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Bad evidence: the curious case of the government-commissioned review of elective home education in England and how parents exposed its weaknesses

Bruce Stafford

Governments in the United Kingdom have been contracting out policy reviews to individuals. One such review, of elective home education in England, reveals serious shortcomings to this practice. This paper explores the shortcomings – methodological and presentational – with the review, and highlights the fact that there was no governmental mechanism or code against which a commissioned review can be held accountable. Although a select committee held an inquiry, it was home educators using the Freedom of Information Act 2000 and social media who identified weaknesses in the review. The review's recommendations were not implemented, but this was only because a general election was called.

Introduction

There has been widespread support for the notion that public policy should be based on evidence (defined here as research and evaluation that can be used in policy making) (Biesta, 2007: 17; Weiss et al, 2008: 29). Recently in the United Kingdom (UK) there have been a number of evidential policy reviews conducted by 'independent' advisers. Work that could be undertaken by the civil service has been contracted out, in effect privatised, to those with perceived expertise. Some of these studies have been high profile and very influential, and based on detailed meticulous analysis, for example, the Labour government's Turner Commission on pension reform (Pension Commission, 2006), the Freud review on welfare reform (Freud, 2007) and the Callcutt review on house building (Callcutt, 2007). Some deal with complex and, in policy terms, technical issues, for instance, reform of the planning application process (Killian and Pretty, 2008). The coalition government has also commissioned a series of reviews, for example, Professor Löfstedt's review into health and safety legislation (DWP, 2011) and Field's review of poverty and life chances (Field, 2010).

In commissioning such studies, government departments need to be '*intelligent customers*'. As Boston (1995: 89) has highlighted, they need to retain sufficient expertise to challenge and comment on external policy advice. This assessment of quality should include, but not be confined to, the methodological rigour of an evidence review (Rychetnik et al, 2002: 121–25; Boaz and Ashby, 2003: 7–13).

A less well-known evidential review is that of elective home education in England – containing the bad evidence of the title of this paper. The review was announced by

Key words home education • 'bad' evidence • Badman Review • quality

the then Department for Children, Schools and Families (DCSF) (DCSF, 2009a) on 19 January 2009 and its report was published on 11 June 2009 (Badman, 2009a). This paper seeks to show that the review of elective home education is an example of a poorly conducted policy review and that there is a lack of official mechanisms in place to identify and act upon shortcomings in the evidence base of commissioned policy reviews. More generally, there are critiques of other 'educational research', including the claim that some of this evidence is 'methodologically flawed' (see Biesta, 2007: 1–2). The argument here is not that low-quality research fails to convey useful information to policy makers (Edwards et al, 1998: 320; Boaz and Ashby, 2003: 12; Pawson, 2006: 134, 141; Weiss et al, 2008: 30–4). Neither is it that policy should only be based on high-quality evidence – other considerations, such as political and moral values, do and should influence policy – nor that evidence can have little, or no, impact on policy. Rather, it is contended that when evidential reviews have been contracted out, there is no adequate official mechanism to identify 'bad' evidence. If a contracted-out review is badly conducted, which (as this paper shows) was the case with the review of home education, then there needs to be inbuilt safeguards about the quality of the evidence base to protect policy makers – officials and politicians – and the public. While the conduct of the review was the subject of a House of Commons Select Committee inquiry, a potential means to check the quality of the evidence, it will be argued that a more effective mechanism is required before legislation is drafted. The paucity of the evidence base in this instance was first highlighted by the group that would be most adversely affected by the proposed policy reforms – home educators. Home educators were able to challenge the review's evidence base because they used the Freedom of Information Act 2000 to dissemble how the review was conducted and social media to share and discuss what they found. However, that the review's policy recommendations were not enacted was a by-product of the then Prime Minister, Gordon Brown, calling a General Election; and not because there were systems in place to critically appraise the evidence presented by the review.

This analysis of the review and its conduct is based on documentary sources: published official sources (the review's report and the evidence to, and report of, a House of Commons Select Committee) and several DCSF papers released via Freedom of Information Act requests submitted by home educators. The research involved a degree of participant observation in that the author, who is a home educator, did read the responses to the Freedom of Information requests contemporaneously, supported his partner in submitting requests and made a submission to the Select Committee. All of the Freedom of Information Act responses cited in this paper are taken from the website www.whatdotheyknow.com, and as a consequence are in the public domain. Often the release of one piece of information by the Department prompted a number of other requests for clarification and further information by home educators. Several home educators submitted similar Freedom of Information Act requests and some of the information cited below was released by the Department more than once to different home educators. Some home educators submitted requests in other ways and their responses are not in the public domain and so not cited in this paper. Nonetheless, the Freedom of Information Act responses provide a substantive body of data and it is possible to explore what evidence was used in the review and how

it was obtained by the reviewer. The analysis presented below is grounded in these documents and involved triangulating the Freedom of Information Act responses with the evidence given to the Select Committee.

