools) unless it is registered. A person who conducts an unregistered independent school is guilty of a criminal offence.

If Ofsted believe an unregistered school is being run illegally they have the power (under Section 97 of the Act) to enter and inspect the premises and records of the 'school'.

See also: [Memorandum of understanding between Ofsted and DfE: independent schools](#).

[Prosecutions for running unregistered schools](#)

The first [successful prosecution](#) for running an illegal school took place in 2018. Nacerdine Talbi and Beatrix Bernhardt were convicted of running Al-Istiqamah Learning Centre, an unregistered Islamic school in Ealing

The second [successful prosecution](#) for running an illegal school took place in 2019. On 12 September Nadia and Arshad Ali were convicted over the running of Ambassadors High School, an unregistered Islamic school in Streatham. Of the conviction, HM Chief Inspector Amanda Spielman said:

"While I welcome today's verdict, I am concerned that this case is just the tip of the iceberg. As I have said several times over the last few years, Ofsted urgently needs stronger investigatory powers, allowing us to seize evidence and interview suspects. And we need the government to tighten the legal definition of a school. I urge them again to do so at the earliest possible opportunity."

While you're here

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