

Hackney Council

Unregistered Educational Settings Strategy

June 2018

Introduction

This strategy has been developed following the investigation into unregistered educational settings in Hackney by the Children and Young People Scrutiny Commission in 2017. The strategy builds on the significant work undertaken by a range of partners on this topic and clearly sets out Hackney Council's approach to unregistered educational settings in the borough.

This strategy applies to all unregistered educational settings in Hackney operated by any community group or organisation. It is recognised that currently most of these settings are within Hackney's Orthodox Jewish community.

At present, the powers of a local authority to intervene in an unregistered educational setting are limited. A key part of this strategy will be lobbying DfE to make legislative changes, whilst continuing to work closely with partner agencies and developing our relationship with local communities to convince them of benefits of registration.

Vision

The aim is for all educational settings in Hackney to be registered, and have clear safeguarding processes in place that are open to external validation, in line with other settings in the borough.

The Council recognises the importance of collaboration and co-production with community groups in the borough and will work together to ensure that all children in Hackney receive appropriate educational opportunities in safe and suitable environments to support them to have the best possible start in life and to learn the skills to support them in their successful transition to adulthood within a modern Britain.

The Council will encourage and advise settings to progress towards registration.

Approach

The Council is proud of the borough's cultural diversity and recognises and respects the traditions of all Hackney residents. This will always be balanced with the Council's priority to ensure the safety of all children in the borough. The Council, therefore, will continue to encourage unregistered educational settings to engage with the Department for Education to register as schools, whilst lobbying the government to introduce a clear regulatory framework within which unregistered educational settings can operate.

In the meantime, the Council will work with community groups and settings to develop and implement recognised safeguarding processes within unregistered institutions, for example Disclosure and Barring Service (DBS) checks for staff, and safeguarding audits through City and Hackney Safeguarding Children Board (in line with processes that other schools and settings that children attend adhere to). Parents choose to send their children to these settings and should be confident that they will be safe. The safeguarding guidance for parents and carers will help provide a level of assurance about the safety of children in these settings. This is part of the wider Council approach to engaging with Hackney's Orthodox Jewish community and co-production of safeguarding and engagement processes with the community.

The Council will continue to follow its legal duties to liaise with Ofsted and the Department for Education regarding unregistered educational settings. More details on this process are included in Appendix A. The Council will continue to call for greater clarity from the government so that we can fulfil these responsibilities.

Outlined below are the expected benefits of the registration of educational settings in Hackney. These are included to support transparency in the Council's approach to encouraging unregistered educational settings to register as schools. The overarching aim is to ensure children and young people who attend any setting in Hackney are safe and receiving an appropriate education.

To do this, the Council will continue to encourage unregistered educational settings to register as schools to:

- Operate legally as education establishments
- Be open to independent external validation, for example through inspections by the Independent Schools Inspectorate (ISI) or Ofsted
- Be clear about expectations regarding safeguarding
- Ensure the curriculum taught conforms to agreed standards which will support with raising educational outcomes for children and young people
- Ensure educational settings share information with the local authority about the number of pupils and pupil destinations (in line with other schools in the borough) to allow for improved planning, safeguarding and support for children
- Ensure schools and settings in any community meet national safeguarding standards and processes that other schools comply with (for example as outlined in the statutory guidance documents - *Working Together to Safeguard Children* and *Keeping Children Safe in Education*)

Background

Council officers and political leaders in Hackney have worked behind the scenes for a number of years to try to make progress on unregistered educational settings in the borough. These efforts have been hindered by inadequate legislation on unregistered educational settings, as well as a lack of cooperation and engagement from the proprietors of unregistered educational settings in the borough regarding safeguarding assurance, details of children and young people attending such settings during the

recognised school day, and the requirement to register with the Department for Education.