This paper next outlines the background to both home education in England and the review. The methodological and presentational shortcomings of the review are then discussed. The absence of any official quality checks or applicable codes of conducts is highlighted before conclusions are drawn.

Background

In England and Wales, the education of school-aged children is mandatory but attendance at school is not (DCSF, 2007: 4–5).¹ Parents, not the state, are responsible for providing an ‘efficient and suitable’ education for their children. Section 7 of the Education Act 1996 states:

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.

The number of children educated ‘otherwise’, at home, in the UK is unknown, but estimates range between 45,250 and 150,000 (Hopwood et al, 2007: 2). In part, the number of children home educated is unknown because parents do not have to inform either local or central government of their intention to home educate. Parents can choose not to send their children to school, or if they are already attending school to withdraw them and request that their child is de-registered (in which case the school must inform the local authority). Home educated children who have never been to school may not be known to local authorities. Where a child is withdrawn from a school, an education welfare officer from the local authority’s children’s services department will typically make contact with the family. Local authorities have a duty under the Education and Inspection Act 2006 to identify (as far as possible) children not receiving a ‘suitable education’.² However, they have no duty to monitor home education (DCSF, 2007: 5). Consequently, some home educators are unknown to their local authority, others are known to the council but have little contact with their local authority and others work, to varying degrees, more closely with the education welfare officer.

The review of what government terms ‘elective home education’ was commissioned because of (unsubstantiated) allegations that home education was being used as a cover for child abuse. This concern meant that from the very beginning the review conflated education and child safeguarding issues. The review also sought to investigate whether councils were providing appropriate and effective support to home educating families and whether changes were required to the ‘monitoring’ arrangements for home education. (The review’s terms of reference are quoted in full in Box 1. The then Labour government’s five Every Child Matters outcomes were: being healthy,

staying safe, enjoying and achieving, making a positive contribution, and achieving economic wellbeing – see Chief Secretary to the Treasury, 2003: 14; and for a critique, see Williams, 2004.)

Box 1: Terms of reference of the review of elective home education in England

The review of home education will investigate:

- The barriers to local authorities and other public agencies in carrying out their responsibilities for safeguarding home educated children and advise on improvements to ensure that the five Every Child Matters outcomes are being met for home educated children;
- The extent to which claims of home education could be used as a ‘cover’ for child abuse such as neglect, forced marriage, sexual exploitation or domestic servitude and advise on measures to prevent this;
- Whether local authorities are providing the right type, level and balance of support to home educating families to ensure they are undertaking their duties to provide a suitable full time education to their children;
- Whether any changes to the current regime for monitoring the standard of home education are needed to support the work of parents, local authorities and other partners in ensuring all children achieve the Every Child Matters outcomes (Badman, 2009a: 46).

The DCSF commissioned Graham Badman, the former Director of Children’s Services at Kent County Council to conduct an independent review of home education (CSFC, 2009a: 6). He was given considerable freedom to decide how the review was to be conducted as the Department subsequently observed: ‘Graham Badman was free to determine how the review was carried out and there were no limitations on the scope of the recommendations he could make.... He decided who to gather information from and in what form, [and] who to meet....’ (DCSF, 2009d: Ev3)

The reviewer was supported by a panel of 10 experts (see Badman, 2009a: 74), whom he selected (DCSF, 2009d: Ev3). The range of expertise provided by this Expert Reference Group was criticised by some home educators for not including a specialist on home education (CSFC, 2009a: 12). The influence of this group on the review is unclear, although one organisation representing home educators reported that ‘[t]here were only three meetings, and not all members were able to attend. We have heard that meetings of the Group were organised at very short notice, preventing some members from having an effective input’ (Education Otherwise, 2009; CSFC, 2009b: Ev39). Moreover, one member of the panel, Professor Conroy, has been highly critical of the conduct of the review (this is discussed further below). Whatever influence the Expert Reference Group had on the review, it does not – as will be demonstrated below – appear to have prevented some serious shortcomings in the conduct of the review.

The review is an evidential policy review, it is mentioned in the Department's *Analysis and evidence strategy 2009–10* (DCSF, 2009c: 32) – a document where the then Secretary of State, Ed Balls, emphasises the crucial role of evidence and analysis in delivering policy (2009c: 5). In addition, in a Ministerial Statement accompanying the publication of the review's report, the Secretary of State mentioned that the process had been 'thorough' and 'extensive':

I am grateful to Graham Badman and the review team for conducting a thorough review which carefully considered extensive evidence provided by home educators; local authorities (LAs); and representatives from a wide range of organisations and individuals working with children and parents involved in home education. (Secretary of State for Children, Schools and Families, 2009)

He added: 'The review makes a compelling case for substantial changes to the arrangements for supporting and monitoring home education.' This claim was repeated in a press release by the Children's Minister, Delyth Morgan (DCSF, 2009b). A reasonable person, therefore, would expect that the published report included robust and comprehensive evidence that supported the review's recommendations. However, as demonstrated below, the published review contains a number of methodological and substantive shortcomings.

