

Unregistered Schools Strategy

September 2019

1. Purpose of the Unregistered Schools Strategy

- 1.1 The purpose of this strategy is to reduce the risk of unregistered schools operating in Luton by pooling information across departments in the council.
- 1.2 Safeguarding the children and young people of Luton is the responsibility of everyone. Children and young people who receive their education at an educational establishment which is operating as an unregistered school are at risk as these settings are unregulated.
- 1.3 Businesses which exist to provide educational services to support children and young people can be caught by the definition of an unregistered school. Educational providers which are unknown to the Department for Education also provide a reputational risk to the council.
- 1.4 The aim of this strategy is to draw upon the range of Council departments which hold intelligence relating to possible businesses operating as unregistered schools in order to 'know the unknown'.
- 1.5 Timescale:
First draft consultation period August-September 2016
Second consultation period October – November 2016
Adoption January 2017
Review January 2018
Review September 2019
Next review September 2020
- 1.6 Resources:
The Safeguarding in Education Team within the Education Service in the Children's Services Directorate oversee the implementation of the Unregistered Schools Strategy. Key staff also include the Children Missing Education officer; the Elective Home Education officer, and the officer leading on the DfE's pilot project on Out Of School Settings. The referral form (Appendix A) is available online for council employees and members of the wider community to report activity which may fall into the definition of unregistered schools.

2. Introduction

- 2.1 There are many different categories of schools: primary, secondary, voluntary-aided, academies and free schools to name a few, but they can be considered to fall into two categories: state-funded and independent.

- 2.2 All schools whether state-funded or independent must be registered with the Department for Education and are regulated by Ofsted in accordance with the Education and Skills Act 2008 (Part 4, Chapter1).
- 2.3 Independent schools need to meet the Independent School Standards covering a wide range of regulations linked to curriculum, communication, safeguarding and premises. Ofsted inspect to establish the extent to which the Independent School Standards are met.
- 2.4 It is a criminal offence to operate a school which is not registered with the DfE.
- 2.5 Tuition centres, or other educational establishments which do not provide full time education to children or young people are not classed as schools and therefore not subject to the same regulations.
- 2.6 Ofsted may inspect a setting it considers could be operating as an unregistered independent school. In such cases, Ofsted will assess whether the setting meets the definition of an independent school, which will include assessing whether or not the setting is providing all or substantially all of a child's education, taking into account any other forms of education that might be provided from other sources.
- 2.7 LBC has a statutory duty to safeguard all its children and young people whether they are educated in school or otherwise.

3 Context of Luton

- 3.1 LBC takes its safeguarding responsibilities extremely seriously. LBC has a statutory duty to safeguard all children whether they are educated in a state school, independent school or at home. Children who attend unregistered schools are considered at greater risk due to lack of regulation of these settings.
- 3.2 Unregistered schools present a safeguarding risk to children and young people, including risks associated with adults working with children, health and safety compliance, radicalisation and online safety. Addressing the issue of unregistered schools is therefore everyone's responsibility and does not just lie with one department.
- 3.3 If LBC does not have an accurate idea of the number of school aged children in the Borough it is more difficult to accurately plan for school place provision.
- 3.4 Luton School Support Services can provide support, advice and guidance to individuals or businesses around registration as a school.

4 Definition of an independent school

- 4.1 An independent school is defined in section 463 of the Education Act 1996:

In this Act 'independent school' means any school at which full-time education is provided for:

(a) five or more pupils of compulsory school age, or

(b) at least one pupil of that age for whom a statement is maintained under section 324, or who is looked after by a local authority (within the meaning of section 22 of the Children Act 1989) and which is not a school maintained by a local education authority or a special school not so maintained.

4.2 The DfE's policy position with respect to full time education is contained within Part A of the departmental advice 'Registration of independent schools' (January 2016), as follows:

"There is no legal definition of 'full time'. However, we would consider an establishment to be providing full-time education if it is providing education which is intended to provide all or substantially all, of a child's education.