Relevant agencies in Hackney, including the Council's Children and Families Service and Planning Enforcement team, Hackney Learning Trust, and London Fire Brigade have been working together to clarify roles and responsibilities in relation to unregistered educational settings and to share relevant information. The Council has also been working with the Department for Education and Ofsted to share information, in line with its statutory duties, on identified unregistered educational settings. Joint visits to settings have taken place where appropriate. Information has also been shared with the Council's Designated Officer (formerly known as the Local Authority Designated Officer, or LADO) where relevant. This role manages allegations against people who work with children, whether paid, unpaid or volunteers.

Although there has been close collaboration across local agencies, due to the limitations in current legislation it is very difficult for local authorities and other agencies to check to ensure that children in unregistered educational settings are safe. Current legislation also fails to ensure that the local authority can ascertain which children are attending unregistered educational settings to enable discussions with parents and carers about their legal responsibility to ensure their children receive an appropriate education.

Efforts to engage with the Orthodox Jewish community to provide reassurance on the safeguarding of children and young people in unregistered educational settings have previously been unsuccessful. It is hoped that the focus on this issue through the Scrutiny Commission's report and recommendations will lead to renewed collaboration and communication with the community on unregistered educational settings.

Collaborative work has taken place between the Council and organisations in the Orthodox Jewish community to strengthen safeguarding arrangements in some settings. Following a serious incident in summer 2016, accredited risk assessment training sessions were run by the Council's Young Hackney service for community organisations within the Orthodox Jewish community. This training included risk assessment for on and off site activities (inclusive of hazardous activities, trips and residential). Young Hackney delivered separate training for male and female cohorts as requested by Interlink, an umbrella organisation representing 200 Orthodox Jewish charities. These took place between August and December 2016. Both the men's and women's sessions were well attended and participants came from the following professional backgrounds: nurseries; primary schools; secondary schools; and auxiliary support staff from an adult SEND group.

In addition, a strategic safeguarding project for Orthodox Jewish schools was piloted in 2017/18. This is a joint development between Interlink and the Council's Children and Families service and Public Health service. Content was developed by the Orthodox Jewish community to be used in Orthodox Jewish schools, both maintained and independent schools, around keeping safe and PSHE (personal, social, health and economic education). The project also includes up-skilling teachers to deal with disclosures and understanding of escalation processes and student safety training. The next stage of the project is currently being developed.

Legal duties

Hackney Council has an overriding duty to ensure the wellbeing and safety, as well as fair access to education, of all children and young people in the borough.

Further information about the specific legal powers of individual agencies in relation to unregistered educational settings is included in Appendix B.

Roles and responsibilities related to unregistered educational settings

The sections below outline a summary of the roles and responsibilities of partner agencies in relation to unregistered educational settings.

Further information related to the roles and responsibilities of agencies is included in Appendix A and Appendix B.

Children's Social Care (Hackney Children and Families Service)

It is the role of Children's Social Care to:

- investigate where they have reasonable cause to suspect that a child who lives or is found in their area is suffering, or likely to suffer, significant harm
- accompany Hackney Learning Trust officers/Ofsted in multi-agency visits to establishments where there is reasonable cause that a child is suffering or is likely to suffer significant harm
- manage and investigate allegations against staff or volunteers who work with children (in registered and unregistered educational settings) through the statutory Designated Officer role

Hackney Learning Trust (HLT)

It is the role of Hackney Learning Trust to:

- identify any establishments operating within Hackney as an unregistered provision
- undertake checks to ascertain that such premises do have children attending
- report suspected unregistered educational settings to the Department for Education (DfE). It is not for Hackney Learning Trust to definitively establish that the setting is operating as an unregistered school; that is for DfE to determine.
- ensure that guidance is available for those parents who contact Hackney Learning Trust requiring a school place, or upon notice of the closure of an independent school

The Council has no powers in regard to either registration or closure of unregistered educational settings, but is *obliged* to report any establishment that is suspected as operating as an unregistered school to the Department for Education.