Key milestones in the review process are shown in Box 2. The review had a multiple and mixed-methods design. Evidence was gathered by means of a literature review, a public call for evidence, an online public consultation questionnaire, surveys of local authorities, 'structured interviews' with interested parties including home educating parents and their children, visits to local authorities and home educating groups, an analysis of serious case reviews and local authority case studies (see Badman, 2009a: 4). There were three surveys of local authorities (see Box 2). The first, conducted in January 2009, was of all 150 English local authorities and had a response rate of 60%. The second, of the 90 local authorities responding to the first survey, was conducted during September and had a response rate of 28%, or 17% of all English local authorities. The third survey was of all 150 English local authorities and had a response rate of 49%. This last survey is noteworthy because it was conducted *after* the publication of the review's report. This extraordinary attempt to gather statistical evidence after policy recommendations were published was undertaken because a Select Committee, the Children, Schools and Families Committee, announced an inquiry into the review because of concerns about its conduct and recommendations (CSFC, 2009c). Badman (2009c: Ev22) acknowledged that this extra evidence gathering was conducted 'in anticipation of ... [the] ... Select Committee' inquiry. Some home educators believed that it was a tacit admission that the review had, to date, failed to provide adequate evidence to support its proposals (see Hardy and Hardy, 2009).

Box 2: Key milestones in the review of elective home education in England

2009

- 19 January Review of elective home education in England announced by DCSF
- January First survey of all local authorities in England (response ratio 90/150)
- May Second survey of local authorities responding to the first survey (response ratio 25/90)
- 11 June Review's report and recommendations published. Report accepted by the Secretary of State and public consultation begins on the report's 28 recommendations
- 22 July Children, Schools and Families Committee, the relevant Select Committee, announces a short 'Inquiry into the DCSF-commissioned review of elective home education'. Submission to be made by 22 September
- 17 September Third survey of all local authorities in England conducted (response ratio 74/150)
- 9 October Publication of the government's full response to the review's report, and Mr Badman's writes to chair of the Select Committee including his report on the results of the third survey of local authorities
- 19 October Public consultation on review's recommendations ends
- 18 November Queen's Speech includes the Children, Schools and Families Bill, which incorporates the review's recommendations
- 16 December Select Committee report published

2010

- 11 January Publication of 'Department for Children, Schools and Families Public Consultation Response Home Education – registration and monitoring proposals'
- 11 March Government's response to Select Committee report published
- 7 April Government withdraws home education sections of the Bill in order to get other parts of the Bill passed into law, with opposition parties' support, before the forthcoming General Election in May.

The review found no evidence that home education was being used as a 'cover' for child abuse. In essence, the report recommended that a mandatory annual registration (or licence) scheme be introduced so that local authorities would know about, and monitor, all home educated children in England. Their powers would include a legal right to access homes and see home educated children on their own if considered appropriate. These proposals were accepted in full by the Children's Minister (DCSF, 2009b), and were to be implemented in the Children, Schools and Families Bill 2009.

Home educators' response

In general, home educators opposed the review (BBC, 2009a) and its recommendations. But the home education community was organisationally weak as it comprised a number of disparate, local and small groups, a small number of national organisations whose relationships could be highly fractious, as well as many individuals who were not members of any group (personal observation). There was no formal organisation to represent the community as a whole. One national group, Education Otherwise, did meet with policy makers; however, it is not representative of home educators, and discussions on internet forums suggest that some home educators distrusted its motives for talking to the government. So there was no 'interest group', an equivalent of the teaching unions or the Independent Schools Council, who had staff and resources to represent the home education community in the policy process. However, individuals within the community did have passion and commitment, and a wide mix of skills and experiences that would enable them to query the quality of the evidence provided in the report and to challenge its recommendations. Crucially, many of those opposing the review had access to blogs, membership of relevant Yahoo groups and via www.whatdotheyknow.com use of the Freedom of Information Act 2000. Home educators submitted their Freedom of Information Act requests to the Department. Information requests could not be made directly to Graham Badman, as the DCSF determined that he was not a 'public body' and so not subject to the Freedom of Information Act (see, for instance, Jones, 2010). Although home educators were essentially working independently, by using social media to share ideas and information they still organised a formidable campaign against the review. This included presenting the record number of constituency petitions on a single day in the House of Commons (BBC, 2009b), and persuading the Children, Schools and Families Select Committee to hold a short inquiry. Collectively, the home educators constituted a 'weak' form of an advocacy coalition (Sabatier and Weible, 2007: 196–8).

In opposing the review's proposals, home educators were assisted by three politicians: Mark Field MP, Lord Lucas and Graham Stuart MP. They became the focus for parliamentary opposition to the review and the associated clauses in the Children, Schools and Families Bill.