Generally, we consider any institution that is operating during the day, for more than 18 hours per week, to be providing full-time education."

4.3 Educational establishments which do not need to register as schools because they are not providing full time education are unregulated.

4.4 In summary,

- If a setting is providing full time education for a looked after child (child in care) or a child with an EHCP (Education, Health and Care Plan), then that setting should be registered as a school.
- If a setting is providing full time education for five or more pupils of statutory school age then it should be registered as a school.
- It is a criminal offence to operate an unregistered school.

5 Councillors

5.1 Councillors are in touch with developments within their wards and are aware of community groups or individuals who establish businesses providing education services such as tuition.

5.2 When Councillors become aware of an education provider which may need to register as a school as they are offering services to children and young people during the school day, they inform the Director of Children's Services who informs the Safeguarding in Education Team using the information sharing protocols.

5.3 Councillors support their communities' commitment to improving educational outcomes for children in a variety of ways and may encourage entrepreneurship. However, Councillors will be mindful of the importance of safeguarding of children and the risk to the reputation of the council presented by unregistered schools.

5.4 Councillors can also encourage community leaders in their wards to share information they have regarding possible unregistered schools directly with the safeguarding in education team using the online form.

6 Place and Infrastructure Directorate: Planning and Building Control; Revenues Visiting and Inspection Officers; Council Tax and Non-Domestic Rates Billing Officers

- 6.1 Many colleagues from this directorate are well-placed to become aware of premises which may be operating or looking to operate as possible unregistered schools.
- 6.2 This could include planning applications for change of use, inspection of Luton estate, or civil enforcement officers noticing premises which appear to be offering education to school aged children during the school day.
- 6.3 Council Officers who think a business or premises might be providing education services to children follow the common reporting protocol (Appendix A) and make a referral to the Safeguarding in Education Team.
- 6.4 Using the common reporting protocol does not reflect any judgement on the operating business. It should help to support education services businesses in avoiding being inadvertently caught by the unregistered schools definition.

7 Safeguarding in Education Team

- 7.1 Unregistered schools present a safeguarding risk because they are not regulated.
- 7.2 Any information about a premises that appears to be an educational establishment is passed to the Safeguarding in Education Team for cross-checking with LBC's established database of recognised education providers using the Safeguarding in Education mailbox safeguardingineducation@luton.gov.uk
- 7.3 If the establishment is not known to LBC, the Safeguarding in Education Team report it to Ofsted Unregistered Schools Team for their investigation.
- 7.4 The Safeguarding in Education Team maintain the database of education providers including any establishments suspected of being unregistered schools.
- 7.5 The Safeguarding in Education Team keep senior colleagues in Education informed of any suspected unregistered schools and any contact with Ofsted.
- 7.6 Contact details of Safeguarding in Education Team: Tel: 01582 548984
safeguardingineducation@luton.gov.uk

8 Corporate Health and Safety Team and Food, Safety & Environmental Team

- 8.1 LBC Corporate Health and Safety Officers can inspect a premises providing education to children from Luton under LBC safeguarding responsibilities.
- 8.2 Environmental Health colleagues within the Food, Safety & Environment team, in addition to the Corporate Health and Safety Team can provide advice and

recommendations but have no health and safety enforcement authority within Educational establishments. Fire Officers can close premises if deemed unsafe.

- 8.3 Educational establishments which are not schools are not required to follow school safety regulations.
- 8.4 The Health and Safety Executive should be informed of any serious breach of expected Health and Safety standards. However, the HSE consider all educational establishments, whether registered or not to be regulated by Ofsted and the DfE and so it is unlikely they will investigate further.
- 8.5 LBC Environmental Health Officers and members of the Corporate Health and Safety Team will make recommendations to an unregistered educational establishment, but have no enforcement powers.

9 Elective Home Education Officer

- 9.1 The responsibility for a child's education rests with their parents. In England, education is compulsory, but school is not.
- 9.2 Parents have a right to educate their children at home. Section 7 of the Education Act 1996 provides that:

"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."