Additionally, the Early Years Service within Hackney Learning Trust works within the parameters of the 'Protocol between Ofsted and Local Authorities on information sharing about child care providers' (Ofsted November 2012) which states that:

Local authorities and Family Information Services will tell Ofsted if they are aware of any provision operating without registration and registered providers who are operating outside the requirements for registration.

Department for Education (DfE)

It is the role of the Department for Education to:

- understand if unregistered educational settings are operating and whether they can be defined as schools
- review the legality of yeshivas
- commission Ofsted to undertake inspections of unregistered educational settings

Ofsted

It is the role of Ofsted to:

- inspect schools and check standards (as commissioned by the Department for Education).
- when receiving local intelligence on suspected unregistered educational settings, Ofsted will investigate, and report findings and compile an advice note for the Department for Education.

Metropolitan Police

It is the role of the Metropolitan Police to:

- assist in persuading proprietors, if necessary, that a multi-agency team should gain entry to the premises
- having gained entry if the Police have other concerns, then depending on the level of severity it may be that the Police have to consider further powers available to them

London Fire Brigade

It is the role of the London Fire Brigade to:

- respond to information provided - and undertake visits to identified premises (information from such visits will be shared with Hackney Learning Trust and Hackney Council Planning Enforcement team)
- take enforcement action, including closure of premises, if deemed unsafe

Planning Enforcement

It is the role of Planning Enforcement to:

- respond where there is a breach of planning permission that has been sought for a particular purpose.
- issue enforcement notices that can lead to prosecution where required

Environmental Health

It is the role of Environmental Health to:

- enforce The Health and Safety at Work Act in all other nursery settings not covered under the powers of the Health and Safety Executive (see below).
- enforce the Food Safety Act 1990, and attendant legislation where a food business is being run for profit or not.
- investigate initial complaints to ascertain whether food is prepared and sold safely and hygienically.
- serve food hygiene improvement notices and evoke closure powers if an imminent risk to health exists.

Health and Safety Executive

It is the role of the Health and Safety Executive to:

- enforce the Health and Safety at Work Act 1974 in all educational establishments, that are deemed a place of work. This includes pre-school, nursery schools for 3-5 year olds, as deemed by the Education Act 2014, and religious activities, including education and training, whether vocational or non-vocational.
- investigate initial complaints and decide whether to visit on appropriateness of safety and risk.
- serve safety improvement or prohibition notices to secure compliance.

Parental responsibility

Section 7 of the Education Act 1996 outlines the duty of parents to secure full time education for children of compulsory school age:

'the parent of a child of compulsory school age shall cause him/her to receive efficient full time education suitable:

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

(b) any special educational needs that they may have, either by regular school attendance or otherwise'

Should parents seek to educate their child other than at school, Hackney Learning Trust will seek to establish the identity of those children so that it can assess the suitability of the educational provision and where this is not appropriate, to consider whether School Attendance Orders (Section 437 of the Education Act 1996) are applicable.

Hackney's *Elective Home Education Guidance (2015)*¹ provides more details about the duties of parents if they choose to home educate their child.

Hackney Learning Trust will provide guidance for parents who contact Hackney Learning Trust requiring a school place, or upon the closure of an independent setting (this process is outlined in Hackney Learning Trust's 2016 *Protocol for the placement of children following the closure of privately funded independent schools*²).

Section 444 of the Education Act 1996 outlines that parents are guilty of an offence if they fail to secure regular attendance at school of a registered pupil:

(1) *If a child of compulsory school age who is a registered pupil at a school fails to attend regularly at the school, his parent is guilty of an offence.*

(1A) *If in the circumstances mentioned in subsection (1) the parent knows that his child is failing to attend regularly at the school and fails without reasonable justification to cause him to do so, he is guilty of an offence.*

City and Hackney Safeguarding Children Board has produced guidance for parents and carers on a range of issues that they should be alert to whenever they are leaving their children in the care of an organisation. This guidance covers key issues relating to the safety of children in a range of settings (an educational setting or other organisation). This guidance will be shared with parents and carers across the borough to support them in asking relevant questions and checking the safeguarding standards of local settings.