The Children, Schools and Families Select Committee was highly critical of the conduct of the review. It quoted a member of the Expert Reference Group, Professor James Conroy, who observed that (CSFC, 2009a: 12):

The final report was somewhat rushed and there was little enough time to digest or reflect on either the report or the recommendations.... In my 30 odd years of professional life in education I have rarely encountered a process, the entirety of which was so slapdash, panic riven, and nakedly and naively populist.

Nonetheless, government sought to implement the Bill with the registration and monitoring clauses on home education. However, these clauses were not passed by Parliament, not because of a flawed evidence base, but because the then Labour

government called a General Election. During the legislative ‘wash-up period’ (that is, after the election is called, but before Parliament is dissolved) the government seeks cooperation from opposition parties to complete as much unfinished business as possible. In this case, home educators had raised sufficient doubts about the Badman reforms for opposition parties to agree to the passage of the Bill without the home education (and some other) clauses. There was, therefore, an element of serendipity about the review’s recommendations not being carried forward into legislation.

The evidence base and its shortcomings

The following discussion highlights some, but not all, of the shortcomings and doubts about the evidence underpinning the review. The aim here is to consider some of the more significant issues and so demonstrate that the review’s evidence base was seriously flawed. These and other concerns about the conduct of the review are expressed in the Children, Schools and Families Committee’s report (CSFC, 2009a).

The review’s shortcomings are considered using two criteria: methodological quality and quality in reporting (Boaz and Ashby, 2003: 13–14). Methodological quality refers to the extent to which, in terms of research design and methods, the review was ‘technically well executed’ (Boaz and Ashby, 2003: 14). The quality in reporting criterion encompasses the degree of transparency and the communication of the findings, in particular whether they are ‘presented in a way that can be appraised and used by others’ (Boaz and Ashby, 2003: 14).

Methodological quality

The review has two major methodological deficiencies: a partial literature review (Schools Analysis and Research Division, 2009) and poorly conducted surveys of local authorities. The findings from the literature review, which was conducted in-house by the Department, are not summarised in the main body of the report, nor are they published as an annex to the report or as a freestanding publication. However, the literature review has been released under the Freedom of Information Act. In addition, a slightly differently version of the literature review is included as Annex F to a Department for Children, Schools and Families memorandum to the Select Committee (DCSF, 2009d); this second version includes an annex referred to, but omitted, from that released under the Freedom of Information Act. This later version, of course, was only available some months after the review’s report had been published. The literature review covers the definition of home education, the legal and regulatory background to home education in England and Wales, estimates of the number of home educated children, reasons why people choose to home educate and the wide variation in the practice of home education, home educated children’s attainment in the UK and North America, and the legality of home education in selected countries. Methodologically, the literature review provides no information on how it was conducted, notably the rationale used to select the sources used or the countries for the international comparison.

The Freedom of Information Act version of the literature review is relatively brief, comprising 22 pages and citing only 16 sources; even though in the subsequent memorandum version an added paragraph acknowledges that the research base on home education is 'extensive' and the literature review is not intended to be 'comprehensive' (CSFC, 2009b: Ev6). The review's report did not include the qualification that its literature review was not comprehensive nor that there was a wide body of literature that could be drawn upon. Not surprisingly, the Freedom of Information Act version has been criticised by some for 'not engaging more fully with some of the research literature on home education' (CSFC, 2009a: 13); for example, it omitted the regulation of home education in Scotland. Moreover, it did not provide a comprehensive and thorough review of studies from the UK (Ahrens, 2009) or the United States (see HERA, 2009; Slack, 2009). Two leading researchers on home education conclude that the literature review 'ignores vast swathes of relevant educational research both in the mainstream and in relation to home education' (Thomas and Pattison, 2009).

Both the literature review and the review's report are also inconsistent in how they treat qualitative research. They claim that the sample sizes for some studies were too small for findings to be generalisable to the whole population and that participant self-selection for some studies produces biased samples (Badman, 2009a: 36; Schools Analysis and Research Division, 2009: 12, 15). These doubts about the validity of studies relate only to those exploring the outcomes for home educated children in the UK and elsewhere, many of which show that home educated children outperform school educated children across a range of indicators. Yet when, for example, considering the reasons why parents home educate, the review (Badman, 2009a: 11–12) uncritically quotes from a qualitative study based on an opportunistic sample of 18 home educating parents, local authority officials from nine areas and staff from six home educating organisations (Hopwood et al, 2007: 4–5), and then references another supporting study based on 21 interviews with local authority staff in 16 areas (Kendall and Atkinson, 2006: 1). Although both the cited studies acknowledge the possible limitations of their sampling designs, the review's report neither specifies their sample sizes nor that sample selection involved non-probability methods. As a consequence, the review appears to privilege the findings of some qualitative research over others. Moreover, as the following discussion shows, small sample sizes and doubts about the representativeness of samples seriously undermine the review's own evidence base.