- 9.3 An "efficient" and "suitable" education is not defined in the Education Act 1996 but "efficient" has been broadly described in case law as an education that *"achieves that which it sets out to achieve"*, and a "suitable" education is one that *"primarily equips a child for life within the community of which he is a member, rather than the way of life in the country as a whole, as long as it does not foreclose the child's options in later years to adopt some other form of life if he wishes to do so"*.
- 9.4 Parents are not required to register or seek approval from the local authority to educate their children at home unless they have an Education Health and Care Plan.
- 9.5 We recognise that there are many approaches to educational provision, not just a "school at home" model. What is suitable for one child may not be for another, but all children should be involved in a learning process.
- 9.6 Local authorities have a statutory duty under section 436A of the Education Act 1996, inserted by the Education and Inspections Act 2006, to make arrangements to enable them to establish the identities, so far as it is possible to do so, of children in their area who are not receiving a suitable education. The duty applies in relation to children of

compulsory school age who are not on a school roll, and who are not receiving a suitable education otherwise than being at school (for example, at home, privately, or in alternative provision).

- 9.7 Local authorities have no statutory duties in relation to monitoring the quality of home education on a routine basis. However, under Section 437(1) of the Education Act 1996, local authorities shall intervene if it appears that parents are not providing a suitable education. This section states that: *"If it appears to a local education authority that a child of compulsory school age in their area is not receiving suitable education, either by regular attendance at school or otherwise, they shall serve a notice in writing on the parent requiring him to satisfy them within the period specified in the notice that the child is receiving such education."*
- 9.8 The LA Elective Home Education Officer makes regular home visits in accordance with the 2019 guidance to assess the suitability of education provided.
- 9.9 If a parent or child indicates that the child is receiving some or all of their education at an educational establishment, whether that is supplementing home tuition or fully providing their education, the officer checks with the database of established educational providers to make sure the provision is registered.
- 9.10 If the provision is not registered, the Elective Home Education Officer informs the Safeguarding in Education team.
- 9.11 Currently, the fact that a child attends an unregistered provision does not automatically mean that the education is not suitable. However, parents should be made aware that the provision is not registered and therefore not regulated.
- 9.12 If parents choose to engage another person to educate their child (eg a tutor) it is the parents' responsibility to ensure that those whom they engage are suitable to have access to children. We therefore encourage the parents to take up appropriate references.
- 9.13 If a child attends a known unregistered provision as part of their home education, the Elective Home Education Officer will inform the parents in writing of this fact stating that there is a risk it may be considered not suitable.
- 9.14 The Elective Home Education Officer will liaise with the Children Missing Education Officer regarding children not registered at a school or as home educated.

10 Children's Social Care

- 10.1 Current legislation allows for parents to withdraw their child from school for the purposes of home education even if safeguarding concerns have been raised with social care.
- 10.2 Colleagues who work with children and young people through social care referrals should not assume the named education provider is registered. If the education setting is not a maintained school or academy, or if it is not one of Luton's known

independent schools, then the social worker should report the setting to the Safeguarding in Education team.

11 School Admissions Team

- 11.1 Maintained schools, and independent schools, inform LBC Admissions team when a pupil is taken off roll for elective home education. In each case, the admissions team inform the home education officer. The Access to Education Admissions Officer reviews the extent to which the child is known to social care and alerts the Referral and Assessment Team. If the child has an EHCP then SENAT is also informed.
- 11.2 When Admissions are informed either by a school or a parent that a child is transferring to another educational establishment, the Admissions Officer checks that the educational establishment is a registered school.
- 11.3 If a child transfers to an unregistered school in Luton, the admissions officer informs the Safeguarding in Education team.
- 11.4 If a child transfers to an unregistered school outside Luton, the admissions officer informs that LA admissions authority and Ofsted.