Engagement with the community

The aim is to support the community in their commitment to safeguarding standards. Families send their children to unregistered educational settings and they should expect all organisations and settings within the community to meet these safeguarding standards. It is important to conduct a dialogue within the community more generally on safeguarding issues.

The Council is devising a strategy to better engage directly with members of the Orthodox Jewish community on a range of issues, including education and child protection.

Following the recommendations of the Children and Young People Scrutiny Commission review, a contact group is being established to develop shared solutions to improve safeguarding arrangements for children that attend settings within the Orthodox Jewish community and to build trust and confidence between settings, community leaders and the Council and partner agencies. The Scrutiny review recommended that the contact group includes the Union of Orthodox Hebrew Congregations, Interlink, headteachers of registered independent schools and the Chief Rabbis of all Charedi sects operating yeshivas in Hackney. The group will be

¹ <https://www.learningtrust.co.uk/sites/default/files/document/Elective%20Home%20Education%20Policy.pdf>

² <https://www.learningtrust.co.uk/sites/default/files/document/Protocol%20for%20the%20Placement%20of%20Children%20Following%20the%20Closure%20of%20Privately%20Funded%20Independent%20Schools.pdf>

led by the Independent Chair of City and Hackney Safeguarding Children Board (CHSCB).

An independent schools' forum is also being established with registered independent settings in the borough to discuss issues that are of concern to settings which the Council can advise on, to share information on new initiatives and expectations, and to share good practice. It is hoped that learning from this forum can also be used when engaging with unregistered educational settings.

The Council's approach to working with the Department for Education

The Council will continue to work with the community and the Government to achieve a more consistent legislative framework in relation to educational settings. Underpinning this, the Council will contribute to all Department for Education consultations related to independent educational settings and elective home education, in order to press the case for legislative changes to enable LAs to fulfil their responsibilities.

The Council will continue to meet Government and Ofsted representatives to discuss the limitations in the current regulatory framework in relation to educational settings, and to lobby for changes in the legislative framework to support local authorities and regulatory agencies to ensure children and young people are educated in safe and suitable environments.

Next steps

This strategy supports the implementation of the recommendations of the Children and Young People Scrutiny Commission review into Unregistered Educational Settings.

The officer working group will continue to meet quarterly. It will monitor the implementation of the actions to meet the key priorities outlined in this strategy and ensure alignment with the Council's wider Borough engagement strategy.

An update on progress will be submitted to the Children & Young People Scrutiny Commission on 30 April 2019.

This strategy was circulated for consultation to the following agencies during the development phase:

- Children and Families Service, LBH
- Hackney Learning Trust
- City and Hackney Safeguarding Children Board
- Policy and Partnerships, LBH
- Legal Services, LBH
- Environmental Health, LBH
- Metropolitan Police
- London Fire Brigade
- Interlink

Appendix A

Protocol when an unregistered educational setting is identified



Appendix B

Outline of legal powers of relevant agencies in relation to unregistered educational settings

Agency	Powers	Role
Ofsted	Under <u>s.97 Education and Skills Act 2008</u> Ofsted have the power to enter and inspect a premises that they believe is operating as an independent school and to establish the identity of the proprietor.	<p>Inspect schools and check standards.</p> <p>When receiving local intelligence on suspected illegal schools, Ofsted will investigate and report findings and compile an advice note for DfE.</p> <p>Responsible for collecting evidence to support prosecutions by the Crown Prosecution Service.</p>
Department for Education	Under <u>s.96 of the Education and Skills Act 2008</u> , in England a person must not conduct an independent educational institution unless it is registered. A person who does so is guilty of a criminal offence; this currently carries a maximum penalty of 6 months imprisonment and/or an unlimited fine.	<p>Make a decision, based on the evidence provided by Ofsted, on whether an establishment is acting as a school.</p> <p>May issue a closure notice if it determines an establishment is acting as an unregistered school.</p> <p>Secretary of State to consent to any prosecutions related to unregistered educational settings.</p>
Hackney Learning Trust	<p>Enforcement powers <u>s.437 Education Act 1996</u> – School Attendance Orders (if it appears that a child of compulsory school age is not receiving suitable education)</p> <p><i>(Nb. No statutory or enforceable powers regarding unregistered provision)</i></p>	<p>Co-ordinate, review and progress initial investigations of suspected unregistered schools.</p> <p>Make formal notifications to DfE about suspected unregistered schools.</p> <p>Pursue School Attendance Orders where it appears that a child of compulsory school age is not receiving statutory</p>