The review document states at paragraph 8.12 that:

on the basis of local authority evidence and case studies presented, even acknowledging the variation between authorities, the number of children known to children's social care in some local authorities is disproportionately high relative to the size of their home educating population.... (Badman, 2009a: 31)

This is the only substantive statistical claim made in the report that suggests there is a policy problem to be addressed. Press reports about the publication of the report

allege that Badman said that twice as many home education children were known to social care compared to the rest of the population – a claim not made in the report.³ Neither statistics nor any evidential sources are provided in the report to back up paragraph 8.12. The implication is that the source was the January survey of local authorities as a copy of the questionnaire was presented in Annex D of the report. However, it is not this survey as it contains no questions on ‘known to social care’. Only through Freedom of Information Act requests was it revealed that the source was, in part, the second (and at the time unreported) survey that received only 25 replies (see Box 1). The basis for the claim in paragraph 8.12 is that Badman knew from the 2005 Children in Need Census for England that approximately 3% of 5- to 16-year-olds were ‘known to social care’ whereas his second survey revealed that approximately 7% of the home educated children known to the sampled councils were ‘known to social services’ (Badman, 2009b: Ev32). A DCSF working paper, released via a Freedom of Information Act request, using the same survey data estimated that at national level 6.75% (or 1,350 later corrected by the Department to 1,050) of ‘home educated children are known to social care in some capacity...’ (DCSF, 2009e: 3). However, there are a number of problems with these estimates and hence the statement in paragraph 8.12 due to the measure used (‘known to social care’), the total number (or base) used in the calculations and the representativeness of the data. These are discussed below.

The report fails to highlight that ‘known to social care’ covers a number of legal and administrative categories some of which cannot be interpreted as meaning that there is a safeguarding problem with home educated children. For example, the term covers not only child protection inquiries but also referrals to social care irrespective of whether or not child abuse is subsequently established. It is likely that home educators are, wrongly, over-represented among these referrals because (concerned) third parties, unaware of the legal right to educate at home, mistakenly contact social services. The figures are also inflated because they count each referral to social care and not each child (CSFC, 2009a: 14). As several responding local authorities only provided a total ‘known to’ figure (Bell, 2009), the review team were unable to disaggregate the data by the different legal and administrative categories that comprise ‘known to social care’ and so the data are difficult to interpret. Badman has subsequently argued that local authorities’ case review procedures mean that this ‘false reporting’ is not reflected in the data (CSFC, 2009b: Ev23).

However, there are other reasons why the ‘known to social care’ figures for home educated children are inflated:

In some areas LAs [local authorities] and schools are encouraging parents to de-register their child to avoid exclusion. Also, as a result of the ineffective implementation of the policy of inclusion and the closure of some Special Schools, many children who are disabled or receiving support from specialist services are increasingly opting to home-educate. Again these families are often previously known to Social Services for reasons other than safeguarding concerns. (Home Education Centre, 2009: Ev48)

So unless the statement excludes these cases, it overestimates the number of 'at-risk' cases among the home educating community. The lack of detail in the report means that whether the 'known to' proportion mentioned in paragraph 8.12 includes these cases is unknown.

In addition, the data collected covered both open and closed cases of 'known to social care'. However, this means that the data will not be comparable between local authorities because of differences in the composition of the elective home education population in each local area. The questionnaire ought to have collected more data on the make-up of the population so that it could be weighted to make it comparable between local authorities.

It is possible that combining the responsibility for education and social care for young people in a children's services department at the local level has created an institutional framework where these problems with the 'known to' statistics will arise because education and social care duties are conflated. However, exploration of whether this has happened is beyond the scope of this paper.

The estimated percentages, whether for the sampled local authorities or for the national estimate, for children 'known to social care' are, by definition, sensitive to the base used in the calculations. However, as Badman (2009a: 22) himself acknowledges, the number of home educated children is unknown: 'there are around 20,000 children and young people currently registered with local authorities. We know that to be an underestimate and agree it is likely to be double that figure, if not more, possibly up to 80,000 children'.

This also means that the exact number of home educated children in the sampled local authorities is unknown. If the total number is larger than the number of children the councils were aware of then the 7% is an overestimate. Indeed, if the number is double, as Badman appears to accept (see above quote and CSFC, 2009b: Ev24), then the proportion would fall to a level similar to that for the total child population in these areas. Similarly, the 6.75% national estimate for home educated children known to social care requires that the population of home educated children in England is exactly 20,000 (calculated from DCSE, 2009e: 3). Again, doubling the base cuts the proportion of home educated children 'known to social care' to a proportion similar to the total population of children.