12 Professionals outside LBC eg Headteachers, Other Professionals in Schools, Healthcare professionals, Fire service etc

- 12.1 If a headteacher or other educational professional becomes aware of an establishment which they suspect is providing education during the school day to school-age children, then they should report it to the Safeguarding in Education team safeguardingineducation@luton.gov.uk using the online form.
- 12.2 If a healthcare, or other professional encounters children who they understand do not attend school, they should refer them to the Safeguarding in Education Team safeguardingineducation@luton.gov.uk to be checked against the EHE and CME register.
- 12.3 If a professional organisation such as those involved with fire safety or other aspects of premises, becomes aware of a setting which appears to be providing education to school age children during the day then they should report it to the Safeguarding in Education team using the online form.

13 Business and Consumer Services

- 13.1 Colleagues who receive applications for change of premises use; business licences etc which indicate the business is providing some kind of education service for children or young people should report this to the Safeguarding in Education team safeguardingineducation@luton.gov.uk

14 Alternative Providers

- 14.1 Alternative Providers must be cautious that they do not operate as unregistered schools as this is illegal. However, often the fact that these settings are very different to schools is what makes them successful.
- 14.2 It is not the aim of LBC to ensure that all Alternative Providers are registered as schools.
- 14.3 Students and their individual needs are the priority of LBC. LBC will support whatever provision best meets their individual needs. However, LBC is also keenly aware that all children are entitled to a high quality education. LBC undertakes quality assurance of Alternative Provision as part of the corporate procurement process including using Section 11 safeguarding audits as a quality measure.
- 14.4 If an alternative provider provides full time education for a child with a statement of special educational needs or an education health and care plan, or for a child in care, then it must register as a school. In order to successfully register as a school, it must meet the Independent School Standards which include requirements to deliver a broad and balanced curriculum. Luton School Support Services can provide support with this process through its traded service.
- 14.5 The full list of Independent School Standards can be found at http://www.legislation.gov.uk/ukxi/2014/3283/pdfs/ukxi_20143283_en.pdf
- 14.6 If an Alternative Provider does not wish to register as a school then it must ensure that it is not the sole provider of education for the children and young people on roll. This is particularly important for statemented or children in care. In these cases, the children and young people must also be receiving education from another provider. This ensures that
- a) the children are not receiving full time education from an unregistered provider
 - b) the children receive a broad and balanced curriculum across a range of providers
- 14.7 Children and Young People who attend an alternative provider which is not a registered school must do so as part of wider education provision through a registered school. This could be their mainstream school or through the Avenue Centre for Education (Pupil Referral Unit).

15 Next steps – Safeguarding in Education Team

- 15.1 When an establishment is suspected of being an unregistered school, the Safeguarding in Education Team will inform:
- senior colleagues in Education
 - Ofsted
 - admissions
 - social care

15.3 When an establishment is suspected of being an unregistered school, the Safeguarding in Education Team may inform:

- Joint Qualification Council (if registered as a centre with an exam board)
- Charities Commission
- Corporate Health and Safety Team
- Food, Safety & Environmental Team
- Health and Safety Executive
- Prevent Officer
- Human Rights and Equalities Commission

16 Pro-active approach: Safeguarding in Education Team

16.1 In order to actively seek possible unregistered schools to ensure they are on the LBC 'radar', the Safeguarding in Education Team will regularly remind stakeholders of the agreed reporting protocols through a range of means including newsletters.

16.2 In addition, on a regular basis, the Safeguarding in Education team will interrogate the Companies House database, searching for Nature of Business (SIC) codes:

85200 - Primary education

85310 - General secondary education

85590 - Other education not elsewhere classified

85600 - Educational support services

17 Parents

17.1 Parents are responsible for ensuring their children receive suitable education at school or otherwise. Parents need to be aware of the questions to ask if they are considering using an alternative provider such as an unregistered tuition centre as these are unregulated.

17.2 To inform parents, a media campaign was launched in summer 2016 (see Appendix B) including a video presentation on YouTube.