Agency	Powers	Role
		education.
<p>Children's Social Care</p> <p>(Hackney Children and Families Service)</p>	<p>Under s.17 of the Children Act 1989, the local authority has a general duty to safeguard and promote the welfare of children within its area who are in need and to promote the upbringing of those children by their families.</p> <p>Under s.47 of the Children Act 1989, where there is reasonable cause to suspect a child who lives or is found in their area is suffering or is likely to suffer significant harm, the local 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.</p> <p>The local authority has a statutory duty to manage and investigate allegations against staff or volunteers who work with children (through the Designated Officer role).</p>	<p>To accompany Hackney Learning Trust officers/Ofsted in mutli-agency visits to establishments where there is reasonable cause that a child is suffering or is likely to suffer significant harm.</p> <p>Manage and investigate allegations against staff or volunteers who work with children (in registered and unregistered educational settings).</p>
<p>Metropolitan Police</p>	<p>The Police have powers under s.17 of the Police and Criminal Evidence Act to enter premises, or the common law power to prevent a breach of the peace where there may be imminent harm posed to life and limb.</p>	<p>Assist in persuading proprietors, if necessary, that a multi agency team should gain entry to the premises.</p> <p>If having gained entry the Police have other concerns, then depending on the level of severity it may be that the Police have to consider further powers available to them.</p>
<p>London Fire Brigade</p>	<p>Enforcement of <u>Regulatory Reform (Fire Safety) Order 2005</u> – can include closure of</p>	<p>London Fire Brigade will respond to information provided by Hackney Learning Trust and undertake</p>

Agency	Powers	Role
	premises if deemed unsafe.	visits to identified premises. Reports from such visits will be shared with Hackney Learning Trust and Hackney Council Planning Enforcement team.
LBH Planning Enforcement	<p><u>Town and Country Planning Act 1990</u>, and various subordinate acts.</p> <p>Powers to issue Stop Notices.</p> <p>Powers of entry within 24 hours if property is residential, immediate if a property is non-residential.</p>	<p>The Planning Enforcement team responds where there is a breach of planning permission that has been sought for a particular purpose.</p> <p>Enforcement Notices can lead to prosecution.</p> <p>If planning permission is granted, this would be subject to conditions such as number of people allowed to attend a premises at any given time.</p>
LBH Environmental Health	<p>Enforce the <u>Health and Safety at Work etc Act 1974</u> in all other nursery settings not covered by the Health and Safety Executive.</p> <p>Enforce the <u>Food Safety Act 1990</u>, and attendant legislation where a food business is being run for profit or not.</p>	<p>Investigate initial complaints to ascertain whether food is prepared and sold safely and hygienically.</p> <p>Serve food hygiene improvement notices and evoke closure powers if an imminent risk to health exists.</p>
Health and Safety Executive	<p>Enforce the <u>Health and Safety at Work etc Act 1974</u> in all educational establishments, that are deemed a place of work. This includes pre-school, nursery schools for 3-5 year olds, as deemed by the Education Act 2014, and religious activities, including education and training, whether vocational or non-vocational.</p>	<p>Will investigate initial complaints & decide whether to visit on appropriateness of safety and risk.</p> <p>Serve safety improvement or prohibition notices to secure compliance.</p> <p>The Health and Safety Executive is not responsible for welfare provisions of non-employees.</p>