Potential problems with the interpretation of the 'known to social care' data and the sensitivity of the estimates to the base used for home educated children was widely discussed by home educators using social and non-social media following the publication of the review's report. Trying to establish the evidential source for paragraph 8.12 was the subject of a relatively large number of Freedom of Information Act requests to the DCSE. Badman was, therefore, well aware of these criticisms and responded *after* the report's publication by changing his measure to the proportion of Child Protection Plans (CPPs) and conducting a third survey of local authorities. CPPs apply to a subset of children 'known to social care' and represent those who are most at risk. The plans assess the risk and detail actions to protect the child from harm. They are drawn up by social workers and other relevant professions. However, even the number of CPPs issued may not be an accurate measure of home educated children at risk of abuse. It has been claimed that CPPs have been used by some local

authorities, in preference to Statutory Attendance Orders, to force children to attend school (Wallace, 2009). Moreover, the third survey did not collect data on children in care who might not have a CPP and yet be at risk. To provide a valid measure of children at risk, data on both needed to be collected.

In addition, the estimated proportion of home educating children with a CPP is, like the proportion of those 'known to social care', sensitive to the base used. As the Select Committee noted:

We know how many of these children [that is, those with CPPs] are home educated. As we do not yet know how many home educated children there are in total it is not possible to come to any conclusions regarding the relative proportion of home educated and school educated children who are subject to a Plan. (CSFC, 2009a: 15)

Indeed, the committee concluded that the lack of evidence on the numbers of home educated children meant that the review's 'strong conclusion about the relative risks of a child being home educated or school educated' was 'unsafe' (CSFC, 2009a: 16).

The estimates made by Badman are also undermined by the surveys' data being potentially unrepresentative of local authorities. The representativeness of the first and second surveys of local authorities is not discussed anywhere in the review's report. Whether the surveys' samples were representative is important because if the samples were biased, the resulting estimates would be invalid. The absence of any discussion about the representativeness of the samples is a serious omission because of the small sample size (25 local authorities) of the second survey. Badman accepts that samples for first two surveys were small (Badman, 2009b: Ev32, 2009e) and that a third survey was needed to 'supplement this data' (Badman, 2009d: 2).

A reasonable person might expect that given home educators' concern about the representativeness of the previous two surveys that details would be given about the representativeness of the third survey. However, in a letter to the Select Committee, Badman (2009e: 3) simply asserts that it was a representative sample. While the response rate was 49% (74 local authorities), that nearly half replied does not make the sample representative – because the half that did not reply might be very different from those that did. Indeed, there are reasons to believe that the third sample over-represented those local authorities with a larger proportion of the child population. Badman states that the mid-2008 child population estimate for the 74 local authorities was 4,303,700. The same mid-year population estimates show that the number aged 5 to 16 years was 7,201,400 (ONS, 2009). This means that the 74 local authorities covered 60% of children of school age, and the 52% that did not respond to the third survey included 40% of the child population. The implication is that the sample is biased as larger-sized councils might behave differently from smaller authorities and so the sample data should have been weighted for non-response.

Badman has stated that the reported figures for the third survey were 'quality assured by a DCSF Statistician' (Badman, 2009e). However, a Freedom of Information request shows that in a memorandum the unnamed statistician merely observed that the paper and tables were 'impressive and fair' (DCSF Statistician, 2009). There is no comment

in the memorandum on the representativeness of the sample or the robustness of the sample design. Indeed, the only other issue mentioned in the memorandum is number-rounding conventions. Neither the Freedom of Information Act responses nor the evidence to the Select Committee provide further evidence on the role of the Department in quality assurance. Nonetheless, the Department does appear to have had some involvement in quality assurance, but whether the representativeness of the sample was considered by the Department is unknown.

These concerns about the validity of the quantitative evidence undermine the claim made in paragraph 8.12 of the review. The government, in its response to the Select Committee's report, maintained that Badman had been 'cautious' about drawing inferences from the data (CSFC, 2010: 2). However, the tentative nature of the 'disproportionately high' claim was not stated in the report. Moreover, the government's response did not address queries about the use of 'known to social care', the sensitivity of estimates to the base used or the representativeness of the local authorities' samples.

Quality in reporting

The review falls short in its reporting of findings. Badman's 'caution' might help to explain why there are no tabulations or graphs presenting findings for the surveys of local authorities or for the public consultation exercise. Instead, there are cursory references to the questionnaire, interviews, conversations and visits to local authorities (see Badman, 2009a: 15, 21, 28). As already mentioned, the literature review was not published alongside the review report.

The published review also includes at least two instances of highly selective quoting that arguably do not provide a full and fair representation of the evidence submitted (see CSFC, 2009a: 13). First, the report contains a quote from a home educator that is presented as though the individual is less than complimentary about local authority staff: 'no one from the LA [local authority] would in my opinion be on my child's intellectual level or they wouldn't be working for the LA' (Badman, 2009a: 11). However, the report fails to give the context to the observation. The quote was taken from an email from a child's parent to a DCSF official (home educator, 2009). The home educator had a gifted son who was answering GCSE questions when five years old, and '[by] 7 he could do calculations (in his head) to work out the relative speed of trains travelling towards each other' (home educator, 21 March 2009). The email followed a visit by Badman to a group of home educating families where he was believed to have asked: 'If I had a child who was a gifted scientist, what would be wrong with having someone from the LA who was a scientist coming to teach the child?' (home educator, 2009). The emailing parent was a former physics teacher. In this context, the quoted extract is arguably less abrasive and more understandable.