17.3 The purpose of the media campaign is to

- raise awareness that unregistered settings such as tuition centres are not regulated and so the standards and regulations parents take for granted in registered schools are not necessarily being followed
- empower parents to ask questions of education providers

18 Feedback on strategy

18.1 Please send any comments and feedback on this strategy to Caroline Dawes, Senior School Improvement Adviser, 01582 548216, caroline.dawes@luton.gov.uk

18.2 This strategy will be reviewed in September 2020.

Appendix A – Information Sharing Protocol

Information Sharing Protocol – Potential Educational Establishments, Schools and Tuition Centres

Objective:

To enable information and concerns that are discovered by Council officers, other professionals or members of the public in regards to potential education establishments and tuition centres to be shared in a quick and efficient way to enable the correct interventions to be made and the correct measures to be taken by other council departments and any other partnership organisations.

Application:

Council officers, other professionals or members of the public access to a great wealth of information that may help identify a potential educational establishment or tuition centre. This information may come from a number of sources.

Points for Billing and Visiting Officers to consider:

- Billing Officers – When completing a Change of Liability please consider if the information supplied suggest that the new Council Tax or Rate Payer maybe a potential Educational Establishment or Tuition Centre.
- Visiting Officers – Whilst completing visits the officers need to be vigilant in relation to properties that appear to be in use for educational and tuition provisions. (This may include signage, advertisement and literature (including a substantial amount of learning materials), an unusual number of children at a property for prolonged periods during the school day and signs that educational or tuition provisions are being offered whether for payment or not.

Reporting Mechanism:

Anyone who suspects that they may have information regarding the potential use of a property as a potential education establishment or tuition centre should complete the following referral form detailing as much information as possible. The completed form should then be forwarded to the Safeguarding in Education Team.

**Form for reporting possible educational establishments to
Safeguarding in Education team (safeguardingineducation@luton.gov.uk)**

| | |
|------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Address | |
| Information received, activity observed | |
| Suggested action | |
| Intended outcome | |
| Any contact details | |
| Officer | |
| Date sent to Safeguarding in Education Team safeguardingineducation@luton.gov.uk | |
| Senior Officer's Name | |
| | |
| Feedback to reporting person | |

Appendix B

Unregistered Schools Media and Communications Campaign Brief

1. Audience: Parents

Key message: If you choose to send your child to a tutor, tuition centre or education centre, make sure your child is safe, ask the right questions.

Call of action: visit the website for more information

Activities:

- Checklist on flyer / poster based on three main themes – tutor/teacher, the education and the facilities
- Video with key people from the Council explaining the themes from the checklist
- A series of short animations highlighting different points of the checklist – i.e. DBS check – what it is, why it's important
- Information and briefing sheet to key community stakeholders e.g. Luton Council of Faiths, volunteer groups
- Information to home schooled families
- Posters/flyers to libraries, community centres, GP's, children's centres, leisure centres, The Galaxy, The Mall, museums, community events
- Posters/flyers will also be circulated electronically via other networks eg Luton in Harmony, Voluntary groups
- Radio advert on Diverse FM
- Proactive radio interviews on Diverse FM and Inspire FM
- News release issued to local and specialist press
- Feature article in local newspapers explaining the roles and responsibilities of the Council, Ofsted, DfE and parents plus the checklist for parents and appeal for people to alert the Council of possible unregistered schools.
- Feature article in October Lutonline
- Social Media

2. Audience: General public

Key message: Keeping children safe is everyone's responsibility, if you regularly see a group of school aged children not at school during school hours.

Call to action: The Council has a legal duty to make sure children are safe and you can help us. **Call us in confidence**

Activities:

- Internal comms to key employees (particularly those out and about daily)

- General article on intranet
 - Article on website and provide text to be inserted into community newsletters/websites etc
 - Flyer / Poster
 - Information and briefing sheet to key community stakeholders e.g. Luton Council of Faiths, volunteer groups
 - Posters/flyers to libraries, community centres, GP's, children centres, leisure centres, The Galaxy, The Mall
 - Social Media
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Appendix C

References

Handbook for conducting inspections under section 97 of the Education and Skills Act 2008
September 2015, No. 150109, Ofsted, 2015

Elective Home Education. Guidelines for Local Authorities, DfE, April 2019