Second, the review selectively quotes from a submission from the Education Division of the Church of England. The report includes a fairly lengthy extract that expresses its concerns about home education (Badman, 2009a: 13). However, the review does *not* quote the Church's overall conclusion:

10 We have seen no evidence to show that the majority of home educated children do not achieve the five Every Child Matters outcomes, and are therefore not convinced of the need to change the current system of monitoring the standard of home education. Where there are particular concerns about the children in a home-educating [sic] this should be a matter for Children's Services. (Church of England Education Division, 2009: 2)

Thus, the report omits the Church's view that it is not convinced of further reform, yet it does quote the Church's concerns. Although the Church gave permission for the quote to be included in the report, Church representatives 'were disappointed with the impression left by the selective use of our submission' (CSFC, 2009a: 13).

In summary, there are a number of concerns about the quality of the evidence used in the review and its reporting. The literature review was partial. The one 'statistical' claim about the relative risks confronting home and non-home educated children is seriously undermined by how it was measured, the representativeness of the samples used and the base used for the estimate (the unknown number of home educated children). The selective 'presentation' of qualitative data further undermines the integrity of the review.

Quality checks and codes of conduct

Arguably, the shortcomings in the review's evidence base ought to have been identified before the report was published. The extent to which DCSF officials carried out systematic and rigorous quality checks of the review's evidence base is unknown. Yet the draft version of the published report ought to have given officials cause for some concern. The relative absence of an evidence base in the report is notable and is compounded by the report containing a series of assertions that are not supported by evidence or references to published sources. The author simply states 16 times 'I believe...' without providing supporting evidence. This approach to reporting raises questions regarding the validity – and legitimacy – of the arguments and recommendations that the author advances.

The response of the DCSF to concerns about the review was curious. Outwardly it slowly released information under the Freedom of Information Act but did not appear to understand the weaknesses in the report's evidential base. Civil servants had reason to query the validity and accuracy of the evidence, given the nature of the Freedom of Information Act requests made. Moreover, they were reading home educators' blogs (personal communications) and, therefore, had no reason not to know the alleged shortcomings with the evidence base.

Moreover, the reviewer, Graham Badman, knew the depth of opposition to the review among home educators – his own online public consultation survey showed that 80% (N = 2,013) of respondents thought that the 'current system for safeguarding children' was 'adequate' (DCSF, 2009f). Yet he chose to submit a report that was evidence 'lite' – no summary analysis of the various quantitative data collected, no explanation of the data underpinning the assertion made in paragraph 8.12 and no findings from the literature review.

If pre- and post-publication checks internal to the DCSF did not raise concerns about the review's evidence base, then are there non-DCSF mechanisms or authorities that could have queried the evidence base? Other than the scepticism of individual home educators, the answer appears to be no. This is because the review was commissioned and so not conducted by a civil servant (or special adviser). Institutionally, there are no 'checks and balances' to systematically scrutinise the quality of policy evidence. There are a number of codes of conduct that could potentially apply to contracted-out policy reviews, but do not. For example, notwithstanding that the review was commissioned, and its report published, by a government department, Badman was not covered by the *Civil Service Code*, because he was not a civil servant (personal communication). The code is conceivably relevant because it requires 'integrity', 'honesty', 'objectivity' and 'impartiality' – requirements that would have demanded better methodological robustness and reporting of findings. Nor does paragraph 8.12 breach the UK Statistics Authority's *Code of Practice for Official Statistics* (principles 4 and 8 cover sound methods and assured quality, and frankness and accessibility, respectively), because the review is not a formal (or official) statistic (personal communication). Arguably, the Nolan Committee's Seven Principles of Public Life (Nolan, 1995: 14) – selflessness, integrity, objectivity, accountability, openness, honesty and leadership – apply to the appointment of contractors who undertake evidential policy reviews, but they would need revising to apply to the conduct of external reviews. Yet these codes do provide a framework for the conduct of contracted research and evaluation. There may even be a case for a legal requirement, as under the Inquiries Act 2005, for the reviewer to act fairly throughout the conduct of the study.

Conclusion

Evidence (alongside ideas, interests, norms, values and other factors) should have a role in the policy process. However, the review of elected home education in England is not simply a case of 'policy-based evidence', rather than 'evidenced-based policy' or even 'evidence-informed policy', but an example of poor evidence gathering and analysis. It is not simply about the 'political' or 'questionable' (Weiss et al, 2008: 29) use of evidence, rather that there appears to be no systematic checks on the quality of outsourced evidential reviews. While the review's recommendations were ultimately not passed into law, this was not because the policy system had a mechanism for stopping 'bad evidence' influencing policy formulation. It was the use of the Freedom of Information Act and social media by home educators that raised the profile of home education in Parliament and persuaded a Select Committee to examine the review's evidence base, and not a departmental or internal policy system check that highlighted concerns with the evidence base.

It might be argued that 'weak' policy reviews are relatively rare and that the Select Committee carried out a quality control check and produced a highly critical report on the conduct of the review; in short, that the policy system was effective. However, there are reasons to be less sanguine. First, the Select Committee's involvement was relatively late in the process, and only following a campaign by home educators. Arguably, shortcomings in policy reviews should be addressed before policy reaches

the legislative stage. Second, it is not clear that select committees have the time or the capacity to examine the evidence base every time evidential reviews are commissioned by departments. There is a risk that the evidence underpinning commissioned reviews could slip through unchallenged by Parliament. Third, and most importantly, the Select Committee's critical report, as shown by the government's published response (CSFC, 2010), did not lead the DCSF to withdraw the relevant provisions from the Bill. While it will never be known whether the Children, Schools and Families Bill would have been passed with the home education provisions had there been no parliamentary 'wash-up', over the period leading up to the calling of the General Election the Select Committee's exposure of the shortcomings of the evidence base had no discernible impact on the policy. Indeed, notwithstanding the Select Committee's reservations, it supported a modified version of the review's recommendations. Nonetheless, where policy reviews are contracted out by government it should not take the calling of a General Election to stop 'bad evidence' influencing policy.

Even if the DCSF thought that the report was initially of a high quality, the Department should have been more proactive once doubts were expressed about the robustness of the evidence. Conceivably, the Department was not helped by the apparent absence of an official code of conduct that applies to commissioned evidential policy reviews, although there are several codes of conduct that could be used to help develop such a code. There is also a need for an institutional mechanism to ensure that any code is applied to evidential reviews. This mechanism could be a more deliberative process (Biesta, 2007: 21) to integrate evidence with values, norms and interests in policy making; although such a process may be 'utopian' (Weiss et al, 2008: 44), not produce a 'successful' policy solution (Biesta, 2007: 15) and some form of quality check of the evidence would still be required.

More generally, there appears to be no safeguards built into the system, unless the public's use of social networks and the Freedom of Information Act is counted as the quality mechanism. Yet this would seem to be a haphazard means for reviewing contracted-out evidential policy making. Effectively the responsibility for checking the evidence base has been delegated to interest groups and members of the public ('active citizens'); not quite privatisation, more 'communalisation' with individuals and groups having to check, sift and re-analyse existing evidence and collect new data, and then challenge the 'official' position as best they can.

Also in terms of policy making, the Badman Review shows that, armed with the Freedom of Information Act and social media, it is not only well-funded and organised interest groups that can challenge policy makers. Arguably, models of policy making and of how evidence can influence policy need to take into account how technology has changed and how the public, specifically the service user, can deliberate on policy. The DCSF found it difficult to cope with the number of Freedom of Information Act requests it received on the Badman Review and there were delays in answering requests. The Department did not appear to be well prepared to cope with the use of social media and the Freedom of Information Act by home educators. Conceivably, there is a broader lesson here for other Whitehall departments. The use of the Freedom of Information Act and social media means that individuals, as well as interest groups, have the opportunity to participate in the policy process. This is not to suggest that organised vested interests no longer have an important say in policy making, merely that

the combination of the Freedom of Information Act and the Internet potentially gives (some) individuals a greater and more informed voice in policy making than in the past.

Notes

¹ These guidelines apply only to English local authorities. A similar regime applies in Wales and the Welsh Assembly Government has issued its own guidelines (see new.wales.gov.uk/docrepos/40382/4038232/403829/403829/932746/ips-section-6-elective-home1.pdf?lang=en).

² In 2009, Ofsted (2010) conducted a survey of how 15 local authorities met their duty to ensure that home educated children received a suitable education. Its report, which made similar recommendations to the Badman Review, was severely criticised by the chair of the Education Select Committee (Watson, 2010).

³ In at least two instances, media coverage alleged that twice as many home educated children were known to social care compared to the rest of the population, a claim that was attributed to the report's author, although the figure is not given in the published report:

The reforms are necessary because twice as many home educated children are known to social services as the normal school-aged population under current arrangements, the report revealed. (Woolcock, 2009)

Children educated at home are twice as likely to be on social services registers for being at risk of abuse as the rest of the population, the head of a government inquiry into home education said yesterday... Graham Badman, the former director of Kent County Council's children's services, headed the review. He said the ratio of home-educated children who were known to social services was 'approximately double' that of the population at large. (Anon, 2009)

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